

**IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA**

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

Appellants,

v.

BLACK VOTERS MATTER  
CAPACITY BUILDING INSTITUTE,  
INC., et al.,

Appellees.

Case No.: 1D22-1470  
L.T. No.: 2022-ca-000666

**APPELLEES' EMERGENCY MOTION TO EXPEDITE REVIEW  
OF MOTION TO CERTIFY APPEAL**

Appellees ("Plaintiffs") respectfully move this Court to expedite its review of their motion to certify Appellant's (the "Secretary's") appeal of the trial court's order granting Plaintiffs' motion for a temporary injunction to the Florida Supreme Court:

1. On May 13, 2022, Plaintiffs filed a motion requesting that the First District certify the Secretary's appeal to the Florida Supreme Court. As Plaintiffs explained, the Secretary's appeal concerns the fundamental right to vote, an issue the Florida Supreme Court has repeatedly described as of exceeding public importance and this

Court found sufficiently weighty to certify last redistricting cycle, *twice*. See *League of Women Voters of Fla. v. Detzner*, 178 So. 3d 6, 6-8 (Fla. 1st DCA 2014) (certifying appeal of the merits of a constitutional challenge to a districting plan); *Non-Parties v. League of Women Voters of Fla.*, 150 So. 3d 221, 222 (Fla. 1st DCA 2014) (en banc) (certifying appeal concerning third-party discovery dispute arising out of challenge to districting plan).

2. Unless the Secretary's appeal is adjudicated by the Florida Supreme Court soon, Plaintiffs will have no opportunity to obtain relief in time for the 2022 elections. As the trial court found, Plaintiffs must obtain relief within the next few weeks if they are to avoid irreparable harm. Order at 15-19. Adjudicating the Secretary's appeal before this Court will nullify the Florida Supreme Court's authority to grant relief in this case. See *League of Women Voters of Fla.*, 178 So. 3d at 8 ("To allow the appellate process to take its full course through the completion of review by this court followed by possible en banc review, could potentially put the supreme court in the position of having to delay the remedy.").

3. In light of this threat to Plaintiffs' rights, Plaintiffs respectfully request that the Court expedite disposition of this

matter. The issue is fully briefed and ready for decision. Plaintiffs respectfully request that the Court decide Plaintiffs' motion to certify by May 24 at noon. This schedule will allow the Florida Supreme Court sufficient time to consider this important matter in time for the 2022 elections.

**WHEREFORE**, the Court should expedite disposition of Plaintiffs' motion to certify.

Dated: May 23, 2022

/s/ Frederick S. Wermuth  
Frederick S. Wermuth  
Florida Bar No. 184111  
Thomas A. Zehnder  
Florida Bar No. 0063274  
**KING, BLACKWELL,  
ZEHNDER & WERMUTH, P.A.**  
P.O. Box 1631  
Orlando, Florida 32802  
Telephone: (407) 422-2472  
Facsimile: (407) 648-0161  
fwerthem@kbzwlaw.com  
tzehnder@kbzwlaw.com

John M. Devaney+  
**PERKINS COIE LLP**  
700 Thirteenth Street N.W.,  
Suite 600  
Washington, D.C. 20005  
Telephone: (202) 654-6200  
Facsimile: (202) 654-6211  
jdevaney@perkinscoie.com

Respectfully submitted,

Abha Khanna++  
Jonathan P. Hawley++  
**ELIAS LAW GROUP LLP**  
1700 Seventh Avenue  
Suite 2100  
Seattle, Washington 98101  
Telephone: (206) 656-0177  
Facsimile: (206) 656-0180  
akhanna@elias.law  
jhawley@elias.law

Christina A. Ford  
Florida Bar No. 1011634  
Joseph N. Posimato+  
Graham White++  
Harleen Gambhir++  
**ELIAS LAW GROUP LLP**  
10 G Street NE, Suite 600  
Washington, D.C. 20002  
Phone: (202) 968-4490  
Facsimile: (202) 968-4498  
cford@elias.law  
jposimato@elias.law

*Counsel for Petitioners  
+Admitted Pro hac vice  
++ Pro hac vice application  
forthcoming*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on May 23, 2022 I electronically filed the foregoing using the State of Florida ePortal Filing System, which will serve an electronic copy to counsel in the Service List below.

/s/ Frederick S. Wermuth  
Frederick S. Wermuth  
Florida Bar No. 0184111

*Counsel for Appellees/Plaintiffs*

**CERTIFICATE OF COMPLIANCE**

I certify under Florida Rule of Appellate Procedure 9.045 that this opposition brief is computer generated in 14-point Bookman Old Style.

/s/ Frederick S. Wermuth  
Frederick S. Wermuth  
Florida Bar No. 0184111

*Counsel for Appellees/Plaintiffs*

## SERVICE LIST

Bradley R. McVay  
Ashley Davis  
Florida Department of State  
R.A. Gray Building  
500 South Bronough Street  
Tallahassee, FL 32399  
brad.mcvay@dos.myflorida.com  
ashley.davis@dos.myflorida.com

Mohammed O. Jazil  
Michael Beato  
Holtzman Vogel Baran  
Torchinsky  
& Josefiak, PLLC  
119 S. Monroe Street, Suite 500  
Tallahassee, FL 32301  
mjazil@holtzmanvogel.com  
mbeato@holtzmanvogel.com

*Counsel for Florida Secretary of  
State*

Andy Bardos, Esq.  
GrayRobinson, P.A.  
301 S. Bronough Street  
Suite 600  
Tallahassee, FL 32302  
andy.bardos@gray-  
robinson.com

*Counsel Chris Spowls and  
Thomas J. Leek*

Henry C. Whitaker  
Daniel W. Bell  
Jeffrey Paul DeSousa  
David M. Costello  
Office of the Attorney General  
The Capitol, PL-01  
Tallahassee, FL 32399  
henry.whitaker@myfloridalegal.com  
daniel.bell@myfloridalegal.com  
jeffrey.desousa@myfloridalegal.com  
david.costello@myfloridalegal.com  
jenna.hodges@myfloridalegal.com

*Counsel for Florida Attorney General*

Daniel E. Nordby  
Shutts & Bowen LLP  
215 S. Monroe Street  
Suite 804  
Tallahassee, FL 32301  
ndordby@shutts.com

*Counsel for Florida Senate, Ray  
Rodrigues, and Wilton Simpson*