

IN THE CIRCUIT COURT OF THE 17<sup>th</sup> JUDICIAL CIRCUIT IN AND FOR  
BROWARD COUNTY, FLORIDA

MATTHEW CALDWELL  
and CAMPAIGN TO ELECT  
MATT CALDWELL COMMISSIONER  
OF AGRICULTURE,

Case No.

Plaintiffs,

v.

DR. BRENDA C. SNIPES, Supervisor of  
Elections for Broward County, Florida,

Defendant.

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**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Plaintiffs, MATTHEW CALDWELL and THE CAMPAIGN TO ELECT MATT CALDWELL COMMISSIONER OF AGRICULTURE, files this Complaint against Defendant, DR. BRENDA C. SNIPES in her capacity as Supervisor of Elections for Broward County, Florida, and alleges:

**IDENTIFICATION OF PARTIES AND JURISDICTION**

1. This is an action for declaratory and injunctive relief pursuant to Chapter 86, Florida Statutes.
2. Matthew Caldwell is the Republican candidate for the Office of Commissioner of Agriculture for the State of Florida.
3. The Campaign to Elect Matt Caldwell Commissioner of Agriculture is the official campaign to elect Matthew Caldwell for the Florida Commissioner of Agriculture.
4. Dr. Brenda C. Snipes, the Supervisor of Elections, is a constitutional officer charged with holding elections in Broward County, including regular and special elections.

5. The causes of action as stated herein occurred in Broward County, Florida.

6. This Court has subject matter jurisdiction over the claims complained of herein as a court of general jurisdiction, pursuant to Fla. Stat. § 86.011, and article V, section 5, Florida Constitution.

7. Venue in this Court is proper pursuant to Fla. Stat. § 47.011.

**PAST MISCONDUCT OF THE SUPERVISOR OF ELECTIONS**

8. Dr. Brenda C. Snipes is currently the Broward County Supervisor of Elections.

9. Since taking office in November 2003, Snipes has been sued in her capacity as Supervisor of Elections numerous times.

10. For example, in 2016 Snipes omitted a constitutional amendment question from some absentee ballots. News reports noted that Snipes, similar to the current election, could not articulate what went wrong or how many ballots were at issue. It was also reported in the news in 2016 that the Broward County Supervisor of Elections Office posted election results a half hour before the polls actually closed.

11. Amongst the egregious allegations against Snipes and her office is the sworn statement from a woman, Chelsey Marie Smith, who details her experience on October 31, 2016, while working as a temporary employee at the Broward County Supervisor of Elections office. Ms. Smith describes in her affidavit (a copy of which is attached as **Exhibit 1**) entering a locked and secured room at the office and observing four employees filling out stacks of blank ballots. She was able to identify one employee as Mary Hall, who currently serves as the Voter Services Director for the Broward County Supervisor of Elections office. According to Ms. Smith, she was terminated the next day with no explanation.

12. In May 2018, this Court found that Snipes violated state and federal law by destroying original paper ballots that were the subject of a public records request as well as the litigation. *Canova v. Snipes*, 2018 WL 3659485 (Fla. Cir. Ct. May 17, 2018).

13. Most recently, this Court instructed Snipes to comply with Florida election law by not opening vote-by-mail absentee ballots in secret, to instead open them when the Canvassing Board were present in order to determine the validity of the ballots in accordance with Section 102.141(2), Fla. Stat. *Republican Party of Florida v. Snipes*, CACE17-001159(21) (Fla. Cir. Ct. August 10, 2018).

14. In the current election cycle, questions have arisen regarding a possible flawed ballot design for Broward County that may have confused voters into failing to vote for the Senate race. Broward County tallies are indicating that thousands of voters may have voted on lower-profile races while declining to make a selection for the Senate race, though no other county in the State of Florida has reported a similar pattern.

#### **IRREGULARITIES IN 2018 GENERAL ELECTION BALLOT TABULATION**

15. A statewide election was held on November 6, 2018 for among other offices, the Commissioner of Agriculture.

16. As of the time of this filing, the reported votes statewide in favor of candidate Matthew Caldwell were 4,022,195, while the reported votes statewide in favor of his opponent, Nicole Fried, were 4,025,168. As of the time of this filing, the unofficial reported votes from Broward County were 213,400 in favor of Caldwell and 477,450 in favor of Fried.

17. Florida law requires that “[e]xcept as provided in s. 101.6952(5) [which pertains to absentee ballot from an overseas voter], all marked absent electors’ ballots to be counted must be received by the supervisor by 7 p.m. the day of the election.” Fla. Stat. § 101.67(2).

18. Snipes held a press conference on November 8, 2018. Despite being questioned about the counting of absentee ballots, she would not confirm the number of absentee ballots that remain to be counted. No information has been provided that confirms that only absentee ballots being received by 7 p.m. on November 6, 2018 were being counted.

19. As Governor Rick Scott (and candidate for the U.S. Senate for the State of Florida) explained on November 8, 2018:

On election night, Broward County said there were 634,000 votes cast. At 1 a.m. today, there were 695,700 ballots cast on election day. At 2:30 p.m. today, the number was up to 707,223 ballots cast on election day. And we just learned, that the number has increased to 712,840 ballots cast on election day . . . So—It has been over 48 hours since the polls closed and Broward [County is] still finding and counting ballots – and [Supervisor of Elections] Brenda Snipes . . . cannot seem to say how many ballots still exist or where these ballots came from, or where they have been.

20. Despite all other counties in the State (with the exception of Palm Beach County) having finished counting similar ballots, including Miami-Dade County which has a larger voter roll, as of the time of this filing the Florida Division of Elections website shows that Broward County inexplicably still has yet to complete the vote-by-mail ballots and early-voting ballots three days after election day. This is a repeat of Broward's Supervisor of Elections' performance in the August 2018 primaries when the County was the last to post election results. In the context of Snipes' past violations, this raises the concern that the absentee ballots being counted were received after the permitted statutory time. Thus, Plaintiffs are in doubt as to whether the Supervisor of Elections is counting only those absentee ballots received by 7 p.m. on November 6, 2018 or whether the Supervisor of Elections is counting absentee ballots that were received after 7 p.m. on November 6, 2018.

**Count I**

**(Declaratory Judgment)**

21. Paragraphs 1 through 20 are incorporated by reference as if fully set forth herein.

22. Florida law expressly requires that absentee ballots (“[e]xcept as provided in s. 101.6952(5)) received after 7 p.m. the day of the election shall not be counted. Fla. Stat. § 101.67(2).

23. Plaintiffs seek a declaratory judgment that the counting of any absentee ballots received after 7 p.m. on November 6, 2018 (“[e]xcept as provided in s. 101.6952(5)) is in violation of Fla. Stat. § 101.67(2) and that any such ballots that were included in the tabulated results are void.

**Count II**

**(Injunctive Relief)**

24. Paragraphs 1 through 20 are incorporated by reference as if fully set forth herein.

25. Plaintiffs seek injunctive relief directing Defendant to not count any absentee ballots received after 7 p.m. on November 6, 2018, “[e]xcept as provided in s. 101.6952(5)” and to void the improper tabulation of any votes cast after 7 p.m. on November 6, 2018.

26. Plaintiffs also seek injunctive relief directing Defendant to preserve all ballots until it can be determined that they have complied with Florida election laws.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request:

1. A declaration that the counting of any votes received after 7 p.m. on November 6, 2018 (“[e]xcept as provided in s. 101.6952(5)) is in violation of Florida Statute § 101.67(2);

2. Emergency and injunctive relief in the form of an order requiring Defendant to not count any absentee ballots received after 7 p.m. on November 6, 2018 (“[e]xcept as provided in s. 101.6952(5)), directing Defendant to segregate and preserve the absentee ballots received by 7 p.m. on November 6, 2018 from the absentee ballots received after 7 p.m. on November 6, 2018, to void the improper tabulation of any votes cast after 7 p.m. on November 6, 2018, and to preserve all ballots until such time as it can be determined that they have complied with Florida election laws; and
3. Such other and further relief as this Court deems just and proper.

Respectfully submitted,

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