

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

TIMOTHY A. CANOVA,

Plaintiff,

CASE NO.:

IMMEDIATE HEARING
REQUESTED PURSUANT
TO Fla. Statutes Title IX
Section 102.168 (7)

v.

THE ELECTIONS CANVASSING
COMMISSION, and
DEBBIE WASSERMAN SCHULTZ,

Defendants.

COMPLAINT TO CONTEST ELECTION

Plaintiff Timothy A. Canova, by and through his undersigned counsel, hereby brings this action against The Elections Canvassing Commission and Debbie Wasserman Schultz (“Schultz”), and alleges the following upon his own knowledge, or where he lacks personal knowledge, upon information and belief, including the investigation of counsel and election experts.

NATURE OF ACTION

1. This action involves misconduct by Brenda Snipes, the Broward County Supervisor of Elections (“SOE”) and other Florida and Broward election

officials in the supervision of the 2018 general election for Florida's 23rd Congressional district. As more fully described below, Snipes failed to safeguard the chain of custody of the paper ballots cast in Broward County for this election, and the scope of this issue is sufficient to change or place in doubt the results of this election as now certified.

2. Unfortunately, this is only the most recent instance of what is now a pattern of misconduct by Snipes regarding paper ballots, as it follows barely a year after Snipes unlawfully destroyed hundreds of boxes of all paper ballots cast in Broward County in the 2016 Democratic primary for Florida's 23rd Congressional district between Canova and Schultz, in violation of state and federal law and while Canova's prior lawsuit to inspect those ballots was pending, as already determined on summary judgment by the Florida Circuit Court.

3. In addition to Snipes' failure to safeguard the integrity of the paper ballots in the 2018 general election for FL-23, the certification of the purported results is based on inadequate and incomplete information, and it is therefore an invalid certification of those results. More specifically, approximately 98,000 votes are reported by Snipes to have been cast for Schultz without any indication as to how and when those votes were cast. To date, Snipes still has not provided this information about the "98,000 votes from nowhere." These votes alone are enough

to change the results of this election, or at the very least to place in doubt these results.

4. Finally, the electronic voting machines used for this election are inherently defective as to the chain of custody for the electronic votes cast in this election. In particular, the electronic voting machines have modems that render them highly susceptible to outside hacking and inside software manipulation. As a result, use of these electronic voting machines constitute another form of misconduct in connection with this election as conducted in Broward County as well as the portion of North Miami-Dade County also within Florida's 23rd Congressional District. And as with the failure to maintain proper chain of custody of the paper ballots, and the 98,000 votes of unknown nature and date, the inherent inability of the electronic voting machines to ensure proper chain of custody of votes cast through those machines is of sufficient scope to change or place in doubt the elections results.

5. Simply stated, on the basis of these several forms of material misconduct, Plaintiff now brings the present action under Title IX Section 102.168 of the Florida Statutes to (i) contest the certification of the results of the November 6, 2018 election in Florida's 23rd Congressional District, (ii) invalidate the election, and (iii) order a new election.

THE PARTIES

6. Plaintiff is an individual and resident of Hollywood, Florida. He is a tenured Professor of Law and Public Finance at Nova Southeastern University Shepard Broad College of Law in Davie/Ft. Lauderdale, Florida.

7. In 2016, Plaintiff ran as a candidate for the U.S. House of Representatives in Florida's 23rd Congressional District in the August 30, 2016 Democratic Primary against the incumbent, Debbie Wasserman Schultz (the "2016 primary election").

8. In 2018, Plaintiff ran as a candidate for the U.S. House of Representatives in Florida's 23rd Congressional District in the November 6, 2018 general election (the "2018 general election").

9. Defendant, Debbie Wasserman Schultz is the Representative in Florida's 23rd Congressional District.

10. Defendant, Elections Canvassing Commission consists of Governor Rick Scott and two of his cabinet members, each serving as ex-officio members. Governor Scott recused himself from the Commission and named State Senator Rob Bradley to serve along with Attorney General Pam Bondi and Agriculture Commissioner Adam Putnam on the Elections Canvassing Commission.

JURISDICTION AND VENUE

11. The Court has subject matter jurisdiction over this action pursuant to Title IX Section 102.68 of the Florida Statutes.

12. The Court has personal jurisdiction over The Elections Canvassing Commission as an indispensable party defendant under Title IX Section 102.168 (4) of the Florida Statutes.

13. The Court has personal jurisdiction over Debbie Wasserman Schultz as an indispensable party defendant under Title IX Section 102.168 (4) of the Florida Statutes.

14. Under Title IX Section 102.1685, the venue for contesting the 2018 election for Florida's 23rd Congressional District is Leon County, since the election covered more than one county.

FACTS

DEFENDANT SNIPES' ILLEGAL DESTRUCTION OF ALL BALLOTS CAST IN THE 2016 DEMOCRATIC PRIMARY

15. On August 29, 2016, the day prior to the August 30, 2016 primary, NBC 6 South Florida published election results on its website showing Defendant Schultz ahead of Plaintiff by 58% to 42% with 69% of the precincts reporting. After taking screen shots, Plaintiff immediately inquired, but has never received any explanation from NBC 6 or the SOE as to the basis for its reporting election results the day before the election. On August 30, 2016, Snipes reported that Plaintiff had

lost the Democratic Primary in Broward County to Schultz by a margin of 56.48% to 43.52%, or 26,608 votes to 20,504 votes.

16. Plaintiff sought to verify the vote in his August 30, 2016 primary by inspecting the ballots as permitted under Florida's public records law.

17. In November 2016, Plaintiff and his agents made the first of three public records requests to inspect the ballots and digital scanned images of the ballots cast in his 2016 primary election.

18. In response to Plaintiff's November 2016 public records request, Snipes claimed that her office had no digital scanned images of the ballots and she refused to allow inspection of the paper ballots.

19. At a hearing on November 6, 2017, Snipes' outside counsel informed the Florida Circuit Court that Snipes was working with Defendant Schultz against Plaintiff's lawsuit and discovery requests.

20. When Plaintiff visited the Supervisor's Voting Equipment Center in Lauderhill, Florida in the weeks prior to the 2016 primary election, he observed numerous photographs of Defendant Schultz with top Broward election officials, including in the office of Dozel Spencer, the director of the SOE Voting Equipment Center. Plaintiff immediately objected about the appearance of bias to Snipes, who had no explanation. Spencer admitted to these photos in sworn videotaped deposition testimony in early 2018.

21. In early 2017, Plaintiff and his agents made two more public records requests of Snipes to inspect the ballots from the 2016 primary election, including his final request in March 2017.

22. Snipes refused to permit inspection of the ballots in response to Plaintiff's multiple public records requests.

23. In June 2017, through his attorneys, Plaintiff filed a lawsuit against Snipes in the Florida Circuit Court to enforce his public records inspection rights.

24. While Plaintiff's lawsuit was pending, and only three days after being served with discovery requests to produce the paper ballots, Snipes ordered the destruction of all the ballots.

25. Snipes and one of her directors, Dozel Spencer, signed a ballot destruction order on September 1, 2017 that falsely certified that the ballots were not the subject of pending litigation despite the fact that the ballots were in fact the subject of pending litigation against Snipes herself as a named defendant.

26. Snipes willfully concealed the ballot destruction from the Florida Circuit Court, Plaintiff and Plaintiff's lawyers for more than two months.

27. In late October 2017, Plaintiff through his agents sought to inspect the ballots at the Broward SOE Voting Equipment Center in Lauderhill, Florida. When Plaintiff and his agents arrived to inspect the ballots, they were informed that the

ballots were not available, without any explanation why the ballots were not available.

28. Instead, Snipes informed Plaintiff and his agents that they could inspect digital scanned images of the ballots, which contradicted Snipes' representations nearly a year earlier that the SOE had not maintained digital scanned images of the ballots cast in the 2016 primary election.

29. At a hearing on November 6, 2017, Snipes through her attorney admitted to the Florida Circuit Court that she had destroyed all the ballots cast in the 2016 primary election and claimed that she had digital scanned images of those ballots, which contradicted Snipes' previous representations to Plaintiff and Plaintiff's counsel.

30. Without the original paper ballots, and using only digital scanned images, it is impossible to verify the results of the 2016 primary election. There are an unfortunately large number of ways that the process could produce incorrect results. Ballots could have been lost or replaced before the scanning; ballot on demand machines could have produced extra ballots; some digital images could have been either accidentally or deliberately repeated numerous times. Digital images themselves can be altered, and there is no convincing chain-of-custody evidence for these digital images.

31. During the pre-trial discovery process, Snipes informed Plaintiff that the process of creating the digital scanned ballot images involved using third-party proprietary software, as well as assistance from a third-party vendor, Clear Ballot.

32. In responding to Plaintiff's discovery request, Snipes failed to fully fill out chain-of-custody documents for the original paper ballots.

33. When Plaintiff's experts were able to review some of the information from the 2016 primary election, they found large and unexplained discrepancies between the number of voters who voted and the number of cast ballots. In all, there were more than 1,000 discrepancies, and out of 211 precincts only 19 had the same number of voters and ballots. These irregularities were highly concerning to election experts. According to Duncan Buell, a professor of computer science at the University of South Carolina, there was a high likelihood of massive incompetence or fraud.

34. Douglas Jones, a computer science professor at the University of Iowa stated that Broward County should be reconciling the number of voters with ballots, that the Broward SOE was at the very least grossly negligent for not doing so, and that he has never seen a county that looks like this. Jones served on the Election Assistance Commission (EAC) Technical Guidelines Development Committee for four years.

35. Discrepancies between the number of voters and the cast ballots, plus the inability or refusal of the SOE office to produce the original ballots, all raised questions about what the true totals for 2016 primary election may have been. According to Karen McKim, a member of the Wisconsin Election Integrity Action Team and a veteran of hand-counts in that state, the certified results must be considered suspect. She said, “They destroyed the evidence. They can’t defend their results.”

36. In early 2018, Snipes admitted in sworn videotaped deposition that she had destroyed all the paper ballots.

37. In early 2018, Dozel Spencer, the SOE Director of Voting Equipment, also admitted in sworn videotaped deposition that he signed and carried out the ballot destruction order.

38. Snipes has claimed that her ballot destruction inflicted no harm to Plaintiff or the public because she claimed to have the digital scanned images of the original ballots. However, no one including Plaintiff is permitted to inspect the software of the electronic voting machines that created those digital scanned ballot images. The closed source software is considered “proprietary” and the private property of the software vendors hired by Snipes.

39. Snipes engaged in a repeated pattern of obstruction, deception, and ultimately unlawful conduct in the destruction of all the ballots cast in the 2016 primary.

40. On May 11, 2018, the Florida Circuit Court granted Plaintiff Canova summary judgment, and found that Snipes had violated numerous state and federal statutes, including laws punishable as felonies with up to five years in prison.

41. In the summary judgment order, the Court rejected Snipes' argument that the destruction of ballots was unintentional. The Court concluded that Snipes' defenses were "without substance in fact or law."

42. The Court's ruling made clear that Snipes' destruction of ballots was illegal on several separate counts. According to the Court, federal and Florida law requires that the ballots in a federal election be preserved for 22 months. The ballots were destroyed after only 12 months. Violations of the federal statute are punishable by up to a year in prison. Violations of the state statute are punishable as felonies by up to five years in prison.

43. Plaintiff Canova had sought to inspect the original paper ballots under Florida's public records law, as permitted for any citizen under both the statute and the Florida Constitution. The court ruled that it was illegal for Snipes to refuse to produce the original paper ballots for inspection as public records and to refuse to allow copying and/or scanning of those ballots.

44. Documents that are the subject of legal proceedings cannot be destroyed without permission from the court. Snipes ordered the destruction of the ballots on September 1, 2017, while the litigation was pending. The Court found that the destruction of the ballots was in violation of the “litigation hold” that was triggered once the civil action was instituted.

45. The Court further found that Snipes had violated the Florida statutory requirements to act in good faith. Snipes destroyed the ballots in September 2017, but nonetheless filed her Answer and Affirmative Defenses on October 31, 2017 and did not reveal the ballot destruction until November 6, 2017. Even after admitting to the unlawful destruction of ballots, Snipes’ continued to litigate in bad faith.

SNIPES’ MISCONDUCT AND APPEARANCE OF BIAS AGAINST PLAINTIFF CONTINUES

46. After the Florida Circuit Court ruled that Defendant Snipes had violated state and federal statutes in destroying all the ballots cast in the 2016 primary election, there were no consequences for Snipes – she was not suspended and replaced by the Governor, and there was no announcement of any criminal investigation by any law enforcement agencies.

47. Throughout 2018, Plaintiff warned that if Snipes were kept in office after violating state and federal criminal laws with impunity, there would be more official misconduct in her supervision of the primary and general elections.

48. On or about October 27, 2018, less than two weeks before Election Day and while voters were casting ballots by mail and at early voting sites, Snipes and Schultz were photographed together campaigning openly in public. Snipes had no reason to be campaigning in public. She was not on the ballot and not up for election in 2018.

49. By campaigning together with Defendant Schultz, Snipes demonstrated an arrogant disregard to avoid even the appearance of a conflict of interest in the supervision of the 2018 election.

THE 2018 GENERAL ELECTION IN FLORIDA'S 23RD CONGRESSIONAL DISTRICT

50. Plaintiff ran again in 2018 for Florida's 23rd Congressional District, this time as a No Party Affiliation (NPA) independent candidate.

51. In late October 2018, *The Floridian Press* reported on a public opinion poll that showed Plaintiff Canova and Defendant Schultz tied at 34% each among likely voters, with the Republican candidate trailing at 13%.

52. Nevertheless, on November 6, 2018, very soon after the polls closed on Election Night, Snipes declared Defendant Schultz the winner. The official results in Broward County were Schultz 58.95%, Republican Joe Kaufman 35.36%, and Plaintiff Canova 5.10%.

53. A portion of Florida's 23rd Congressional District is in Miami-Dade County. When those results are included, Defendant Schultz reportedly received

161,611 votes, Kaufman received 99,446 votes, and Plaintiff Canova approximately 15,000 votes.

54. Plaintiff has not conceded or accepted the official results of the election.

55. Snipes and other Broward and Florida election officials committed serious misconduct in the supervision of the 2018 general election for Florida's 23rd Congressional District "sufficient to change or place in doubt the result of the election," which meets the standard for contesting an election under Title IX Section 102.168 (3)(a) of the Florida Statutes.

56. As noted above, Snipes and other Broward election officials failed to maintain any proper chain of custody of the paper ballots in the 2018 general election. In particular, on Election Day night, a line of cars with only one person in each car pulled up to at least one polling location in Broward County, and each person removed from their cars the blue satchels that normally contain paper ballots that have been cast, and then loaded them into the back of a rental truck. This procedure is inconsistent with appropriate chain of custody protocols and practices for the transfer of paper ballots from polling sites to the Broward SOE warehouse. Among other things, appropriate chain of custody practices would prohibit the transfer of ballots in the possession of only one person with no apparent law enforcement authority. Rather, the type of practice that confers protection of chain

of custody, and therefore the integrity of the election process, involves a member of law enforcement such as a sheriff's deputy (or perhaps other sworn oath-taking officials) who transport ballots and creates and signs a "paper trail" establishing the details of the chain of custody as the ballots are transported. Absent that, there is no reasonable protection against any other person in possession of ballots as they are transported having the improper opportunity to do anything they want with the ballots.

57. The breakdown in the chain of custody in the paper ballots casts doubt on any hand recount of the paper ballots cast in the 2018 general election.

58. Snipes and other Broward and Florida election officials also failed to protect the security of the software for the electronic voting machines, thereby permitting hackers the opportunity to shift a sufficient number of votes from Canova to Schultz as to change or place in doubt that results of the election.

59. Snipes and other Broward and Florida election officials failed to maintain any appropriate chain of custody of the electronic voting machines in themselves, including the electronic scanners and tabulators, central tabulation machines, and software that may have been used for these electronic voting machines.

60. Election observers recorded the wireless transmission of election results from an ES&S DS200 digital scanner voting machine at a Broward County polling place on Election evening, November 6, 2018.

61. Election observers confirmed in a recorded video that cellular modems are installed in the DS200 voting machines and that they operate with a wireless antenna.

62. The cellular modems operating with a wireless antenna makes the DS200 voting machines particularly vulnerable to outside hacking or inside software manipulation.

63. According to U.S. intelligence agencies, there are serious risks to the integrity of our elections from hacking and other electronic manipulation. Those risks could be from either foreign or domestic sources. The ease of hacking into electronic voting machines – even those not ordinarily connected to the internet – was reported in a *New York Times Magazine* article by Kim Zetter entitled “The Myth of the Hacker-Proof Voting Machine” (Feb. 21, 2018).

64. The vulnerability in the DS200 means there is no secure chain of custody for election materials in Broward County due to modems inside or connected to their election systems.

65. This vulnerability in the operation of the DS200 means there is no reason to trust the official election results produced by those voting systems,

particularly when combined with statistical anomalies and nearly 98,000 votes from nowhere. This pairing of a cellular modem with a digital scanner voting machine is the precise vulnerability that could allow hackers near and far to gain access to election results.

66. The breakdown in the chain of custody in the electronic voting machines and software casts doubt on any machine recount of the 2018 general election in Broward County.

67. The vulnerability of Broward’s electronic voting machines to outside hacking or inside software manipulation, resulting from their accessibility by cellular modem to wireless connections, constitutes a “voting system defect” as a “failure, fault, or flaw in an electronic or electromagnetic voting system . . . which results in the system’s nonconformance with the standards in a manner that affects the timeliness or accuracy of the casting or counting of ballots” under Title IX Section 101.56065 of the Florida Statutes.

68. Computer science experts studying the DS200 in a research laboratory have concluded that the DS200 has vulnerabilities that allows the spread of vote-stealing malware.

69. The software management systems that Broward uses are provided by VR Systems, a company that was reportedly hacked in 2017, although the company has denied it.

70. Time-stamped video of the completely reported results from the Broward County Supervisor of Elections website in the 23rd Congressional District race show votes for candidates in precinct after precinct with totals and percentages listed, but no indication of where and how those votes were cast.

71. As of November 30, 2018, the categories of Election Day, Vote By Mail, Early Voting, Write-In and Provisional Votes were frequently completely blank in Broward's official election results for the 23rd Congressional district.

72. According to election experts, leaving all of these categories vacant would allow the totals for any candidate to be reallocated with ease by sophisticated hackers.

73. Defendant Schultz is purported to have received 161,611 votes, but close to 100,000 of those votes were literally reported from nowhere, that is, in precincts with no indication of how or when those votes were cast.

74. These "97,874 votes from nowhere" for Schultz may have been votes transferred illegally from another candidate or candidates, which would be "sufficient to change or place in doubt the result of the election."

75. Spreadsheets of data downloaded from the Broward SOE website show that data was being removed, not added, in the days and weeks following the election.

76. When results of the 23rd Congressional District were first downloaded on November 8, there was more information in the various categories, such as Election Day, Vote By Mail and Early Voting, than days later. When the information was downloaded again on November 11, many more of the categories had become blank, even though counties are generally adding more information, or updating totals as they count the votes, not removing already reported results.

77. According to election experts, the disappearing information was consistent with possible fraud designed to look like error.

78. There were an unusually high number of “undervotes” in the race for Congress in the 23rd District in Broward County, where a voter has signed in and cast a ballot, but for some reason not voted in a given race.

79. Election experts are concerned about a high undervote rate, because it may mean that legitimate votes have either not been counted or have been discarded.

80. Election experts estimate the undervotes in the 23rd Congressional District race at around 8,337, or about 3.2%, a figure that is approximately twice as much as the undervotes in any other congressional district in Florida.

81. High undervote rates can sometimes indicate that valid votes have not been counted. Moreover, the undervotes may be a collateral consequence of the

illegal exchanging of votes between candidates that would be required to effectively “cap” a candidate with a certain percentage of votes.

82. According to election experts, on average, the other Florida congressional districts have an undervote rate of 1.69 percent, based on the totals being reported at the time the data was collected. According to experts, undervotes are usually measured in fractions of 1%. Here, it appears that not a single precinct reported an undervote percentage under 1%, while some precincts are reported to have undervotes as high as approximately 10%.

83. All of these undervote numbers in this election were fluctuating somewhat as the counties were finishing their preliminary count. But no other district that experts examined approached the high percent of voters who appear to have voted in other races on the ballot but for some reason did not at the same time cast a vote in the election for Florida’s 23rd Congressional District.

84. Another highly suspect anomaly is that the unusually high percentage of undervotes in this election is remarkably consistent across all approximately 200 precincts. However, the wide range of such unusually high undervote percentages among different precincts demonstrates that the undervote is not the result of placement of this race on the ballot.

85. In addition to the suspect uniformity of the unusually high undervote percentages across all precincts, the approximately 5% of the vote that is reported

to have gone to Plaintiff is also across all precincts. Such a result is so unlikely, and in practical terms impossible, that a statistical and election expert has stated “that’s like winning the lottery every day for a year.”

86. The sources of these statistical discrepancies regarding the uniformly unprecedented high undervote and the uniformly 5% of the vote for Plaintiff across all precincts is presently unknown. But according to an expert, this “looks mathematically generated across precincts, and is systematic in nature.” Upon information and belief, it is the failure to implement sufficient safeguards as to security of the electronic voting machines that has enabled manipulation of the voting process in a manner that has produced results that are statistically **not** credible. As noted above, with modems as part of the machines, the machines are susceptible to unauthorized intrusion and communication. According to an expert, only 2-3 lines of source **code** is needed to take data sets such as 5% of the vote for Plaintiff across precincts and apply it to the machines through such intrusion and communication, particularly since electronic voting machines do not employ particularly robust security measures, and therefore are often easily accessible to others on the “outside” who are able to call through to the machines.

87. Democracy Counts, a non-profit that attempted to conduct a citizens’ audit for Florida’s 23rd congressional district, sought to inspect the poll tapes for that are required by Florida law to be posted outside of every polling station at the

close of polls. However, volunteers found one polling location after another where there were either no poll tapes posted, or the poll tapes that were posted were missing the 23rd congressional race.

88. On or around November 16, 2018, the Broward County Canvassing Board ordered Snipes and her office staff to preserve all records, but only after it was revealed that Snipes had already destroyed all digital scanned images of the ballots cast on November 6, 2018.

89. The unlawful destruction of the digital scanned images by Snipes would prevent any comparison of digital scanned images with paper ballots cast.

90. Under Florida Statutes Title IX, Section 98.015(1), Snipes was required to take an oath prescribed in Article II, Section 5 of the State Constitution “to faithfully perform the duties of Supervisor of Elections.”

91. Under Florida Statutes section 98.015(8), Spencer and other deputy supervisors were required to take oaths in writing to “faithfully perform the duties of the deputy supervisor’s office.”

92. Snipes, Spencer and other deputy supervisors violated their oaths to faithfully perform their duties, engaged in repeated misconduct and violations of state and federal laws, including criminal statutes.

93. Following numerous reports of repeated violations of Florida law in the supervision of the 2018 election and recounts for Senate and Governor races,

Snipes announced that she would resign as Supervisor of Elections effective early January 2019.

94. However, before her January resignation date, Governor Scott did what was warranted six months ago when the Florida Circuit Court found that Snipes had unlawfully destroyed hundreds of boxes of paper ballots from the 2016 Democratic primary for FL-23 in violation of state and federal law and while a lawsuit was pending against Snipes for access to those ballots. Specifically, on November 30, 2018, Governor Scott fired Snipes. In his Executive Order Number 18-342, Governor Scott describes some of the many types of misconduct in which Snipes has engaged in connection with supervising elections, including many that Plaintiff has alleged in his prior lawsuit and the present action. Among other things, Governor Scott states that “in the hours and days following the 2018 General Election, Supervisor Snipes demonstrated repeatedly that she was unable to accurately respond to basic requests from state election officials, candidates, news media, and the general public regarding the number of ballots that had been cast, the number of ballots that had been counted, and the number of ballots remaining to be canvassed; and that Supervisor Snipes was unwilling to permit the inspection of public records containing this information.”

95. Governor Scott also states that Snipes “improperly permitted her staff to open unverified provisional and vote-by-mail ballots that had not been canvassed

by the county canvassing board in violation of Florida law . . . and failed to ensure that ballots accepted and rejected by the county canvassing board were appropriately segregated, thereby permitting the commingling of more than 200 valid and invalid ballots in a manner that precluded subsequent actions to ensure that only valid ballots were counted, in violation of Florida law.” Governor Scott also states that “Supervisor Snipes reported that more than 2,000 ballots cast in Broward County had been lost, misplaced, or misfiled . . . but that the missing ballots were allegedly somewhere ‘in the building,’ and has provided no explanation for the unexplained disappearance of thousands of ballots.”

96. Governor Scott also states the obvious, that “Supervisor Snipes has a history of violating the election laws of this state,” something Plaintiff knows about all too well from his successful lawsuit against Snipes for destroying the ballots from the 2016 primary election. In fact, Governor Scott refers to that election in state “in the 2016 Primary Election, Supervisor Snipes posted the results of early voting and some vote-by-mail ballots thirty minutes before the polls closed at 7 p.m., in violation of Florida law . . . mailed vote-by-mail ballots to voters that omitted a constitutional amendment, in violation of Florida law . . . authorized the opening of vote-by-mail ballots before they had been canvassed by the county canvassing board, in violation of Florida law.”

97. Finally, Governor Scott refers to Plaintiff's earlier lawsuit, in stating "a judge of the Seventeenth Judicial Circuit has concluded that in 2017 Supervisor Snipes improperly authorized the destruction of ballots cast in the 2016 Primary Election, in violation of state and federal law."

98. Governor Scott's conclusions are very apt and relevant to Plaintiff's present allegations. He states "Supervisor Snipes has repeatedly failed in her duties as Broward County Supervisor of Election; and . . . Supervisor Snipes has contravened her oath of office as set forth in Article II, section 5, of the Florida Constitution, to 'faithfully perform the duties' of Supervisor of Elections of Broward County, Florida . . . [D]ue to her demonstrated misfeasance, incompetence, and neglect of duty, Supervisor Snipes can no longer demonstrate the qualifications necessary to meet her duties in office."

99. It is beyond reasonable dispute that Snipes has long engaged in demonstrable misconduct in connection with elections in Broward County, including the misconduct in the 2018 General Election that is sufficient to change or at least place in doubt the results reported by Snipes in the 2018 General Election for Florida's 23rd Congressional District.

CAUSE OF ACTION

“MISCONDUCT SUFFICIENT TO CHANGE OR PLACE IN DOUBT THE RESULTS OF THE ELECTION” UNDER TITLE IX SECTION 102.168(3)(a)

100. Plaintiff incorporates the allegations elsewhere in the Complaint as if fully set forth herein.

101. Title IX Section 102.168(3) of the Florida Statutes provides that an election may be set aside for “misconduct, fraud, or corruption on the part of any election official or any member of the canvassing board sufficient to change or place in doubt the result of the election.” The misconduct by Snipes was sufficient to place in doubt the result of this election.

102. In *Beckstrom v. Volusia County Canvassing Board*, et al, 707 S. 2d 720 (Fla. 1998), the Florida Supreme Court held “if a court finds substantial noncompliance with statutory election procedures and also makes a factual determination that reasonable doubt exists as to whether a certified election expressed the will of the voters, then the court in an election contest pursuant to [Florida Statutes] is to void the contested election even in the absence of fraud or intentional wrongdoing.”

103. Snipes engaged in misconduct that was sufficient to change or place in doubt the results of the 2018 election.

104. Snipes' failures to maintain the chains of custody of paper ballots and electronic voting machines makes it impossible to verify the vote and casts doubt on the results of the 2018 election.

105. The vulnerability of Broward's electronic voting machines to outside hacking or inside software manipulation, resulting from their accessibility by cellular modem to wireless connections, constitutes a "voting system defect" under Title IX Section 101.56065 of the Florida Statutes.

106. The vulnerability of Broward's electronic voting machines from cellular modem wireless connections constitutes a "failure, fault, or flaw in an electronic or electromagnetic voting system . . . which results in the system's nonconformance with the standards in a manner that affects the . . . accuracy of the casting or counting of ballots" under Title IX Section 101.56065 of the Florida Statutes.

107. The 97,874 votes apparently cast from nowhere for Defendant Schultz may have been cast for Plaintiff Canova or Joe Kaufman, the Republican candidate, and transferred by software manipulation to Schultz.

108. The 97,874 votes apparently cast from nowhere are sufficient to change the outcome of this election. Had those votes been transferred from either

the Plaintiff or the Republican candidate, there would be a change in the outcome of this election.

109. The 97,874 votes apparently cast from nowhere are sufficient to place in doubt the results of this election.

110. Statistical evidence, analyzed by leading national experts, confirm that there were statistical anomalies suggesting fraud in the 2018 election results sufficient to change the outcome or place in doubt the outcome of the election for Florida's 23rd Congressional District.

111. Because of the break in the chain of custody of both the paper ballots and the electronic voting machines there is no way to adequately verify if the 97,874 votes from nowhere were actually cast for Schultz, or if they were transferred by software manipulation from Plaintiff.

112. As a result of the break in the chain of custody of both the paper ballots and the electronic voting machines, and the 97,874 votes from nowhere, there is no way to adequately verify the official election results.

113. Snipes' repeated course of conduct, her unlawful destruction of the 2016 primary election ballots, and her decision to campaign openly with Defendant Schultz in the days before the November 6, 2018 election casts significant doubt on the results of the 2018 election.

PRAYER FOR RELIEF

114. Wherefore, plaintiff, prays for judgment against Defendants as to this cause of action, including:

a. An Order to enjoin the certification of Schultz as the winner in the 2018 general election for Florida's 23rd Congressional district.

b. An Order declaring the 2018 general election for Florida's 23rd Congressional district is hereby invalidated.

c. An Order for a new election between the candidates in Florida's 23rd Congressional district.

d. An Order declaring that Snipes and Spencer and anyone else who worked for or on behalf of Snipes shall play no part, directly or indirectly, in the supervision of any new election for Florida's 23rd Congressional district.

e. An Order declaring that the new election shall proceed with hand-marked paper ballots that are counted by hand in public and reported immediately and publicly at the local precinct level. To safeguard the integrity of the new election and restore public faith and confidence in the

new election, the court should enjoin the use of electronic voting machines with closed-source proprietary software.

f. An Order requiring Defendants to pay all actual damages as permitted under the causes of action alleged herein;

g. An Order requiring Defendants to pay punitive or exemplary damages on any causes of action so allowable;

h. An Order awarding attorneys' fees and costs; and

i. An Order providing for all other such equitable and legal relief as may be just and proper.

WHEREFORE, Plaintiff respectfully requests this Court to set an expedited hearing pursuant to Florida Statutes Title IX Section 102.168 (7).

RESPECTFULLY SUBMITTED
this 30th day of November, 2018.

A handwritten signature in black ink, appearing to read "Timothy A. Canova". The signature is fluid and cursive, with a large initial "T" and "C".

TIMOTHY A. CANOVA
Plaintiff