

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT  
IN AND FOR LEON COUNTY, FLORIDA**

MAKE IT LEGAL FLORIDA,

Plaintiff,

vs.

Case No.: 2019-CA-3015

LAUREL M. LEE, in her official capacity  
as Secretary of State of the State of Florida,  
and TAMMY JONES, in her official capacity  
as the Supervisor of Elections of Levy County,  
Florida and as representative of a similarly-  
situated defendant-class of all County  
Supervisors of Elections in the State of Florida,

Defendants,

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**FLORIDA CHAMBER OF COMMERCE'S MOTION TO INTERVENE**

Pursuant to section 86.091, Florida Statutes, and Florida Rule of Civil Procedure 1.230, the Florida Chamber of Commerce (the Chamber) moves to intervene in this proceeding in support of the constitutionality of section 100.371, Florida Statutes (2019), and the corresponding implementing regulations.

**Background**

1. During the 2019 legislative session, the Florida Legislature made comprehensive changes to portions of the Florida Election Code, including the statutory provisions related to initiatives to amend the state constitution. *See* Ch. 2019-64, Laws of Fla. Section 100.371, as amended, requires petition circulators to register with the Secretary of State and mandates that all petitions be delivered to the county supervisors of elections within 30 days after the petition is signed by the elector. *Id.* at § 3 (codified at

§ 100.371(3), (7)(a), Fla. Stat. (2019)). The Secretary of State is required to “maintain a database of all registered petition circulators and the petition forms assigned to each.” *Id.* (codified at § 100.371(6), Fla. Stat. (2019)).

2. In conjunction with these new statutory requirements, supervisors of elections must “promptly verify the signatures within 30 days after receipt of the petition forms.” § 100.371(11), Fla. Stat.<sup>1</sup> The Secretary of State must then “determine from the signatures verified by the supervisors of elections the total number of verified valid signatures and the distribution of such signatures by congressional districts.” § 100.371(12), Fla. Stat.<sup>2</sup>

3. A citizens’ initiative amendment must be placed on the general election ballot when it is “*filed*” with the Secretary of State “no later than February 1 of the year in which the general election is held.” Art. XI, § 5(b), Fla. Const. (emphasis added). “A petition shall be deemed *filed* with the Secretary of State upon the date the secretary determines the valid and verified petition forms have been signed by the constitutionally required number and distribution of electors . . . .” § 100.371(1), Fla. Stat. (emphasis added).

3. Plaintiff Make It Legal Florida challenges these provisions, arguing that they violate the Plaintiff’s constitutional “petition rights.” (Compl. ¶ 2). Specifically, Plaintiff asks this Court to (1) declare certain provisions of section 100.371, Florida Statutes, unconstitutional; (2) enjoin all Defendants from implementing and enforcing the

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<sup>1</sup> Renumbered from § 100.371(3), Fla. Stat. (2018) by Chapter 2019-64, Laws of Fla.

<sup>2</sup> Renumbered from § 100.371(4), Fla. Stat. (2018) by Chapter 2019-64, Laws of Fla.

statute and corresponding regulations; (3) require the Secretary of State to take action related to the petition circulators database; (4) require the supervisors of elections to accept and consider within 30 days all signed petitions submitted by February 1, 2020; and (5) require the Secretary of State to make a determination regarding the total number of signatures and distribution based on the petitions submitted up to and including February 1, 2020, and issue a certificate of ballot position based on this determination. (Compl. pp. 6-7).

### **Intervention Standard**

4. In declaratory judgment actions brought under chapter 86, Florida Statutes, “all persons may be made parties who have or claim any interest which would be affected by the declaration.” § 86.091, Fla. Stat. Intervention in circuit court proceedings should be “liberally allowed.” *Nat’l Wildlife Fed’n, Inc. v. Glisson*, 531 So. 2d 996, 998 (Fla. 1st DCA 1988) (citing *Miracle House Corp. v. Haige*, 96 So. 2d 417, 418 (Fla. 1957)). Florida Rule of Civil Procedure 1.230 provides that “[a]nyone claiming an interest in pending litigation may at any time be permitted to assert a right by intervention.”

5. Florida courts apply a two-step test regarding intervention. First, the court must determine whether the party seeking to intervene has asserted an appropriate interest to support intervention. *Union Cent. Life Ins. Co. v. Carlisle*, 593 So. 2d 505, 507 (Fla. 1992). Next, the Court must determine the parameters of the intervention. *Id.* at 508.

### **Argument**

6. The Chamber readily satisfies these intervention standards. The Chamber is Florida’s largest federation of employers, chambers of commerce, and associations

championing Florida job creators. The Chamber has an interest in the outcome of several initiatives currently proposed for placement on the 2020 General Election ballot and has filed briefs in opposition to the placement of two proposed amendments. *See Adv. Op. to Att’y Gen. re Competitive Energy Market*, Case No. SC19-328; *Adv. Op. to Att’y Gen. re Regulate Marijuana in a Manner Similar to Alcohol to Establish Age, Licensing, and Other Restrictions*, Case No. SC19-1536. In these cases, the Florida Supreme Court is tasked with reviewing the validity of the proposed amendments’ ballot titles and summaries. *See* Art. IV, § 10; Art. V, § 3(b)(10); Art. XI, § 3, Fla. Const.; § 101.161, Fla. Stat. This part of the initiative process may take place while the sponsors of the individual proposals continue to collect petitions needed for ballot placement. Both of these cases are still pending at the Florida Supreme Court. *See Competitive Energy Market*, SC19-328 (oral argument held on Aug. 28, 2019); *Regulate Marijuana*, SC19-1536 (oral argument scheduled for Feb. 4, 2020).

7. Given the Chamber’s involvement with the initiatives currently being reviewed by the Florida Supreme Court, the Chamber has an interest in this litigation, which seeks to circumvent existing law and upend the petition gathering deadlines at the eleventh hour. *See generally Browning v. Fla. Hometown Democracy, Inc. PAC*, 29 So. 3d 1053, 1062 (Fla. 2010) (noting the intervention of a political action committee in a circuit court action to declare statutory signature revocation provisions unconstitutional). Plaintiff asks this Court to rewrite section 100.371 on an “emergency” basis now that it appears Plaintiff will not file the required number of valid petition signatures for the 2020 ballot by February 1, 2020. Plaintiff’s dissatisfaction with the statute is properly

addressed to the Florida Legislature, not to this Court. The Chamber has an interest in ensuring the laws of the state are followed and that policy matters related to existing laws are addressed in the legislative process.

8. No party will be prejudiced by the Chamber’s intervention in this proceeding as a full party defendant. Nor will the proceeding be delayed. Indeed, this proceeding has only just begun—Plaintiff’s complaint was filed just three days ago on December 31, 2019. The existing Defendants have not filed responsive pleadings nor has any discovery been served. Thus, the Chamber’s motion to intervene is timely and should be granted without restriction. *Cf. Nat’l Wildlife Fed’n*, 531 So. 2d at 998 (permitting intervention when “[d]iscovery was still underway and the pleadings had not yet closed”).

9. The undersigned counsel has contacted counsel for Make it Legal Florida regarding this Motion to Intervene and is authorized to represent that Make it Legal Florida opposes the Chamber’s intervention in this proceeding.

WHEREFORE, the Chamber respectfully requests an order permitting the Chamber to intervene in this proceeding without limitation and to respond to Make it Legal Florida’s Complaint within 20 days of the order granting this motion.

Respectfully submitted,

/s/ Jason Gonzalez  
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*Counsel for Florida Chamber of  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on January 3, 2020, a true and correct copy of the foregoing was served by email on all counsel of record via the e-filing portal.

/s/ Jason Gonzalez  
Attorney