

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF FLORIDA  
GAINESVILLE DIVISION**

MARTA VALENTINA RIVERA  
MADERA, on behalf of herself and all  
others similarly situated; FAITH IN  
FLORIDA, HISPANIC FEDERATION,  
MI FAMILIA VOTA EDUCATION  
FUND, UNIDOSUS, and VAMOS4PR,

Case No. 1:18-cv-00152

PLAINTIFFS,

v.

KEN DETZNER, in his official  
capacity as Secretary of State for the  
State of Florida; and KIM A. BARTON,  
in her official capacity as Alachua  
County Supervisor of Elections, on  
behalf of herself and similarly-situated  
County Supervisors of Elections,

DEFENDANTS.

**PLAINTIFFS' MOTION FOR CERTIFICATION OF DEFENDANT CLASS**

***RELIEF REQUESTED CONCURRENTLY WITH PLAINTIFFS' MOTION  
FOR PRELIMINARY INJUNCTION***

Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiffs move for an order certifying a defendant class represented by Defendant Alachua County Supervisor of Elections Kim A. Barton and consisting of:

Supervisors of Elections for the following counties, in their official capacities: Alachua, Bay, Brevard, Charlotte, Citrus, Clay, Columbia, Duval, Escambia, Flagler, Hernando, Highlands, Indian River, Jackson,

Lake, Leon, Levy, Manatee, Marion, Martin, Monroe, Okaloosa, Okeechobee, Pasco, Putnam, St. Johns, St. Lucie, Santa Rosa, Sarasota, Sumter, Taylor, and Wakulla Counties.

Plaintiffs contend that the 32 County Supervisors of Elections in the proposed defendant class administer English-only elections despite their counties being home to substantial population of Spanish-speaking Puerto Ricans, in violation of Section 4(e) of the Voting Rights Act, 52 U.S.C. §10303(e). Plaintiffs seek injunctive relief requiring the provision of Spanish-language ballots, registration and other election materials, and assistance in each of these counties in the upcoming November 6, 2018 general election, and future elections. Plaintiffs seek injunctive relief against Defendant Secretary of State Ken Detzner, who has the authority to issue directives to County Supervisors of Elections requiring them to comply with this Court's orders, and against a proposed defendant class of County Supervisors of Elections from the counties listed above, who have the authority to create and translate ballots and other elections materials and hire poll workers in their respective counties.

Certification is appropriate because the proposed defendant class of County Supervisors of Elections is adequately defined, satisfies each of the four requirements of Rule 23(a), and satisfies the requirements of three different provisions of Rule 23(b) – Rule 23(b)(1)(A), Rule 23(b)(1)(B), and Rule 23(b)(2) – each one of which is independently sufficient to justify certification.

Plaintiffs respectfully request the prompt resolution of this motion along with Plaintiffs' motion for preliminary injunction, so that any potential injunctive relief will bind all these County Supervisors of Elections for the upcoming November 6, 2018 general election.

Plaintiffs' motion is based on this motion, the attached memorandum, the accompanying proposed order, and the accompanying declarations of Marta Valentina Rivera Madera, Ahren Lahvis, Peter Mason, Stuart Naifeh, and Dr. Daniel A. Smith.

**MEMORANDUM IN SUPPORT OF**  
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## I. INTRODUCTION

Plaintiffs contend that Defendants deny Spanish-speaking citizens who attended school in Puerto Rico the right to vote in violation of Section 4(e) of the federal Voting Rights Act (“VRA”) by conducting English-only elections. 52 U.S.C. §10303(e). Plaintiffs bring this action against both Florida’s chief election officer, Defendant Secretary of State Ken Detzner, and against Defendant Alachua County Supervisor of Elections Kim A. Barton and a proposed defendant class of County Supervisors of Elections from the 32 counties listed in this Motion (the “Counties”).

Courts have repeatedly certified classes consisting of Florida’s County Supervisors of Elections in cases alleging violations of federal voting law. *See, e.g., CBS Broadcasting Inc. v. Smith*, 681 F.Supp. 794, 802 (S.D. Fla. 1988) (simultaneously certifying defendant class of Supervisors of Elections and granting preliminary injunction); *Socialist Workers Party v. Leahy*, 145 F.3d 1240, 1243 (11th Cir. 1998) (affirming summary judgment in favor of class of Supervisors of Elections); *cf. CBS Broadcasting, Inc. v. Cobb*, 470 F.Supp.2d 1365 (S.D. Fla. 2006) (granting plaintiffs’ request for permanent injunction in action brought against defendant class of Supervisors of Elections). More broadly, this case, a Voting Rights Act challenge to the manner in which elections are administered by local officials, presents a typical case for a defendants’ class action. *See, e.g.*

*Harris v. Graddick*, 593 F.Supp. 128, 137-38 (M.D. Ala. 1984) (certifying defendant class consisting of all local officials in Alabama responsible for appointing poll workers); *Williams v. State Bd. of Elections*, 696 F.Supp. 1574, 1576-77 (N.D. Ill. 1988) (certifying defendant class of sitting judges and candidates for judicial seats in vote dilution suit); *see also McKay v. Cty. Election Comm'rs for Pulaski Cty., Ark.*, 158 F.R.D. 620, 625 (E.D. Ark. 1994) (certifying defendant class of 75 county election commissioners in Alabama in suit seeking injunctive relief under Americans with Disabilities Act).

Federal Rule of Civil Procedure 23(a) establishes four prerequisites to a class action: numerosity, commonality, typicality, and adequacy of representation. In addition, the proposed class must be “adequately defined.” *Little v. T-Mobile USA, Inc.*, 691 F.3d 1302, 1304 (11th Cir. 2012) (quotation omitted). If each of these five requirements are satisfied, a class action can then be maintained under any one of the subparts of Rule 23(b). Under Rule 23(b)(1)(A), a class action may be maintained where “inconsistent or varying adjudications with respect to individual class members ... would establish incompatible standards of conduct for the party opposing the class.” Independently, under Rule 23(b)(1)(B), a class action may be maintained where “adjudications with respect to individual class members..., as a practical matter, would be dispositive of the interests of the other members not parties to the individual adjudications or would substantially impair

or impede their ability to protect their interests.” Finally, under Rule 23(b)(2), a class action may alternatively be maintained where “the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.” This case meets each of the requirements for a class action under Federal Rule of Civil Procedure 23(a), the proposed defendant class is adequately defined, and a defendant class should be certified under each of Rule 23(b)(1)(A), Rule 23(b)(1)(B), and Rule 23(b)(2).

## II. BACKGROUND

Section 4(e) of the VRA provides, in relevant part, that no one who attended school in an “American-flag school[.]” “in which the predominant classroom language was other than English, shall be denied the right to vote in any Federal, State, or local election because of his inability to read, write, understand, or interpret any matter in the English language.” 52 U.S.C. §10303(e) (formerly 42 U.S.C. §1973b(e)). “The plain language of Section 4(e) is clear and unambiguous, and has been interpreted broadly by federal courts to prohibit ... the conduct of English-only elections.” *United States v. Berks Cty.*, 277 F.Supp.2d 570, 579 (E.D. Pa. 2003) (“*Berks II*”) (collecting cases).

A conservative calculation shows that the 32 Florida Counties at issue in this action are home to more than 30,000 Spanish-speaking Puerto Ricans who are

eligible to vote, yet not proficient in English. Declaration of Dr. Daniel A. Smith (“Smith Decl.”) ¶¶9, 13, 18, 24. Yet despite their obligations under Section 4(e), the County Supervisors of Elections in these Counties have conducted, and will continue to conduct, English-only elections. *See* Declaration of Ahren Lahvis (“Lahvis Decl.”) ¶¶5, 8-13, 15-30; Declaration of Peter Mason (“Mason Decl.”) ¶¶5, 8-16, 18. None of the Counties will provide Spanish-language ballots for the November 2018 election. Lahvis Dec. ¶¶5, 8-13, 15-30; Mason Decl. ¶¶5, 8-16, 18. None of the Counties have provided Spanish-language ballots for recent past elections. Lahvis Decl. ¶¶5, 8-13, 15-30; Mason Decl. ¶¶5, 8-16, 18.<sup>1</sup> None of the Counties provide information on their websites about bilingual election personnel, and twenty-nine of the Counties do not provide information about the option to bring someone to assist in voting if a voter is unable to read English. Lahvis Decl. ¶¶5, 8-13, 15-30; Mason Decl. ¶¶5, 8-16, 18. At least twenty-eight Counties will not provide Spanish-language sample ballots for the November 2018 election, and twenty-seven of the Counties do not provide Spanish-language voter guides. Lahvis Decl. ¶5, 8-13, 15-30; Mason Decl. ¶¶5, 8-16, 18. The Counties will not provide sufficient trained, bilingual poll workers for the November 2018 election, and have not done so in the past. *See* Lahvis Decl. ¶5, 8-13, 15-30; Mason Decl.

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<sup>1</sup> Although Monroe County was at one point required by another provision of the VRA to provide Spanish-language ballots, it no longer does so. Mason Decl. ¶9.

¶¶5, 8-16, 18. Many of the Counties also fail to provide Spanish-language absentee ballots and information, provisional ballots and information, and/or translations of important election information on their websites, including election dates and times and polling locations. Lahvis Decl. ¶¶5, 8-13, 15-30; Mason Decl. ¶¶5, 8-16, 18.<sup>2</sup> As a result, the 32 Counties run English-only elections.

Absent injunctive relief requiring Defendants to fulfill their obligations under federal law and make available Spanish-language ballots, sample ballots, voting guides, registration materials and assistance, other election materials, and polling place assistance, thousands of individuals throughout Florida will be deprived of the right to vote. *See* Mot. for Prelim. Inj. (filed concurrently).

Defendant Secretary of State Ken Detzner (“Secretary”) is the chief election officer of the state of Florida, and is charged with supervising and administering the election laws. Fla. Stat. §§15.13, 97.012. The Secretary is responsible for issuing regulations to ensure the “proper and equitable ... implementation of” the election laws. Fla. Stat. §97.012(1). The Secretary’s regulations require that

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<sup>2</sup> Although a few counties have stated nonbinding intentions to make available some Spanish-language materials or assistance for the upcoming election, *see* Declaration of Stuart Naifeh (“Naifeh Decl.”) ¶¶5-6, Exs. NN, OO, they have not yet provided sufficient materials or assistance to enable Spanish-language voters to vote effectively. *See* Lahvis Decl. ¶¶24, 28. Those counties’ Supervisors of Elections are included in the proposed defendant class because plaintiffs seek declaratory relief establishing a legal obligation for those counties to make available *all* materials and assistance necessary for limited-English proficient Puerto Ricans to vote effectively.

“[b]allots shall be translated into other languages that are required by law or court order.” Fla. Admin. Code R. 1S-2.032(3)(b). The Secretary has the authority to advise County Supervisors of Elections as to the proper methods for conducting elections and to direct County Supervisors of Elections to perform specific duties. Fla. Stat. §97.012(14), (16). The Secretary is also expressly authorized to enforce the County Supervisors of Elections’ performance of their election duties and compliance with the Secretary’s rules in state court. Fla. Stat. §97.012(14).

State law requires Defendant Alachua County Supervisor of Election Kim A. Barton and all other County Supervisors of Elections to prepare voter guides that include county-specific information, oversee voter registration in the county, hire poll workers, translate ballots, and provide sample ballots. Fla. Stat. §98.015 (overseeing registration); Fla. Stat. §101.014 (hiring poll workers); Fla. Stat. §101.20 (providing sample ballot); Fla. Admin. Code R. 1S-2.032(3) (translating ballots); Fla. Admin. Code R. 1S-2.033(1) (preparing voter guide).

### **III. ARGUMENT**

#### **A. The Proposed Defendant Class of County Supervisors of Elections Is Adequately Defined and Satisfies the Requirements of Rule 23(a)**

##### **1. The defendant class is adequately defined**

The class of Supervisors of Elections from the counties listed in this Motion is “adequately defined.” *Little*, 691 F.3d at 1304 (quotation omitted). The

members of the class are specific elected officials easily identifiable from government records.

**2. Joinder of all members of the defendant class is impracticable**

The class of 32 County Supervisors of Election is so numerous that joinder of all members is impracticable. Fed. R. Civ. P. 23(a)(1). ““While there is no fixed numerosity rule, generally less than twenty-one is inadequate, more than forty adequate, with numbers between varying according to other factors.”” *Hoffer v. Jones*, 323 F.R.D. 694, 697 (N.D. Fla. 2017) (quoting *Cox v. Am. Cast Iron Pipe Co.*, 784 F.2d 1546, 1553 (11th Cir. 1986)) (brackets and internal quotation marks omitted). These factors include “the geographical dispersion of the class, the ease with which class members may be identified, [and] the nature of the action.” *Zeidman v. J. Ray McDermott & Co., Inc.*, 651 F.2d 1030, 1038 (5th Cir. 1981); *accord Kilgo v. Bowman Transp., Inc.*, 789 F.2d 859, 878 (11th Cir. 1986) (putative class of 31 satisfied numerosity requirement). The joinder of all 32 proposed defendant class members is impracticable: Although the class members are easily identified, they are dispersed throughout the state. Moreover, joinder would require local public officials to travel and individually litigate a civil rights action seeking common injunctive relief, when no such individual litigation is necessary. The class of all 67 Florida County Supervisors of Elections has repeatedly been certified. *See, e.g., CBS*, 681 F.Supp. at 802 (“Defendant class of

Supervisors of Elections for each of the 67 counties in Florida is so numerous that joinder of all members is impracticable.”). Joinder is similarly impracticable for the proposed class of 32 Supervisors.

**3. The defendant class satisfies the commonality requirement**

The criterion of commonality is satisfied where the class representatives’ claims or defenses “depend upon a common contention ... that is capable of classwide resolution—which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims [or defenses] in one stroke.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). What matters for purposes of commonality is “the capacity of a classwide proceeding to generate common answers apt to drive the resolution of the litigation.” *Id.* (quotation, italics omitted). “[F]or purposes of Rule 23(a)(2) even a single common question will do.” *Id.* at 359 (internal quotation marks, brackets, and citations omitted). Here there are questions of fact and law common to the claims and defenses of named Defendant Alachua County Supervisor of Elections Kim A. Barton and all members of the proposed defendant class of County Supervisors of Elections in the Counties at issue, and these questions can be resolved through common proof. These questions include, but are not limited to, the following:

- (a) Whether Plaintiffs are entitled to relief under section 4(e) of the Voting Rights Act requiring Supervisors of Elections in Florida counties where Spanish-speaking eligible voters who attended school in Puerto Rico reside to provide Spanish-language election materials, including but not limited to ballots, sample ballots, registration materials, and voting guides, and bilingual assistance with absentee voting, at early voting sites, and on election day;
- (b) Whether section 4(e) of the Voting Rights Act requires Supervisors of Elections in Florida counties where Spanish-speaking eligible voters who attended school in Puerto Rico reside to make available bilingual assistance for voter registration and bilingual poll workers to assist such voters at early voting sites, with absentee voting, and on election day;
- (c) Whether declaratory relief, holding that section 4(e) of the Voting Rights Act requires the provision of Spanish-language ballots, registration, and other election materials to Spanish-speaking Puerto Rican voters and requires that bilingual assistance with voter registration and during early voting, with absentee voting, and on election day, is appropriate; and
- (d) Whether injunctive relief, requiring all County Supervisors of Elections in the Counties at issue to provide Spanish-language election materials,

including but not limited to ballots, sample ballots, voter guides, and registration materials, and to make available bilingual Spanish-language assistance with voter registration, with absentee voting, and at the polls, is appropriate.

Because named Alachua County Defendant Barton and all members of the proposed defendant class have the same statutory duties with respect to the preparation and provision of election materials and the hiring of poll workers, the question of what Section 4(e) requires of Florida county election officials who do not otherwise provide Spanish-language ballots, election materials, and assistance is of common interest to all defendant class members, and the resolution of that common question will have the same impact on all defendant class members.

**4. Named Defendant Alachua County Supervisor Barton is typical of the defendant class**

Typicality is easily satisfied in this case because Defendant Alachua County Supervisor Barton has the identical public duties as the proposed defendant class members. Typicality requires that “the claims or defenses of the representative [defendants be] typical of the claims or defenses of the class.” Fed. R. Civ. P. 23(a)(3). A class representative “is typical if the claims or defenses of the class and the class representative arise from the same event or pattern or practice and are based on the same legal theory.” *Williams v. Mohawk Indus., Inc.*, 568 F.3d 1350, 1357 (11th Cir. 2009) (quotation omitted). “Typicality, however, does not require

identical claims or defenses. A factual variation will not render a class representative's claim atypical unless the factual position of the representative markedly differs from that of other members of the class." *Kornberg v. Carnival Cruise Lines, Inc.*, 741 F.2d 1332, 1337 (11th Cir. 1984).

Defendant Barton, like all Supervisors of Elections, is charged with producing voting materials and translating those materials as required by federal law. Fla. Admin. Code R. 1S-2.032(3). The proposed class of defendants "all operate under the same statutory [and regulatory] framework and have the same ministerial duties." *Strawser v. Strange*, 307 F.R.D. 604, 613 (S.D. Ala. 2015) (certifying class of "all Alabama county probate judges who are enforcing or who in the future may enforce Alabama's laws barring the issuance of marriage licenses to same-sex couples"). Defendant Barton, like all members of the proposed class, serves as Supervisor of Elections in a county where members of the proposed plaintiff class reside. *See* Declaration of Marta Valentina Rivera Madera ("Rivera Decl.") ¶1; *see also* Smith Decl. ¶14 (conservatively, more than 400 adults of Puerto Rican heritage who speak English less than "very well" reside in Alachua County, not counting those who, like Plaintiff Rivera, arrived after Hurricane Maria). Defendant Barton, like all members of the proposed defendant class, conducts English-only elections. Lahvis Decl. ¶5, 8; Mason Decl. ¶5. Thus, the defenses of Defendant Barton are typical of those of defendant class members,

because Defendant Barton and all defendant class members are under the same federal and state legal obligations with respect to Spanish-language election and registration materials and assistance. *See CBS*, 681 F.Supp. at 801-02 (typicality satisfied where Supervisors of Elections were “empowered with the same election law enforcement and oversight functions as every other county Supervisor” in Florida and thus defenses raised by named defendant were “surely typical of the defenses of the entire Defendant class”).

**5. Defendant Barton will adequately represent the defendant class**

The adequacy inquiry under Rule 23(a)(4) is satisfied where, as here, “the representative party can be expected to assert and defend the interests of the members of the class” with “forthrightness and vigor.” *Kirkpatrick v. J.C. Bradford & Co.*, 827 F.2d 718, 726 (11th Cir. 1987) (quotation omitted). Because, as set forth above, Defendant Barton is “empowered with the same election law enforcement and oversight functions as every other county Supervisor, [she] can fairly and adequately protect the interests of the Defendant class of Supervisors.” *CBS*, 681 F.Supp. at 802. As a public officer, Defendant Barton can be expected to litigate this action with the requisite vigor and forthrightness.<sup>3</sup>

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<sup>3</sup> The fact that Alachua County may provide bilingual poll assistance at some precincts, *see* Lahvis Decl. ¶8, does not prevent Supervisor Barton from being an effective class representative. Whether any individual Supervisor of Elections incidentally provides some Spanish-language resources does not affect that Supervisor’s “common obligation to carry out their ministerial duties that give[s]

**B. Certification of a Defendant Class is Proper Under Rule 23(b)(1)(A), Rule 23(b)(1)(B), and Rule 23(b)(2)**

The proposed defendant class should be certified under separate provisions for Rule 23(b), each one of which is independently sufficient to justify certification.

**1. Certification is appropriate under Rule 23(b)(1)(A)**

A defendant class should be certified under Rule 23(b)(1)(A), because the prosecution of separate lawsuits against each county's Supervisor of Elections would "create a risk of ... inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct ...." Fed R. Civ. P. 23(b)(1)(A); *see CBS*, 681 F.Supp. at 802 (certifying defendant class of Florida Supervisors of Elections under Rule 23(b)(1)(A)). The prosecution of separate actions against each County Supervisor of Elections "would create a substantial risk" of incompatible standards of conduct for Puerto Rican-educated voters seeking to obtain Spanish-language voting materials depending upon the county in which they reside. Different standards for voters in different counties would raise equal protection issues. *See Bush v. Gore*, 531 U.S. 98, 104 (2000);

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rise to a common defense." *See Strawser*, 307 F.R.D. at 613; *see also McKay*, 158 F.R.D. at 625 (named defendant county election commissioner was adequate representative of defendant class despite asserting that it recognized its legal obligations and had taken some measures to comply, where evidence showed that named defendant county commissioner was not "in full compliance" with obligations under the Americans with Disabilities Act or state law).

*Fla. State Conference of N.A.A.C.P. v. Browning*, 522 F.3d 1153, 1185 (11th Cir. 2008).

**2. Certification is appropriate under Rule 23(b)(1)(B)**

Certification is independently appropriate under Rule 23(b)(1)(B), because “adjudications with respect to individual class members..., as a practical matter, would be dispositive of the interests of the other members not parties to the individual adjudications or would substantially impair or impede their ability to protect their interests.” Fed. R. Civ. P. 23(b)(1)(B). All of the proposed defendant class members serve counties where a significant number of voters protected by Section 4(e) reside. *See* Smith Decl. ¶¶13, 19, Tbl.1, Tbl. 2. If this case were brought only against Defendant Alachua County Supervisor Barton, *all* County Supervisors of Elections in the proposed defendant class would risk running afoul of federal law if they failed to provide Spanish-language voting materials and assistance in a manner consistent with a court order in this case. Under the Equal Protection Clause, other counties would as a practical matter be forced to comply with such an order. *See Bush*, 531 U.S. at 104; *Browning*, 522 F.3d at 1185; *see also Stewart v. Waller*, 404 F.Supp. 206, 213 (N.D. Miss. 1975) (certifying defendant class under Rule 23(b)(1)(B) of all municipal officials in municipalities affected by challenged state law requiring at-large municipal elections, because “invalidation of the system of at-large municipal elections would, as a practical

matter, be dispositive of the claims of all defendant class members”); *Pennsylvania Ass’n for Retarded Children v. Com. of Pa.*, 343 F.Supp. 279, 291 (E.D. Pa. 1972) (certifying defendant class under Rule 23(b)(1)(B) of school districts and local government entities known as “intermediate units” in suit seeking school access for certain disabled children because, “as a practical matter, once the issues are decided against one school district within an intermediate unit, or one intermediate unit within the Commonwealth all other districts or intermediate units will ultimately be bound by the result”).

**3. Certification is appropriate under Rule 23(b)(2)**

A defendant class is also independently appropriate under Rule 23(b)(2), because the “the relief plaintiffs seek is identical as to each member of the defendant class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole.” *NBC v. Cleland*, 697 F.Supp. 1204, 1217 (N.D. Ga. 1988). Plaintiffs allege that County Supervisors’ provision of English-only ballots and other election materials, and failure to provide sufficient bilingual assistance, deny Plaintiffs and the proposed plaintiff class of similarly situated Spanish-speaking Puerto Ricans their right to register to vote and vote effectively, based on their inability to read or interpret English. To address this ongoing violation, Plaintiffs seek an injunction requiring the Supervisors of Elections in the defendant class to make available Spanish-

language ballots, registration and other election materials, and bilingual assistance at the polls. *See* Mot. for Prelim. Inj. (filed concurrently). The requested injunctive relief is identical for all Supervisors in the proposed defendant class, making class certification under Rule 23(b)(2) appropriate. *See Harris*, 593 F.Supp. at 130, 136-37 (certifying under Rule 23(b)(2) the class of all “county officials responsible for the appointment of poll officials” in a suit alleging county officials appointed “disproportionately too few black persons as poll officials,” in violation of section 2 of the Voting Rights Act).

**C. This Court Should Resolve This Motion for Certification of the Defendant Class Along with Plaintiffs’ Motion for Preliminary Injunctive Relief**

Certification of the defendant class in connection with Plaintiffs’ concurrently filed motion for a preliminary injunction is appropriate so that the injunction can provide meaningful and uniform relief during the upcoming November 2018 election. *See CBS*, 681 F.Supp. at 806 (certifying defendant class of Florida Supervisors of Elections in connection with issuance of preliminary injunction against enforcement of challenged election law); *Clean-Up ’84 v. Heinrich*, 582 F.Supp. 125, 127 (M.D. Fla. 1984) (certifying defendant class of Florida sheriffs in connection with issuance of preliminary injunction against enforcement of challenged criminal election law).

The Court is not required to order any notice prior to certifying a defendant class, and notification of certification of a class pursuant to Rules 23(b)(1)(A), (b)(1)(B), and (b)(2) is at this Court's discretion. *See* Fed. R. Civ. P. 23(c)(2)(A). Because Defendant Secretary of State Ken Detzner should be able accurately and efficiently to provide notice to all County Supervisors of Elections in the proposed defendant class, Plaintiffs respectfully suggest that the Court order Defendant Detzner to provide notice to all class members of the Court's certification of the defendant class.

#### **IV. REQUEST FOR ORAL ARGUMENT**

Pursuant to Local Rule 7.1(K), Plaintiffs hereby respectfully request oral argument on their motion for certification of a defendant class. This case raises important questions of law under the VRA. The issues raised in this motion are related to those raised in Plaintiffs' concurrently-filed motion for a preliminary injunction. Plaintiffs believe that the Court's decision-making process on these issues would be significantly aided by oral argument. Plaintiffs estimate two hours total will be necessary for argument on this motion and Plaintiffs' concurrently filed motions for preliminary injunction and certification of a plaintiff class.

#### **V. CONCLUSION**

For the forgoing reasons, the Court should grant Plaintiff's Motion for Certification of Defendant Class at the same time that the Court resolves Plaintiffs'

concurrently filed Motion for Preliminary Injunction.

Dated: August 16, 2018

Respectfully submitted,

By: /s/Kira Romero-Craft  
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**CERTIFICATE OF WORD COUNT**

Pursuant to Northern District of Florida Local Rule 7.1(F), I certify that, according to the word count of the word processing system used to prepare this document, the foregoing motion contains 367 words and the foregoing memorandum contains 38676 words.

/s/ Kira Romero-Craft  
Kira Romero-Craft

**CERTIFICATE OF ATTORNEY CONFERENCE**

Pursuant to Northern District of Florida Local Rule 7.1(C), I certify that, prior to filing this motion, counsel for Plaintiffs conferred with counsel for Defendants in a good faith attempt to resolve the matters raised herein, both in writing and by telephone. Plaintiffs' counsel explained that a coalition of organizations previously sent letters to Defendant Alachua County Supervisor of Elections Kim Barton, other county Supervisors of Elections, and copied to Defendant Secretary of State Ken Detzner, demanding the provision of Spanish-language ballots, election materials, and voting assistance for the upcoming 2018 election. Plaintiffs' counsel further summarized the relief that plaintiffs seek in this motion, the need to file this motion promptly given the upcoming November election, and Plaintiffs' intention to file this motion immediately upon filing the complaint. Counsel for Defendant Secretary Detzner indicated that Defendant Detzner would not take a position on this motion without seeing a copy of the motion. Counsel for Defendant Supervisor Barton indicated that Defendant Barton would not take a position on this motion without seeing a draft or copy of the complaint or motion.

/s/ Kira Romero-Craft  
Kira Romero-Craft