

No: 12-15378

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

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Karla Vanessa Arcia, Melande Antoine, 1199SEIU  
United Healthcare Workers East, National Congress for  
Puerto Rican Rights, and Florida Immigrant Coalition, Inc.,

*Plaintiffs-Appellants,*

v.

Ken Detzner, in his official capacity as Florida Secretary of State,

*Defendant-Appellee.*

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
CIVIL ACTION NO. 12-CV-22282-ZLOCH

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**PLAINTIFFS-APPELLANTS' RESPONSE TO DEFENDANT-APPELLEE'S  
MOTION TO TRANSFER, OR ALTERNATIVELY, MOTION FOR  
90-DAY EXTENSION OF TIME**

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## **CERTIFICATE OF INTERESTED PERSONS**

Pursuant to 11th Circuit Rule 26.1-1, Appellants, Karla Vanessa Arcia, Melande Antoine, 1199SEIU United Healthcare Workers East, National Congress for Puerto Rican Rights, and Florida Immigrant Coalition, Inc. furnish a complete list of the following persons that have an interest in the outcome of this case:

Advancement Project – Attorneys for Appellants

Antoine, Melande – Appellant

Arcia, Karla Vanessa – Appellant

Cartagena, Juan – Attorney for Appellants

Carvin, Michael A. – Attorney for Appellee

Culliton-Gonzalez, Katherine – Attorney for Appellants

Davis, Ashley E. – Attorney for Appellee

De Leon, John – Attorney for Appellants

Detzner, Ken, Florida Secretary of State – Appellee

Fair Elections Legal Network – Attorneys for Appellants

Flanagan, Catherine M. – Attorney for Appellants

Florida Immigrant Coalition, Inc. – Appellant

Florida New Majority, Inc. – Plaintiff

Friedman, Joshua N. – Attorney for Appellants

Gandy Jr., W. Eugene – Attorney for Appellee

Goldman, Marc A. – Attorney for Appellants

Gore, John M. – Attorney for Appellee

Hair, Penda – Attorney for Appellants

Hovland, Ben – Attorney for Appellants

Jenkins, Marina K. – Attorney for Appellants

Jenner & Block LLP – Attorneys for Appellants

Jones Day – Attorneys for Appellee

Kanter Cohen, Michelle – Attorney for Appellants

Kaplan, Lindsay Eyler – Attorney for Appellants

Katsas, Gregory G. – Attorney for Appellee

LatinoJustice PRLDEF – Attorneys for Appellants

Law Offices of Chavez & De Leon – Attorneys for Appellants

Masters, Lorelie S. – Attorney for Appellants

National Congress for Puerto Rican Rights – Appellant

Nkwonta, Uzoma – Attorney for Appellants

Nordby, Daniel E. – Attorney for Appellee

Perez, Jose – Attorney for Appellants

Postman, Warren D. – Attorney for Appellee

Project Vote – Attorneys for Appellants

Ramamurti, Bharat R. – Attorney for Appellants

Roberson-Young, Katherine – Attorney for Appellants

Rogers, Kristen M. – Attorney for Appellants

Sen, Diana – Attorney for Appellants

Vail, Jason – Attorney for Appellee

Veye Yo – Plaintiff

Zloch, The Honorable William J. – U.S. District Court Judge

1199SEIU United Healthcare Workers East – Appellant

Plaintiffs-Appellants Karla Vanessa Arcia, *et al.* (“Plaintiffs”), respond to Defendant-Appellee’s (“Defendant’s”) motion to transfer consideration of the issue of appellate attorneys’ fees to the district court, and their alternative motion for a 90-day extension of time to respond to Plaintiffs’ motion for attorneys’ fees. These motions should be denied.

First, for the same reason that it makes sense for the district court to evaluate the fees before it, it makes sense for this Court to evaluate those accrued during the appeal before it. The reasonableness of those fees depends on the tasks performed on appeal. As detailed in Plaintiffs’ Motion for Attorneys’ Fees, those tasks extended beyond those in a typical appeal because of many procedural as well as substantive complexities. *E.g.* Plaintiffs’ Motion for Attorneys’ Fees at 16-18 (Dec. 8, 2014). This Court is more familiar with those complexities than is the district court.<sup>1</sup>

Second, Defendant’s suggestion that the factual issues in fee litigation justify transfer to the district court is contrary to the stricture of this Court and the Supreme Court that “a request for attorney fees should not result in “a second

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<sup>1</sup> Contrary to Defendant’s suggestion, Plaintiffs did not indicate that it would be advantageous to have appellate fees decided in the district court. The quoted footnote was merely intended to ensure that in the absence of an explicit transfer of district court fees to the district court, Plaintiffs were not waiving district court fees by seeking only appellate fees in the Eleventh Circuit.

major litigation.”<sup>2</sup> Indeed, this Court has indicated that it is consistent with this stricture “[f]or appellate courts to resolve, instead of remand, fee determination issues . . . .”<sup>3</sup>

Third, the fact that fee requests should not result in a second major litigation also demonstrates the flawed nature of Defendant’s request to radically extend the motion’s schedule so that new counsel can evaluate the facts.<sup>4</sup> Plaintiffs already consented to an extension that more than doubled Defendant’s response time.<sup>5</sup> A further extension would allow Defendant more than three times as long to respond to the appellate fees motion as it had to respond to Plaintiffs’ merits brief.<sup>6</sup>

For the forgoing reasons, Plaintiffs respectfully request that the court deny Defendant’s motion for transfer and alternative motion for a 90-day extension of time.

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<sup>2</sup> See *Am. Civil Liberties Union of Georgia v. Barnes*, 168 F.3d 423, 432 (11th Cir. 1999) (quoting *Hensley v. Eckerhart*, 461 U.S. 424, 437 & n. 12 (1983)).

<sup>3</sup> *Id.*

<sup>4</sup> Plaintiffs believe that fee issues could likely be settled, and if Defendant came forward with a reasonable offer to resolve the appellate fees in dispute, Plaintiffs would be amenable to a second reasonable extension to engage in such discussions. Absent such an offer, however, Plaintiffs believe this matter should move forward to its conclusion.

<sup>5</sup> Instead of 18 days to respond, Defendant has 43.

<sup>6</sup> Defendant had just over 35 days to respond to the merits brief, and with the previous extension now seeks a total of over 120 days to respond to the fee petition.

Dated: January 15, 2015

Respectfully submitted,

/s/ Marc A. Goldman

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Marina K. Jenkins

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## CERTIFICATE OF SERVICE

I hereby certify that, on the 15th day of January, 2015, a true and correct copy of the foregoing Response to Defendant-Appellee's Motion to Transfer, or Alternatively, Motion for 90-Day Extension of Time was served on all counsel of record via CM/ECF.

Washington, D.C.  
January 15, 2015

By:

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