

THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

COMMON CAUSE FLORIDA, et al.,

Plaintiffs,

v.

Case No.: 4:22-CV-109-AW/MAF

CORD BYRD, in his official capacity as
Florida Secretary of State,

Defendant.

_____ /

NOTICE OF SUPPLEMENTAL AUTHORITY

Governor DeSantis, Deputy Chief of Staff J. Alex Kelly, and General Counsel Ryan Newman, provide the attached Notice of Supplemental Authority in support of their Motion to Quash (ECF 128). Yesterday, May 17, 2023, the U.S. Court of Appeals for the Fifth Circuit issued the attached opinion in *La Union Del Pueblo Entero v. Abbott*, Case. No. 22-50435, a voting-related case though not a redistricting case. **Exhibit A.**

After surveying cases concerning the legislative privilege, the Fifth Circuit said: “[t]hese cases teach, and we agree, that the legislative privilege’s scope is necessarily broad.” *Id.* at 9. The court recognized that the legislative privilege is “qualified” and gives way where certain “important federal interests” are implicated in both criminal cases and “extraordinary” civil cases; however, “the qualifications do not subsume the

rule.” *Id.* at 13. “An exception for communications ‘outside the legislature’ would swallow the rule almost whole,” the court explained. *Id.* at 10.

More importantly, the Fifth Circuit said that the privilege “holds” “even when constitutional rights are at stake.” *Id.* at 13. This is so because, “[e]ven for allegations involving racial animus or retaliation for the exercise of First Amendment rights, the Supreme Court has held that the legislative privilege stands fast.” *Id.* at 14.

Dated: May 18, 2023

Respectfully submitted,

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*Counsel for Governor DeSantis, Mr. Newman,
and Mr. Kelly*

LOCAL RULES CERTIFICATIONS

I HEREBY CERTIFY that this notice contains 210 words and complies with this Court's word count, spacing, and formatting requirements.

/s/ Mohammad O. Jazil
Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 18, 2023, I electronically filed the foregoing with the Clerk of Court by using CM/ECF, which automatically serves all counsel of record for the parties who have appeared.

/s/ Mohammad O. Jazil
Attorney

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