

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

CATHERINA PARETO and KARLA ARGUELLO;  
JUAN CARLOS RODRIGUEZ and DAVID PRICE;  
VANESSA ALENIER and MELANIE ALENIER;  
TODD DELMAY and JEFFREY DELMAY;  
SUMMER GREENE and PAMELA FAERBER; DON  
PRICE JOHNSTON and JORGE DIAZ; and  
EQUALITY FLORIDA INSTITUTE, INC.,

Plaintiffs,

v.

CASE NO. 2014-1661-CA-01

HARVEY RUVIN, as Clerk of the Courts of Miami-  
Dade County, Florida, in his official capacity,

Defendant.

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**VERIFIED MOTION TO INTERVENE AS PARTY-DEFENDANTS BY INTERVENORS  
FLORIDA FAMILY ACTION, INC., FLORIDA DEMOCRATIC LEAGUE, INC., AND  
PEOPLE UNITED TO LEAD THE STRUGGLE FOR EQUALITY, INC.**

Pursuant to Fla. R. Civ. P. 1.230, FLORIDA FAMILY ACTION, INC. (“FFAF”),  
FLORIDA DEMOCRATIC LEAGUE, INC. (“FDL”), and PEOPLE UNITED TO LEAD THE  
STRUGGLE FOR EQUALITY, INC. (“PULSE”), (collectively, “Intervenors”), respectfully  
move this Court for leave to intervene in this action as Party-Defendants, and in support thereof,  
state the following:

1. Plaintiff same-sex couples seek a judicial repeal of Amendment 2 of the Florida  
Constitution, which was enacted by Florida voters on November 4, 2008. Amendment 2 has been  
codified as Fla. Const. Art. I, §27: “Inasmuch as marriage is the legal union of only one man and  
one woman as husband and wife, no other legal union that is treated as marriage or the  
substantial equivalent thereof shall be valid or recognized.”

2. Plaintiffs claim that memorializing the definition of marriage in the Florida Constitution, as well as in Florida Statutes §§741.04 and 741.212, violates the United States Constitution because Plaintiffs want to marry people of the same sex. On that basis, Plaintiffs ask this Court to declare that the Florida Constitution violates the United States Constitution.

3. Plaintiffs ask this Court to throw out and invalidate the votes of almost 8 million Floridians who voted on this issue in the 2008 election, and who, by a large majority, voted to reaffirm the definition of marriage as the union between one man and one woman.<sup>1</sup>

4. FFAI is a non-profit 501(c)(4) cultural action organization with thousands of members throughout Florida, including in Miami-Dade County.

5. FFAI's mission is to inform, inspire and rally those who care deeply about the family to greater involvement in the moral, cultural and political issues that face our state. As part of this mission, FFAI works to preserve and protect marriage as a foundational social institution, to educate Floridians on the underlying social goods attendant to the institution of marriage, to strengthen marriages, and to promote a strong foundational basis for raising children and ensuring the future of society.

6. FFAI's members were instrumental in drafting Amendment 2, gathering signatures to place it on the ballot, defending it against legal challenges in Florida courts, including at the Florida Supreme Court, and educating and mobilizing voters to ultimately approve Amendment 2.

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<sup>1</sup> The official results of the November 2008 General Election show that Amendment 2 received 4,890,883 "yes" votes (61.9 percent) and 3,008,026 "no" votes (38.1 percent). Florida Secretary of State, Division of Elections, November 8, 2008 General Election Results, available at <http://election.dos.state.fl.us/elections/resultsarchive/Index.asp?ElectionDate=11/4/2008> (last visited February 20, 2014).

7. After Amendment 2 was approved by the Florida Supreme Court and enacted by the people of Florida, FFAI's members continued to work throughout Florida, including in Miami-Dade County, to preserve and protect marriage as an institution based upon societal norms that teach, form and transform individuals, and that create stable and optimal foundations for families and for the perpetuation of society. FFAI has worked to strengthen the institution of marriage and to educate Floridians on the inherent social goods which result from strong, natural marriages.

8. PULSE is a non-profit civil rights umbrella organization, consisting of 35 civic groups in Miami-Dade County, who represent thousands of African-Americans and other racial minorities, as well as low-income and traditionally disenfranchised groups.

9. PULSE has organized minorities for over thirty years around common issues that affect their communities. One such issue was the institution of marriage, and Amendment 2, in 2008. PULSE members worked tirelessly day and night, and were instrumental in collecting signatures to place Amendment 2 on the ballot, and in educating, mobilizing and empowering minority voters in Miami-Dade County to participate in the civic process and to cast their vote on Amendment 2.

10. A major focus of PULSE is and has been to ensure that minorities have full access and participation in the political process, that minority voting rights and votes are respected, and that minorities are not disenfranchised.

11. FDL is a non-profit civic and human rights organization headquartered in Miami-Dade County. It is one of the leading Hispanic-led human rights organizations in Florida, with thousands of members throughout the state, including in Miami-Dade County.

12. FDL educates and advocates on social, cultural and political issues important to its members, all of whom are registered Democrats. One such issue was the institution of marriage, and Amendment 2, in 2008. FDL and its members worked very hard to gather signatures to place Amendment 2 on the ballot, and to educate and mobilize Floridians to vote on Amendment 2.

13. One of the principal missions of FDL is to ensure that its members are involved in the political process, and that their votes are counted, respected and enforced.

14. In qualifying Amendment 2 for the ballot and voting it into existence, Intervenors, their members, and the millions of Floridians who approved Amendment 2 exercised the right reserved to the people to amend the Constitution by initiative, under Article XI, §3 of the Florida Constitution.

15. Intervenors have direct and immediate interests in Plaintiffs' challenge to the Florida Constitution. The judicial declaration sought by Plaintiffs – that the Florida Constitution violates the United States Constitution – will undermine the right reserved to the people, exercised by Intervenors' members, to amend their state Constitution. Plaintiffs' requested relief, if granted by this Court, will disenfranchise Intervenors' members and millions of other Floridians, and will infringe their constitutional right to amend their state Constitution.

16. In addition, Intervenors have a direct and immediate interest in Plaintiffs' challenge to the Florida Constitution in that Plaintiffs' requested relief, if granted, will undermine the societal norms and social goods arising from the institution of marriage and destabilize the foundational family unit upon which society depends and for which Intervenors have advocated before, during and since the enactment of Amendment 2.

17. Intervenorors have a further direct and immediate interest in Plaintiffs' challenge to the Florida Constitution in that Plaintiffs' requested relief, if granted, will infringe upon the constitutional and statutory rights of Intervenorors and their members to free speech, free exercise of religion, and other rights attendant to operating businesses and non-profit organizations in accordance with the definition of marriage as currently memorialized in the Florida Constitution.

18. Intervenorors' interests are not, and cannot be, adequately represented by the existing defendant, the Clerk of this Court. As a government official, the Clerk has no stake in preserving and protecting the underlying societal norms and social good attendant to the definition of the institution of marriage. The Clerk also has no stake in safeguarding the citizens' voting rights. Instead, the Clerk is merely an agent of the State, and is required only to implement, not defend, statutes and constitutional provisions. The Clerk is obligated to carry out the law as written, and not to argue about the wisdom or constitutionality of that law. As such, the Clerk does not have the same interests as Intervenorors and their members, and cannot adequately represent them in this suit.

19. The Clerk has confirmed that he cannot and will not represent Intervenorors' interests in this action. In his Answer and Affirmative Defenses, filed on February 11, 2014, the Clerk agreed that his "duties are ministerial," that he is "duty-bound to maintain neutrality in all matters pending before the Court," and that he "does not have an actual, present, adverse and antagonistic interest" to the Plaintiffs. (Clerk Ans. and Aff. Def., p. 1). The Clerk further indicated that he "is not and cannot be an antagonistic party with respect to the Plaintiffs," and that "he lacks standing to challenge or defend the validity or constitutionality of the statute." (*Id.* at p. 7, First Defense).

20. Intervenors agree with the Clerk that this Court lacks subject-matter jurisdiction, that Plaintiffs' claims are not redressable, that Plaintiffs have failed to state a cause of action and that Plaintiffs have failed to join indispensable parties. (Clerk Aff. Def. One, Two, Three, Four and Five). Intervenors further agree that this action should therefore be dismissed.

21. However, in the event the Court does not dismiss this action, the Court should grant Intervenors' motion to intervene, so that Intervenors can appear to protect their interests, and to provide that which the Clerk is admittedly unable to provide: a vigorous, adversarial defense of the Florida Constitution on the merits.

22. Intervenors are seeking intervention in a timely manner. This action was filed only one month ago. The pleadings are still open, and discovery has not yet commenced, let alone closed. There are no scheduled hearings, motions or trial. There are no impending litigation deadlines. Intervenors will comply with all deadlines established by this Court and will not unduly delay these proceedings.

WHEREFORE, for good cause shown, Intervenors FLORIDA FAMILY ACTION, INC., FLORIDA DEMOCRATIC LEAGUE, INC., and PEOPLE UNITED TO LEAD THE STRUGGLE FOR EQUALITY, INC., respectfully request that their motion be granted, that they be granted leave to intervene in this action as Party-Defendants, and that the Court provide all other further relief to which Intervenors may be entitled.

Dated: February 25, 2014.

/s/ Horatio G. Mihet

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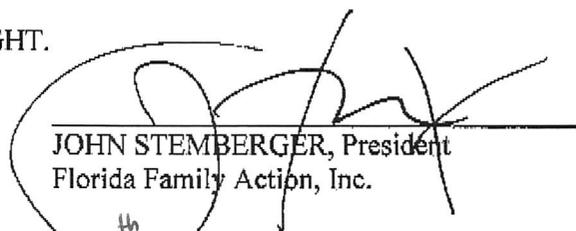
VERIFICATION

STATE OF FLORIDA        )  
                                  )        SS  
COUNTY OF ORANGE    )

BEFORE ME this day personally appeared JOHN STEMBERGER, who, after being duly sworn, deposes and states:

- 1) I am of legal age and competent to testify in a court of law.
- 2) I give this Affidavit based upon my own personal knowledge.
- 3) I am President of Florida Family Action, Inc. ("FFAI") and am familiar with its organization, objectives, goals, activities and membership.
- 4) I have reviewed the foregoing Motion to Intervene, and hereby verify and attest that the factual representations made therein regarding FFAI and Amendment 2 are true and accurate.

FURTHER AFFIANT SAYETH NAUGHT.

  
 \_\_\_\_\_  
 JOHN STEMBERGER, President  
 Florida Family Action, Inc.

Sworn to and subscribed before me this 25<sup>th</sup> day of February, 2014 by JOHN STEMBERGER, who    is personally known to me, or  has produced FL DL S351-478-62-332-0 as identification.



SEAL:

  
 \_\_\_\_\_  
 NOTARY PUBLIC

MATTHEW T. RICE  
Typed or Printed Name of Notary

My Commission Expires: 11/2/17

VERIFICATION

STATE OF FLORIDA        )  
  )  
COUNTY OF MIAMI-DADE)        SS

BEFORE ME this day personally appeared NATHANIEL J. WILCOX, who, after being duly sworn, deposes and states:

- 1) I am of legal age and competent to testify in a court of law.
- 2) I give this Affidavit based upon my own personal knowledge.
- 3) I am Executive Director of People United to Lead the Struggle for Equality, Inc. ("PULSE") and am familiar with its organization, objectives, goals, activities and membership.
- 4) I have reviewed the foregoing Motion to Intervene, and hereby verify and attest that the factual representations made therein regarding PULSE and Amendment 2 are true and accurate.

FURTHER AFFIANT SAYETH NAUGHT.

*Nathaniel J. Wilcox*  
 \_\_\_\_\_  
 NATHANIEL J. WILCOX, Executive Director  
 People United to Lead the Struggle for Equality, Inc.

Sworn to and subscribed before me this 24 day of February, 2014 by NATHANIEL J. WILCOX, who \_\_\_ is personally known to me, or \_\_\_ has produced \_\_\_\_\_ as identification.



SEAL:

*[Signature]*  
 \_\_\_\_\_  
 NOTARY PUBLIC

Maria Antonette Wimberly  
 \_\_\_\_\_  
 Typed or Printed Name of Notary

My Commission Expires: Feb. 29, 2016

**VERIFICATION**

STATE OF FLORIDA        )  
  )  
COUNTY OF MIAMI-DADE)       SS

BEFORE ME this day personally appeared ELADIO J. ARMESTO, who, after being duly sworn, deposes and states:

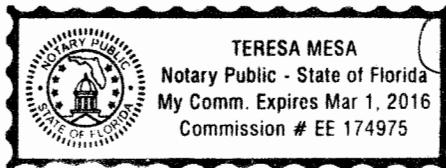
- 1) I am of legal age and competent to testify in a court of law.
- 2) I give this Affidavit based upon my own personal knowledge.
- 3) I am Chief Executive Officer and Chairman of the Board of Directors of Florida Democratic League, Inc. ("FDL") and am familiar with its organization, objectives, goals, activities and membership.
- 4) I have reviewed the foregoing Motion to Intervene, and hereby verify and attest that the factual representations made therein regarding FDL and Amendment 2 are true and accurate.

FURTHER AFFIANT SAYETH NAUGHT.

*Eladio J. Armesto*

\_\_\_\_\_  
ELADIO J. ARMESTO, CEO/Chairman of Board  
Florida Democratic League, Inc.

Sworn to and subscribed before me this 25 day of February, 2014 by ELADIO J. ARMESTO, who    is personally known to me, or X has produced FDL # A652210571380 4/2019 as identification.



SEAL:

*Teresa Mesa*  
\_\_\_\_\_  
NOTARY PUBLIC  
TERESA MESA

Typed or Printed Name of Notary

My Commission Expires: 3/1/2016

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the foregoing document is being served on February 25, 2014 via email generated by the Florida Courts E-Filing Portal to:

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Attorney for Intervenors