

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

00.2875

Steven Medina, 322 Yacht Club Drive, )  
 Fort Walton Beach, Fla. 32548 )  
 )  
 Daniel H. Donaldson, 1648 Seminole Road )  
 Jacksonville, Fla. 32205 )  
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 Bob Nied, 2348 Smullian Trail North )  
 Jacksonville, Fla. 32217 )  
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 Dave Jantz, 12770 Wilderness Lane East )  
 Jacksonville, Fla. 32217 )  
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 Jennifer Durr, 1367 Elm Bank Way )  
 Royal Palm Beach, Fla. 33411 )

Plaintiffs, )

v. )

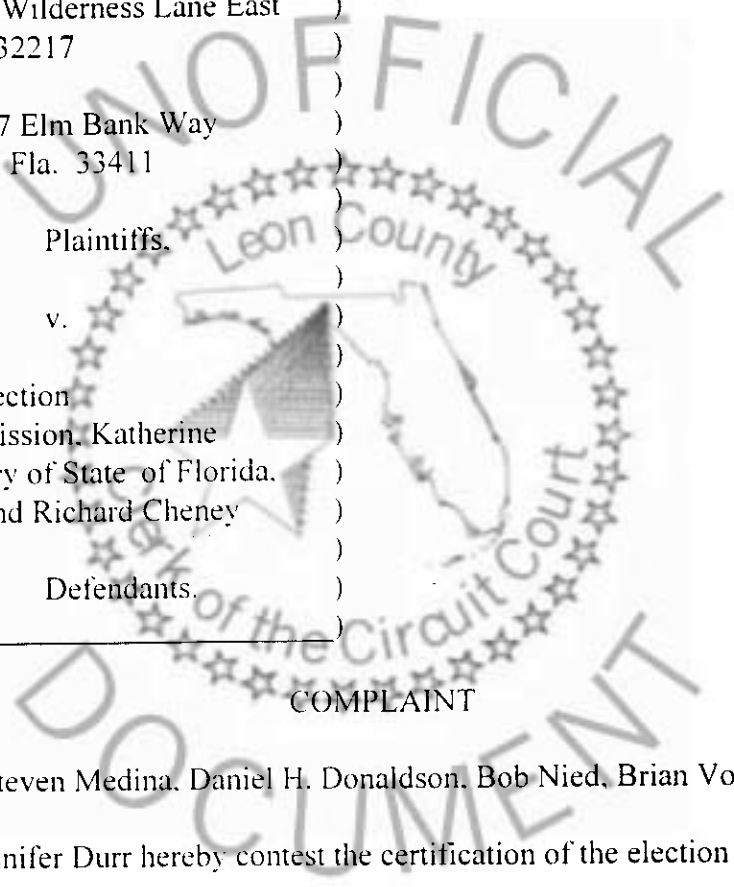
State of Florida Election )  
 Canvassing Commission, Katherine )  
 Harris, the Secretary of State of Florida. )  
 George W. Bush and Richard Cheney )

Defendants. )

DAVE LANG  
 CLERK CIRCUIT COURT  
 LEON COUNTY, FLORIDA

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COMPLAINT

Plaintiffs Steven Medina, Daniel H. Donaldson, Bob Nied, Brian Vonn, Cheryl Vonn,  
 Dave Jantz and Jennifer Durr hereby contest the certification of the election of the electors of  
 George W. Bush and Richard Cheney by the State of Florida Election Canvassing Commission

and Katherine Harris, the Secretary of State of Florida, on November 26, 2000.

Jurisdiction and Venue

1. This Court has subject matter jurisdiction as a court of general jurisdiction and under Section 102.168(1) of the Florida Statutes.

2. Venue is proper in the Second Circuit Court, in and for Leon County, Florida, pursuant to Chapter 102.1685 of the Florida Statutes.

Parties

3. Plaintiff Steven Medina was and is a resident and voter in Okaloosa County, Florida, was qualified to vote and did vote in the November 7, 2000, election for presidential electors in Okaloosa County, Florida. Plaintiff Steven Medina has standing to bring this action under Section 102.168(1) of the Florida Statutes.

4. Plaintiff Daniel H. Donaldson was and is a resident and voter in Duval County, Florida, was qualified to vote and did vote in the November 7, 2000, election for presidential electors in Duval County, Florida. Plaintiff Daniel H. Donaldson has standing to bring this action under Section 102.168(1) of the Florida Statutes.

5. Plaintiff Bob Nied was and is a resident and voter in Duval County, Florida, was qualified to vote and did vote in the November 7, 2000, election for presidential electors in Duval County, Florida. Plaintiff Bob Nied has standing to bring this action under Section 102.168(1) of the Florida Statutes.

6. Plaintiff Brian Vonn was and is a resident and voter in Duval County, Florida, was qualified to vote and did vote in the November 7, 2000, election for presidential electors in Duval County, Florida. Plaintiff Brian Vonn has standing to bring this action under Section

102.168(1) of the Florida Statutes.

7. Plaintiff Cheryl Vonn was and is a resident and voter in Duval County, Florida, was qualified to vote and did vote in the November 7, 2000, election for presidential electors in Duval County, Florida. Plaintiff Cheryl Vonn has standing to bring this action under Section 102.168(1) of the Florida Statutes.

8. Plaintiff Dave Jantz was and is a resident and voter in Duval County, Florida, was qualified to vote and did vote in the November 7, 2000, election for presidential electors in Duval County, Florida. Plaintiff Dave Jantz has standing to bring this action under Section 102.168(1) of the Florida Statutes.

9. Plaintiff Jennifer Durr was and is a resident and voter in Palm Beach County, Florida, was qualified to vote and did vote in the November 7, 2000, election for presidential electors in Palm Beach County, Florida. Plaintiff Jennifer Durr has standing to bring this action under Section 102.168(1) of the Florida Statutes.

10. Defendant State of Florida Election Canvassing Commission receives the reports and county certifications of candidates for state and federal officers and certifies the successful candidates. The Commission certified, *inter alia*, the election of the electors of George W. Bush and Richard Cheney in the November 7, 2000, presidential election.

11. Defendant Katherine Harris is the Secretary of State of Florida, whose duties include the certification of state-wide election results. She certified, *inter alia*, the election of the electors of George W. Bush and Richard Cheney in the November 7, 2000, presidential election.

12. George W. Bush is the nominee of the Republican Party for President of the United States in the November 7, 2000, election.

13. Richard Cheney is the nominee of the Republican Party for Vice President of the United States in the November 7, 2000, election.

Facts

14. On November 7, 2000, the election of presidential electors was held in the State of Florida and elsewhere in the United States.

15. Subsequent to November 7, 2000, the county canvassing or election boards in Florida received mail ballots from overseas which had postmarks on or before November 7, 2000, or were otherwise deemed to have been mailed on or before November 7, 2000.

16. The county canvassing or election boards counted the ballots described in paragraph 15 above as long as they were received on or before November 17, 2000.

17. The vote totals certified by the county canvassing and election boards to defendant Harris, the Secretary of the State of Florida on or after November 17, 2000, included the votes counted as described in paragraphs 15 and 16 above and defendant State of Florida Election Canvassing Board and defendant Harris included these votes in the certification of the election of the electors of defendants Bush and Cheney on November 26, 2000.

18. If the votes for the electors of both Bush-Cheney and Gore-Lieberman contained in the ballots described in paragraphs 15-17 above are deducted from the total votes certified by defendant State of Florida Election Canvassing Commission and defendant Harris on November 26, 2000, the electors of Al Gore and Joseph Lieberman received more votes in the State of Florida than the electors of defendants Bush and Cheney. The official results certified by defendant State of Florida Election Canvassing Commission and defendant Harris on November 26, 2000, state that the electors of Bush-Cheney electors received a total of 2,912,790 votes and

the electors of Gore-Lieberman received 2,912,253 votes, a difference of 537. The official results also show that the electors of Bush-Cheney received 1,575 votes which were received after 7 p.m. on November 7, 2000, and Gore-Lieberman received 836 such votes, a difference of 739 votes. Thus, if the votes received after 7 p.m. on November 7, 2000, are not counted, the electors of Gore-Lieberman would win the election.

Claim  
Contest of Election  
(Chapter 102.168 of the Florida Statutes)

19. Section 101.6103 of the Florida Statute provides as follows as to mail ballots:

(5) A ballot shall be counted only if:

\* \* \*

(c) It is received by the supervisor of elections not later than 7 p.m. on the date of the election.

\* \* \*

(6) With respect to absent electors overseas entitled to vote in the election, the supervisor of elections shall mail an official ballot with a secrecy envelope, a return mailing envelope and instructions sufficient to describe the voting process to each such elector on a date sufficient to allow such elector time to vote in the election and to have his or her mailed ballot reach the supervisor by 7 p.m. on the day of the election.

Section 101.65 of the Florida Statutes further provides:

The supervisor shall enclose with each absentee ballot separate printed instructions in substantially the following form:

**READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING  
BALLOT.**

**1.VERY IMPORTANT.** In order to ensure that your absentee ballot will be counted, it should be completed and returned as soon as possible so that it can reach the supervisor of elections of the county in which your precinct is located no later than 7 p.m. on the day of the election.

Section 101.67 of the Florida Statutes similarly provides:

(2) All mailed absent elector's ballots to be counted must be received by the supervisor by 7 p.m. the day of the election.

20. Section 18-2.013 of the Florida Administrative Code provides:

(7) With respect to the presidential primary and general election, any absentee ballot cast for a federal office by an overseas elector which is postmarked or signed and dated no later than the date of the Federal election shall be counted if received no later than 10 days from the date of the Federal election as long as electors shall be informed by the supervisors of the elections of the provisions of this rule, i.e., the ten day extension provision for the presidential preference primary and general election, and the provision for the second primary.

21. Section 101.6105 of the Florida Statutes provides:

The provisions of the election code relating to absentee voting and absentee ballots shall apply to elections under 55.101.6101-101.6107 only insofar as they do not conflict with the provisions of 55.101.6101-101.61.07.

22. Section 18-2.013 of the Florida Administrative Code is in direct conflict with Section 101.6103(5) and (6), 101.65 and 101.67 of the Florida Statutes. Therefore, Section 18-2.013 does not apply.

23. By counting absentee ballots which arrived at the county canvassing boards or election boards after 7 p.m. on November 7, 2000, the county canvassing boards and election boards violated Sections 101.6103(5) and (6), 101.65 and 101.67 of the Florida Statutes.

24. By counting absentee ballots which arrived at the county canvassing boards or election boards after 7 p.m. on November 7, 2000, in their certification, defendant State of Florida Canvassing Commission and defendant Harris violated Section 101.6103(5) and (6), 101.65 and Section 101.67 of the Florida Statutes. Since, as set forth in paragraph 18 above, the electors of Gore-Lieberman received more votes in the State of Florida than the electors of

defendants Bush and Cheney if the ballots which arrived at the county canvassing boards or election boards after 7 p.m. on November 7, 2000, are not counted, the certification of the electors of defendants Bush and Cheney as having won the presidential election in Florida by defendant State of Florida Canvassing Board and defendant Harris was contrary to the law.

25. Section 102.168 of the Florida Statutes states that the grounds for an election contest include:

\* \* \*

- (c) Receipt of a number of illegal votes \* \* \* sufficient to change or place in doubt the result of the election.

\* \* \*

- (e) Any other cause or allegation which, if sustained, would show that a person other than the successful candidate was the person duly nominated or elected to the office in question \* \* \*.

26. As set forth in paragraphs 18, 23 and 24 above, the county canvassing and election boards and defendant State of Florida Canvassing Commission and defendant Harris received and counted illegal votes sufficient to change or, at the least, place in doubt the result of the presidential election in the State of Florida and the proper counting of absentee ballots would show that the electors of Al Gore and Joseph Lieberman, rather than the electors of defendants Bush and Cheney, were the persons duly elected in the November 7, 2000, election.

Relief

Section 102.168 of Florida Statutes provides that:

- (8) The circuit judge to whom the contest is presented may fashion such orders as he or she deems necessary \* \* \* to prevent or correct any alleged wrong, and to provide any relief appropriate under such circumstances.

Plaintiffs respectfully request that this Court exercise its authority pursuant to Section 102.168(8) of the Florida Statutes and issue an order:

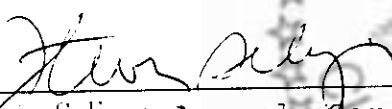
a. Declaring illegal the counting of any ballots received by the county canvassing or election boards after 7 p.m. on November 7, 2000, in the certification of defendant State of Florida Election Canvassing Commission and defendant Harris;

b. Requiring defendant State of Florida Election Commission and defendant Harris to amend the certification of election issued on November 26, 2000, so as not to count any ballots received by the county canvassing or election boards after 7 p.m. on November 7, 2000;

(c) Requiring defendant States of Florida Election Commission and defendant Harris to issue a new or amended certification that the electors of Al Gore and Joseph Lieberman received the most votes in the presidential race in the State of Florida and therefore these electors shall be deemed elected; and


(d) Providing such further relief as the Court deems just and appropriate.

Respectfully submitted.

  
Steven Seliger-Armando Garcia  
16 North Adams Street  
Quincy, Florida 32351  
FL Bar I.D. No. 244597

(850) 875-4668  
(850) 875-2310 (FAX)

December 4, 2000

  
Bruce J. Terris, D.C. Bar No. #47126  
Terris, Pravlik & Millian, LLP  
1121 12th Street, N.W.  
Washington, D.C. 20005-4632  
(202) 682-2100



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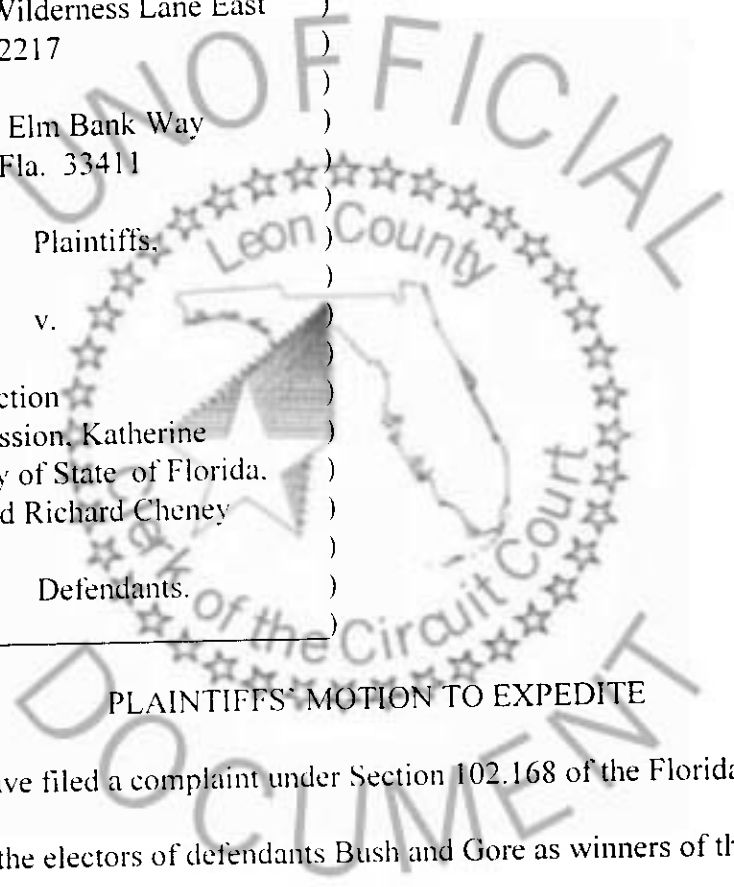
Defendants. )

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PLAINTIFFS' MOTION TO EXPEDITE

Plaintiffs have filed a complaint under Section 102.168 of the Florida statutes contesting the certification of the electors of defendants Bush and Gore as winners of the presidential election in the State of Florida.

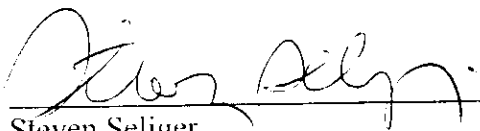
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CLERK CIRCUIT COURT  
FOR COUNTY, FLORIDA



Section 102.168(7) of the Florida Statutes provides that "[a]ny \* \* \* qualified elector \* \* \* presenting such a contest to a circuit judge is entitled to an immediate hearing."

Plaintiffs have filed a motion for summary judgment. Plaintiffs submit that there is no issue of fact requiring an evidentiary hearing. Plaintiffs therefore request an immediate hearing to allow oral argument on plaintiffs' motion for summary judgment.

Respectfully submitted,

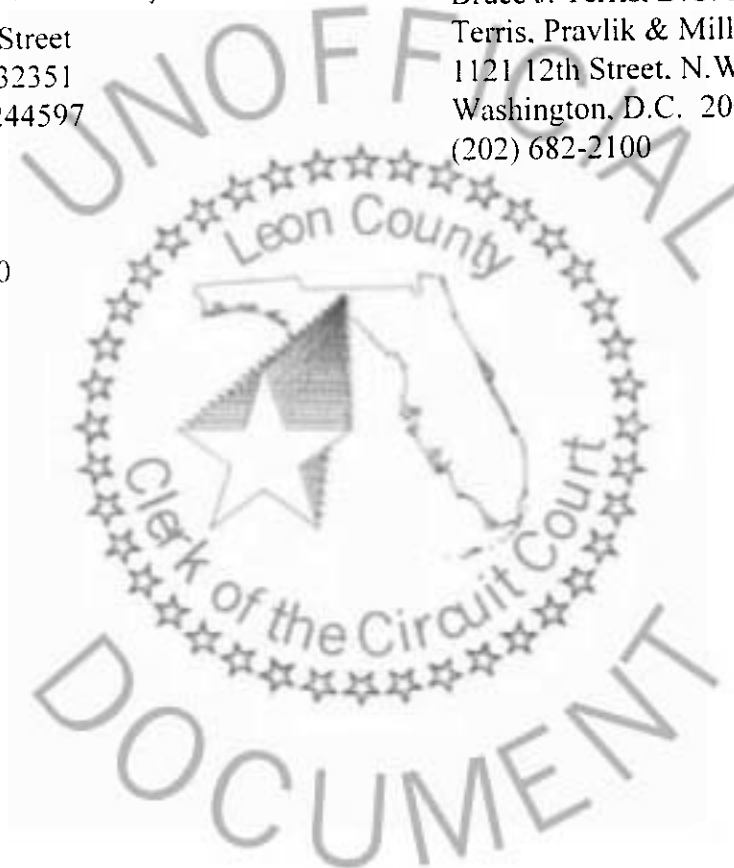


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16 North Adams Street  
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PLAINTIFF'S MOTION TO HAVE COUNSEL ADMITTED PRO HAC VICE

Pursuant to Rule 1-3.2(a) of the Rules Regulating the Florida Bar and to Rule 2.060(b) of the Florida Rules of Judicial Administration, plaintiffs hereby request that his counsel, Bruce J. Terris, of the law firm of Terris, Pravlik & Millian, LLP, be permitted to practice before this

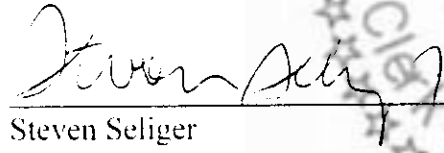
Court for the purpose of representing the plaintiffs in this action.

In support of this motion, plaintiffs are submitting an affidavit of Mr. Terris. Mr. Terris's affidavit shows that he is an active member and in good standing with the Bar of the District of Columbia. Pl. Ex. 1, p. 1, para. 2.

In the past three years, Mr. Terris has not filed a motion to be admitted pro hac vice before a Florida state court in a single case. Pl. Ex. 1, para. 5. That case involved the enforcement of a judgment of the Superior Court of the District of Columbia. The case was settled soon after it was filed.


Mr. Terris is serving as trial counsel in a case before the United States District Court for the Middle District of Florida. *Bander v. Bellsouth Advertising and Publishing Corp.*, No. 99-802 Civ-Orl-18A, filed June 29, 1999. Pl. Ex. 1, para. 6. In order to participate in that case, Mr. Terris filed a Notice of Retaining Local Counsel Pursuant to Local Rule 2.02(a) of the Rules of the United States District Court for the Middle District of Florida. *Ibid.*

Respectfully submitted,



---

Steven Seliger  
16 North Adams Street  
Quincy, Florida 32351  
FL Bar I.D. No. 244597



---

Bruce J. Terris, D.C. Bar No. #47126  
Terris, Pravlik & Millian, LLP  
1121 12th Street, N.W.  
Washington, D.C. 20005-4632  
(202) 682-2100

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AFFIDAVIT OF BRUCE J. TERRIS

Bruce J. Terris, being first duly sworn on oath, states that the foregoing is a just and true statement of facts:

1. I am a partner at Terris, Pravlik & Millian, LLP.

2. I am an active member and in good standing with the District of Columbia Bar.


3. I have read Plaintiff's Motion to Have Counsel Admitted Pro Hac Vice and verify that the statements contained therein are accurate.

4. I have been a member of the District of Columbia Bar since 1957. My bar number is 47126.

5. In the past three years, I have filed one motion to be admitted pro hac vice before a Florida state court. On April 12, 2000, I filed such a motion in *Reid v. Sinclair*, No. CACE 00-5806(18) (17th Cir. Ct.). The case, which involved the enforcement of a judgment of the Superior Court of the District of Columbia, was settled soon after it was brought.

6. I am serving as trial counsel in a case that is before the United States District Court for the Middle District of Florida. The title of that case is *Bander v. Bellsouth Advertising and Publishing Corp.*, No. 99-802 Civ-Orl-18A, filed June 29, 1999. In order to participate in that case, I filed a Notice of Retaining Local Counsel Pursuant to Local Rule 2.02(a) of the Rules of the United States District Court for the Middle District of Florida.

12/4/00  
DATE

  
BRUCE J. TERRIS

Subscribed and affirmed before me this  
12th day of December, 2000.

  
(Notary Public)

AMY K. KENDALL  
Notary Public  
District of Columbia  
My commission expires October 14, 2005

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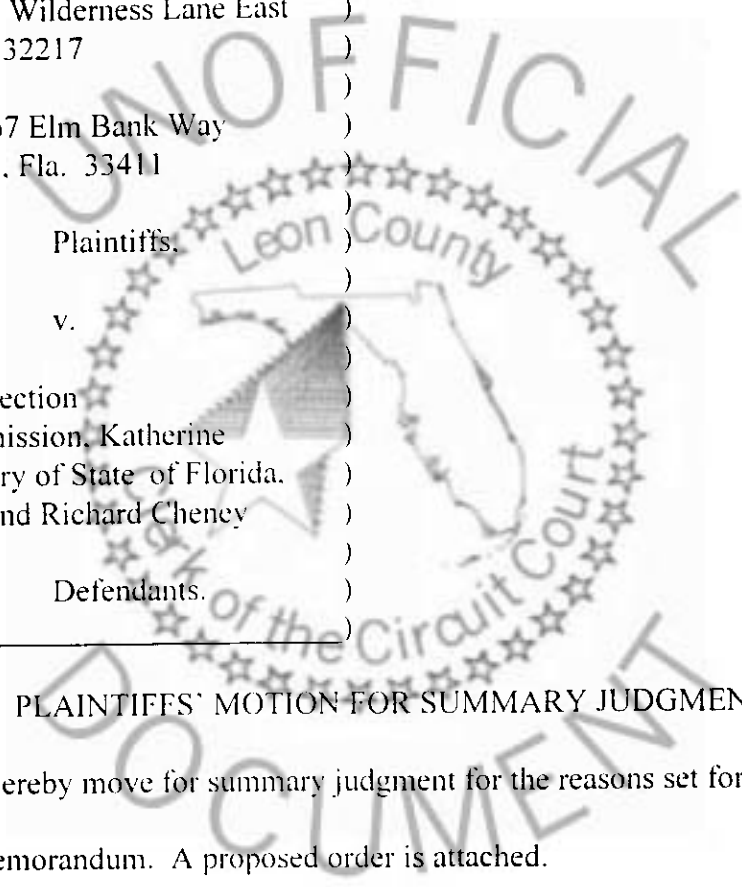
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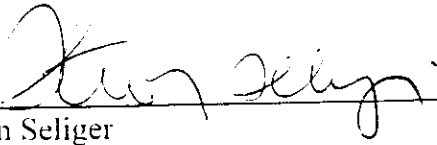
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PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Plaintiffs hereby move for summary judgment for the reasons set forth in the accompanying memorandum. A proposed order is attached.

Plaintiffs request an immediate hearing.



Steven Seliger  
16 North Adams Street  
Quincy, Florida 32351  
FL Bar I.D. No. 244597



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MEMORANDUM IN SUPPORT OF PLAINTIFFS'  
MOTION FOR SUMMARY JUDGMENT

FACTUAL BACKGROUND

On November 7, 2000, the election of presidential electors was held in the State of Florida and elsewhere in the United States. Subsequent to November 7, 2000, the county

canvassing or election boards in Florida received mail ballots from overseas which had postmarks on or before November 7, 2000, or were otherwise deemed to have been mailed on or before November 7, 2000. The county canvassing or election boards counted these ballots as long as they were received on or before November 17, 2000.

The vote totals certified by the county canvassing or election boards to defendant Katherine Harris, the Secretary of State of Florida on or after November 17, 2000, included the mail ballot votes received after 7 p.m. on November 7, 2000, and on or before November 17, 2000. Defendant State of Florida Election Canvassing Canvassee and defendant Harris, in turn, included these votes in the certification of the election of the electors of defendants Bush and Cheney on November 26, 2000.

If the votes for the electors of both Bush-Cheney and Gore-Lieberman contained in the ballots received by the county canvassing and election boards after 7 p.m. on November 7, 2000, and on or before November 17, 2000, are deducted from the total votes certified by defendant State of Florida Election Canvassing Commission and defendant Harris on November 26, 2000, the electors of Al Gore and Joseph Lieberman received more votes in the State of Florida than the electors of defendants Bush and Cheney. Consequently, the validity of the votes received by the county canvassing and election boards after 7 p.m. on November 7, 2000, and on or before November 17, 2000, will, aside from all other contests, determine the outcome of the presidential election in the State of Florida.<sup>1</sup>

#### ARGUMENT

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<sup>1</sup>The only caveat to this statement is if the contests of defendants Bush and Cheney result in additional votes for them based on their contests.

Section 101.6103 of the Florida Statute provides as follows as to mail ballots:

(5) A ballot shall be counted only if:

\* \* \*

(c) It is received by the supervisor of elections not later than 7 p.m. on the date of the election.

\* \* \*

(6) With respect to absent electors overseas entitled to vote in the election, the supervisor of elections shall mail an official ballot with a secrecy envelope, a return mailing envelope and instructions sufficient to describe the voting process to each such elector on a date sufficient to allow such elector time to vote in the election and to have his or her mailed ballot reach the supervisor by 7 p.m. on the day of the election.

Section 101.65 of the Florida Statutes further provides:

The supervisor shall enclose with each absentee ballot separate printed instructions in substantially the following form:

READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING BALLOT.

1. VERY IMPORTANT. In order to ensure that your absentee ballot will be counted, it should be completed and returned as soon as possible so that it can reach the supervisor of elections of the county in which your precinct is located no later than 7 p.m. on the day of the election.

Section 101.67 of the Florida Statutes similarly provides:

(2) All mailed absent elector's ballots to be counted must be received by the supervisor by 7 p.m. the day of the election.

Thus, Florida law explicitly provides, without the slightest ambiguity, that no ballots, including ballots from overseas, may be counted unless received by the county canvassing and election boards before 7 p.m. on election day, this year on November 7, 2000.

Section 18-2.013 of the Florida Administrative Code provides:

(7) With respect to the presidential primary and general election, any absentee ballot cast for a federal office by an overseas elector which is postmarked or signed and dated no later than the date of the Federal election shall be counted if received no later than 10 days from the date of the Federal election as long as electors shall be informed by the supervisors of the elections of the provisions of this rule, i.e., the ten day extension provision for the presidential preference primary and general election, and the provision for the second primary.

Thus, the regulations, Section 18-2.013 of the Florida Administrative Code provide that overseas absentee ballots shall be counted if received by ten days after the date of the election, this year by November 17, 2000. This provision is obviously and directly inconsistent with Sections 101.6103(5) and (6) and 101.67 of the Florida Statutes.

There can be no question when there is a conflict between a statute and a regulation which prevails. It is a truism of administrative law that when such a conflict occurs, the regulation is invalid. However, if there were any doubt about this proposition, the Florida legislature has specifically resolved it. Section 101.6105 of the Florida Statutes provides:

The provisions of the election code relating to absentee voting and absentee ballots shall apply to elections under 55.101.6101-101.6107 only insofar as they do not conflict with the provisions of 55.101.6101-101.6107.

Since Section 18-2.013 of the Florida Administrative Code is in direct conflict with Section 101.6103(5) and (6) and 101.67 of the Florida Statutes, Section 18-2.013 does not apply.

Sections 101.6103(5) and (6) and 101.67 of the Florida Statutes are explicit. There is no conflict between these provisions and any other provisions of Florida Statutes. Cf. *Palm Beach County Canvassing Board v. Harris*, Nos. SC00-2346, SC00-2348, SC00-2349, Fla. Supreme Court, decided November 21, 2000, vacated and remanded, *Bush v. Palm Beach County Canvassing Board*, No. 00-36, Supreme Court, decided December 4, 2000. However, if there

were any doubt as to the meaning of the statute, the Florida appellate courts have held that the absentee ballot provisions of the Florida Statutes are to be strictly construed. *Parra v. Harvey*, 89 So. 2d 870 (1956) (determining that the candidate which previously had fewer votes was the winner); *Papy v. Englander*, 267 So. 2d 111 (Fla. App. 3 Dist. 1972) (invalidating absentee ballots received after 7 p.m. on election day). It follows, *a fortiori* that the four times repeated explicit language of the statute must be followed.

In *Wood v. Diefenbach*, 81 So. 2d 777 (Fla. 1955), the Florida Supreme Court stated that "compliance with the statutory requirements for absentee voting were [sic] mandatory and \* \* \* the failure to so require was fatal to the ballot cast." One of the violations of law, which was found to be fatal was absentee ballots "not returned within the time provided by law." *Accord*, *Papy v. Englander*, *supra*, 267 So. 2d 111 (based on this and other violations, the court refused to count the absentee ballots and determined that the candidate who previously had fewer votes was the winner of the election).

Defendants will doubtless argue that the absentee voters received instructions from the county canvassing and election boards allowing them to return their ballots after election day as long as they were postmarked by 7 p.m. on election day. However, that error by election officials, while extremely unfortunate, does not allow the clear statutory mandate to be ignored. The Florida Supreme Court considered this precise question in *Parra v. Harvey*, *supra*, 89 So. 2d 870, and refused to allow the absentee ballots to be counted. There, the absentee voters submitted legally inadequate application blanks for ballots which the election officials had supplied them. The court held that, "[a]lthough we cannot condone the furnishing of improper application blanks," the voter who "disregards statutory provisions that he should follow to make

his ballot regular in all particulars \* \* \* will not then be heard to claim that his ballot should be counted because he was innocent \* \* \*."<sup>2</sup>

Defendants will also presumably argue that the Section 18-2.013 of the Florida Administrative Code is based on a consent decree entered between the United States and the State of Florida. However, a consent decree cannot change a state statute which provides explicitly to the contrary. The executive branch of the State of Florida has no authority to override the will of the legislature.

The consent decree is only binding on the State of Florida if federal law required the State to count absentee ballots which arrived after the statutory deadline of 7 p.m. on election day. However, no federal statute so provides. This is demonstrated by the fact that, as Attachment A shows, an overwhelming majority of the states do not allow the counting of absentee ballots, international or otherwise, which are received after election day.

The importance of the statutory provisions relied upon by plaintiffs is reinforced by the decision of the United States Supreme Court in *Bush v. Palm Beach County Canvassing Board*, No. 00-836, U.S. Supreme Court, on December 4, 2000. There, the Court relied on Article II, Section 1, clause 2 of the Constitution and *McPherson v. Blucker*, 146 U.S. 1 (1892), to emphasize the special role of the legislature in presidential elections. Thus, the statutory provisions relevant to this case are even more clearly controlling than in the ordinary election case.

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<sup>2</sup> We note that numerous other voters in this election have unfortunately also been denied the right to cast the votes of their choice due to mistakes of election officials. See, e.g., *Fladell v. Palm Beach County*, Nos. SC00-2373, SC00-2376, Florida Supreme Court, decided December 1, 2000.

The outcome in this case would be self-evident if the election at issue was for a city, county or even a state office. As we have seen above, the Florida courts have held that absentee ballots arriving after 7 p.m. on election day in conformance with the statute cannot be counted. The Florida Supreme Court has at least twice determined to overturn the election of a candidate by invalidating absentee ballots which did not fully conform to the statute.

Here, of course, the subject matter of this litigation is a far more important election, the election of the President of the United States. However, this is not a reason for failing to apply the rule of law. On the contrary, there is even more reason to require that the law be followed.

In short, by counting absentee ballots which arrived the county canvassing boards or election boards after 7 p.m. on November 7, 2000, the county canvassing boards and election boards violated Sections 101.6103(5) and (6), 101.65 and 101.67 of the Florida Statutes. Similarly, by counting absentee ballots which arrived at the county canvassing boards or election boards after 7 p.m. on November 7, 2000, in their certification, defendant State of Florida Canvassing Commission and defendant Harris violated Section 101.6103(5) and (6), 101.65 and Section 101.67 of the Florida Statutes.

Section 102.168 of the Florida Statutes state that the grounds for an election contest include:

- \* \* \*
- (c) Receipt of a number of illegal votes \* \* \* sufficient to change or place in doubt the result of the election

\* \* \*

  - (e) Any other cause or allegation which, if sustained, would show that a person other than the successful candidate was the person duly nominated

or elected to the office in question \* \* \*.

The county canvassing and election boards and defendant State of Florida Canvassing Commission and defendant Harris received and counted illegal votes sufficient to change or, at the least, place in doubt the result of the presidential election in the State of Florida and the rejection of improper absentee ballots would show that the electors of Al Gore and Joseph Lieberman, rather than the electors of defendants Bush and Cheney, were the persons duly elected in the November 7, 2000, election. As Attachment B demonstrates, the official results certified by defendant State of Florida Election Canvassing Commission and defendant Harris on November 26, 2000, state that the electors of Bush-Cheney electors received a total of 2,912,790 votes and the electors of Gore-Lieberman received 2,912,253 votes, a difference of 537. The official results also show that the electors of Bush-Cheney received 1,575 votes which were received after 7 p.m. on November 7, 2000, and Gore-Lieberman received 836 such votes, a difference of 739 votes. Thus, if the votes received after 7 p.m. on November 7, 2000, are not counted, the electors of Gore-Lieberman would win the election.

#### CONCLUSION

Section 102.168 of Florida Statutes provides that:

(8) The circuit judge to whom the contest is presented may fashion such orders as he or she deems necessary \* \* \* to prevent or correct any alleged wrong, and to provide any relief appropriate under such circumstances.

Based on Section 102.168(8), plaintiffs respectfully request that this Court exercise its authority pursuant to that provision and issue an order:

a. Declaring illegal the counting of any ballots received by the county canvassing or election boards after 7 p.m. on November 7, 2000, in the certification of defendant State of

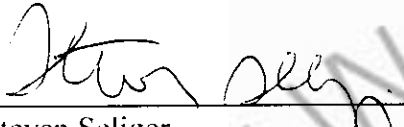


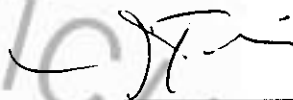
Florida Election Canvassing Commission and defendant Harris; and

b. Requiring defendant State of Florida Election Commission and defendant Harris to amend the certification of election issued on November 26, 2000, so as not to count any ballots received by the county canvassing or election boards after 7 p.m. on November 7, 2000;

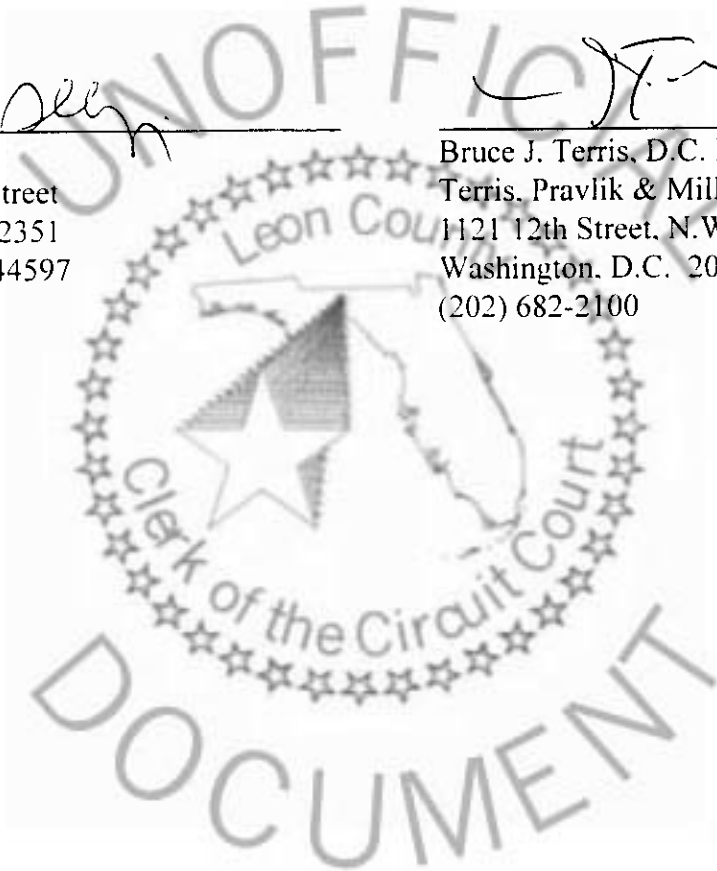
(c) Requiring defendant States of Florida Election Commission and defendant Harris to issue a new or amended certification that the electors of Al Gore and Joseph Lieberman received the most votes in the presidential race in the State of Florida and therefore these electors shall be deemed elected.

Respectfully submitted,

  
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December 4, 2000





# Federal Election Commission

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## Frequently Asked Questions About Absentee Voting

**Q. How do I obtain an absentee ballot?**

**A.** You may request an absentee ballot by contacting your local county or city election official. Depending on your State, this individual may be the County Clerk, County Auditor, County Registrar or Supervisor of Elections, or the Board of Elections. In most cases the phone number for these offices is listed in the blue government pages of your phone book.

**Q. I'm a member of the armed forces stationed overseas. How can I vote by absentee ballot?**

**A.** The Federal Voting Assistance Program (FVAP) in the Office of the Secretary of Defense is responsible for administering the *Uniformed and Overseas Citizens Absentee Voting Act*. This law provides that members of the U.S. Uniformed Services and merchant marine and their family members may vote absentee while away from their place of voting residence, wherever stationed, within or outside the United States. For detailed information on registering and obtaining an absentee ballot, please visit the FVAP web site at [www.fvap.ncr.gov](http://www.fvap.ncr.gov), or call 1-800-438-VOTE.

**Q. I'm a U.S. citizen currently residing abroad. How can I vote by absentee ballot?**

**A.** The FVAP also serves non-military U.S. citizens residing abroad by helping them to register and vote by absentee ballot.

**Q. How do I request a receipt of absentee ballots in my jurisdiction?**

**Q. How do I request a receipt of my absentee ballot used to the jurisdiction?**

**Q. How do I request a receipt of my absentee ballot used to the jurisdiction?**

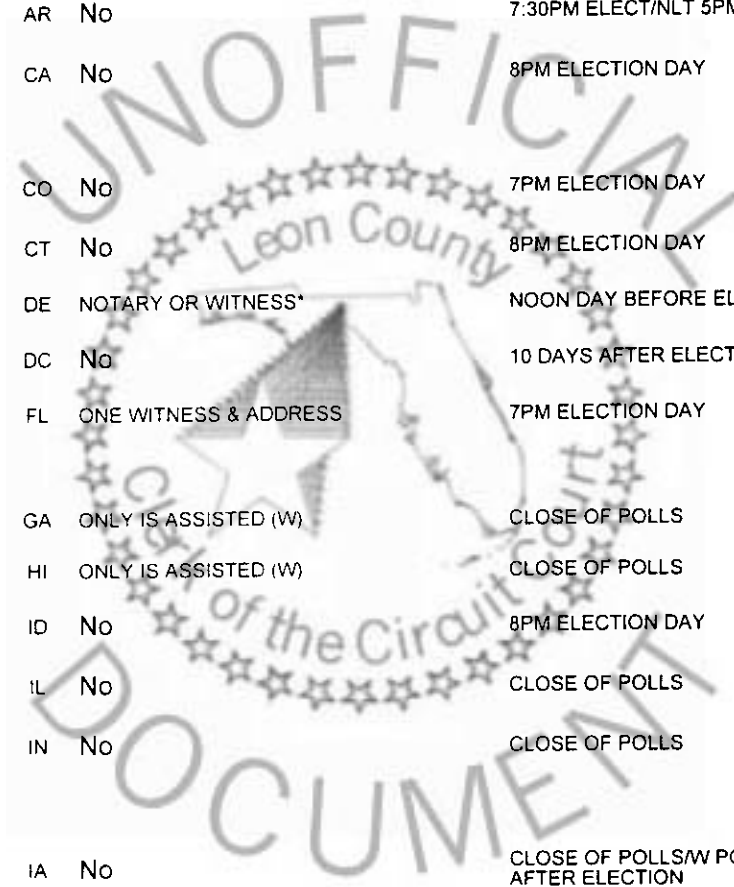
**Q. How do I request a receipt of my absentee ballot used to the jurisdiction?**

STATE	WHEN ARE ABSENTEE BALLOTS NORMALLY COUNTED	WHO NORMALLY COUNTS ABSENTEE BALLOTS
AL	CLOSE OF POLLS	POLLWORKERS
AK	8PM ELECTION DAY	DIST. AB BALLOT COUNT BOARD
AZ	ELECTION DAY & 5 DAYS BEYOND	CENTRAL COUNTING
AR	7:30 PM ELECTION DAY	ABSENT ELECTION BOARD
CA	5PM DAY BEFORE ELECTION	SPECIAL COUNTING BOARD
CO	10 DAYS PRIOR TO CLOSE ELEC NIGHT	AT LEAST 3 COUNTY JUDGES
CT	NOT BEFORE NOON ELECT. DAY	ABSENTEE BALLOT COUNTERS
DE	PRIOR TO CLOSE OF POLLS	ELECTION JUDGES
DC	UP TO 10 DAYS AFTER ELECTION	D.C. BOARD OF ELECTIONS
FL	7PM ELECTION DAY	COUNTY CANVASSING BOARD
GA	CLOSE OF POLLS	ABSENTEE BALLOT MANGER
HI	ELECTION DAY	CHIEF ELECTION OFFICER
ID	CLOSE OF POLLS	COUNTY CLERKS & ELECTION JUDGES
IL	CLOSE OF POLLS	PANEL OF ELECTION JUDGES
IN	ELECTION DAY	PREC. ELEC. or CENTRALCOUNTING BOARD
IA	ELECTION DAY	ELECTION BOARD
KS	OPENING OF POLLS (COUNTY)	SPECIAL ELECTION BOARD
KY	BEG. 3PM ELECT. DAY	COUNTY BOARD OF ELECTIONS
LA	AFTER 1PM BEFORE 8PM D.O.E.	BOARD OF ELECTION SUPERVISORS
ME	CLOSE OF POLLS OR PRIOR*	ELECTION CLERKS
MD	10 am THURS. AFTER ELECTION DAY	COUNTY BOARD
MA	ELECTION DAY	LOCAL ELECTION OFFICIAL
MI	CLOSE OF POLLS/7AM OPTION	PRECINCT ELECTION or ABSENT VOTER BD
MN	8PM ELECTION DAY	ELECTION JUDGES
MS	CLOSE OF POLLS	PRECINCT ELECTION MANAGERS
MO	ELECTION DAY (may prepare earlier)	ELECTION JUDGES BIPART. TEAMS
MT	PRIOR TO CLOSE/NOT BEFORE OPEN	ABSENTEE BALLOT COUNTING BOARD
NE	TIME SET BY CO. ELECT. OFFICER	ABSENT VOTERS COUNTING BOARD
NV	ELECTION DAY	ABSENTEE BALLOT COUNTING BOARD
NH	CLOSE OF POLLS	PRECINCT MODERATOR
NJ	ELECTION DAY	COUNTY BOARD OF ELECTIONS
NM	7PM ELECTION DAY	ABSENTEE VOTER PRECINCT BOARD
NY	CLOSE OF POLLS	INSP. OF ELECT/ CENTRAL COUNTING
NC	5PM ELECTION DAY	COUNTY BOARD OF ELECTIONS
ND	CLOSE OF POLLS	ABSENTEE BALLOT COUNTING BOARD
OH	CLOSE OF POLLS	SPECIAL ELECTION JUDGES
OK	7PM ELECTION DAY	COUNTY ELECTION BOARD
OR	UPON DELIVERY OF POLL BOOKS	ELECTION OFFICIAL
PA	CLOSE OF POLLS	PRECINCT ELECTION BOARD
RI	9PM ELECTION DAY	STATE BOARD OF ELECTIONS
SC	7PM ELECTION DAY	ABSENTEE POLL MANAGERS

SD	CLOSE OF POLLS	AB BIT BOARD/PRECINCT CANV. BOARD
TN	OPENING OF POLLS	CENTRAL AB. BALLOT COUNT BOARD
TX	ELECTION DAY**	EARLY VOTING BALLOT BOARD
UT	ELECTION DAY OR MON. AFTER ELECT.	ELECTION JUDGES
VT	CLOSE OF POLLS	BIPARTISAN ELECTION JUDGES
VA	CLOSE OF POLLS	ELECT OFF/CENTRAL COUNT
WA	8PM ELECTION DAY & PRIOR TO CERT.	CANVASSING BOARD
WV	CLOSE OF POLLS	PRECINCT ELECTION COMMISSIONERS
WI	BETWEEN OPEN AND CLOSE OF POLLS	WARD ELECTION INSPECTORS
WY	CLOSE OF POLLS	CNTY CLERK OR 3 ELECTION JUDGES

<b>STATE</b>	<b>ENVELOPES SIGNED BY WITNESS OR NOTARY</b>	<b>CUT-OFF FOR RECEIVING ABSENTEE BALLOTS</b>
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AL	NOTARY OR 2 WITNESSES	CLOSE OF POLLS ON ELECTION DAY
AK	NOTARY OR 2 WITNESSES	NLT 10 DAYS AFTER ELECTION/15 OVERSEAS
AZ	No	7PM ELECTION DAY
AR	No	7:30PM ELECT/NLT 5PM 10 DAYS AFTER
CA	No	8PM ELECTION DAY
CO	No	7PM ELECTION DAY
CT	No	8PM ELECTION DAY
DE	NOTARY OR WITNESS*	NOON DAY BEFORE ELECTION
DC	No	10 DAYS AFTER ELECTION**
FL	ONE WITNESS & ADDRESS	7PM ELECTION DAY
GA	ONLY IS ASSISTED (W)	CLOSE OF POLLS
HI	ONLY IS ASSISTED (W)	CLOSE OF POLLS
ID	No	8PM ELECTION DAY
IL	No	CLOSE OF POLLS
IN	No	CLOSE OF POLLS
IA	No	CLOSE OF POLLS/W POSTMARK NLT MON AFTER ELECTION
KS	No	CLOSE OF POLLS
KY	No	CLOSE OF POLLS



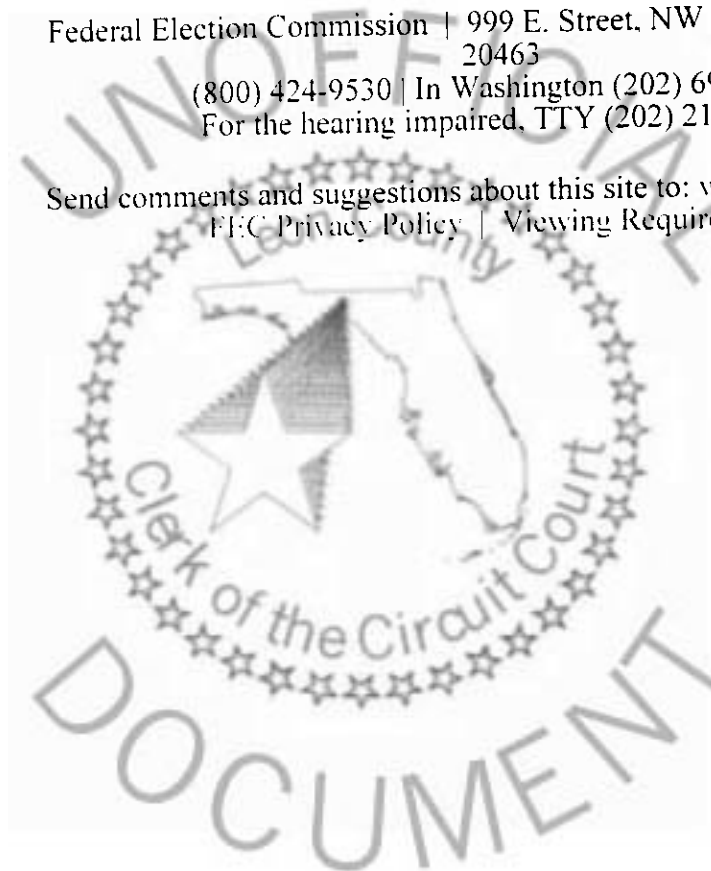
LA	NOTARY OR 2 WITNESSES	MIDNIGHT DAY BEFORE ELECTION
ME	NOTARY OR 2 WITNESSES*	CLOSE OF POLLS
MD	No	FRIDAY WEEK AFTER ELECTION**
MA	No	10 DAYS AFTER ELECTION FOR GENERAL
MI	ONLY IF ASSISTED (W)	8PM ELECTION DAY
MN	NOTARY OR 1 WITNESS	LAST MAIL DELIVERY ELECTION DAY
MS	WITNESS	
MO	NOTARY*	CLOSE OF POLLS
MT	No	CLOSE OF POLLS
NE	WITNESS	10AM SECOND DAY AFTER ELECTION
NV	No	CLOSE OF POLLS
NH	No	5PM DAY BEFORE ELECTION
NJ	WITNESS OR NOTARY	8PM ELECTION DAY
NM	No	7PM ELECTION DAY
NY	ONLY IF ASSISTED (W)	POSTMARKED DAY BEFORE ELECTION
NC	2 WITNESSES	5PM DAY BEFORE ELECTION
ND	ONLY IF ASSISTED (W)	WITHIN 2 DAYS AFTER ELECTION
OH	No	CLOSE OF POLLS
OK	NOTARY OR WITNESS*, **	7PM ELECTION DAY
OR	No	8PM ELECTION DAY
PA	ONLY IF ASSISTED (W)	5PM FRIDAY BEFORE ELECTION
RI	NOTARY OR 2 WITNESSES	9PM ELECTION DAY
SC	WITNESS	CLOSE OF POLLS
SD	No	CLOSE OF POLLS
TN	WITNESS IF ASSISTED	CLOSE OF POLLS
TX	IF UNABLE TO SIGN	BEFORE CLOSE OF POLLS***
UT	ONLY IF ASSISTED (W)	NOON MONDAY FOLLOWING ELECTION
VT	No	CLOSE OF POLLS

VA	WITNESS	CLOSE OF POLLS
WA	No	NLT 10 DAYS
WV	No	CLOSE OF POLLS
WI	WITNESS	CLOSE OF POLLS
WY	No	7PM ELECTION DAY



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Attachment B

Florida Department of State  
Division of Elections

Official Results

President of the United States

	Bush / Cheney Lieberman (REP)	Gore / Browne / Olivier (LIB)	Nader / LaDuke (GRE)	Harris / Trowe (SWP)	Hagelin / Goldhaber (LAW)	Buchanan / Foster (REF)	McReynolds / Hollis (SPF)	Phillips / Frazier (CPF)	Moorehead / La Riva (WWP)	Chote / Lancaster (WRI)	McCarthy / Beifus (WRI)
Sub Total	2,911,215	2,911,417	16,407	97,426	562	2,280	17,479	621	1,803	34	6
	1,575	836	8	62	0	1	5	1	1	0	0
Total	2,912,790	2,912,253	16,415	97,488	562	2,281	17,484	622	1,804	34	6
Percent	48.8%	48.8%	0.3%	1.6%	0.0%	0.0%	0.3%	0.0%	0.0%	0.0%	0.0%

