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IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA

CASE NO. CL 00 11 000 AH

KELVIN GIBBS
GERALD GIBBS
CYNTHIA BEEN GIBBS
DOROTHY GIBBS
OLLIE GIBBS
REGINA GIBBS

ON BEHALF OF THEMSELVES
AND ALL OTHERS SIMILARLY
SITUATED,

PLAINTIFFS,

VS.

9
PALM BEACH COUNTY
CANVASSING BOARD,
As constituted by County Court
Judge Charles Burton; Supervisor
Of Elections Theresa Lepore; and
County Commissioner Carol Roberts;
GEORGE W. BUSH, DICK CHENEY,
AL GORE and JOE LIEBERMAN,

DEFENDANTS

CLASS ACTION COMPLAINT
FOR VIOLATION OF CIVIL RIGHTS

The Plaintiffs, KELVIN GIBBS, GERALD GIBBS, CYNTHIA BEEN GIBBS, DOROTHY GIBBS, OLLIE GIBBS, and REGINA GIBBS file this complaint against Defendants, PALM BEACH COUNTY CANVASSING BOARD, as constituted by County Court Judge, Charles Burton; Supervisor of Elections, Theresa Lepore; and County Commissioner, Carol Roberts, George W. Bush, Dick Cheney, Al Gore and Joe Lieberman, and states:

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CLERK OF COURT

1. This is a class action seeking declaratory and injunctive relief for 250,000 dollars for violation of Plaintiffs' civil rights guaranteed by the Florida and United States Constitutions. The claims stem from the deprivation of Plaintiffs' right to vote, in connection with the General Election held on November 7, 2000. The right to vote is a fundamental one secured by the Florida Constitution and United States Constitution and in Amendments Fourteen, Fifteen, Nineteen, Twenty-Four and Twenty Six thereto. This action is brought pursuant to 42 U.S.C. Sec. 1983.

2. Plaintiffs contend that the ballot format used in connection with the voting for President and Vice-President, in the November 7, 2000, General Election was misleading, was deceptive, and caused many of the voters in the election to cast votes for candidates other than the candidate for whom they intended to vote.

3. Palm Beach County was the only county to list the candidates on two pages. It is believed that such format had never before been used in a Presidential election and that said format created and contributed to much voter confusion. All sixty-six (66) other counties in Florida listed all candidates in a straightforward, non-confusing manner, listing each candidate vertically from top to bottom as prescribed by Florida Statute 101.191 (1999) ("Form of General Election Ballot"). Moreover, pursuant to Florida Statutes Section 101.151(4), Section 101.191 (1999), Defendant, THERESA LEPORE, was required by law to place the Democratic candidates in second position on the ballot (as the Democratic Party had received the second highest number of votes for Governor in the last election in which a Governor was elected), but instead placed the Democratic candidates in third position (third punch hole). Defendant, THERESA LEPORE, had no discretion to change the statutorily mandated position of the Democratic candidates on the ballot set forth in Exhibit A.

4. The Plaintiffs are adult residents of Palm Beach County, Florida who voted in the November 7, 2000 General Election in Palm Beach County, Florida. The plaintiff class is the group of registered voters, including those with and without party affiliation, who actually voted in the November 7, 2000 General Election in Palm Beach County, Florida.

5. Plaintiffs sought to and did vote in the November 7, 2000 General Election.

6. Each Plaintiff attempted to vote for a presidential candidate of their choice. They are not certain that they, in fact, voted for the candidate of their choice because of the confusing nature of the presidential ballot.

7. Each Plaintiff attempted to vote for a presidential candidate of their choice. They are not certain that they, in fact, voted for the candidate of their choice because of the confusing nature of the presidential ballot.

8. This ballot format was unlike that of any of the presidential ballot formats used in any of the other sixty-six counties in the State of Florida in that the ballot used in Palm

Beach County had candidates listed on either side of the punch strip used for voting. The sequence used on this ballot required the voter to shift attention from left to right to left to right, etc. in order to view all of the candidates on the list.

9. The balloting promulgated by the Defendant was in violation of Florida law in that it failed to allow the voter to mark an "X" or to utilize a punch strip to the right of the candidates name, instead, for some candidates, selection was made to the right of the name and for other candidates, selection was made to the left of the name.

10. The publication issued by the Defendant in mailings to registered voters, shortly before the General Election, which showed a sample ballot, failed to show that the punch strip used to select the candidates, was in the same position utilized in the Palm Beach voting booths. The positioning of the punch strip in the voting booths was such that, for example, three separate punch holes were immediately to the right of the box in which the name of the Green Party candidates were found, at the same time, on the opposite side of the ballot, three punch holes were found immediately to the left of the box in which the Workers World Party candidates were found. In contrast, to the right of the box containing the Republican Party candidate, only two punch holes are found.

11. Plaintiffs contend that (1) as a result of the above-described positioning of the candidates on the ballots in violation of Florida law, the ballots in Palm Beach County as they pertain to the Presidential Election were inherently confusing, (2) that because of this positioning the Reform Party candidates, Pat Buchanan and Ezola Foster and possibly other independent candidates, received votes that were intended for the Democratic candidates, Al Gore and Joe Lieberman and (3) that because of these positioning, electors inadvertently punched more than one hole to vote for Al Gore and Joe Lieberman, thereby invalidating their ballot and disenfranchising themselves.

12. Based upon the foregoing contrary contentions of the parties, an actual bona fide dispute exists between the parties as a result of which Plaintiffs are in doubt as to the validity of the results of the Presidential Election in Palm Beach County, Florida.

13. It has been widely acknowledged by the media and political commentators that the results of the Presidential Election in Florida will be decisive as to whether the Democratic or Republican candidates are elected President and Vice-President. Without winning the election in Florida neither candidate can win the Presidential Election. Votes unintentionally cast for Buchanan in Palm Beach County will make a decisive difference in the outcome of the November 7, 2000 Presidential election.

14. This Court has the right, duty, and power to declare the rights and liabilities of the respective parties herein, and to give such other and further relief as may be necessary and proper under the circumstances.

15. There is a bona fide, actual, present and practical need for the declaration and

adjudication of the rights of the parties hereunder and the dispute described in this Complaint deals with a present, ascertained controversy.

16. The controversy outlined above concerns an interpretation of a privilege and/or right of the parties dependent upon a determination and resolution of the facts described in this Complaint.

17. Plaintiffs seek a declaration that the plaintiffs' civil rights were violated by the acts of the defendant.

18. Plaintiffs seek injunctive relief against the Defendants prohibiting the Defendants from further use of this or similarly confusing and deceptive ballots. Injunctive relief is appropriate as the actions of the Defendants are subject to repetition without recourse by the voters of Palm Beach County. The Plaintiffs have no plain, adequate, or complete remedy at law. They are suffering and continue to suffer irreparable injury because of the acts of the Defendants.

19. Plaintiffs seek further relief in the form of a revote by all of the class members, strictly on the presidential candidates. It is only through such means that the class members will be able to correctly exercise their right to vote and their freedom of association. Due to the anonymous nature of the balloting process, none of the Plaintiffs can identify their individual ballots and thus individual relief, in the form of corrected balloting, is not possible.

WHEREFORE, for all of the foregoing reasons, Plaintiffs seek

- a. A determination that the class status is appropriate pursuant to the Fla.R.Civ.Proc. 1.220.
- b. A declaration that the Plaintiffs' civil rights were violated by the acts of the Defendants.
- c. An injunction prohibiting Defendants from further use of similar ballots in this or other elections.
- d. An order directing Defendant to utilize a format of a ballot which is in accordance with the Florida law and which is not confusing or deceptive.
- e. An order requiring the Defendants to allow a revote by those Palm Beach County voters who voted in the General Election, with respect to presidential balloting only, at the cost of the Defendant.
- f. An order requiring the Defendant to pay Plaintiffs costs and fees reasonably incurred in the prosecution of this matter.
- g. Grant such other and further relief as may be deemed right and just.

b. The Plaintiffs demand judgment of 250,000 for declaratory and injunctive relief.

Respectfully submitted,

Kelvin Gibbs
Kelvin Gibbs
Pro Se Litigant

Vincent Gibbs
Vincent Gibbs
Pro Se litigant

Cynthia Been Gibbs
Cynthia Been Gibbs
Pro se litigant

Dorothy Gibbs
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Ollie Gibbs
Ollie Gibbs
Pro se litigant

Regina Gibbs
Regina Gibbs
Pro se litigant

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OFFICIAL BALLOT, GENERAL ELECTION
PALM BEACH COUNTY, FLORIDA
NOVEMBER 7, 2000

(REPUBLICAN)

GEORGE W. BUSH - PRESIDENT
DUCK CHENEY - VICE PRESIDENT

3

(DEMOCRATIC)

AL GORE - PRESIDENT
JOE LIEBERMAN - VICE PRESIDENT

5

(LIBERTARIAN)

MARSHY BROWNE - PRESIDENT
ART DEWILVER - VICE PRESIDENT

7

(GREEN)

RALPH NADER - PRESIDENT
WENDY LOUKE - VICE PRESIDENT

8

(SOCIALIST WORKERS)

JAMES HARRIS - PRESIDENT
MARGARET THOME - VICE PRESIDENT

9

(NATURAL LAW)

JOHN HAGELIN - PRESIDENT
RAY GOLDBERGER - VICE PRESIDENT

11

OFFICIAL BALLOT, GENERAL ELECTION
PALM BEACH COUNTY, FLORIDA
NOVEMBER 7, 2000

(REFORM)

PAT BUCHANAN - PRESIDENT
SZOLA FOSTER - VICE PRESIDENT

4

(SOCIALIST)

DAVID McGEYNOlds - PRESIDENT
MARY CAL HOLLIS - VICE PRESIDENT

6

(CONSTITUTION)

HOWARD PHILLIPS - PRESIDENT
J. CURTIS FRAZIER - VICE PRESIDENT

8

(WORKERS WORLD)

MONICA MOOREHEAD - PRESIDENT
GEORGIA LA BOVA - VICE PRESIDENT

10

WRITE-IN CANDIDATE

Please fill in writing-in candidates, before the
directions on the top side of your ballot card.

EX-87A

Confusion at Palm Beach County polls

Some Al Gore supporters may have mistakenly voted for Pat Buchanan because of the ballot's design.

Although the Democrats are listed second in the column on the left, they are the third hole on the ballot.

Punching the second hole casts a vote for the Reform party.

<p>SELECTED FOR PRESIDENT AND VICE PRESIDENT</p> <p>If vote for the candidate will result in a vote for their party, Mark for Party</p>	<p>(REPUBLICAN)</p> <p>GEORGE W. BUSH <small>Republican</small> 34</p> <p>DUCK CHENEY <small>Republican</small> 34</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p>	<p>(REFORM)</p> <p>PAT BUCHANAN <small>Republican</small> 4</p> <p>SCOTT FORBES <small>Republican</small> 4</p>
	<p>(DEMOCRATIC)</p> <p>AL GORE <small>Democrat</small> 34</p> <p>JOE LIEBERMAN <small>Democrat</small> 34</p>		<p>(SOCIALIST)</p> <p>DAVID BRANTWILE <small>Republican</small> 5</p> <p>MARY GAY WELLS <small>Republican</small> 5</p>
	<p>(LIBERTARIAN)</p> <p>BARRY BISHOP <small>Republican</small> 7</p> <p>ART GLENNE <small>Republican</small> 7</p>		<p>(CONSTITUTION)</p> <p>EDWARD PHILLIPS <small>Republican</small> 8</p> <p>J. CURTIS FRASER <small>Republican</small> 8</p>
	<p>(GREEN)</p> <p>DALE BROWN <small>Republican</small> 9</p> <p>WYNORA LAMERS <small>Republican</small> 9</p>		<p>(WORKERS WORLD)</p> <p>MORRIS WOODHEAD <small>Republican</small> 10</p> <p>ELDA LA BETA <small>Republican</small> 10</p>
	<p>(SOCIALIST WORKERS)</p> <p>JAMES BROWN <small>Republican</small> 11</p> <p>MARGARET TOWNE <small>Republican</small> 11</p>		<p>WRITE IN CANDIDATE</p> <p>To vote for a write-in candidate, follow the direction on the top each of your ballot card.</p>
	<p>(NATURAL LAW)</p> <p>JOHN RAMEL <small>Republican</small> 12</p> <p>ART SCHULMAN <small>Republican</small> 12</p>		

Staff graphic