

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

DR. BRENDA C. SNIPES
Plaintiff,

Civil Action
Case No.:

v.

RICK SCOTT

In his official capacity as Governor of Florida

And

BILL GALVANO

In his official capacity as President of the Florida Senate

**EMERGENCY COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

Plaintiff, DR. BRENDA C. SNIPES (hereinafter “SNIPES”), by and through her undersigned counsel, files this Complaint against Defendants, Rick Scott, in his official capacity as Governor of Florida (hereinafter “Governor” or “Governor Scott”) and Bill Galvano, in his official capacity as President of the Florida Senate (hereinafter “Senate”) and as state officials responsible under Florida Law for administering and enforcing the state laws and regulations governing executive suspensions. Plaintiff seeks declaratory and injunctive relief: a declaration that Florida’s laws (F.S. §112 Part V and Florida Senate Rule 12) *in para materia* regarding executive suspensions are unconstitutional under the Fourteenth Amendment to the United States Constitution and an injunction compelling the defendants to refrain from

enforcing such law and to allow the Plaintiff to resume her office as the duly elected Supervisor of Elections of Broward County with all accrued back pay that has been withheld because of her suspension to date. In support of this Complaint against Defendants, Plaintiff hereby alleges as follows:

INTRODUCTION

1. This is an action pursuant to 42 U.S.C. §1983 for deprivation of civil rights under color of law, which seeks equitable, declaratory and injunctive relief challenging the State of Florida in laws regarding executive suspension, to wit: Florida Statute §112 Part V §112.43, §112.44 §112.45, §112.46, §112.47, §112.48, §112.52 and Florida Senate Rule 12.9, Florida Statutes §112.46 also provides that public officers can seek a judicial determination of his or her right to office.
2. The Fourteenth Amendment Due Process Clause prohibits a state from depriving a person of “life, liberty, or property, without due process of law.” In this case, Snipes has a clear “liberty” interest in defending against the Governor’s allegations and property interest in her position as the Broward County Supervisor of Elections.
3. The aforementioned laws of Florida deprive an individual of due process in that such laws do not require a timely hearing before or after an individual’s property and liberty interest has been effectively

- seized. In this case, the suspended public official's loss of pay or the orchestrated shattering of her reputation was without due process of law. Also, the laws do not provide any procedural safeguards for notice and an opportunity to be heard. In the case of Snipes, there has been no opportunity to respond to Governor Scott's Executive Order.
4. Plaintiff seeks to establish and confirm (as this Court has recently addressed in a similar matter, *Reams v. Scott, et. al.*, Case No. 4:18CV154), the recognition and incorporation of the Fourteenth Amendment renders the State's executive suspension laws, specifically, the aforementioned sections of §112 Part V and the Florida Senate Rule 12) unconstitutional.
 5. Plaintiff seeks to establish that Defendants have engaged in a pattern to deprive state constitutional officers of an opportunity to respond before being denying protected rights.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1331, §1343, §2201, §2202 and 42 U.S.C. §1983, in that this action seeks to address the deprivation under color of the laws, statute, regulations, customs and usages of the Defendants as they execute, administer and

enforce the complained-of laws, of the rights, privileges or immunities secured by the United States Constitution and by Act of Congress.

7. This Court has personal jurisdiction over the Defendants because, inter alia, they acted under the color of law, policies, customs, and/or practices of the State of Florida and/or within the geographic confines of the State of Florida.

8. Venue is proper pursuant to 28 U.S.C. §1391 because the Defendants execute, administer and enforce the laws of which Defendant complains in this District and because the events and omissions giving rise to this action are harming Plaintiff in this District and the State laws were enacted in the State Capital in this District.

PLAINTIFF / FACTUAL ALLEGATIONS/ BACKGROUND

9. Plaintiff, Dr. Brenda C. Snipes (“Snipes”) is citizen of the State of Florida residing in Lauderdale Lakes, Florida for several decades. Since she was appointed on November 20, 2003, she was overwhelmingly elected countywide four separate times to serve as the Broward County Supervisor of Elections.

10. For more than the 15 years, Snipes oversaw approximately seventy-five permanent positions, which expanded to more than six thousand temporary employees during major elections.

11. During her tenure, Snipes identified and developed numerous office policies and procedures that moved the Broward County Supervisor of Elections Office forward. These policies were created to be consistent with the requirements of the Florida Election Code.

12. Among other relevant actions, Snipes established a Leadership Team whose members carry out the major functions of the Broward Supervisor of Elections Office. Each of the team members earned the designation of “Florida Master Certified Election Professional” (MFCEP), a program designed by the Florida Association of Supervisors of Elections working in conjunction with various major Florida universities.

13. During her tenure, Snipes ensured that all staff received development and training to support their roles and functions within the organization.

14. Since 2003, Snipes has increased voter education and outreach to include numerous monthly events and activities throughout Broward County. Under her leadership, more voters voted in the last mid-term election than ever in the history of Broward elections (715,119 votes out of 1,174,851). In the 2016 General Election, more than 800,000 voters cast ballots.

15. One of the signature outreach programs implemented by Snipes was a robust high school program where high school students pre-register to vote and then vote in the election following their 18th birthday.

16. Broward County was the first School District in State of Florida to receive approval to close schools to students on Election Day. This change allowed access to school facilities without compromising student safety.

17. As the Supervisor of Elections, Snipes ensured that all training programs involved Broward's diverse population.

18. Snipes has served honorably as the Supervisor of Elections in the state's second largest county. Only Miami-Dade County is larger, but Miami-Dade has an appointed Supervisor of Elections whereby every county department is required to dedicate employees to work every election, a measure that will likely cease in 2024 when 2018 Constitutional Amendment #10 is fully implemented.

19. Snipes was the first County Supervisor of Elections in the State of Florida to publish election materials in three different languages: English, Spanish and Creole.

20. When early voting was introduced in Broward County, Snipes opened nine (9) sites. Early voting has proven the favored form voting and Snipes has since opened twenty-two (22) different locations for twelve (12) hours a

day over a fourteen (14) day period. Approximately 299,000 people voted at early voting sites in the last election.

21. In addition to mandatory training classes for poll workers, Snipes also established a hands-on practice laboratory for poll workers.

22. Snipes outfitted an elections vehicle to travel throughout Broward County to provide voter education and outreach to voters and potential voters.

23. Unwilling to engage in public disputes with the Broward County Commission during her tenure, Snipes and her staff worked out of two different locations for the entire time that she served as the Broward County Supervisor of Elections.

24. Snipes gave regular office tours to anyone interested in understanding the voting process. Snipes spoke regularly at various community events and her office responded to hundreds of public records requests each year.

25. Just prior to her resignation, Governor Scott orchestrated a campaign strategy where he filed numerous baseless lawsuits against Snipes; unsuccessfully attempted to send in the Florida Department of Law Enforcement citing untrue claims of election fraud on the part of Snipes and the Palm Beach County Supervisor of Elections.

26. Governor Scott also made other attempts to harass Snipes with allegations of unfounded criminal mischief, staged protesters and refused to assist Snipes' office in any productive way – even though Governor Scott ordered several people from the Secretary of State's Office to monitor Snipes during both the primary and general election.

27. Governor Scott, and others working on his behalf, tried in every way to damage Snipes' reputation and inject doubt into the minds of Broward voters that the Broward County elections process was being conducted properly. Tweets from the President of the United States and untrue allegations made by Governor Scott resulted in death threats against Snipes and her family members.

28. Through lawsuits and various requests from Scott's attorney, Governor Scott successfully tied up critical technology election staff with public records requests that were strategically designed to slow down the voting process in Broward County.

29. On November 18, 2018, immediately following a contentious election cycle, Snipes resigned her position as the Broward County Supervisor of Elections effective January 4, 2019. **(See Exhibit "1" – Letter from Brenda Snipes to Governor Scott).**

30. On November 27, 2018, Snipes attorneys sought to coordinate with Governor Scott's attorneys to set a hearing regarding a Motion that had been previously filed by Snipes challenging a prior court determination that public records were to be produced "immediately." The fact that Snipes did not produce records "immediately" was determined by a circuit court judge to be a per se violation of the Florida Constitution for which Snipes sought reconsideration (Broward County Circuit Court: CASE NO. CACE-18-026364 (25)).¹ (**See Exhibit "2" – Dr. Brenda C. Snipes, Emergency Motion to Stay**); (**See attached Composite Exhibit 3 -- Email to/from Burnadette Norris-Weeks, Esq. and William McCormick, Esq.**).

31. Without notice, on November 30, 2018, Governor Scott issued Executive Order 18-342 suspending Snipes as the Broward County Supervisor of Elections. This action was taken after 5:00 PM on a

¹ The records surrounding the subject lawsuit were produced within 48 hours during the height of a recount election. Judge Carol-Lisa Phillips determined that Snipes committed a constitutional violation for failure to immediately produce records. Many of the requests involving the public records lawsuit were for records that the Governor already had access to through his appointed Secretary of State. Other items requested were not actually public records. Several of Governor Scott's lawsuits were consolidated before the Chief Judge of the Circuit Court, Judge Tuter. This judge would have reviewed the issue of whether Judge Phillips' order should have been stayed. In the alternative, Plaintiff Snipes contemplated an appeal. The well-known Florida standard for the production of public records is within a "reasonable time." Governor Scott knew that Snipes was seeking to set a hearing on her Motion to Stay and if that motion failed, to appeal the matter. After the undersigned firm called to schedule a hearing, Governor Scott dismissed his public records lawsuit within thirty minutes after the call was made, and to add insult to injury, suspended Snipes from her position as the Broward County Supervisor of Elections with a few days after voluntarily dismissing his Complaint. Ironically, the first substantive allegation of the Governor's Executive Order to remove Snipes cites that she did not permit inspection of public records and that "a judge of the Seventeenth Judicial Circuit held that Supervisor Snipes should have made certain records "immediately available in violation of Florida law."

Friday and state highway patrol officers were shown on television news stations for days parked outside of Supervisor of Elections Office buildings. **(See Exhibit 4 -- Executive Order 18-342).**

32. If Snipes had been given the opportunity for adequate due process, Snipes would have defended herself against the allegations contained within Governor Scott's Executive Order. In short, the Executive Order fell into the following categories: a) matters where the Chief Judge Tuter reviewed Scott's Complaints and found that ballots should be accepted; b) actions that were unknown to Snipes but completely cured by canvassing board review and subsequent court review; c) an action that was investigated and determined to be unfounded as to Snipes' involvement ² **(See Exhibit 5 -- Affidavit of Mindy Perkins)**; d) a matter related to uploading which was, in part, caused by the Governor's own calculated interference – i.e., the uploading of ballots took a significant amount of time because it was a large file and uploading could not start until after a Court hearing on one of Governor Scott's many filed lawsuits for nonexistent documents or documents that were already accessible to Governor Scott, or delays caused by Governor

² In one particular case, an election vendor produced an affidavit showing that it was completely their fault when election results were released minutes earlier than they should have been released. This matter was reviewed the Broward County State Attorney's Office and no further action was taken.

Scott related to the inspection of the computer system records, or the refusal of Governor Scott or those directed by state actors working on behalf of Scott to provide technical assistance to Broward, all causing a State deadline to be missed by minutes³; e) allegation made were false; and f) an allegation involving destroyed ballots where ballots were preserved using Clear Ballot technology on State of Florida approved equipment.⁴ In said case, no determination was ever made by any court that there had been a refusal by Snipes to produce said ballots.

33. Pursuant to Section 98.015, Florida Statutes, a Supervisor of Election is elected for a four-year term. In Broward, the Supervisor of Elections is an independent constitutional officer elected by the voters of Broward County. Governor Scott appointed Peter Antonacci, to replace Snipes. Antonacci was not a resident of Broward County at the time of the appointment.

³ There were other counties within the State of Florida that did not try to upload the second unofficial returns. The Governor has taken no action nor made attempts to suspend those Supervisors of Elections. Furthermore, the "Conduct of Election" reports show some legal violation(s) in many of the 67 counties. In Bay County, for instance, voters were permitted by the Supervisor of Elections to vote in ways not contemplated by Florida Statutes. Governor Scott targeted Broward County and Palm Beach County with reckless comments about voting fraud and claims that the supervisors in those counties were seeking to "steal" the election for Governor Scott's opponent. Both counties are largely Democratic voting counties.

⁴ *Canova v. Snipes*, was filed in the Broward County Circuit Court. The lower Court never determined that there had been a "refusal" to provide public records. The Governor's Office and the Secretary of State monitored the case through conclusion. The case was appealed due to the fact that there was never a legal determination made on the issue of refusal, especially since Plaintiff did not request paper ballots prior to the lawsuit. The case settled before a final determination was made by the appellate court on the issue of "refusal" to provide public records.

34. On December 1, 2018 (one day following her suspension), Snipes held a press conference in Fort Lauderdale, Florida where she invited all major news organizations and she publicly rescinded her resignation, effective immediately.

35. Snipes has no way of challenging the Governor's Executive Order labeling her "incompetent", among other things. While no elections are ever perfect given the sheer number of volunteers, Scott reserved his fury of insults and executive power of suspension only for Snipes.

36. Snipes is sought out for lectures from other state Supervisors of Elections. Her office was often visited for best practices by other State of Florida Supervisors of Elections. She was a long-time administrator before ever becoming a Supervisor of Elections, a key reason why she was tapped for the position. Snipes earned a Doctorate in Educational Leadership from Nova Southeastern University.

37. Snipes seeks to fight for her reputation and stand up against the embarrassment that has been caused by Governor Scott's unnecessary and malicious suspension. There are false allegations contained within the Executive Order and Snipes has never had a proper forum to state her position. The Governor's suspension has gained national attention as a widely publicized matter. Snipes' reputation as a well-respected leader

within the State of Florida has been damaged while the Governor has mounted daily attacks through various sources aimed to damage Snipes.

38. In addition to a public press conference held one day after the issuance of the Governor's Executive Order, Snipes reiterated her decision to rescind her resignation in an email sent to the Governor Scott on December 3, 2018. **(See Exhibit 6 -- E-mail to Governor Scott confirming Snipes' resignation is rescinded).**

39. Following widespread reports that Snipes had been removed, the undersigned attorney called Senate General Counsel Jermiah M. Hawkes on December 3, 2018 inquiring about the senate forms necessary in order to start the process for a Senate hearing. Hawkes advised that he had not received a copy of the Executive Order and would also need to research the proper forms to be sent. Hawkes further advised that once the proper forms were identified (by him), the forms would be promptly mailed to Snipes advising her of "her right to a Senate hearing." Snipes has never received any form(s) advising her of her right to a hearing.

40. Despite the fact that Section 112.40, Florida Statutes clearly states "An order of suspension by the Governor, upon its execution shall be delivered to the Department of State and the department shall **forthwith** deliver copies by registered mail, or otherwise as it may be advised, to

the officer suspended, the Secretary of the Senate, and the Attorney General”, Hawkes had not received the Executive Order days after the suspension and Snipes has never been sent a copy of the Executive Order. To date, Snipes has only heard about the Executive Order through media reports and her attorney.

41. On December 6, 2018, Peter Antonacci was sworn in as the Broward County Supervisor of Elections.

42. On December 13, 2018, Bill Galvano, Senate President issued a memorandum to all Florida Senators and the media essentially stating that because the November 18, 2018 resignation of Snipes was “unconditional” and “will take effect on January 4, 2019, well before the Senate can complete a full investigation into the serious assertions made by the Governor’s Executive Order” no further action will be taken by the Senate. **(See Composite Exhibit 7 – Memorandum from Senator Galvano and Jeremiah M. Hawkes)**

43. In light of the Senate’s refusal to review the Governor’s actions, Governor Scott and the Senate are operating in concert to deny Snipes her due process rights under the Fourteenth Amendment of the United States Constitution.

CONSTITUTIONAL PROVISION

44. The Fourteenth Amendment provides:

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law. U. S. Const. Amend. XIV (emphasis added).

STATE LAW

45. Florida Statute §112 Part V to wit: §112.43, §112.46, §112.47, §112.48, §112.52 provide in pertinent part:

112.43 Prosecution of suspension before Senate. All suspensions heard by the Senate, a select committee, or special magistrate in accordance with rules of the Senate shall be prosecuted by the Governor, the Governor's legal staff, or an attorney designated by the Governor... Following the issuance of the suspension order, either the Senate or the select committee may request the Department of Legal Affairs to provide counsel for the Senate to advise on questions of law or otherwise advise with the Senate or the select committee... (Emphasis added)

112.46 Period during which suspension will lie. —

Any officer subject to suspension by the Governor pursuant to the State Constitution shall be subject to such suspension from the date provided by law for such officer to take office whether or not the Governor has executed and delivered the commission of office to the said officer. It is the intent of this part to provide that the formal execution of a commission by the Governor and a delivery thereof to the officer is a ministerial duty not necessary either to the performance of the duties of that officer or to the susceptibility to suspension of that officer. However, nothing in this part shall prohibit or preclude any officer claiming title to any office from seeking a judicial determination of his or her right to such office, regardless of the issuance or non-issuance of a commission to such office. (Emphasis added)

112.47 Hearing before Senate select committee; notice.

The Senate shall afford each suspended official a hearing before a select committee or special magistrate, and shall notify such suspended official of the time and place of the hearing sufficiently in advance thereof to afford such official an opportunity fully and adequately to prepare such defenses as the official may be advised are necessary and proper, and all such defenses may be presented by the official or by the official's attorney. In the furtherance of this provision the Senate shall adopt sufficient procedural rules to afford due process both to the Governor in the presentation of his or her evidence and to the suspended official, but in the absence of such adoption, this section shall afford a full and complete hearing, public in nature, as required by the State Constitution. However, nothing in this part shall prevent either the select committee or the Senate from conducting portions of the hearing in executive session if the Senate rules so provide. (Emphasis added)

112.48 Suspension when Senate not in session. The Governor may suspend any officer at any time, whether or not the Senate is in session. However, the Senate need not hear or determine the question of the suspension of the officer during any regular session. (Emphasis added)

112.52 Removal of a public official when a method is not otherwise provided.

(1) When a method for removal from office is not otherwise provided by the State Constitution or by law, the Governor may by executive order suspend from office an elected or appointed public official, by whatever title known, who is indicted or informed against for commission of any felony, or for any misdemeanor arising directly out of his or her official conduct or duties, and may fill the office by appointment for the period of suspension, not to extend beyond the term.

(2) During the period of the suspension, the public official shall not perform any official act, duty, or function or receive any pay, allowance, emolument, or privilege of office.

(3) If convicted, the public official may be removed from office by executive order of the Governor. For the purpose of this section, any person who pleads guilty or nolo contendere or who is found guilty

shall be deemed to have been convicted, notwithstanding the suspension of sentence or the withholding of adjudication.

(4) If the public official is acquitted or found not guilty, or the charges are otherwise dismissed, the Governor shall by executive order revoke the suspension; and the public official shall be entitled to full back pay and such other emoluments or allowances to which he or she would have been entitled had he or she not been suspended. (Emphasis added)

46. Florida Senate Rule Twelve, Suspensions and Removals:

12.9—Procedure upon receipt of an executive suspension

(1) Unless suspension proceedings are held in abeyance, the committee, subcommittee, or special master shall institute action by transmitting a notice of hearing for a prehearing conference or a hearing on the merits within three (3) months after the Secretary of the Senate receives the suspension order. The Governor and the suspended official shall be given reasonable notice in writing of any hearing or prehearing conference before the committee, subcommittee, or special master. If the Governor files an amended suspension order, the attention of the Senate, committee, subcommittee, or special master shall be directed at the amended suspension order.

(2) An executive suspension of a public official who has pending against him or her criminal charges, or an executive suspension of a public official that is challenged in a court shall be referred to the Ethics and Elections Committee, other appropriate committee, or special master; however, all inquiry or investigation or hearings thereon shall be held in abeyance and the matter shall not be considered by the Senate, committee, subcommittee, or special master until the pending charges have been dismissed, or until final determination of the criminal charges at the trial court level, or until the final determination of a court challenge, if any, and the exhaustion of all appellate remedies for any of the above. The committee, subcommittee, or special master shall institute action within three (3) months after the conclusion of any pending proceedings. In a suspension case in which the criminal charge is a misdemeanor, the committee, subcommittee, or special master and the Senate may

proceed if the written consent of counsel for the Governor and of the suspended official is obtained.

(3) The committee, subcommittee, or special master may provide for a prehearing conference with counsel for the Governor and the suspended official to narrow the issues involved in the suspension. At such conference, both the Governor and the suspended official shall set forth the names and addresses of all the witnesses they intend to call, the nature of their testimony, photocopies of all documentary evidence, and a description of all physical evidence that will be relied on by the parties at the hearing. Each shall state briefly what each expects to prove by such testimony and evidence. The suspended official may file with the Secretary, no later than ten (10) days prior to the first (1st) prehearing conference, or no later than the date set by the committee, subcommittee, or special master if no prehearing conference is held, all written defenses or matters in avoidance of the charges contained in the suspension order.

(4) When it is advisable, the committee, subcommittee, or special master may request that the Governor file a bill of particulars containing a statement of further facts and circumstances supporting the suspension order. Within twenty (20) days after receipt of the Governor's bill of particulars, the suspended officer shall file a response with the committee, subcommittee, or special master. Such response shall specifically admit or deny the facts or circumstances set forth in the Governor's bill of particulars and may further make such representation of fact and circumstances or assert such further defenses as are responsive to the bill of particulars or as may bear on the matter of the suspension.

(5) The Senate may act on the recommendations of the committee, subcommittee, or special master at any time it is sitting but shall do so no later than the end of the next regular session of the Legislature.

(6) Within sixty (60) days after the Senate has completed final action on the recommendation of the committee, subcommittee, or special master, any party to the suspension matter may request the return, at that party's expense, of any exhibit, document, or other evidence introduced by that party. After the expiration of sixty (60) days from the date the Senate has completed final action, the committee,

subcommittee, or special master may dispose of such exhibits or other evidence.

12.14—Rule takes precedence

In any situation where there is a direct conflict between the provisions of Rule Twelve and Part V of Chapter 112, Florida Statutes, Rule Twelve, derived from Article III, §4(a) of the State Constitution, shall take precedence.

COUNT 1 – DEPRIVATION OF PROPERTY INTEREST AND LIBERTY INTEREST IN VIOLATION OF CONSTITUTIONAL RIGHT TO DUE PROCESS

47. Paragraphs 1 through 46 are re-alleged and incorporated herein by reference.

48. Florida Senate Rule 12.9(2) tolls the time of the proceeding if the suspended official challenges her suspension in a court of law.

49. In interpreting the Fourteenth Amendment, the Federal Courts have through the years analyzed a procedural due process violation claim by three sub-issues. First, is there a deprivation? If so, then, determine if there is a deprivation of life, liberty or property? If so, then what procedures are required to insure due process is met? Chemerinsky, Erwin (2016) "Procedural Due Process Claims," *Touro Law Review*: Vol. 16: No. 3, Article 12.

50. This Court held less than sixty days ago in *Kirk B. Reams v.*

Rick Scott, et. al (CASE NO: 4:18cv154-RH/CAS), that where a constitutional officer had been suspended by the Governor, the Fourteenth Amendment's Due Process Clause prohibited a state from depriving a person of "life liberty, or property, without due process of law."

51. In *Reams*, this court found that the Due Process Clause applied where Clerk of Court Reams had either a "property" interest in his position as Clerk or a "liberty" interest in defending against the Governor's allegations. In *Reams*, Governor Scott and the Senate agreed that Reams, an elected constitutional officer, had a "liberty" interest in his position.

52. Even though Snipes' position would have voluntarily ended on January 4, 2019, Snipes is no different than the Reams Plaintiff because her expectation was that she would have served, without interruption, until January 4, 2019. Her resignation was conditioned upon service until said time.

53. After her November 18, 2018 resignation Snipes continued to work in her office and perform all of her tasks as the Broward County Supervisor of Elections. The malicious and politically motivated Executive Order of Suspension falls under the "stigma-plus" doctrine that was recognized by this Court in the *Reams* decision. There, this Court held that when termination of an employee is accompanied by sufficiently serious, public

allegations of misconduct, the action implicates the employee's "liberty" interest. See, e.g. *Behrens v. Regier*, 422 F. 3d 1255, 1263 n.14 (11th Cir. 2005); *Cannon v. City of West Palm Beach*, 250 F. 3d. 1299, 1302-03 (11th Cir. 2001). This Court held that this same principle applied for an elected official. See, *Valdez*, 401 F. 3d at 87-88.

54. The suspension by Governor Scott, operating in concert with the public airing of the allegations against Snipes, deprived her of liberty and property rights without constitutionally adequate procedures.

55. The Due Process Clause is essentially a guarantee of basic fairness. Fairness can, in various cases, have many components: notice, an opportunity to be heard at a meaningful time in a meaningful manner, *Matthews v. Eldridge*, 424 U. S. 319, 333 (1976) and before the deprivation occurs. See, *Gross v. Lopez*, 419 U. S. 565, 582-83 (1975); *Reams v. Irvin*, 561 F. 3d. 1258, 1263 (11th Circuit 2009).

56. Snipes has suffered a significant deprivation. Even if she initially considered resigning on January 4, 2019, Snipes would still suffer a temporary deprivation of a protected interest. She has been publicly humiliated by being closed out of her job and further not being paid during the suspension. At this point, Governor Scott's allegations have gone

unchallenged as he sits high on a “throne” utilizing state resources to continually humiliate Snipes. Due process clearly applies.

57. Snipes initial decision to resign, was on the condition that the resignation was to take place on January 4, 2019.

58. The Senate has chosen, on its own, not to review the Governor’s decision (**See Composite Exhibit 7 – Memorandum from Senator Galvano and Jeremiah M. Hawkes**). As a result, Snipes will not have an opportunity to be heard unless this Court intervenes. Once Snipes was made aware of the Senate’s position, she immediately started working to seek court relief from the grave injustice initiated by Governor Scott.

59. If allowed the procedural protections afforded by the United States Constitution, Snipes would seek to show, among other things, that Governor Scott retaliated against Snipes when she sought to stay an order of a ruling where the alleged facts cannot support a violation of Florida law where public records were not produced “immediately.”

60. The Governor’s Executive Order, combined with the Senate’s refusal to review Snipes’ suspension, will deprive Snipes of her liberty interests in being able to defend the dignity of her good name. The law and rules

complained of do not provide an adequate procedure to ensure due process before the aforesated deprivation occurred or since it occurred.⁵

61. Given the Florida Senate's position that it will not review Snipes' suspension by the Governor, the suspension effectively operates as a suspension and a removal with the Governor acting as the prosecutor, the judge and the jury. **(See Composite Exhibit 7 – Memorandum from Senator Galvano and Jeremiah M. Hawkes)**

62. Governor Scott's suspension, without due process, voids Snipes' resignation.

⁵ It should be noted that Governor Scott has selectively unleashed his power of suspension. Suspensions have historically been reserved for those who committed serious crimes while in office. This severe penalty has been used to single out one person when the same actions (and worse) were duplicated in other parts of the State. The action of Governor Scott was most likely politically motivated as Broward County has far more democratic voters than any other County within the State of Florida. The zero-tolerance standard attributed to Snipes for any misstep by any one of the thousands of temporary employees, permanent employees or volunteers working any given election cycle has been made applicable only to Snipes. When you pull back the curtain to inspect elections and 100% of the process of counting votes, it is not always perfect. In some cases, legislative time periods are proving to be challenging and unreasonable for large counties to meet some statutory demands. The voters wanted a paper trail, however, the length of ballots, especially when considering large elections with multiple amendments from the state, county and municipalities cannot be controlled by Supervisors. Voting-by-mail has increased in popularity but the state law has not kept up with the increased demand. Supervisors in large counties receive vote-by-mail ballots in the thousands on Election Day and right up to 7PM. The current demands placed on large counties was never contemplated in this way. While major and minor deviations from the Florida Election Code take place in all counties, Snipes has been singled out and demonized by Governor Scott for Executive Order allegations that are without merit. Ironically, following Snipes' suspension, the Governor's new Broward SOE appointee (and other persons directed by the Governor) are now urging that all Supervisors of Elections in Florida be appointed, rather than elected. Only one Supervisor in the entire state operates in this manner and Florida's passage of Amendment 10 will require an elected Supervisor of Elections in Miami-Dade County starting the year 2024. In Miami-Dade County, county staff is largely responsible for running elections and the actual costs of running those elections is largely unknown. Since 2003, nobody in this State has ever been removed for anything other than an actual crime. Although Governor Scott tried, without success, to involve the Florida Department of Law Enforcement during the 2018 General Election to bolster his false claims of fraud, no crime has been committed by Snipes.

63. F.S. §112.43 allows for the Governor's office to prosecute suspended officials at an evidentiary hearing set before the Florida Senate. Said hearings and matters related thereto shall be in accordance with rules of the Florida Senate.

64. F. S. §112.43 allows the Governor to suspend a public official at any time. Said statute also forgives and does not require a hearing before the Florida Senate during any regular session prior to said suspension.

65. Florida Senate Rule Twelve imposes on the Florida Senate a deadline for determining the suspended officials' date as late as the end of the next regular session of the Legislature. Rule 12.9 (5).

66. F. S. §112.47 requires the Florida Senate to adopt procedural rules to afford due process to both the Governor and the suspended official, but in the absence of such adoption, this section shall afford a full and complete hearing, public in nature, as required by the State and Federal Constitutions.

67. Snipes has been assured the no hearing will take place in the Florida Senate and, as of the time that the Executive Order, the Governor has made no attempt to rescind said Order.

68. The arbitrary and discretionary decision making of when a proper hearing will be held and what rules will be used are decided by the political

officer of the Governor and the State Senate according to the complained laws.

69. Plaintiff's complaint poses a federal question as to the constitutionality of the statues and rules (process) complained of and subject matter jurisdiction is proper in this Court.

70. By challenging her suspension in a Court of law, she is further delayed from a due process hearing pursuant to F. S. 112. This lawsuit tolls the time in which Snipes may receive a hearing.

71. Paragraphs 1 to 70 are re-alleged and incorporated herein by reference.

72. A controversy exists as to whether F. S. §112 Part V, §112.43, §112.46, §112.47, §112.48, and Florida Senate Rule 12.9(5) are or are not constitutional.

73. A declaration from this Court would serve a useful purpose in affirming this Court's prior ruling in *Reams* and further settle these legal issues in dispute on an emergency basis.

74. Plaintiff seeks a declaration that the aforementioned provisions addressed and contained in F.S. § 112, Part V and Florida Senate Rule 12.9 are unconstitutional.

75. In the absence of an injunction the requirement of F.S. § 112 Part V and Florida Senate Rule 12.9 will continue to be utilized to prevent Snipes from her right to due process.

76. The Plaintiff will continue to suffer irreparable injury if this Court does not issue an injunction.

77. There is no adequate remedy at law because only a declaration and injunction, as opposed to monetary damages, would allow Snipes due process before she is deprived of her property and liberty rights or in the alternative, a timely and meaningful ability to be heard.

WHEREFORE, the Plaintiff prays that this Honorable Court:

1. Issue preliminary and permanent injunctions:
 - (a) enjoining the named Defendants from enforcing F.S. §112 Part V and Florida Senate Rule 12 against Plaintiff.
2. Enter the following:
 - (a) A declaratory judgment that the provisions complained of render F.S. §112 Part V and Florida Senate Rule 12.9 are null and void because they violate the Fourteenth Amendment to the United States Constitution in that they deprive Plaintiff of her property or liberty without due process of law.
 - (b) Issue preliminary and permanent injunctions against Defendants and their agents and employees thereof from action on or under F.S. §112 Part

V, §112.43, §112.46, §112.47, §112.48 and Florida Senate Rule 12.9 (5), *in para materia* and under said statute and rule as a whole.

3. Award Plaintiff attorney's fees and costs pursuant to 42 U.S.C. §1988 and reinstate Snipes as the Supervisor of Elections for Broward County, Florida with pay and back pay until such time that the Senate provides law and rules requiring a meaningful and timely hearing with clear rules/safeguards for the Plaintiff to be noticed and properly heard.

4. Grant such other and further relief, in law and equity as the Court deems just and proper.

Dated this Seventeenth day of December, 2018.

Respectfully submitted,

By /s/ Burnadette Norris-Weeks

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