IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

FLORIDA DECIDES HEALTHCARE, INC., MITCHELL EMERSON, in his individual capacity, JORDAN SIMMONS, in his individual capacity, *Plaintiffs*, v. CORD BYRD, in his official capacity as the Secretary of State of Florida, *et al.*, *Defendants.*	Civil Action No. 4:25-cv-00211-MW-MAF

LEAGUE OF WOMEN VOTERS OF FLORIDA, LEAGUE OF WOMEN VOTERS OF FLORIDA EDUCATION FUND, INC., LEAGUE OF UNITED LATIN AMERICAN CITIZENS, CECILE SCOON, AND DEBRA CHANDLER'S EMERGENCY MOTION TO INTERVENE

Pursuant to Federal Rules of Civil Procedure 24(a)(2), or in the alternative, 24(b), and Local Rule 7.1(L), League of Women Voters of Florida, League of Women Voters of Florida Education Fund, Inc. (together, "League" or "LWVFL"), League of United Latin American Citizens ("LULAC"), and two League members and current Co-Presidents of LWVFL, Cecile Scoon and Debra Chandler (collectively, "Proposed Intervenors"), respectfully move to intervene in this case as

party Plaintiffs for the reasons set forth in their contemporaneously-filed Memorandum of Law in Support of Emergency Motion to Intervene ("Memorandum"). Proposed Intervenors' Memorandum lays out the status of the relevant parties, the Proposed Intervenors' standing to bring suit, and the facts underlying the relevant claims. Attached as **Exhibit A** and incorporated by reference is a copy of the complaint that the Proposed Intervenors intend to file in the event this Court grants intervention (the "Proposed Complaint").

Basis for Emergency Relief

Proposed Intervenors file this as an emergency motion given the time-sensitive nature of this case and the expedited briefing schedule that the Court has set on any forthcoming motions for preliminary injunction. *See* ECF No. 70.

LOCAL RULE 7.1(B) CERTIFICATION

Counsel for Proposed Intervenors has conferred via email with counsel for Plaintiffs Florida Decides Health Care et al., and Intervenor Plaintiff Smart and Safe Florida, who do not oppose Proposed Intervenors' motion to intervene. Counsel for Proposed Intervenors has also conferred with and elicited the following responses from counsel for Defendants who have entered appearances:

- Defendant Florida Secretary of State: On May 13, 2025, counsel responded via email, "The Secretary of State doesn't oppose as long as you comply with Judge Walker's deadlines."
- Defendant Florida Attorney General: On May 13, 2025, counsel responded via email, "As with the Secretary of State, the Attorney General does not oppose as long as the intervenors agree to comply with the deadlines set forth in Judge Walker's order scheduling the PI hearing (DE 70)."
- Defendants Supervisors of Elections for Baker, Bay, Bradford, Calhoun, Columbia, Dixie, Franklin, Gasen, Gulf, Hamilton, Jackson, Lafayette, Nassau, Putnam, Santa Rosa, St. Johns, Sumter, Suwanee, Taylor, Wakulla, Walton, and Washington Counties: In conferring with counsel for these Defendants, the undersigned counsel stated that, "among other things, [Proposed Intervenors] are seeking to enjoin

SOEs [supervisors of elections] from enforcing the new law's provisions." On May 13, 2025, counsel for these Defendants responded via email: "Based on your representation that your clients' allegations relating to Supervisors in their proposed Complaint, intends solely to have the court enjoin Supervisors from complying with their new duties under the new law and for no other purpose, on behalf of our 22 supervisors, we do not oppose your anticipated Motion to Intervene in the lawsuit."

- Defendant Supervisor of Elections for Leon County: On May 12, 2025, counsel responded via email, "The Leon County SOE takes no position with respect to the proposed intervention."
- Defendants Supervisors of Elections for Charlotte, Collier, Indian River, Lake, Lee, Manatee, Marion, Minro, Paso, and Seminole Counties: On May 13, 2025, counsel for these Defendants responded via email, "My clients take no position."
- Defendant Supervisor of Elections for Brevard County: On May 12, 2025, counsel responded via email, "Unopposed for Brevard County SOE."
- Defendant Supervisor of Elections for Broward County: On May 13, 2025, counsel responded via email, "Supervisor Scott, Broward

County's SOE, does not take a position on your client's motion to intervene, to the extent that your client is not alleging any new claims directed to the supervisors of elections."

- Defendant Supervisor of Elections for Pinellas County: On May 12, 2025, counsel responded via email, "We take no position."
- Defendant Supervisor of Elections for Alachua County: On May 12, 2025, counsel responded via email, "The Alachua Supervisor has no objection."
- Defendant Supervisor of Elections for Citrus County: On May 13, 2025, counsel responded via email, "Citrus SOE Baird does not object."
- Defendant Supervisor of Elections of Volusia County: On May 13, 2025, counsel responded via email, "Volusia SOE takes no position at this time, and reserves the right to change its position once it reviews the complaint."
- Defendant Supervisor of Elections for Miami-Dade County: On May 13, 2025, counsel responded during a phone conservation: "If Plaintiffs are not including new claims, then you have no opposition."

Counsel for Proposed Intervenors attempted to contact the following Defendants by email and/or phone, but did not receive a response:

- Defendants Supervisors of Elections for Hillsborough and Hernando Counties.

At this time, counsel for Proposed Intervenors cannot confer with counsel for Defendants, the State Attorneys and the remaining Supervisors of Elections for Clay, Desoto, Duval, Escambia, Flager, Gilchrist, Glades, Hardee, Hendry, Highlands, Holmes, Jefferson, Levy, Liberty, Madison, Martin, Okaloosa, Okeechobee, Orange, Osceola, Palm Beach, Polk, Sarasota, St. Lucie, and Union Counties, because they have yet to appear in this action. However, the undersigned counsel will promptly file an updated conferral certification as additional counsel appear and/or respond.

LOCAL RULE 7.1(F) CERTIFICATION

The undersigned counsel certifies that this Motion and corresponding Memorandum contains **4720** words, excluding the case style, signature block, and certificate of service.

Dated: May 13, 2025

Respectfully submitted,

/s/ Gerald E. Greenberg

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FLORIDA DECIDES HEALTHCARE, INC., MITCHELL EMERSON, in his individual capacity, JORDAN SIMMONS, in his individual capacity, *Plaintiffs*, v. CORD BYRD, in his official capacity as the Secretary of State of Florida, *et al.*, *Defendants.*	Civil Action No. 4:25-cv-00211-MW-MAF

MEMORANDUM OF LAW IN SUPPORT OF
EMERGENCY MOTION TO INTERVENE

Proposed Intervenors League of Women Voters of Florida and the League of Women Voters of Florida Education Fund, Inc. (together, "the League" or "LWVFL"), League of United Latin American Citizens ("LULAC"), and two members of LWVFL, Cecile Scoon, and Debra Chandler (together, "Individual Intervenors") (collectively, "Proposed Intervenors"), submit this Memorandum of Law in Support of their Emergency Motion to Intervene as Plaintiffs in this action

pursuant to Federal Rule of Civil Procedure 24(a)(2), or, in the alternative, Rule 24(b).

Proposed Intervenors are organizations that support ballot initiatives rather than sponsoring them and rely exclusively on volunteers to collect petition signatures. Individual Intervenors are volunteers with years of experience participating in the petition-gathering process. The contested provisions of the new Law impose unnecessary and time-consuming bureaucratic hurdles, enforce burdensome oath and registration requirements, and subject Proposed Intervenors to a range of criminal and civil penalties for vaguely defined actions. These specific harms set the Proposed Intervenors apart from the current Plaintiffs, sufficient to justify their intervention in this case. At the same time, Proposed Intervenors' legal arguments—that the challenged provisions of the new Law violate the First and Fourteenth Amendments—substantially overlap with those of Plaintiffs. This further supports intervention, as the presence of shared legal questions highlights the advantages of resolving all related claims together, thus promoting judicial efficiency and conserving judicial resources.

BACKGROUND

A. The Florida Decides Healthcare, Inc. Complaint

On May 4, 2025, Florida Decides Healthcare, Inc. ("FDH"), Mitchell Emerson, and Jordan Simmons (collectively, "FDH Plaintiffs") initiated the

above-captioned action against Cord Byrd, in his official capacity as Secretary of the State of Florida, James Uthmeier, in his official capacity as Attorney General of the State of Florida, and the County Supervisors of Elections and State Attorneys, in their official capacities (collectively, "Defendants"), seeking declaratory and injunctive relief to protect themselves against severe and irreparable harm to their constitutional rights. ECF No. 1. On May 6, 2025, the FDH Plaintiffs filed the operative Corrected Complaint for Injunctive and Declaratory Relief ("Complaint"). ECF No. 19. FDH, a non-profit organization that sponsors Florida ballot initiatives and employs a network of paid circulators, *id.* ¶ 20, seeks to invalidate recent legislative changes to the state laws governing the ballot initiative process.[1] Those sweeping changes, embodied in the recently-enacted Florida House Bill 1205 ("HB 1205"), heavily restrict citizens' and advocacy groups' abilities to participate in the direct democracy process through ballot initiatives. FDH Plaintiffs specifically challenge seven categories of changes,[2] and seek to vindicate their rights under the First and Fourteenth Amendments to the U.S. Constitution. *Id.* ¶ 9.

[1] Yesterday, May 12, 2025, the Court granted a May 10, 2025 emergency motion to intervene filed by Smart & Safe Florida. ECF Nos. 50, 53. Like FDH, Smart & Safe Florida sponsors Florida ballot initiatives and employs paid petition circulators. *See* ECF No. 50-1 ¶¶ 3, 34.

[2] The seven categories are: "(i) Petition Circulator Eligibility; (ii) Circulator Re-Registration; (iii) Signature Verification Suspension; (iv) Ten-Day Return Time; (v) Severe and Punitive Fines; (vii) Vague Criminal Penalties; and (vii) Requirement to Re-file." Compl. ¶ 73.

B. The Proposed Intervenors

LWVFL is a non-profit organization actively involved in the ballot initiative process, focusing its efforts on petition circulation and collection. Unlike the FDH Plaintiffs, however, the League does not sponsor ballot initiatives itself. Ex. A, Proposed Compl. ¶ 16. Rather, the League lends its support to certain initiatives which reflect its organizational, institutional, and members' interests and, as part of those efforts, it has trained and mobilized thousands of volunteer petition circulators and gathered hundreds of thousands of signatures. *Id.* It is also one of the few organizations in Florida that relies exclusively on volunteers for petition collection. *Id.* ¶ 17. LWVFL's reputation and influence are so significant that sponsors of citizen initiative amendments often seek its endorsement, recognizing that the League's support and efforts may help determine whether an initiative can garner the support to be put on the ballot. *Id.* For example, in support of the Right to Abortion Initiative (2024) and the Rights Restoration for Felons Initiative (2018), the League organized thousands of its members to circulate and collect petitions, playing an integral part in getting those initiatives on the ballot. *Id.* ¶ 80. Indeed, to the best of the League's knowledge, no other single group brought as many volunteers to the Right to Abortion Initiative campaign. *Id.* ¶ 81.

LULAC is also a nonprofit that operates entirely through a volunteer network, and focuses on issues that significantly affect Latino communities. *Id.* ¶ 19. LULAC

Florida, the organization's Florida arm, has thousands of members in the state of Florida and 17 councils, which include adult and young adult councils. *Id.* ¶ 18. Although LULAC Florida did not collect petitions before this year, it planned to mobilize members to gather signatures for the Florida Medicaid Expansive Initiative. *Id.* ¶ 19. However, HB 1205's passage now completely curtails LULAC Florida from being able to participate in petition collection due to its new burdensome, vague, and harsh provisions. *Id.*

Individual Intervenors Cecile Scoon and Debra Chandler are Co-Presidents of the League and also serve as volunteer petition circulators. Both are thus subject to the challenged provisions of HB 1205. *Id.* ¶¶ 20, 21.

C. The Challenged Provisions of HB 1205

The FDH Plaintiffs and Proposed Intervenors largely challenge and seek to invalidate the same provisions of HB 1205 as violative of the First and Fourteenth Amendments. The provisions, however, affect the organizations in unique ways due to the respective differences in these organizations' structures and roles in the citizen initiative process.

For example, HB 1205 expands the definition of "petition circulator," which was historically defined to include only compensated entities or persons who work for sponsors of initiatives and collect signatures. *Id.* ¶ 41. The definition now includes volunteers, such as the individuals on whom the League and LULAC

exclusively rely (FDH, by contrast, has employed paid circulators for many years now). *Id.* ¶ 42. Those volunteers, if they collect more than twenty-five petitions outside of their family, must now also comply with certain disclosure, training, and oath requirements, including the disclosure of the volunteers' license or identification numbers and last four digits of their Social Security numbers, and potentially subjects them to criminal penalties. *Id.* ¶ 44. In the past, many League volunteers regularly collected more than twenty-five petitions from voters, including those outside their families.

Organizations like LWVFL and LULAC will also face challenges and will incur significant costs because of the new statute. Not only will they be responsible for "updat[ing] training materials, reorient[ing] circulators, [and] revis[ing] workflows" to comply with HB 1205, Compl. ¶ 98, but they will also have to ensure that large-scale volunteer petition collection operations, petition verification, and training processes are compliant with the new statute. Proposed Compl. ¶ 45. By forcing unnecessary and time-consuming bureaucratic formalities on volunteers, HB 1205 essentially ensures that very few will circulate petitions without a financial incentive because the eligibility requirements for volunteers and paid petition circulators are now identical, which (absent some influx of funding) will drastically curtail the number of volunteers available to help the League and LULAC. *Id.* ¶¶ 103-04. Last, but certainly not least, Proposed Intervenors will also face significant

and unwarranted risk in the form of vague and severe criminal penalties for ill-defined conduct performed "on behalf of a sponsor of an initiative petition." *Id.* ¶¶ 61-69. Previously, only "sponsors" of ballot initiatives, such as FDH, were subject to penalties, although the bar was far higher (and the triggering "misconduct" was more clearly defined) than in the new statute.

D. Procedural History

On May 7, 2025, three days after initiating this action, the FDH Plaintiffs filed an emergency motion for a temporary restraining order (the "TRO Motion"). ECF No. 14. That same day, the Court set this matter on an expedited schedule to address the FDH Plaintiffs' motion, while providing Defendants time to respond and setting a telephonic scheduling conference for May 14, 2025. ECF Nos. 17, 18. On May 13, 2025, the Court denied the TRO Motion, cancelled the May 14, 2025 telephonic scheduling conference, and set a briefing schedule for the FDH Plaintiffs' forthcoming motion for preliminary injunction (the "Preliminary Injunction Motion"). ECF No. 70. The Preliminary Injunction Motion is scheduled to be fully briefed by May 19, 2025, and a hearing is set for May 22, 2025. ECF No. 70. In addition to the orders regarding the FDH Plaintiffs' motions, the Court also issued an initial scheduling order with September 4, 2025 discovery and September 25, 2025 dispositive motion deadlines. ECF No. 20. Counsel has appeared for some but not all Defendants.

Proposed Intervenors now move to intervene within eleven days after the passage of HB 1205 and nine days after the FDH Plaintiffs initiated this action. As discussed herein, the Court should grant this Motion because Proposed Intervenors satisfy each requirement of Federal Rule of Civil Procedure 24(a) for intervention as of right. Alternatively, the Court should use its broad discretion to allow Proposed Intervenors to intervene pursuant to Rule 24(b).

ARGUMENT

I. Proposed Intervenors Are Entitled to Intervene as of Right.

Pursuant to Federal Rule of Civil Procedure 24(a), an applicant is entitled to intervene by right if:

> (1) his application to intervene is timely; (2) he has an interest relating to the property or transaction which is the subject of the action; (3) he is so situated that disposition of the action, as a practical matter, may impede or impair his ability to protect that interest; and (4) his interest is represented inadequately by the existing parties to the suit.

Chiles v. Thornburgh, 865 F.2d 1197, 1213 (11th Cir. 1989). Proposed Intervenors satisfy each requirement.

A. Proposed Intervenors' Motion is Unquestionably Timely.

When determining whether a motion to intervene is timely, courts within the Eleventh Circuit should consider several factors:

> (1) the length of time during which the proposed intervenor knew or reasonably should have known of the interest in the case before moving to intervene; (2) the extent of prejudice to the existing parties as a result of the proposed intervenor's failure to move for intervention as soon as

> it knew or reasonably should have known of its interest; (3) the extent of prejudice to the proposed intervenor if the motion is denied; and (4) the existence of unusual circumstances militating either for or against a determination that their motion was timely.

Georgia v. U.S. Army Corps of Eng'rs, 302 F.3d 1242, 1259 (11th Cir. 2002) (citing *Chiles*, 865 F.2d at 1213). Each validates that the Motion is timely.

To start, there has clearly been no delay in seeking intervention: Proposed Intervenors filed this Emergency Motion to Intervene a mere nine days after the FDH Plaintiffs initiated this action on May 4, 2025. ECF No. 1; ECF No. 19. Courts have routinely affirmed the timeliness of a motion to intervene in instances involving exponentially longer periods between the inception of litigation and an attempted intervention. *See, e.g.*, *Chiles*, 865 F.2d at 1213 (motion timely when filed seven months after the complaint); *U.S. Army Corps of Eng'rs*, 302 F.3d at 1259-60 (motion timely when filed six months after intervenor had obtained copies of the pleadings). As discussed below, *see infra* at §§ I.B, I.C, there is likewise no prejudice to the existing parties, and Proposed Intervenors would be severely prejudiced if they are unable to intervene to protect their significant interests at stake in the action. Nor are there any "unusual circumstances" militating against a determination that the Motion is timely. *U.S. Army Corps of Eng'rs*, 302 F.3d at 1259. The case is still in its infancy. Some of the Defendants have yet to appear in this action, and although a briefing schedule and hearing have been set for the FDH Plaintiffs' Preliminary Injunction Motion, Proposed Intervenors seek to intervene ahead of that May 22,

2025 hearing and well in advance of initial scheduling deadlines. *See* ECF Nos. 17, 20. Based on a review of each factor, Proposed Intervenors' Motion is timely.

B. Proposed Intervenors Have Direct and Significant Interests at Stake.

Intervention as a matter of right is warranted "if the party's interest in the subject matter of the litigation is direct, substantial and legally protectable." *U.S. Army Corps of Eng'rs*, 302 F.3d at 1249 (citing *Meek v. Metro. Dade Cnty.*, 985 F.2d 1471, 1477 (11th Cir. 1993), *overruled on other grounds by Dillard v. Chilton Cnty. Comm'n*, 495 F.3d 1324 (11th Cir. 2007)). This inquiry "is a flexible one, which focuses on the particular facts and circumstances" of the case. *Chiles*, 865 F.2d at 1214 (quoting *United States v. Perry Cnty. Bd. of Educ.*, 567 F.2d 277, 279 (5th Cir. 1978)). And "in cases challenging various statutory schemes as unconstitutional or as improperly interpreted and applied, the courts have recognized that the interests of those who are governed by those schemes are sufficient to support intervention." *Chiles*, 865 F.2d at 1214 (quoting 7C C. Wright, A. Miller, & M. Kane, *Federal Practice and Procedure* § 1908, at 285 (2d ed. 1986)).

As Florida non-profit organizations deeply involved in the citizen petition process, and individuals associated therewith, Proposed Intervenors have strong interests in this action's subject matter. HB 1205 will directly and substantially curtail Proposed Intervenors' constitutional rights to free speech, association, and due process. The challenged provisions place significant burdens on the League's

operations and petition collection activities as well as its individual volunteers, including "eligibility restrictions, expanded personal information disclosures and oath requirements, tighter deadlines, stricter signature verification requirements, criminal liability, exposure to investigations, and increased costs for signature verification," and threaten to foreclose the League's ability to participate in the ballot initiative process entirely. Proposed Compl. ¶ 103. And, for the same reasons, HB 1205 has likewise discouraged Proposed Intervenor LULAC and its volunteers from participating in petition collection at all. Proposed Compl. ¶ 110. Given that the challenged provisions substantially interfere with Proposed Intervenors constitutional rights, Proposed Intervenors clearly maintain a "direct, substantial and legally protectable" interest in the litigation.

C. Proposed Intervenors' Ability to Protect their Interests Would Be Impaired Absent Intervention.

With respect to whether an intervenor's interests may be impaired absent intervention, "[a]ll that is required under Rule 24(a)(2) is that the would-be intervener be practically disadvantaged by his exclusion from the proceedings." *Huff v. Comm'r*, 743 F.3d 790, 800 (11th Cir. 2014). This sets a low bar. Even "the potential for a negative stare decisis effect 'may supply that practical disadvantage which warrants intervention of right.'" *Stone v. First Union Corp.*, 371 F.3d 1305, 1309-10 (11th Cir. 2004) (quoting *Chiles*, 865 F.2d at 1214); *see also United States v. S. Fla. Water Mgmt. Dist.*, 922 F.2d 704, 709 (11th Cir. 1991) (finding impaired

interest where "a subsequent court would likely be reluctant, as a practical matter, to issue a [conflicting] decision" even where "some avenues of relief would remain open to the [intervenors] through subsequent litigation.").

Unless they are permitted to intervene here, Proposed Intervenors' interests will be significantly impaired. Disposition of the FDH Plaintiffs' claims will inherently impact the Proposed Intervenors, who are subject to, and seek to invalidate, the same provisions of HB 1205. Those provisions, and whether they are constitutional, directly dictate whether and how Proposed Intervenors' efforts to participate in the citizen petition process may proceed. Parallel or subsequent litigation would not just be inefficient, but may also subject the Proposed Intervenors to negative stare decisis effects—particularly if the very provisions of HB 1205 that Proposed Intervenors seek to invalidate are deemed constitutional. And while Proposed Intervenors are confident that HB 1205 is unconstitutional, the risk of an adverse ruling in the instant litigation is more than sufficient to find that they are entitled to intervention as of right. *See Stone*, 371 F. 3d at 1309-10.

D. Proposed Intervenors' Interests Are Not Adequately Represented by the Existing Parties.

Although a potential intervenor must show that the current parties to the litigation do not adequately represent its interests, the Supreme Court has made clear that that burden "should be treated as minimal." *Chiles*, 865 F.2d at 1214 (quoting *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972)). Indeed,

the intervenor need only show "that representation of his interest 'may be' inadequate[.]" *Id.* Although "[t]here is a presumption of adequate representation where an existing party seeks the same objectives as the interveners," that presumption "is weak and can be overcome if the plaintiffs present some evidence to the contrary." *Stone*, 371 F. 3d at 1311 (citing *Clark v. Putnam Cnty.*, 168 F.3d 458, 461 (11th Cir. 1999)). Moreover, "[t]he fact that the interests are similar does not mean that approaches to litigation will be the same" and interests are not adequately represented when the potential intervenor may seek to emphasize different facts or legal arguments than the current parties. *Chiles*, 865 F.2d at 1214; *see also Stone*, 371 F. 3d at 1312.

Here, none of the current parties can or will adequately represent Proposed Intervenors' interests. While Proposed Intervenors and the FDH Plaintiffs both seek to invalidate HB 1205 as unconstitutional, the challenged provisions have differing impacts on the respective parties and thus may lead the FDH Plaintiffs to employ a litigation strategy differing from (and potentially detrimental to) the Proposed Intervenors' interests. As one example, the Proposed Intervenors rely *exclusively* on volunteers to effectuate their petition collection and advocacy efforts; the resources required to comply with the new and onerous training and disclosure requirements HB 1205 imposes on these volunteers thus poses an existential threat to Proposed Intervenors' ability to participate in the ballot initiative process. *See* Proposed

Compl. ¶¶ 17, 19. Conversely, the FDH Plaintiffs employ paid circulators that have long been subject to similar (albeit less demanding) requirements, Compl. ¶ 20; have proven their ability to successfully navigate said restrictions; and consequently may not view the invalidation of this provision as an equal imperative to that of Proposed Intervenors.

Similarly, with its various speech-chilling, unnecessary, and time-consuming bureaucratic formalities, as well as the severe civil and criminal punishments accompanying the slightest misstep, HB 1205 all but guarantees that very few will circulate petitions without a financial incentive. Accordingly, this statutory scheme poses a far greater threat to Proposed Intervenors (which require volunteer participation to function) than organizations like the FDH Plaintiffs (which already provide such financial incentives to paid circulators). *See Buckley v. Am. Const. L. Found.*, 525 U.S. 182, 201 (1999).

Finally, the Proposed Intervenors do not sponsor ballot initiatives but FDH does. *Compare* Proposed Compl. ¶ 93, *with* Compl. ¶ 16. Although sponsors and non-sponsors alike are subject to shortened petition-submission deadlines under HB 1205, sponsors are uniquely subject to fines for noncompliance pursuant to the plain text of the law. Proposed Compl. ¶ 93. Therefore, the FDH Plaintiffs' litigation strategy—and use of resources—will likely be far more focused on these statutory

provisions than some of the disclosure and training requirements that disproportionately burden the League, LULAC, and their volunteers.

These core differences between FDH's and the Proposed Intervenors' structure and operations, and the resulting variations in how the challenged provisions affect each, ensure that intervention is necessary to protect the Proposed Intervenors' interests.[3] The two groups have distinct priorities in challenging these unconstitutional provisions and are likely to advance unique legal arguments in this action.[4] Based on the foregoing, the Proposed Intervenors have satisfied each of the four elements for intervention as of right.

II. Alternatively, the Court Should Grant Permissive Intervention.

Even if Proposed Intervenors are not entitled to intervene as of right (they are), this Court should permit them to intervene under Federal Rule of Civil

[3] The Court's order yesterday granting Smart & Safe Florida's motion to intervene does not change the analysis. Like FDH, Smart & Safe Florida serves as a sponsor to initiatives and employs paid circulators. As a result, and for the same reasons, Smart & Safe Florida cannot adequately protect Proposed Intervenors' interests.

[4] Unsurprisingly, Defendants also cannot adequately represent the Proposed Intervenors' rights. All Defendants, sued in their official capacities, are Florida government officials collectively tasked with supervising, implementing, and enforcing HB 1205. Thus, Defendants are necessarily adverse to the Proposed Intervenors and the constitutional rights that the Proposed Intervenors seek to protect. It is beyond unrealistic to expect the government officials responsible for enforcing the unconstitutional prohibitions and penalties inscribed within the statute to adequately represent the interests of the groups and individuals subject to those very prohibitions and penalties.

Procedure 24(b). The Court has broad discretion to grant a timely motion for permissive intervention where it determines that (1) the Proposed Intervenors have "a claim or defense that shares with the main action a common question of law or fact"; and (2) the intervention will not unduly delay or prejudice the adjudication of the original parties' rights. *See* Fed. R. Civ. P. 24(b)(1)(B), (b)(3); *Nielsen v. DeSantis*, 2020 WL 6589656, at *1 (N.D. Fla. May 28, 2020) ("Permissive intervention is committed to the district court's discretion.").

First, as discussed, Proposed Intervenors' and Plaintiffs' claims raise the same legal question—whether HR 1205 infringes on their constitutional rights to free speech, association, and due process. *See supra* at I.B. This alone satisfies the low bar for permissive intervention. *See CCUR Aviation Fin., LLC v. S. Aviation, Inc.*, 2021 WL 1254337, at *1 (S.D. Fla. Apr. 5, 2021) ("The 'claim or defense' portion of the rule has been construed liberally."). Proposed Intervenors seek—as Plaintiffs do, Compl. ¶¶ 7, 9—to protect themselves against the damaging effects of HB 1205 and to protect their constitutional rights. Proposed Compl. ¶ 7-10. Furthermore, Proposed Intervenors' interests in this matter go beyond a mere "general interest in the subject matter of the litigation," because HB 1205 will irreparably harm Proposed Intervenors' ability to advocate for and participate in the citizen initiative process. *CCUR Aviation*, 2021 WL 1254337, at *1.

Second, intervention would not unduly delay or prejudice the adjudication of the original parties' rights. Besides the fact that Proposed Intervenors bring their motion to intervene merely nine days after the FDH Plaintiffs filed their Complaint, and eleven days after HB 1205's passage, intervention would assist the Court in adjudicating this matter effectively and comprehensively. As discussed, the interests of Proposed Intervenors and the FDH Plaintiffs differ, and Proposed Intervenors are uniquely situated to provide the Court with a complete record with respect to the effects of HB 1205 on sponsors and non-sponsors—including those that rely exclusively on volunteers. *See supra* at I.D. Proposed Intervenors' prominence within Florida's ballot initiative landscape, *see* Proposed Compl. ¶ 17, will further develop relevant factual and legal issues before this Court. The Proposed Intervenors' involvement will also allow the Court to effectively adjudicate the constitutionality of HB 1205's challenged provisions. Furthermore, by intervening at such an early stage in the litigation, Proposed Intervenors seek to avoid piecemeal litigation and ensure that there is no undue delay or prejudice to any party.

Consequently, Proposed Intervenors satisfy the requirements for permissive intervention, and the Court should exercise its discretion to allow them to intervene if it ultimately determines that Proposed Intervenors are not entitled to intervene as of right.

CONCLUSION

For the foregoing reasons, the Proposed Intervenors respectfully request that the Court grant this Emergency Motion to Intervene (i) as a matter of right pursuant to Rule 24(a)(2); or, in the alternative, (ii) permissively pursuant to Rule 24(b).

Dated: May 13, 2025

Respectfully submitted,

/s/ Gerald E. Greenberg

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