

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT,
IN AND FOR LEON COUNTY, FLORIDA

LEONISIA OLIVARES,
JERRY W. LAPIDUS and
JUDITH L. CRAIG

Plaintiffs,

v.

Case No. _____
CIRCUIT CIVIL

DONALD J. TRUMP, Nominee
of the Republican Party for President
of the United States,

MICHAEL R. PENCE, Nominee of the

Republican Party for Vice-President of the United States

FLORIDA GOVERNOR RICHARD L. SCOTT,

FLORIDA ATTORNEY GENERAL PAMELA J. BONDI,

FLORIDA CHIEF FINANCIAL OFFICER JEFFREY H. ATWATER,

ADE ADERIBIGDE, ELECTOR, LARRY AHERN, ELECTOR,

BRIAN BALLARD, ELECTOR, KRISTY BANKS, ELECTOR,

MICHAEL BARNETT, ELECTOR, LIZBETH BENACQUISTO, ELECTOR, ROBIN

BERNSTEIN, ELECTOR, PAM BONDI, ELECTOR, JOHN BROWNING, ELECTOR,

SHARON DAY, ELECTOR, DENA DECAMP, ELECTOR, NICK DICEGLIE, ELECTOR,

JEREMY EVANS, ELECTOR, JOHN FALCONETTI, ELECTOR, PETER FEAMAN,

ELECTOR, KAT GATES-SKIPPER, ELECTOR, JOE GRUTERS, DEBBIE HANNIFAN,

BLAISE INGOGLIA, TONY LEDBETTER, ELECTOR, MIKE MOBERLEY, ELECTOR,

SUSAN MOORE, ELECTOR, JOE NEGRON, ELECTOR, CLINT PATE, ELECTOR, RAY

RODRIGUES, ELECTOR, CARLOS TRUJILLO, ELECTOR, ROBERT WATKINS,

ELECTOR, SUSIE WILES, ELECTOR, and CHRISTIAN ZIEGLER, ELECTOR

Defendants.

COMPLAINT TO CONTEST ELECTION

1. This is an action under Florida Statute Section 102.168 to contest the Election Canvassing Commission's certification that Donald J Trump was the winner of the November 8, 2016 Florida Presidential Election for the Presidency of the United States of America.
2. The ground for this contest is found under Florida Statute 102.168(3)(c): "receipt of a number of illegal votes or rejection of a number of legal votes sufficient to

change or place in doubt the results of the election.”

3. The Florida Election Canvassing Commission certified that Donald J. Trump received 4,617,886 votes and Hillary Clinton received 4,504,975 votes for a margin of victory of 112,911 vote. They do not include legal votes cast throughout the state of Florida that were improperly rejected. They do, however, include illegal votes cast through the state of Florida that were not rejected.
4. The vote totals in the certification are wrong because of several factors:
 - i. They do not include tens of thousands of legal votes that were cast but not counted due to the pervasive malfunctioning of electronic voting machines;
 - ii. They do include tens of thousands of illegal votes that were improperly counted;
 - iii. They do not take into consideration over 25,000 mail in ballots that were requested but never received in Broward County alone;
 - iv. They do not take into consideration the hacking of VR systems, which provides, among other services, the electronic voter identification system used in 63 Florida Counties.
 - v. They do not take into consideration the abnormally high invalid vote rate in the state of Florida.
5. The number of uncounted votes, together with the illegal votes and the lack of integrity of the voting machines is more than sufficient to call in doubt the results of the election. Had the votes been counted properly, Hillary Clinton would have prevailed in Florida and received the 29 Florida Electoral Votes.
6. Furthermore, as the voters in Florida legally vote for the Electors of the Electoral College of a particular presidential candidate, the legal result of Hillary Clinton's victory in Florida is that the Electors of the Electoral College would be twenty nine (29) Democrats, not the twenty nine (29) Republican Elector Defendants.
7. Therefore, Plaintiffs are entitled to appropriate relief under section 102.168, Florida Statutes. It is imperative that this Court provides prompt relief, in the form of impounding voter registration databases and electronic poll books and grant a full State-wide paper ballot hand count, to ensure that the will of the people of the

Great State of Florida is respected, and that the appropriate Electoral College cast its vote on December 16, 2016.

General Allegations

8. This is an action to contest the Presidential election under Florida Statute Section 102.168, Which provides that the outcome of an election "may be contested in the Circuit Court...by any taxpayer."
9. Pursuant to Florida statute section 102.1685, Leon County is the proper venue for this action.
10. Plaintiffs Leonisia Olivares, Jerry W. Lapidus and Judith L. Craig are taxpayers who are qualified to vote in, and did, in fact, vote in Florida in the November 8, 2016 Presidential election for the Presidency of the United States of America. Plaintiffs have standing under section 102.168(1), Florida Statutes.
11. Defendant Donald J Trump was the nominee of the Republican Party for President of the United States and Defendant Michael R. Pence was the nominee of the Republican Party for Vice-President of the United States and thus are indispensable parties to this action. Plaintiffs name President-Elect Trump and Vice-President-Elect Pence due only to the statutory requirement in Section 102.168(4), Florida Statutes
12. Defendant Florida Governor Richard L. Scott, Defendant Florida Attorney General Pamela J. Bondi, and Defendant Florida Chief Financial Officer Jeffrey H. Atwater are and were, at all relevant time, members of the Florida Election Canvassing Commission and thus are indispensable parties to this action.
13. Ade Aderibigde, Elector, Defendant Larry Ahern, Elector, Defendant Brian Ballard, Elector, Defendant Kristy Banks, Elector, Defendant Michael Barnett, Elector, Defendant LizBeth Benacquisto, Elector, Defendant Robin Bernstein, Elector, Defendant Pam Bondi, Elector, Defendant John Browning, Elector, Defendant Sharon Day, Elector, Defendant Dena DeCamp, Elector, Defendant Nick Diceglie, Elector, Defendant Jeremy Evans, Elector, Defendant John Falconetti, Elector, Defendant Peter Feaman, Elector, Defendant Kat Gates-Skipper, Elector, Defendant Joe Gruters, Elector, Defendant Debbie Hannifan,

Elector, Defendant Blaise Ingoglia, Elector, Defendant Tony Ledbetter, Elector, Defendant Mike Moberley, Elector, Defendant Susan Moore, Elector, Defendant Joe Negron, Elector, Defendant Clint Pate, Elector, Defendant Ray Rodrigues, Elector, Defendant Carlos Trullillo, Elector, Defendant Robert Watkins, Elector, Defendant Susie Wiles, Elector, and Defendant Christian Ziegler, Elector, are the Republican Presidential Electors of the Electoral College and thus are indispensable parties to this action.

Count I

Section 102.168(3)(c) Florida Statutes

14. Plaintiffs re-allege paragraphs one (1) through thirteen (13) as if set forth herein.
15. There is massive evidence of electronic voting machine malfunctioning. Computer scientists have been studying the vulnerability of the equipment to hacking as well as the voting equipment returning improper results through no intent of the manufacturer or operator of the machine.
16. As famed computer scientist Harri Hursti states in the attached affidavit, “[t]he scanner units may be optical scan or digital imaging scanners. Both are hackable. Optical mark recognition scanners can be hacked to misinterpret the ballot and change the recorded vote. A digital imaging scanner can be programmed to manipulate the ballot image. In either case, the recorded vote will not match the voter's intent.” See Exhibit “A” attached hereto and incorporated by reference.
17. Hursti further states that “[c]entral tabulators are normal PCs and subject to a wide array of attacks, including vote-stealing malware.” “For all these reasons, optical scan votes face a serious threat of being hacked in ways that can alter the outcome of an election. Ballots that are recounted using optical scanners face most of the same threats. The only way to reliably detect such attacks on the election results is to recount the ballots manually, without reliance on potentially hacked election equipment.” See Exhibit “A” attached hereto and incorporated by reference.
18. Professor Dan Wallach, from the Department of Computer Science and Rice Scholar at the Baker Institute for Public Policy at Rice University, concurs with

Hursti: "Even if the whole [voting process] is designed to be "air gapped" from the Internet (and it absolutely must be air gapped), nation-state adversaries have devised a variety of workarounds. Combine the patience and resourcefulness of a nation-state adversary with the unacceptably poor state of security engineering in our voting systems, and especially if we consider the possibility of insider threats, it's entirely reasonable to consider attacks against our voting system to be within the feasible scope of our adversaries' capabilities." See Exhibit "B" attached hereto and incorporated by reference.

19. Furthermore, Professor Wallach states that "[I]t's also a common and undesirable practice for election administrators to have their computers behind a network firewall of some sort, which is to say, there's no actual air in the air gap. So long as there are wires between the Internet in an election administration computer, then there's an opportunity for an adversary to break the firewall and attack the computers behind it. See Exhibit "B" attached hereto.
20. Finally, Wallach states that "[I]t is well within the capabilities of a nation-state attacker to compromise the computer inside of a precinct based optical scanner. These computers are potentially vulnerable to malware that can be introduced as part of the pre-election ballot programming. A purely electronic tally of paper ballots, without some sort of hand counting or auditing would be unable to detect systematic electronic tampering-the very risk we're concerned about in this election." See Exhibit "B" attached hereto.
21. Several computer experts concur with the abovementioned conclusion, including J. Alex Halderman, Professor of Computer Science and Engineering and the Director of the Center for Computer Security and Society at the University of Michigan, see Exhibit "C" attached hereto and incorporated by reference, Douglas W. Jones, Associate Professor of Computer Science at the University of Iowa, see Exhibit "D" attached hereto and incorporated by reference, Philip B. Stark, Professor of Statistics, Associate Dean of Mathematical and Physical Science and Director of the Statistical Computing Facility at the University of California, Berkeley, see Exhibit "E" attached hereto and incorporated by reference, Poorvi

L. Vora, Professor of Computer Science at the George Washington University, see Exhibit "F" attached hereto and incorporated by reference, and Donald L. Rivest, Institute Professor at the Massachusetts Institute of Technology, see Exhibit "G" attached hereto and incorporated by reference.

22. In Florida, 55 of the 67 counties use either Election Systems & Software (ES&S) or Premiere Election System, formerly known as Diebold. Election Systems & Software purchased Premiere Election Systems in 2009. Ten counties use Dominion Voting Systems and two counties use Sequoia, now owned by Dominion Voting Systems. See Exhibit "H" attached hereto and incorporated by reference.
23. In 2007, the Ohio Secretary of State initiated the EVEREST voting systems analysis project involving teams from Pennsylvania State University, the University of Pennsylvania and WebWise Security, Inc. Their "analysis suggests that the ES&S Unity EMS, iVotronic DRE and M100 optical scan systems lack the fundamental technical controls necessary to guarantee a trustworthy election under operational conditions." Finding that "exploitable vulnerabilities" allow computer viruses could be introduced "into the central election management system" by a voter, precinct poll worker, or other person with even limited access to the system. They found that such an attack could "render the election result subject to subtle manipulations—potentially across election cycles." See Exhibit "I" attached hereto and incorporated by reference.
24. Furthermore, they found that Premier voting system "lacks the technical protections necessary to guarantee a trustworthy election under operational conditions." Noting flaws in "system design, development, and processes" that "lead to a broad spectrum of issues that undermine the voting system's security and reliability." See Exhibit "J" attached hereto and incorporated by reference.
25. While the above analysis is 9 years old, most of the problems still persist. In 2011, David A. Eckhardt, Ph.D., was commissioned by Venango County, Pennsylvania to perform an audit analysis on iVotronic DRE manufactured by Election Systems & Software. Results were tabulated using ES&S's Unity™ Election Reporting

Manager software. Dr. Eckhardt found that “there is substantive evidence that the machine we studied is configured, and has been connected to networks, in such a way as to threaten, or at least cast doubt on, its integrity.” See Exhibit “K” attached hereto and incorporated by reference. Furthermore, Eckhardt found that “[m]any steps of the operation of iVotronic voting terminals are infeasible to audit by a third party after the fact....” See Exhibit “K” attached hereto.

26. To counter the complaint of scanners and touch-screens not tabulating correctly, Voting Equipment Manufacturers point to the fact that their machines are tested and certified. What they do not say is that no independent testing of their equipment is permitted and testing is only performed in controlled conditions devised by the manufacturer. A look at the Volkswagen scandal would reveal that such tests are easily manipulated by the manufacturer. They control the testing so that any real world scenario will never show weaknesses or flaws in the systems they produce.
27. In the Volkswagen scandal, Volkswagen produced millions of cars that were later found to have software built in that would give one set of results in testing and a completely different result when in actual use. While the testing environment produced results that passed US EPA standards, once the cars’ software determined that the cars were no longer being tested, the cars began emitting 40 times the allowed emissions. These millions of cars were tested over a period of many years and in many different locations but the software remained hidden. Only when the cars were tested by an independent unauthorized laboratory was the problem determined. See Exhibit “L” attached hereto and incorporated by reference.
28. With scanners, the test is easy. All that needs to be done is a comparison of a full hand count of the paper ballots that were previously counted by the various scanners. Only then can we be confident of the results of the voting.
29. In the presidential race of Florida’s 2016 general election, there were a total of 160,450 invalid, or uncounted, votes. Invalid votes are aggregations of overvote, undervote and invalid write-ins.

30. The term ““Overvote” means that the elector marks or designates more names than there are persons to be elected to an office or designates more than one answer to a ballot question, and the tabulator records no vote for the office or question.” *See* Section 97.021(25), Florida Statutes.
31. The term ““Undervote” means that the elector does not properly designate any choice for an office or ballot question, and the tabulator records no vote for the office or question.” *See* Section 97.021(39), Florida Statutes.
32. In Florida’s 2016 general election presidential race, 9,580,489 ballots were cast. 9,420,039 ballots were counted. Therefore, there were a total of 160,450 uncounted, or invalid, votes, or 1.67% of the total ballots cast. This represents a huge increase over the rate of invalid votes in Florida’s two previous presidential races, in 2012 and 2008, when the percentage of invalid votes was 0.75% according to the Florida Department of State’s official report on uncounted votes.
33. This represents an increase of 223% in the percentage of cast ballots that were not counted. If the previous rate of invalid votes had continued in 2016, more than 88,000 additional vote would have been counted in the presidential race.
34. Excessively high invalid vote rates are extremely suspicious, and generally are considered an indication of possible problems such as machine malfunctions or tampering.
35. Therefore, the uncounted votes in Florida’s 2016 general election presidential race indicates a strong possibility that the results were not accurate.
36. Another strong indicator that the results of the 2016 Florida general election presidential race is the pre-election, exit polling and predictive Turnout Models.
37. In most instances the race results match the pre-election, exit polling and predictive Turnout Models. If polling on models were the only things that were out of line, then it might be possible to dismiss their value. When those devices are coupled with all the other problems associated with this election, the discrepancies are a excellent indicator that the results might be in error. Where the ability to determine the results by a manual recount exists, it is definitely worth examining the ballots to determine the will of the people. A full hand count of the

paper ballots will provide us with the only reliable choice for determining the actual winner of the Florida election.

38. Every news outlet including, those favoring Mr. Trump, believed that Florida would be won by Mrs. Clinton. National pollsters such as FiveThirtyEight showed Mrs. Clinton with a 55.1 to 44.9% chance to win Florida and carrying a solid 2 to 4 point lead. See Exhibit "M" attached hereto and incorporated by reference. Politico touted a Clinton lead in Florida, as did almost every pollster nationwide. See Exhibit "N" attached hereto and incorporated by reference. The predictive turnout models for Florida were even more precise. Even so, the **Predictive Turnout Models and Florida Division of Elections Results differed drastically.** See Exhibit "O" attached hereto and incorporated by reference.

- i. The actual results in the presidential race in Florida, as shown on the DOE website, differed substantially not only from pre-election opinion polling and exit polling, but from predictive turnout modeling results garnered throughout the day on election day.
- ii. These projections should have been reasonably accurate—much more so than other types of polling.
- iii. Predictive turnout modeling has long been used by the political parties to track turnout during the early voting period (both in-person early voting at sites and vote-by-mail returns) as well as on Election Day in order to target resources and refine strategies up to the close of the polls.
- iv. It is generally considered much more accurate than either opinion polling or exit polling since it is based on actual turnout, rather than projections or small samples. Turnout data is fed into a complex, sophisticated computer model, which has been constructed using a large number of variables, thereby creating specific voter profiles.
- v. The most touted of the organizations using predictive turnout modeling was VoteCastr, a new organization that worked with Slate.com to publish election projections in real-time during election day based on actual turnout.
- vi. Vote projections given by VoteCastr have been used for several reasons: (1) It gave detailed numbers at regular intervals rather than simple percentages only occasionally updated; (2) its numbers were readily

available and still posted on the Slate website; and (3) it was advertised as using the most up-to-date technology and claimed that its numbers would be more accurate than those published elsewhere.

- vii. The following table compares the final vote totals given by VoteCastr, based on voter turnout at about 6:30 p.m. EST, with the final results as shown on the Florida Division of Elections website.

Table 1. Comparison of VoteCastr Projections to DOE Results

	VoteCastr final	DOE results	Differenc e	% Difference
Clinton	4,959,569	4,504,975	454,594	9.17%
Trump	4,644,007	4,617,886	26,121	0.56%

- viii. DOE vote total for Hillary Clinton is 9% less than what was estimated by VoteCastr based on actual turnout at 6:30 p.m. election eve. Yet, VoteCastr's numbers for Trump are very close to the DOE results—only off by about half a percent.
- ix. In terms of percentages, the VoteCastr final numbers showed Clinton with about 52% of the total votes for the two candidates, while Trump had about 48%. Final DOE numbers, however, showed a complete reversal of those numbers, with Trump having about 51% of the total for the two candidates and Clinton dropping to 49%.
- x. Could Clinton's numbers have eroded in the final hours of voting? VoteCastr indicated in its final posting that Clinton's lead during early voting in Iowa and Ohio was being diminished by her losses among election day voters in those states, but that was not the assessment for Florida. Based on the 6:30 p.m. numbers, VoteCastr predicted that Clinton was *winning* among election day voters as well as those who had already voted, although by a much smaller margin.
- xi. At 4:27 on election eve, Josh Vorhees, one of the VoteCastr group, published an article on Slate titled "Hillary Clinton has to like where she stands in Florida." Using numbers that were current through 4:12 p.m., he said that their projections showed turnout for Clinton to be higher than for Obama in 2012, when Obama beat Romney in Florida. At that time, the numbers indicated that Clinton was about 3 percentage points ahead of Trump.
- xii. Of course, at 6:30 p.m. EST, it was only 5:30 p.m. in Florida's conservative Panhandle. Did VoteCastr's final numbers fail to take into account the possibility of exceptionally high turnout among Trump voters

there? No, as shown above, VoteCastr predicted Trump's final totals with a fair degree of accuracy, indicating that it took into account the turnout in the Panhandle. It is only Clinton's numbers that are wildly inaccurate, with only a half hour of voting left in most of Florida.

- xiii. Projections that Clinton would win Florida continued through the closing of the polls on Election Day, even though the predictive turnout models were being continuously updated with the most current information.
39. When there is such disparity between expected and actual results, it casts suspicion on the accuracy of the published results. These suspicions are heightened by the fact that foreign hackers had already shown their intention to interfere in the U.S. election and proved their ability to hack into important state and political party databases. Add to this, the well-known proven vulnerabilities of Florida's certified voting systems, and it becomes clear that we cannot have confidence in these results unless we examine the voter-marked ballots.
40. As further evidence for the need of a manual recount, Defendant Donald J Trump stated, in a tweet dated November 27, 2016 that [he] won the popular vote if you deduct the millions of people who voted illegally." See Exhibit "P" attached hereto and incorporated by reference.
41. Moreover, Jan Brewer, former Republican Governor of Arizona, stated, in May 2016, "I've got to tell you, we should be completely doing away with electronic voting across the nation. It's a system that is open to fraud and manipulation. See Exhibit "Q" attached hereto and incorporated by reference.
42. In fact, one cause of action is the tabulation of illegal votes or the exclusion of votes that would have been legally cast. In this election, we have evidence of both. Beyond Mr. Trump and Ms. Brewer's statements regarding the use of electronic machines, there is testimony of Chelsey Marie Smith. Ms. Smith observed and reported a ballot stuffing operation being conducted at the Broward County Supervisor of Election's Office. She reports that stacks of ballots were being filled in by multiple individuals in a locked room. In her observations, she noted that the individuals had a stack of blank ballots on the right and a stack of filled in ballots on the left. There was no indication that any preexisting ballots

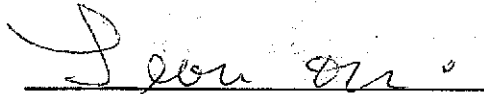
- were present so that the person filling them in might be duplicating an existing ballot. See Exhibit "R" attached hereto and incorporated by reference.
43. This is a clear indication that illegal ballots were being prepared to be used in the election in Broward County. Additionally, Broward County was found to be opening absentee ballots without supervision. See Exhibit "S" attached hereto and incorporated by reference.
 44. Moreover, the affidavit of Lisbeth A. Feeman indicates that a large number of valid voters were turned away from the polls. See Exhibit "T" attached hereto and incorporated by reference. These valid voters' votes were not counted as they were illegally denied the right to vote. Additionally, large number of voters in Broward County did not receive their mail-in ballots as they requested. Even after multiple calls to the Broward Supervisor of Elections office their requests for mail-in ballots went unfulfilled. See Exhibit "U" attached hereto and incorporated by reference.
 45. In this election, Federal investigators believe Russian hackers were behind cyberattacks on a contractor for Florida's Election system. See Exhibit "V" attached hereto and incorporated by reference.
 46. Additionally, e-mail accounts and other private data have been hacked and delivered to the media in an effort to influence the US Presidential election.
 47. Russia, and many other entities, including ISIS, have both the desire, and technical ability to penetrate and alter our election system, thereby modifying the results for their own agenda. Even simply claiming to have hacked and altered the result of a US Presidential election after an administration has been seated would be devastating for this Country and its institutions.
 48. Only by determining the actual result by a full hand count of the paper ballots can this potential disaster be averted.

WHEREFORE, Plaintiff requests the court grant Plaintiffs Leonisia Olivares, Jerry W. Lapidus and Judith L. Craig the following relief: impounding voter registration databases and electronic poll books; granting a full State-wide paper ballot hand count; cost

of suit, and such other and further relief as the court may deem proper.


Dated December 2, 2016

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged therein are true and correct to the best of my knowledge and belief.



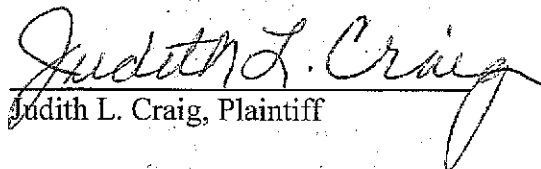
Leonisia Olivares, Plaintiff

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged therein are true and correct to the best of my knowledge and belief.



Jerry W. Lapidus, Plaintiff

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged therein are true and correct to the best of my knowledge and belief.



Judith L. Craig, Plaintiff

Respectfully submitted,

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