

No: 12-15738

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**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.*

Case No. 12-15738-EE

**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' UNOPPOSED MOTION TO EXTEND TIME  
TO FILE FEE PETITION UNTIL THREE DAYS AFTER MANDATE HAS  
ISSUED**

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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. – Appellant

Friedman, Joshua N. – Attorney for Appellants

Goldman, Marc A. – Attorney for Appellants

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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

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Rogers, Kristen M. – Attorney for Appellants

Sen, Diana – Attorney for Appellants

Veye Yo – Appellant

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

1199SEIU United Healthcare Workers East – Appellant

Plaintiffs-Appellants Karla Vanessa Arcia, *et al.* (“Plaintiffs”), petition for an extension of the date their fee petition would be due until three business days after this Court has issued its mandate, instead of tomorrow, May 6, as would otherwise be the case. It does not make sense for Plaintiffs to file a fee petition while uncertainty remains about the mandate in the case, which is the case here, because the docket states that the mandate has been “withheld pursuant to Court Instructions.” Plaintiffs have consulted with Defendant Florida Secretary of State, who does not oppose this motion.

Under the National Voter Registration Act (NVRA), 42 U.S.C. § 1973gg-9(c), “the court may allow the prevailing party (other than the United States) reasonable attorney fees, including litigation expenses . . . .” Here, this Court issued a decision in Plaintiffs’ favor on April 1. Under Eleventh Circuit Rule 39-2, a fee petition must generally “be filed with the clerk within 14 days after the time to file a petition for rehearing or rehearing en banc expires, or within 14 days after entry of an order disposing of a timely petition for rehearing or denying a timely petition for rehearing en banc, whichever is later.” Because Defendants did not file a petition for rehearing or rehearing en banc, which would have been due on April 22, it appears from the face of the Rule that Plaintiffs’ fee petition would be due on May 6.

However, that would not serve the purpose of Rule 39. The Rule appears designed to ensure that a fee petition does not need to be filed until after this Court has issued its mandate, and it has become certain that a party has prevailed in this Court. Ordinarily, the mandate “must issue 7 days after the time to file a petition for rehearing expires, or 7 days after entry of an order denying a timely petition for panel rehearing, petition for rehearing en banc, or motion for stay of mandate, whichever is later.” Fed. R. App. P. 41(b). Thus, the mandate would issue before the fee petition is due. Here, however, the mandate did not issue on April 29 as it would have been expected to generally. Instead, there is now a notation on the docket that the mandate has been “withheld pursuant to Court Instructions.” It appears this Court may be considering sua sponte whether to review this case en banc.

Rule 39 on fee petitions does not explicitly reference a situation in which the Court does not issue a mandate in the ordinary course. But in these circumstances, it does not make sense for Plaintiffs to complete their work on a fee petition to file it on May 6. In keeping with the purpose of the rule, and to avoid the need for Plaintiffs to complete work on a fee petition (and for Defendants to begin working on any opposition) when some uncertainty remains as to the disposition of the case, Plaintiffs request an extension of the time their fee petition

is due until three days after this Court issues its mandate. Defendant does not oppose this motion.

Dated: May 5, 2014

Respectfully submitted,

/s/ Marc A. Goldman  
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*Attorneys for Plaintiffs-Appellants*



## CERTIFICATE OF SERVICE

I hereby certify that, on this 5th day of May 2014, a true and correct copy of the foregoing Unopposed Motion To Extend Time To File Fee Petition Until Three Days After Mandate Has Issued was served on all counsel of record via CM/ECF.

Washington, D.C.  
May 5, 2014

By: /s/ Marina K. Jenkins  
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