

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

DNC SERVICES CORPORATION /
DEMOCRATIC NATIONAL
COMMITTEE, *et al.*,

Plaintiffs,

v.

LAUREL M. LEE, in her official capacity
as Florida Secretary of State, *et al.*,

Defendant and Defendant-Intervenors.

Case No. 4:18-CV-00520-MW/MJF

**SECRETARY OF STATE’S AND ATTORNEY GENERAL’S
RESPONSE TO PLAINTIFFS’ MOTION FOR VOLUNTARY DISMISSAL**

The Florida Secretary of State and the Florida Attorney General (the “State Defendants”) do not object to Plaintiffs’ motion insofar as Plaintiffs seek to resolve the parties’ dispute concerning Florida’s signature-matching requirement by voluntarily dismissing this lawsuit. *See* ECF 143. Should Plaintiffs stand by their prior position that a signature-matching requirement, in any form, is facially unconstitutional, however, the State Defendants agree with Defendant-Intervenor the National Republican Senatorial Committee that the time to adjudicate any such claim is now.

Federal Rule of Civil Procedure 41(a)(2) gives the Court discretion to determine whether Plaintiffs’ case should be dismissed, and to attach “terms that

the court considers proper” if the Court chooses to grant Plaintiffs’ request for dismissal. *See, e.g., McCants v. Ford Motor Co., Inc.*, 781 F.2d 855, 857 (11th Cir. 1986) (“the district court must exercise its broad equitable discretion under Rule 41(a)(2) to weigh the relevant equities and do justice between the parties in each case”).

Under the circumstances of this case, the relevant equities weigh in favor of dismissing the case with prejudice, rather than without prejudice. Plaintiffs filed this lawsuit in the middle of an election. In the eight months since this case was filed, the parties have invested significant resources in preparing the case for dispositive motions or trial. For example, Defendants spent over \$70,000 on their two expert reports alone.

If Plaintiffs continue to believe that Florida’s signature-matching regime is facially unconstitutional, in every instance, they should respond to the State Defendants’ pending motion under Federal Rule of Civil Procedure 12(c), which contends that any portions of Plaintiffs’ constitutional challenge that are no longer moot fail on the merits. *See* ECF 141.

If, however, Plaintiffs no longer believe Florida’s signature-matching requirement is facially unconstitutional, they should so advise the Court, and this Court should dismiss the case with prejudice. Such a disposition would minimize

the risk that this Court will have to adjudicate such a claim on an emergency basis at or near the time of a future election.

CONCLUSION

WHEREFORE the Secretary of State and the Attorney General respectfully ask this Court to exercise its discretion under Rule 41(a)(2) to dismiss Plaintiffs' case with prejudice.

Dated: July 16, 2019

ASHLEY B. MOODY, ATTORNEY GENERAL
STATE OF FLORIDA

/s/ Edward M. Wenger

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CERTIFICATE OF COMPLIANCE WITH LOCAL RULES

The undersigned certifies that the foregoing complies with the size, font, and formatting requirements of Local Rule 5.1(C), and that the foregoing complies with the word limit in Local Rule 7.1(F); the foregoing contains 361 words, excluding the case style, signature block, and certificates.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served to all counsel of record through the Court's CM/ECF system on this 16th day of July 2019.

/s/ Edward M. Wenger
CHIEF DEPUTY SOLICITOR GENERAL