

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-cv-60774-Marra/Johnson

STEVEN A. GELLER, BARBARA EFFMAN,
AND PERCY JOHNSON

Plaintiffs,

v.

THE DEMOCRATIC NATIONAL
COMMITTEE,

Defendant.

PLAINTIFFS' UNOPPOSED MOTION TO DISMISS

Plaintiffs, STEVEN A. GELLER and BARBARA EFFMAN¹ ("Plaintiffs"), move, pursuant to Fed.R.Civ.P. 41(a)(2), to dismiss this action, with prejudice, and, in support, state as follows:

1. This action was commenced on May 22, 2008 upon the filing of Plaintiffs' Complaint for Injunctive Relief. (DE 1). By this action, Plaintiffs sought to have Florida's Delegates to the Democratic National Convention seated with full voting authority, something that the Rules and Bylaws Committee of Defendant, THE NATIONAL DEMOCRATIC NATIONAL COMMITTEE, had, at the time, precluded.

2. Since this action was filed, Defendant's Rules and Bylaws Committee determined that Florida's Delegation to the National Convention would be seated, but with each delegate accorded only one-half vote. This development potentially rendered certain relief Plaintiffs seek in this action moot.

¹ Original Plaintiff, Percy Johnson, was dropped by Endorsed Order entered on June 9, 2008 (DE 5).

3. Thereafter, the nomination process for the Democratic nominee for President for the 2008 election became, effectively, uncontested. On August 3, 2008, Senator Obama requested, in writing, that Defendant's Credentials Committee restore full voting rights to Florida's Delegates to the Democratic National Convention. Such action, once it is, as is expected, implemented by Defendant's Credentials Committee will afford to Plaintiffs, via these non-judicial processes, all relief they seek in this action.

4. As a consequence, the claims herein have been effectively rendered moot by events that have transpired since the filing of this action. In the interests of judicial efficiency and because, in Plaintiffs' view, justice has now been effected, this action should be dismissed, as moot.

6. Plaintiffs, accordingly, request that this action be dismissed, with prejudice, with all parties to bear their own costs and attorneys' fees.

S.D.Fla.L.R 7.1(A)(3) Statement

Between August 11, 2008 and August 13, 2008, Plaintiffs' counsel conferred, in writing, with Defendant's counsel, James Miller, Esq., in a good faith effort to resolve the issues raised in this motion. Defendant's counsel has confirmed that Defendant does not oppose the dismissal of this action, with prejudice, with the conditions set forth herein.

WHEREFORE, Plaintiffs, STEVEN A. GELLER and BARBARA EFFMAN, respectfully request that the Court, pursuant to Fed.R.Civ.P. 41(a)(2), dismiss this action, with prejudice, with all parties bearing their own costs and fees.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that we electronically filed the foregoing document by using the CM/ECF system which will copy all counsel of record and have mailed a copy by US mail to: Joseph E. Sandler, Esq., General Counsel to The Democratic National Committee, c/o Gov. Howard Dean, Chairman, 430 S. Capitol Street, SE, Washington, DC 20003 on this 14th day of August, 2008.

By: /s/ Richard W. Epstein
RICHARD W. EPSTEIN

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