

**No. 12-15738-EE**

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

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KARLA VANESSA ARCIA, ET AL.,

*Plaintiffs-Appellants,*

v.

FLORIDA SECRETARY OF STATE,

*Defendant-Appellee.*

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA (No. 12-22282-CIV-ZLOCH)

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**APPELLEE'S RESPONSE TO JURISDICTIONAL QUESTION**

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**CERTIFICATE OF INTERESTED PERSONS**

Pursuant to 11th Circuit Rule 26.1-1, I hereby certify that the Certificate of Interested Persons contained in Appellants' initial brief is, to the best of my knowledge, accurate and complete.

/s/ Michael A. Carvin

Michael A. Carvin

## APPELLEE'S RESPONSE TO JURISDICTIONAL QUESTIONS

The Court's letter of December 31, 2012, directed the parties to address the question of:

whether and to what extent this Court has jurisdiction over the appeal from the district court's October 4, 2012, interlocutory order denying Plaintiffs-Appellants' motion for preliminary injunction and summary judgment as an interlocutory order granting injunctive relief under 28 U.S.C. § 1292(a)(1). *See Solantic, LLC v. City of Neptune Beach*, 410 F.3d 1250, 1272-74 (11th Cir. 2005) (concerning the scope of this Court's jurisdiction over appeals from interlocutory orders granting or denying injunctions); *Massey v. Cong. Life Ins. Co.*, 116 F.3d 1414, 1416-17 (11th Cir. 1997) (same).

Plaintiffs' appeal from "the district court's October 4, 2012, interlocutory order," was dismissed by stipulation on December 3, 2012. *See Order Dismissing Appeal With Prejudice*, Case No. 12-15220 (Dec. 3, 2012). The instant appeal, arises not from the district court's October 4 interlocutory order, but, rather, from the final judgment entered by the district court on October 29, 2012. Notice Of Appeal, Case No. 12-15378 (Nov. 1, 2012).

The district court entered final judgment on October 29 in response to Plaintiffs' motion for judgment as a matter of law, which argued that the district court's October 4 order had conclusively resolved the sole legal question at issue in the case and should therefore enter final judgment against Plaintiffs in order to facilitate an appeal. Dct. Dkt. 113, 124, 125. In response, the Secretary restated

his position that Plaintiffs' assertions of injury, even if accepted as true, could not establish Article III standing; however, although this lack of standing certainly precluded any judgment in Plaintiffs' *favor*, it was no bar to final judgment *against* Plaintiffs. Dct. Dkt. 120.

Since final judgment was entered against Plaintiffs, and the instant appeal arises from that final judgment, we believe the Court has jurisdiction over this appeal.

Dated: January 14, 2013

Respectfully submitted,

/s/ Michael A. Carvin

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**CERTIFICATE OF SERVICE**

I hereby certify that, on January 14, 2013, the foregoing response was filed with this Court and served on all parties by filing with the Court's CM/ECF system

/s/ Michael A. Carvin

Michael A. Carvin

*Counsel for Secretary Detzner*