



# Florida Elections Commission

107 West Gaines Street, Suite 224 Tallahassee, Florida 32399-1050  
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## 2023 Florida Legislative Session Summary, May 17, 2023

**SB 7050:** Amends various provisions of the Florida Election Code.

- Amends s. 104.18, F.S., to provide definitions of the term “votes more than one ballot at any election”:
  - Voting more than once in the same election within a county.
  - Voting more than once in the same election in two or more counties.
  - Voting more than once in the same election in Florida and one or more U.S. states/territories.
- Provides that prosecution may proceed in any jurisdiction in which one of the ballots was willfully cast.
- Amends s. 104.42, F.S., to provide for supervisors of elections to report findings of fraudulent registration and illegal voting to the Office of Election Crimes and Security and deletes a provision for making those referrals to the Florida Elections Commission.
- Amends s. 106.03, F.S., regarding the Division of Elections’ rules by which political committees and electioneering communications organizations may be dissolved and have their registrations cancelled – rules must provide for payment of outstanding fines prior to cancelation or dissolution.
- Amends s. 106.07, F.S., to:
  - Reduce the candidate and committee monthly reporting schedule to quarterly.
  - Preempt local governments from adopting a reporting schedule that differs from the requirements of s. 106.07.
- Amends s. 106.0703, F.S., to reduce the electioneering communications organization monthly reporting schedule to quarterly.
- Amends s. 106.08(2)(b), F.S., to include text messages within the list of services that are not considered contributions to candidates.
- Creates s. 106.1436, F.S., to:
  - Define “voter guide” as a direct mail that is either an electioneering communication or a political advertisement sent for the purpose of advocating for or endorsing particular issues or candidates by recommending specific electoral choices to the voter or by indicating issue or candidate selections on an unofficial ballot. The term does not apply to direct mail or publications made by governmental entities or government officials in their official capacity.

- Provide that a person may not, directly or indirectly, represent that a voter guide is an official publication of a political party unless such person is given written permission pursuant to s. 103.081, F.S.
  - Require that disclaimers be displayed in 12-point font.
  - Require the mailer to be marked "Voter Guide".
  - Provide that a violation of the statute is a first-degree misdemeanor punishable as provided in s. 775.082, F.S., or not less than \$25 for each individual voter guide distributed.
  - Provide for a fine of no more than \$2,500 in the aggregate in any calendar month.
- Amends s. 106.265, F.S., to:
    - Raise the Commission fine cap to \$2,500 per violation.
    - The fine may be multiplied by a factor of three per count, not to exceed \$7,500 for each repeated count of the same violation, beginning with the fourth count.
      - If applicable, the Commission may instead impose a civil penalty as provided in 104.271, F.S., or 106.19, F.S.
    - Provide that political committee fines jointly and severally attach to the chair if the committee does not pay the fine within 30 days.
- Amends candidate oath requirements in ss. 99.021 and 105.031, F.S., to:
    - Require that candidates report in writing any outstanding fines, fees, or penalties that cumulatively exceed \$250 for violations of ch. 106, F.S., or ethics violations under the Florida Constitution, the state Code of Ethics, or local ethics ordinances.
    - Candidates must specify the amounts owed and each entity that levied the fine, fee, or penalty.
    - If the candidate pays the fines, fees, or penalties prior to subscribing to the candidate oath, they don't have to report them.

**HJR 31:** Proposes an amendment to the Florida Constitution requiring partisan elections for school board candidates to be presented to voters during the next general election.

**Budget Request**

Appropriations:

- Continuation budget from 2022, plus 5% statewide employee pay increase.



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## FEC Litigation Update – May 17, 2023

### **NetChoice: U.S. District Court, Northern District, Tallahassee Division.**

- Tech trade associations NetChoice and CCIA challenge to SB 7072, which prohibits a social media platform from willfully deplatforming a candidate and authorizes the FEC to fine social media platforms that violate the statute \$250,000/\$25,000 per day.
  - 5/27/21 – Complaint filed.
  - 6/30/21 – Order granting Preliminary Injunction.
  - 5/23/22 – Order Affirming Preliminary Injunction RE s. 106.072(2), F.S.
  - 6/22/22 – Order Granting Joint Motion for Stay of the issuance of mandate pending petition for writ of certiorari to U.S. Supreme Court.
  - 9/21/22 – AG's and FEC's Petition for Writ of Certiorari to U.S. Supreme Court filed.
  - 10/24/22 – NetChoice Response and Cross Petition filed.
  - 11/23/22 – AG and FEC Reply Brief and Brief in Opposition to Cross Petition filed.
  - 01/20/23 – Court Conference held. The Court asked the US Solicitor General to file a brief on whether the Court should consider the case.

### **ACLU: U.S. District Court, Northern District, Tallahassee Division.**

- ACLU and other organizations challenge to SB 1890, which sets a \$3,000 contribution limit to political committees that sponsor or oppose a constitutional amendment proposed by initiative.
  - 6/04/21 – Second Amended Complaint and Motion for Preliminary Injunction filed (adds Commission as Defendant).
  - 7/1/21 - Order granting Preliminary Injunction against Commission.
  - 06/15/22 – Order Granting Motion for Summary Judgement and Permanent Injunction in favor of Plaintiffs.
  - 8/04/22 – Order Granting Motion for Entitlement to Attorney's Fees and Costs.
  - 01/24/23 – Commission approved fees settlement.
  - 01/30/23 – Order closing case filed.
  - 3/03/23 – Payment issued.

### **Kells Hetherington: U.S. District Court, Northern District, Pensacola Division**

- First Amendment challenge to s. 106.143(3), F.S., which prohibits campaigning based upon party affiliation in nonpartisan elections.
  - 4/15/21 – Complaint and Motion for Preliminary Injunction filed.
  - 7/14/21 – Order granting Preliminary Injunction.

- 12/27/21 – Motions for Summary Judgment filed.
- 11/08/22 – Order Declaring Unconstitutional the portion of s. 106.143(3), F.S., which prohibits campaigning based on party affiliation in nonpartisan elections, both facially and as applied, and Granting Permanent Injunction.
- Court ordered Attorney's Fees and Costs against Defendants.
- The Attorney General's Office submitted a claim to Risk Management.
- 4/05/23 – Parties Joint Notice of Settlement Agreement filed.
- 4/17/23- Parties filed notice that payment was received by Plaintiff.

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

**THE AMERICAN CIVIL LIBERTIES  
UNION OF FLORIDA, INC., et al.,**

**Plaintiffs,**

**v.**

**Case No. 4:21-cv-190-AW-MJF**

**FLORIDA ELECTIONS COMMISSION,**

**Defendant.**

\_\_\_\_\_/

**ORDER**

This order acknowledges the parties' notice of settlement. ECF No. 95. There are no further issues outstanding, and the case is closed.

SO ORDERED on January 30, 2023.

*s/ Allen Winsor*  
\_\_\_\_\_  
United States District Judge

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION

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KELLS HETHERINGTON,  
*Plaintiff,*

v.

GINGER BOWDEN MADDEN, in her  
official capacity as State Attorney,  
et al.,  
*Defendants.*

Case No.  
3:21-cv-671-MCR-ZCB

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PARTIES' JOINT NOTICE OF AGREEMENT  
AND  
JOINT MOTION FOR EXTENSION OF TIME

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**JOINT NOTICE OF AGREEMENT**

Pursuant to N.D. FLA. LOC. R. 54.1, the parties have conferred in a good-faith effort to resolve the dispute on the amount of attorneys' fees due to Plaintiff Kells Hetherington. The parties agree that Defendants will pay Plaintiff \$175,000.00 within 30 days of the filing of this document, up to and including May 5, 2023, (the "Parties' Agreement"). This amount satisfies the Court's Order that Plaintiff was entitled to attorneys' fees and its directive to the parties to determine the amount. (ECF No. 101).

Within 14 days of receipt of this payment, the parties shall file a supplemental joint notice of agreement to inform the court that the amount of attorneys' fees due to Plaintiff was satisfied and the attorneys' fee issue is completely resolved.

If Plaintiff does not receive payment within 30 days of the filing of this document, up to and including May 5, 2023, the Parties' Agreement shall become void and Defendants shall file a response to Plaintiffs' determination of fee amount motion (ECF No. 102), as directed by N.D. FLA. LOC. R. 54.1(F), by May 8, 2023.

Agreed to:

[Parties' Signatures Follow]

*Kells Hetherington*

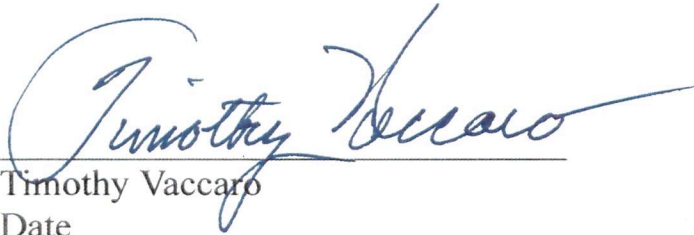
April 3, 2023

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Kells Hetherington

Date

*Plaintiff*



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Timothy Vaccaro

Date

Executive Director of the Florida  
Elections Commission

*For Defendants Poitier, Stern, Smith,  
Allen and Hayes in their official capacities*

*April 5, 2023*



## JOINT MOTION FOR EXTENSION OF TIME

The Parties jointly request a third extension of time for Defendants to file a response to Plaintiff's motion to determine attorney's fees and costs.

### PROCEDURAL HISTORY

Plaintiff brought this civil rights suit pursuant to 42 U.S.C. § 1983. *See* Compl., ¶ 3 (ECF No. 1).

On November 8, 2022, the Court granted Plaintiffs' motion for summary judgment and entered judgment in his favor. *See* Order (ECF No. 95); J. (ECF No. 96).

Subsequently, on December 27, 2022, the Court granted Plaintiff's unopposed motion for a determination of his entitlement to an award of attorney's fees. *See* Order (ECF No. 101). Accordingly, Plaintiff is the prevailing party in this matter and Defendants are liable for an award of Plaintiff's attorneys' fees and costs.

On January 26, 2023, Plaintiff filed his motion for a determination of attorney's fees and costs, pursuant to N.D. FLA. LOC. R. 54.1. (ECF No. 102). Subsequently, Defendants filed two motions for an extension of time to file their response to Plaintiff's motion, which were granted.

(ECF Nos. 103, 105, 106, 107). Since the most recent extension of time, and as directed by N.D. FLA. LOC. R. 54.1, the Parties engaged in a good-faith effort to resolve the attorneys' fee dispute. The Parties have come to an agreement (as outlined in the Notice above) but need one last extension of time to consummate the agreement and avoid additional litigation and involvement from the Court.

Therefore, the Parties request the court grant an additional 33 days from the date of this filing, up to and including May 8, 2023, for them to complete their agreement or for the Defendants' to file their response to Plaintiff's motion for a determination of attorney's fees and costs, as outlined in the Notice and Motion above.

Dated: April 5, 2023

/s/ Ryan Morrison  
Ryan Morrison (pro hac vice)  
INSTITUTE FOR FREE SPEECH  
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Suite 801  
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*Counsel for Plaintiff*

/s/ Elizabeth Teegen  
Elizabeth Teegen (FBN 833274)  
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*Counsel for State-Level Defendants*

CERTIFICATE OF COMPLIANCE

I certify that the parties held an attorney conference as required by N.D. FLA. LOC. R. 7.1(B). There is no opposition to this motion.

Dated: April 5, 2023

/s/ Ryan Morrison  
Ryan Morrison

CERTIFICATE OF COMPLIANCE

I certify that the foregoing complies with the word limits in N.D. FLA. LOC. R. 7.1(F). As measured by Microsoft Word's internal count, the memorandum is 488 words, exclusive of the case caption, signature blocks, and certificates.

Dated: April 5, 2023

/s/ Ryan Morrison  
Ryan Morrison

CERTIFICATE OF SERVICE

I certify that I electronically filed a copy of the foregoing document with the Clerk of Court using the CM/ECF system, which will serve all attorneys of record.

Dated: April 5, 2023

/s/ Ryan Morrison  
Ryan Morrison

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION

---

KELLS HETHERINGTON,  
*Plaintiff,*

v.

GINGER BOWDEN MADDEN, in her  
official capacity as State Attorney,  
et al.,  
*Defendants.*

Case No.  
3:21-cv-671-MCR-ZCB

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PARTIES' SUPPLEMENTAL  
JOINT NOTICE OF AGREEMENT

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Pursuant to N.D. FLA. LOC. R. 54.1, the Parties' joint notice of agreement (ECF No. 108), and the Court's order (ECF No. 109), the Parties present this supplemental joint notice of agreement. Pursuant to the Parties' Agreement (ECF No. 108), Defendants paid Plaintiff \$175,000.00 for attorneys' fees. Therefore, the attorneys' fees and costs issue (ECF No. 102) is completely resolved.

Dated: April 17, 2023

/s/ Ryan Morrison

Ryan Morrison (pro hac vice)  
INSTITUTE FOR FREE SPEECH  
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*Counsel for Plaintiff*

/s/ Elizabeth Teegen

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myfloridalegal.com  
*Counsel for State-Level Defendants*

CERTIFICATE OF COMPLIANCE

I certify that the parties held an attorney conference as required by N.D. FLA. LOC. R. 7.1(B) when the Parties' negotiated the joint notice of agreement (ECF No. 108). There is no opposition to this Notice.

Dated: April 17, 2023

/s/ Ryan Morrison  
Ryan Morrison

CERTIFICATE OF COMPLIANCE

I certify that the foregoing complies with the word limits in N.D. FLA. LOC. R. 7.1(F). As measured by Microsoft Word's internal count, the memorandum is 60 words, exclusive of the case caption, signature blocks, and certificates.

Dated: April 17, 2023

/s/ Ryan Morrison  
Ryan Morrison

CERTIFICATE OF SERVICE

I certify that I electronically filed a copy of the foregoing document with the Clerk of Court using the CM/ECF system, which will serve all attorneys of record.

Dated: April 17, 2023

/s/ Ryan Morrison  
Ryan Morrison

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION**

KELLS HETHERINGTON,  
Plaintiff,

v.

GINGER BOWDEN MADDEN, in her  
official capacity as State Attorney; et  
al.,  
Defendants.

CASE NO. 3:21-cv-671-MCR-ZCB

**REFERRAL AND ORDER**

Referred to Judge M. Casey Rodgers on February 10, 2023

Motion/Pleadings: MOTION FOR ATTORNEY FEES

Filed by Plaintiff on January 26, 2023 Doc. # 102

       Stipulated        Joint Pleading

       Unopposed        Consented

JESSICA J. LYUBLANOVITS  
CLERK OF COURT

/s/ **Patricia G. Romero**

Deputy Clerk: Patricia G. Romero

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Plaintiff's Motion to Determine Attorney's Fees and Costs, ECF No. 102, is

**MOOT** in light of the parties' settlement of the issue. *See* ECF No. 110.

Additionally, Defendant's Motion for Extension of Time, ECF No. 106, is **MOOT**.

**DONE** and **ORDERED** this 27<sup>th</sup> day of April 2023.

*M. Casey Rodgers*

**M. CASEY RODGERS  
UNITED STATES DISTRICT JUDGE**



# Florida Elections Commission

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**TO:           FEC Commissioners**

**FROM:       Tim Vaccaro, Executive Director**

**DATE:        May 17, 2023**

**SUBJECT:    PROPOSED FEC 2023 MEETING DATES**

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**Commissioners, please see the following meeting dates for your consideration.**

Tuesday/Wednesday, May 16-17, 2023

Tuesday/Wednesday, August 15-16, 2023

Tuesday/Wednesday, November 14-15, 2023 (or **Tues/Wed November 28-29**)