

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

FLORIDA DECIDES HEALTHCARE,
INC., et al.,

Plaintiffs,

v.

Case No. 4:25-cv-211-MW-MAF

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

Defendants.

_____ /

**THE SECRETARY AND ATTORNEY
GENERAL'S NOTICE TO THE COURT**

In light of the Smart & Safe Plaintiffs' latest preliminary injunction motion, Doc.291, and email correspondence from another Plaintiff-Intervenor group stating that they plan on filing another preliminary injunction *and* amend their pleadings, the Secretary and Attorney General notify this Court of two things.

First, they notify this Court that under the order granting their motion to set a uniform answer deadline, Doc.206, the Secretary and Attorney General will file answers or motions to dismiss—for each of the five operative complaints—thirty days after this Court resolves the next (and presumably final) round of preliminary injunction motions.

Second, although the latest preliminary injunction motion from Smart & Safe concerns only the state attorney defendants, the Secretary and Attorney General note

that the motion, practically speaking, seeks to expand the scope of this Court’s second preliminary injunction order, which is on appeal. That’s problematic, as Judge Hinkle explained in *Dekker v. Weida*, when addressing a motion to modify a final *judgment* that was on appeal:

Modifying or clarifying a judgment that is on appeal is usually beyond a district court’s jurisdiction and always problematic. A district court can enforce a judgment while an appeal is pending, unless a stay has been entered, but this does not mean a district court can modify or clarify the judgment in the course of enforcing it. Here the defendants are complying with the judgment as to the plaintiffs themselves. The dispute turns on whether the defendants’ reliance on the waiver statute contravenes the declaratory judgment—an issue on which a modification or clarification, while the appeal is pending, would be problematic.

4:22-cv-325, Doc.266 at 6-7 (N.D. Fla. Jan. 31, 2024). So too here, even though the State has appealed this Court’s preliminary injunction order and not a final judgment.

“The filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.” *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982); accord *Coinbase, Inc. v. Bielski*, 599 U.S. 736, 740 (2023). Federal Rule of Civil Procedure 62(d) creates an exception for district courts to modify an injunction to “secure the opposing party’s rights,” which courts have interpreted as the power for district courts to modify injunctions to help preserve the status quo. *Natural Res. Def. Council v. Sw. Marine, Inc.*, 242 F.3d 1163, 1166 (9th Cir. 2001) (collecting cases).

Absent a stay from the Eleventh Circuit, this Court's preliminary injunction order reflects the status quo when it comes to non-resident (and non-citizen) circulators. Given the acquiescence of the state attorneys to Plaintiffs' requests to date, including their consent to preliminary relief, Doc.291 at 4, Smart & Safe has yet to explain how the most recent preliminary injunction is necessary to maintain that status quo. *See generally* Doc.291.

Consider also the possibility for confusion from another preliminary injunction order that modifies(?) the order on appeal and extends it to other parties. If the Eleventh Circuit grants the Secretary and Attorney General's motion for a stay of this Court's preliminary injunction, then these two state officials can continue enforcing the prohibitions on non-resident (and non-citizen) circulators. But the state attorneys who "do not oppose" the relief sought in the most recent motion, Doc.291 at 4, and presumably won't appeal an order granting that relief, *see id.*, would continue to be barred from enforcing those provisions. It all gets too confusing too quickly. Plaintiffs should have thought through this *before* filing their earlier motion, Doc.165.

In sum, and in addition to the standing requirement that Smart & Safe must satisfy, Doc.294, it must also explain whether the relief it now seeks is proper under Federal Rule of Civil Procedure 62(d).

Dated: July 21, 2025

Respectfully submitted,

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LOCAL RULES CERTIFICATIONS

As required by Local Rule 5.1 and 7.1(j), I certify that this notice contains 640 words and complies with this Court's word count, spacing, and formatting requirements.

/s/ Mohammad O. Jazil
Mohammad O. Jazil

CERTIFICATE OF SERVICE

I certify that on July 21, 2025, 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
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