

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION

HARRIET TUBMAN FREEDOM  
FIGHTERS, CORP., et al.,

CASE NO.: 4:21-cv-00242

Plaintiffs,

v.

LAUREL M. LEE, in her official  
Capacity as Florida Secretary of  
State, et al.,

Defendants.

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**MOTION FOR SUMMARY JUDGMENT OR ALTERNATIVELY FOR  
JUDGMENT ON THE PLEADINGS BY DEFENDANT CRAIG LATIMER,  
IN HIS OFFICIAL CAPACITY AS SUPERVISOR OF ELECTIONS FOR  
HILLSBOROUGH COUNTY**

COMES NOW Defendant Craig Latimer, in his official capacity as Supervisor of Elections for Hillsborough County, and files his Motion for Summary Judgment or alternatively for Judgment on the Pleadings, and states:

Plaintiffs, in the heading (but not in the body) of Count IV of their Amended Complaint (Doc. 44) seek injunctive and declaratory relief against Defendant Craig Latimer, in his Official Capacity as Supervisor of Elections for Hillsborough County (herein, “Latimer”) and all of the State’s Supervisors of Elections. Plaintiffs state no claims against Latimer or against any Supervisor of Elections in any of the other Counts of the Amended Complaint.

The heading/title of Count IV of the Amended Complaint states that Count IV is directed to “All Defendants”. Count IV is the only Count titled in this manner. However, the only defendant even mentioned in the body of Count IV is “Defendant Lee” (Amended Complaint, paragraph 159). Latimer is unable to respond to Plaintiffs’ allegations because *there are no allegations* in the Amended Complaint that are directed to Latimer’s office. Plaintiffs have therefore failed to state a cause of action against Latimer as required by Rule 8, Fed.R.Civ.P. This argument—that Plaintiffs have failed to present any allegations against Latimer-- was stated repeatedly in Latimer’s Answers to the First Amended Complaint (Doc. 176). For this reason, summary judgment or judgment on the pleadings should be granted as to Latimer.

**Memorandum of Law**

Plaintiffs have not “nudged [their] claims” against Latimer “across the line from the conceivable to the plausible”. Ashcroft v. Iqbal, 556 U.S. 662, 680, 129 S.Ct. 1937, 1951 (2009). In fact, Plaintiffs have not even “nudged” their claims past the “conceivable” line, because they make no allegations whatsoever against Latimer or any of the Defendant Supervisors:

Respondent’s complaint does not contain any factual allegation sufficient to plausibly suggest petitioners’ discriminatory state of mind. His pleadings thus do not meet the standard necessary to comply with Rule 8.

Ashcroft, 129 S.Ct. at 683.

Where no allegations are made against a defendant, or where the pleadings fail to meet the Twombly/Iqbal pleading standard, dismissal is appropriate as to that defendant. Bohannon v. PHH Mortgage, 2012 WL 12844753 (N.D. Ga. 2012). See also, McKinney v. Yoh Services, LLC, 2015 WL 13777915 (N.D. Ga. 2015), citing to Boyd v. Peet, 249 Fed. Appx. 155 (11<sup>th</sup> Cir. 2007).

Unlike the other three elections cases currently before the Court, the Amended Complaint in this case does not allege that the SOE's did x, or might do x, or could do X, or anything of the kind. The Amended Complaint does suggest that Plaintiffs are aggrieved, or might be aggrieved in the future, but there are no allegations that any of the SOE's caused or might cause harm to any Plaintiff or might violate any Plaintiff's constitutional rights. It is a classic shotgun pleading.

Based on the absence of any allegations against Defendant Latimer, both judgment on the pleadings and summary judgment are appropriate, as there are, and can be, no issues of material fact in the absence of allegations which give rise to such material facts.

WHEREFORE, Defendant Latimer requests that this Court grant his Motion for Judgment on the Pleadings or, alternatively, his Motion for Summary Judgment for the reasons stated.

s/ *Stephen M. Todd*

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on November 12, 2021, the foregoing document was electronically submitted to the Clerk of Court using the CM/ECF system which will send a notice of electronic filing to Counsel of Record.

s/ *Stephen M. Todd*

Stephen M. Todd, Esquire