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IN THE SUPREME COURT OF FLORIDA

ADAM RICHARDSON

Petitioner,

v.

Case No. SC2024-____

JASON WEIDA, in his official capacity as Secretary of the Agency for Health Care Administration of the State of Florida; RON DeSANTIS, in his official capacity as the Governor of the State of Florida; and ASHLEY MOODY, in her official capacity as the Attorney General of the State of Florida,

Respondents.
_____/

**TIME-SENSITIVE PETITION FOR WRITS OF QUO WARRANTO, WRITS OF MANDAMUS, AND ALL WRITS RELIEF**

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## INTRODUCTION

Employing their authority to propose amendments to the Constitution, the people proposed what is now known as Amendment 4, which would limit government interference with abortion.

On April 1, the Court approved its placement on the November 5 ballot. *Advisory Op. to the Atty. General re: Limiting Gov't Interference with Abortion*, 384 So. 3d 122 (Fla. 2024). "Under our system of government," Chief Justice Muñiz explained in his concurring opinion, "it is up to the voters—not this Court—to decide whether such a rule is consistent with the deepest commitments of our political community." *Id.* at 140.

The same goes for the other branches of government. But since the Court approved ballot placement, they have waged a campaign to interfere with the election. This petition challenges some of those actions—specifically, those of Secretary Jason Weida of the Agency for Health Care Administration, Governor Ron DeSantis, and Attorney General Ashley Moody.

The petition is ***time-sensitive***. I ask the Court to immediately exercise its all writs authority to prevent Respondents from acting in ways that interfere with this Court's quo warranto and mandamus jurisdiction. *See infra* Point III, at 19.

## JURISDICTION

The Court has jurisdiction to "issue writs of mandamus and quo warranto to state officers and state agencies." Fla. Const. art. V, § 3(b)(8). It also has jurisdiction to "issue ... all writs necessary to the complete exercise of its jurisdiction." Fla. Const. art. V, § 3(b)(7).

I acknowledge that the Court's authority to issue writs of quo warranto and mandamus is discretionary and concurrent with other courts in Florida. Thus, the Court has stated that, "[a]s a general rule, unless there is a compelling reason for invoking the original jurisdiction of a higher court, a quo warranto proceeding should be commenced in circuit court." *Whiley v. Scott*, 79 So. 3d 702, 707 (Fla. 2011) (citation omitted).

However, the Court has accepted jurisdiction in original proceedings when there are no substantial disputes of fact, *Moreau v. Lewis*, 648 So. 2d 124, 126 n.4 (Fla. 1995); *Chiles v. Phelps*, 714 So. 2d 453, 457 n.6 (Fla. 1998) (citations omitted); *Whiley*, 79 So. 3d at 708, and when the constitutional issue would ultimately reach the Court, such that "[i]nterests of judicial economy favor an immediate resolution," *Chiles*, 714 So. 2d at 457 n.6.

It is imperative that the Court decide the issues. While judicial economy counsels in favor of the Court's immediate review, that is the least of it.

In Florida the people are sovereign. The Constitution could not make this clearer: "All political power is inherent in the people." Fla. Const. art. I, § 1. The people "reserved" to themselves "[t]he power to propose the revision or amendment of any portion or portions of this constitution by initiative[.]" Fla. Const. art. XI, § 3. And they have the right to vote on citizen initiatives that have been placed on the ballot. *See* Fla. Const. art. XI, § 5(b).

Respondents' actions aim to interfere with the people's right to decide whether or not to approve a citizen-initiated proposal to amend their Constitution, free from undue government interference. There are only 56 days until the election. Every day Respondents can act unlawfully is another day they abuse state resources and sully the election for Amendment 4. The matter cannot wait.

There are no substantial disputes of fact in this case. If the Court disagrees, it can easily confine its review to issues not suffering from such disputes.

Under the circumstances, the Court should exercise its discretion and accept jurisdiction.

## STATEMENT OF THE CASE AND FACTS

### A. The parties.

1. I, Petitioner Adam Richardson, am a citizen of and taxpayer in the State of Florida. I reside in Lake Worth, Florida.

2. Respondent Jason Weida is the secretary of the Agency for Health Care Administration of the State of Florida and he is being sued in his official capacity.

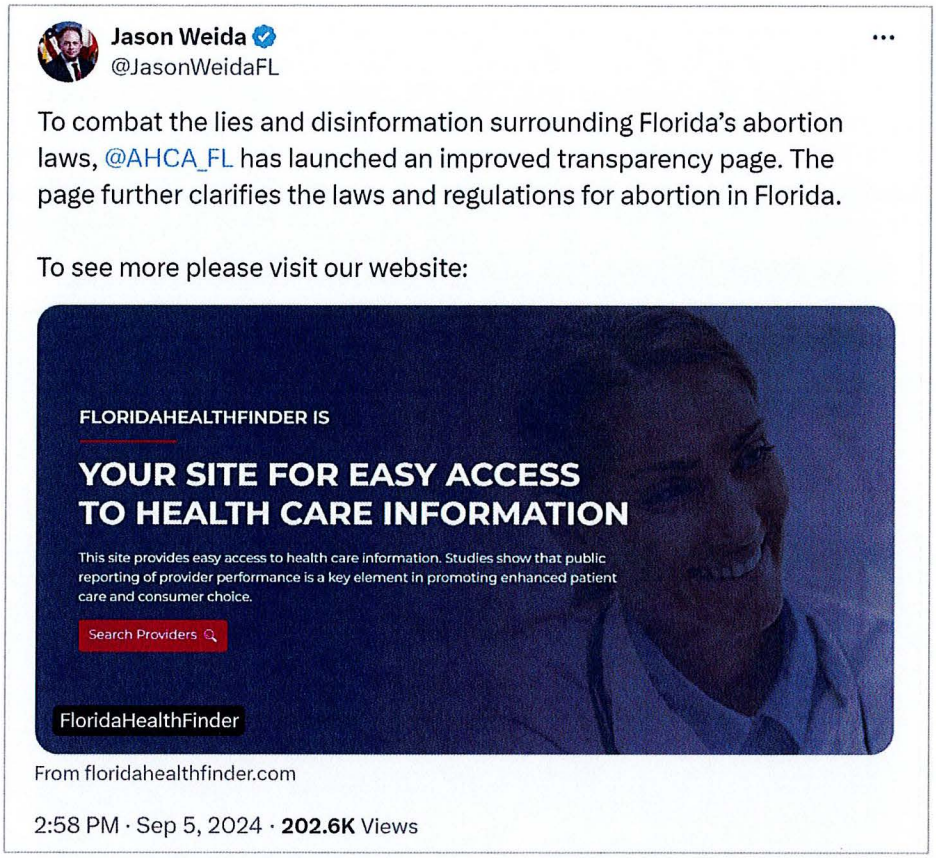
3. Respondent Ron DeSantis is the governor of the State of Florida and is being sued in his official capacity.

4. Respondent Ashley Moody is the attorney general of the State of Florida and is being sued in her official capacity.

### B. Relevant facts.

5. On or about September 5, 2024, AHCA published a webpage called Florida Cares. AHCA, Florida Cares, https://floridahealth-finder.com/FloridaCares (App. 5). The webpage contains many highly critical, indeed inflammatory, statements about Amendment 4—for example, "Current Florida Law **Protects** Women, Amendment 4 **Threatens Women's Safety**"—and even goes so far as to list donors to the amendment's sponsor.

6. On September 5, the secretary posted this tweet:




Jason Weida, Twitter, Sept. 5, 2024, https://x.com/JasonWeidaFL/status/1831768811944735214 (App. 16).

7. AHCA retweeted the secretary's tweet. (App. 17.)

8. On September 9, AHCA posted this tweet, which had an embedded video advertisement that directs viewers to the Florida Cares webpage:


AHCA, Twitter, Sept. 9, 2024, https://x.com/AHCA_FL/status/1833163173400076587 (App. 18).

9. In the video, the narrator says, among other things: "No woman can go to jail for having an abortion. And abortions are available before a child's heartbeat is detected, and in cases of rape or incest, and at all points in pregnancy to save the life and health of the mother. ***For accurate information about all your options***, visit our website. Because Florida cares." (Emphasis added.)

10. On September 5, the Executive Office of the Governor sent an email on behalf of the governor's Faith and Community Initiative to "Florida's

Faith and Community Leaders" inviting them to a Leader Call on Thursday, September 12, titled "Your Legal Rights & Amendment 4's Ramifications." The speakers will be Attorney General Moody and Mat Staver, the founder and chairman of Liberty Counsel. Email from Governor's Faith and Community Initiative, Sept. 5, 2024 (App. 19).

11. No factual support is necessary for the proposition that the governor is personally opposed to Amendment 4. He has made that very clear.

12. The attorney general is personally opposed to Amendment 4. *See* Ashley Moody, *Pro-abortion amendment ballot summary would 'mislead voters'*, Fla. Voice, Oct. 6, 2023, https://flvoicenews.com/ashley-moody-pro-abortion-amendment-ballot-summary-would-mislead-voters/ (App. 22).

13. So is Mr. Staver. *See* Washington Watch with Tony Perkins, *Mat Staver Shares Good News From Florida Supreme Court Decision*, Apr. 2, 2024, https://www.youtube.com/watch?v=_qpRI7I5PIA.

## NATURE OF THE RELIEF SOUGHT

I ask the Court to issue writs of quo warranto and mandamus to Respondents Secretary Weida, Governor DeSantis, and Attorney General Moody. I also ask the Court to exercise its all writs authority to prevent Respondents from interfering with the Court's quo warranto and mandamus jurisdiction during the pendency of this action.

## ARGUMENT

## POINT I

THE COURT SHOULD ISSUE A WRIT OF QUO WARRANTO TO EACH RESPONDENT.

### A. Respondents have acted and are acting in excess of their lawful authority.

The Court has explained the remedy of quo warranto:

> [I]t is clear that the Florida Constitution authorizes this Court as well as the district and circuit courts to issue writs of quo warranto. *See* art. V, §§ 3(b)(8), 4(b)(3) and 5(b), Fla. Const. The term "quo warranto" means "by what authority," and the writ is the proper means for inquiring into whether a particular individual has improperly exercised a power or right derived from the State. *See Fla. House of Reps. v. Crist*, 999 So. 2d 601, 607 (Fla. 2008); *Martinez* [*v. Martinez*], 545 So. 2d [1338,] 1339 [(Fla. 1989)]. This Court "may" issue a writ of quo warranto which renders this Court's exercise of jurisdiction discretionary. Art. V, § 3(b)(8), Fla. Const. Furthermore, the Court is limited to issuing writs of quo warranto only to "state officers and state agencies." *Id.* The Governor is a state officer. *See* art. III, § 1(a), Fla. Const. ("The governor shall be the chief administrative officer of the state....").

*Whiley v. Scott*, 79 So. 3d 702, 707 (Fla. 2011).

The attorney general also is a state officer. Fla. Const. art. IV, § 4(b) ("The attorney general shall be the chief state legal officer."). So is the secretary of AHCA. *See* Fla. Stat. § 20.42(2); *Detzner v. Anstead*, 256 So. 3d 820, 823 (Fla. 2018) (holding that the secretary of state is a state officer based on a similar statute).

Based on the facts outlined earlier, the secretary, the governor, and the attorney general have acted and are acting in excess of their lawful authority. Florida Statutes § 104.31 provides in part:

> (1) No officer or employee of the state, or of any county or municipality thereof, except as hereinafter exempted from provisions hereof, shall:
>
> (a) ***Use his or her official authority or influence for the purpose of interfering with an election*** or a nomination of office or coercing or influencing another person's vote or affecting the result thereof.
>
> ....
>
> (3) Any person violating the provisions of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(Emphasis added.)

As is clear from the Statement of the Case and Facts, Respondents are using their official authority or influence for the purpose of interfering with the election for Amendment 4. The legislature explicitly denied them the authority to do what they are doing.

**B. Petitioner has standing.**

I am a citizen of and taxpayer in the state of Florida. As a result, I have standing to enforce the public right to have the secretary exercise his authority in a lawful manner. *See, e.g.*, *Martinez*, 545 So. 2d at 1339; *Chiles v. Phelps*, 714 So. 2d 453, 456–57 (Fla. 1998).

In the last few years, state actors have started arguing that citizens and taxpayers do not, in fact, have standing to seek quo warranto relief, that the Court's precedents saying they do are clearly wrong. So far, the Court has declined state agencies' requests to recede from those precedents. *See Thompson v. DeSantis*, 301 So. 3d 180, 184 (Fla. 2020); *Boan v. Fla. Fifth Dist. Court of Appeal Judicial Nominating Comm'n*, 352 So. 3d 1249, 1252 (Fla. 2022); *cf. Floridians Protecting Freedom v. Passidomo*, 2024 WL 3882608, at *5 (Fla. 2024) (Francis, J., concurring).

Recently, a state actor took particular issue with *Martinez*'s reliance on *State ex rel. Pooser v. Wester*, 170 So. 736 (Fla. 1936). There the relators filed the quo warranto petition "as citizens, residents, and taxpayers." *Id.* at 737. In a part of the Court's opinion not joined by a majority of the justices, Justice Terrell wrote:

> Relators do not rely on the violation of a private or personal right for relief, but they say that a public right has been prostituted. They contend that the illegal elections held in the manner outlined in the information for quo warranto not only affected them unlawfully, but that they vitally affected the welfare, franchises prerogatives, and liberties of all the people of the State. They contend further that their primary object is the enforcement of a public right and being so the public is the real party in interest and that they of any other citizen or taxpayer are proper parties to the proceeding. They rely on *Florida C. & P. R. Co. v. State ex rel. Town of Tavares*, 31 Fla. 482, 13 So. 103, 20 L.R.A. 419, 34 Am. St. Rep. 30 [(1893)]; *Crawford v. Gilchrist*, 64 Fla. 41, 59 So. 963, Ann. Cas. 1914B, 916 [(1912)]; *Attorney General v. Blossom*, 1 Wis. 317 [(1853)]; *Attorney General v.*

*Railroad Companies*, 35 Wis. 425 [(1874),] to support this contention.

> The doctrine of these cases is generally approved in this country and it is well settled that when the enforcement of a public right is sought, the people are the real party to the cause. The relator need not show that he has any real or personal interest in it. It is enough that he is a citizen and interested in having the law upheld, but this, like all other rules of law has its limitations.[1]

*Id.* at 738.

Whatever issue the state might take with the precedential value of the *Pooser* opinion, at least at the time it was issued, yet what was said was true.

This is shown by authoritative, fin de siècle treatises. For example, Throop said:

> Where the application is made by a private person, he must show that he has some interest in the question to be decided; but it has been held, that the interest which one, who is a citizen and a tax payer, has in the due administration of public affairs, will entitle him to maintain the proceeding if its object is merely to out a person unlawfully holding a public office.

Montgomery H. Throop, *Public Officers* § 781, at 741 (New York 1892) (footnote omitted).[2] Likewise *Ruling Case Law*:

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[1] *Town of Tavares* was a mandamus case; *Crawford* an injunction case. *See also McConihe v. State*, 17 Fla. 238 (1879) (mandamus); *State ex rel. Ayres v. Gray*, 69 So. 2d 187 (Fla. 1953) (mandamus).

[2] The Court has cited Throop several times. *See, e.g.*, *Camp v. McLin*, 32 So. 927, 933 (Fla. 1902); *In re Investigation of Circuit Judge of Eleventh Judicial Circuit of Fla.*, 93 So. 2d 601, 604 (Fla. 1957); *Smith v. Brantley*, 400 So. 2d 443, 447 (Fla. 1981).

> When the title to a public office is concerned, there are many cases which support the rule that any citizen and taxpayer has such an interest in the due administration of public affairs as will entitle him to maintain quo warranto to oust an incumbent unlawfully assuming to usurp the office. There are, however, many cases which hold that quo warranto cannot be maintained on the relation of a citizen and taxpayer who has no interest in the public office involved different from other citizens and taxpayers.

22 *R. C. L.* § 25, at 692 (1918) (footnotes omitted).[3] And Mecham:

> The interest of a citizen as a tax payer is sufficient to authorize him to institute an inquiry into the title of one who assumes to exercise the functions of a municipal officer. All that the court requires in such cases, it is said, is to be satisfied that the relator is of sufficient responsibility, is acting in good faith and not vexatiously, and has not become disqualified by his own conduct with respect to the election or appointment he seeks to impeach.

Floyd R. Mechem, *Public Offices and Officers* § 490, at 317 (Chicago 1890) (footnotes omitted);[4] *see also* James L. High, *Extraordinary Legal Remedies* § 701, at 658 (Chicago, 3rd ed. 1896) (same);[5] VII John D. Lawson, *Rights, Remedies, and Practice* § 4042, at 6345 (San Franciso 1890) (same).[6] This

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[3] The Court has cited *Ruling Case Law* hundreds of times.

[4] The Court has cited Mechem several times. *See, e.g.*, *Camp*, 32 So. at 933; *In re Investigation of Circuit Judge*, 93 So. 2d at 604; *Smith*, 400 So. 2d at 447.

[5] The Court has cited High several times. *See, e.g.*, *Davidson v. State*, 20 Fla. 784, 789 (1884); *McConihe*, 17 Fla. at 270.

[6] The Court has cited Lawson several times. *See, e.g.*, *State v. Jacksonville St. R. Co.*, 10 So. 590, 593 (Fla. 1892); *Fla. Cent. & P.R. Co. v. Foxworth*, 25 So. 338, 344 (Fla. 1899).

rule prevailed in England as well.[7] And it prevails in other jurisdictions in the United States. *See, e.g.*, *State ex rel. City of Waterbury v. Martin*, 46 Conn. 479 (1878); *Davis v. City Council of Dawson*, 90 Ga. 817 (1893); *State ex rel. Lee v. Jenkins*, 25 Mo. App. 484 (1887).

Justice Terrell's statement in *Pooser* that citizens and taxpayers have standing to seek the writ of quo warranto is not an aberration. It, and this Court's later binding precedents following the statement, find firm support in the law of the nation. Respondents will not be able to carry their burden to show that these precedents "clearly conflict[] with the law [the Court is] sworn to uphold." *State v. Poole*, 297 So. 3d 487, 507 (Fla. 2020).

**C. This is the appropriate use of quo warranto.**

The state has also argued in other proceedings that the Court improperly expanded the scope of quo warranto relief. The Court recently wrote:

> Quo warranto's earliest application was narrow in scope and limited by its common law background. *See, e.g.*, *State ex*

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[7] *See* Henry William Tancred, *Quo Warranto* 45–46 (London 1830) ("Where a person is a perfect stranger to a [municipal] corporation, though his situation may not absolutely disqualify him from a right to examine into the title of a corporator, yet, as Lord Kenyon observed, he ought to come with a very fair case in his hands. But, a slight interest will obviate this objection; for where a relator appeared to be an inhabitant of a borough, and by the charter, the government of the town, and of ***all the people therein***, was vested in the mayor and chief burgesses, the Court thought, that this clause gave the relator a sufficient interest to entitle him to an information [in the nature of quo warranto] questioning the right of the defendant to the place of a chief burgess." (emphasis in original) (footnotes omitted)).

> *rel. Landis v. Prevatt*, 110 Fla. 29, 148 So. 578, 579 (1933) ("The action in the nature of quo warranto is a common-law remedy, its office and scope depending upon the use and limitations authorized by the common law and statute laws of England, as they existed as of the date that they were adopted, by the laws of this state, in the absence of statutory modification."). But over time, the use of the writ has drifted from its common law moorings. Since those early days, this Court has shifted its focus in quo warranto cases to question whether a state officer has "improperly exercised a power or right derived from the State." *See, e.g.*, *Fla. House of Representatives v. Crist*, 999 So. 2d 601, 607 (Fla. 2008). Through this lens, this Court has used the writ to test separation of powers issues, especially where one branch sues another, to settle claims over entitlement to an office, and to resolve disputes over the procedural mechanics of government.

*W. Flagler Assocs. v. DeSantis*, 382 So. 3d 1284, 1286 (Fla. 2024); *see also id.* at 1287 ("however far afield from its original function the current use of quo warranto has wandered"); *Worrell v. DeSantis*, 386 So. 3d 867, 872 (Fla. 2024) (Francis, J., concurring in result) ("They were granted only upon a showing that the challenged official lacked the authority to exercise the power he or she did; not when the official—who clearly had the authority—improperly exercised said power." (emphasis removed)).

To borrow from Justice Francis, I am challenging Respondents' "authority to exercise the power he or she did"—their using their offices to interfere with an election—not whether "the official—who clearly had the authority—improperly exercised said power." *Worrell*, 386 So. 3d at 872 (Francis, J., concurring in result) (emphasis removed)). Respondents simply

do not have the power they have claimed for themselves. *See* Fla. Stat. § 104.31(1)(a).

* * *

In sum, I have standing to seek the writ of quo warranto, and the use of the writ here is appropriate. Because Respondents have acted and are acting in excess of their respective lawful authority, I respectfully ask the Court to grant my petition and issue a writ of quo warranto to each Respondent to forbid them from misusing or abusing their offices and agencies to interfere with the election for Amendment 4.

## POINT II

THE COURT SHOULD ISSUE A WRIT OF MANDAMUS TO EACH RESPONDENT.

Further, or in the alternative, I ask the Court to issue a writ of mandamus to each Respondent.

"To be entitled to mandamus relief, the petitioner must have a clear legal right to the requested relief, the respondent must have an indisputable legal duty to perform the requested action, and the petitioner must have no other adequate remedy available." *Pleus v. Crist*, 14 So. 3d 941, 945 (Fla. 2009) (cleaned up).

The Court long ago held that mandamus is the appropriate remedy to compel a public officer to follow the law, and that citizens and taxpayers have standing to seek mandamus relief against the wayward officers:

> Nor is there anything in the position that this proceeding involves a determination of the right of the respondents to their offices. No judgment of ouster is sought. On the contrary, they are treated as de facto officers who have failed to perform a ministerial duty. They are treated as officers now discharging the duties of their offices, ***and mandamus is the proper remedy by which to enforce the performance of their duty when it is ascertained***. This, and this alone, is the method by which to compel the respondents to call an election. Nor can we see, as is intimated, that the right of the relators to institute this proceeding is doubtful. The relators here are municipal corporators. The interest is common to all of the corporators. The relief sought is not the protection of a private right or interest. ***The question is one of public right and a duty, the discharge of which is sought to be enforced, is a public duty affecting alike all the people in the***

> ***city.*** In such a case the State of Florida is regarded as the real party and ***the relators need only show that they are corporators and as such interested generally in the execution of the law***. 19 Wend., 56; 57 Ill., 307; 1 Cow., 23; 1 Chitty, 700; 2 Strange 1,123; 1 T. R., 146; 48 Ill., 233; 3 Ind., 452; 37 N. Y., 344; 7 Iowa., 186. There are some authorities to the contrary, but the rule as we announce it is the now generally accepted law. High Ex. Rem., sec. 431.

*McConihe v. State*, 17 Fla. 238, 271 (1879) (emphasis added); *see also Crawford v. Gilchrist*, 59 So. 963, 867 (Fla. 1912); *State ex rel. Ayres v. Gray*, 69 So. 2d 187, 190–91 (Fla. 1953).

Respondents have an indisputable legal duty to follow the law, specifically here Florida Statutes § 104.31, which forbids state officers from using "his or her official authority or influence for the purpose of interfering with an election." Under settled Florida law, I have the clear legal right to seek mandamus against Respondents to force their compliance with the law. There is no other adequate remedy available to prevent Respondents from violating the law in the future (quo warranto is backward looking).

I ask the Court to issue a writ of mandamus to each Respondent commanding them to not unlawfully use their offices and agencies to interfere with the election for Amendment 4.

## POINT III

THE COURT SHOULD EXERCISE ITS ALL WRITS JURISDICTION TO PREVENT RESPONDENTS FROM ACTING IN WAYS THAT THREATEN THE COURT'S JURISDICTION.

The Court "[m]ay issue ... all writs necessary to the complete exercise of its jurisdiction." Fla. Const. art. V, § 3(b)(7).

"[T]he doctrine of all writs is not an independent basis for this Court's jurisdiction. Rather, its use is restricted to preserving jurisdiction that has already been invoked or protecting jurisdiction that likely will be invoked in the future." *Roberts v. Brown*, 43 So. 3d 673, 677 (Fla. 2010) (citations omitted).

I have invoked the Court's quo warranto and mandamus jurisdiction. Respondents have acted, are acting, and will act unlawfully. With regard to the future, we see this in the Faith and Community Initiative's Leader Call that the governor's office has scheduled for this Thursday, in which the attorney general will be one of two speakers. Respondents' current and intended future actions amounting to unlawful electioneering against Amendment 4 threaten the Court's quo warranto and mandamus jurisdiction.

To protect its jurisdiction, I ask the Court to issue the constitutional writ to each Respondent commanding them and their agencies to cease their unlawful electioneering while the Court considers my petition.

## CONCLUSION

I respectfully ask the Court to issue a writ of quo warranto to each Respondent forbidding them from misusing or abusing their offices to interfere with the election for Amendment 4, and to unravel whatever actions they have already taken to do so.

Additionally, or in the alternative, I respectfully ask the Court to issue a writ of mandamus to each Respondent commanding them to not unlawfully use their offices to interfere with the election for Amendment 4.

Finally, I respectfully ask the Court to exercise its all writs authority to prevent Respondents from interfering with the Court's quo warranto and mandamus jurisdiction until the Court rules on my petition.

## CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing was furnished to all counsel on the attached service list by the Florida Courts E-Filing Portal on September 10, 2024, and paper copies will promptly be mailed to them, as required by Florida Rule of Appellate Procedure 9.420(c).

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## CERTIFICATE OF COMPLIANCE

As required by Florida Rules of Appellate Procedure 9.045(e) and 9.210(a)(2)(B), I certify that the type size and style of the petition is Arial 14pt and that the word count is 4,058.

By: s/Adam Richardson
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