

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
IN AND FOR MONROE COUNTY, FLORIDA

R. JOYCE GRIFFIN, in her official capacity as
SUPERVISOR OF ELECTIONS FOR MONROE
COUNTY, FLORIDA,

Plaintiff,

CASE NO.

v.

JUDGE:

SLOAN BASHINSKY, RANDOLPH "RANDY"
BECKER, GEORGE BELLENGER, BILL FOLEY,
TERI JOHNSTON, CARIE NODA, MARGARET
ROMERO, and MARK ROSSI
all individuals and candidates for the Mayor of
Key West, Florida,

And

The CITY OF KEY WEST, a municipal corporation
of the State of Florida

Defendants.

**EMERGENCY MOTION AND REQUEST FOR IMMEDIATE HEARING ON
COMPLAINT FOR DECLARATORY RELIEF**

Plaintiff R. JOYCE GRIFFIN, in her official capacity as Supervisor of Elections for Monroe County, Florida ("Supervisor Griffin"), by and through the Monroe County Attorney's Office and the undersigned counsel, respectfully moves this Honorable Court to find that an emergency exists and to schedule an immediate hearing on her Complaint for Declaratory Relief, and as reasons therefore states as follows:

1. The Plaintiff Griffin has filed a declaratory judgment action in which she names as Defendants Sloan Bashinsky, Randolph "Randy" Becker, George Bellenger, Billy Foley, Teri Johnston, Carie Noda, Margaret Romero and Mark Rossi, all of

whom are candidates in the race for the office of Mayor of Key West, Florida, and the City of Key West, a municipal corporation of the State of Florida.

2. In her action for declaratory relief, she seeks judicial declarations regarding:
 - a. Whether the 48-hour cure period set forth in F.S. 99.061(7)(a)¹ as revived by the Supreme Court's ruling in *Wright v. City of Miami Gardens*¹ applies to the payment of the municipal election assessment fee imposed by F.S. 99.093(1); and if so,
 - b. Whether the Supervisor's error in marking Defendant Rossi's status as qualified on her website on Monday June 18, 2018, when he had not paid the election assessment fee at that time or by the end of the qualifying period at noon on Friday June 22, 2018, is the type of error that requires triggering the 48-hour cure period.
3. The resolution of these issues will determine whether or not Defendant Mark Rossi's name shall appear on the ballot for the office of Key West Mayor on the August 28, 2018 primary election ballot.
4. The situation constitutes an emergency requiring an immediate hearing due to the Supervisor's need to send the finalized ballot to the printer by the end of this week (June 30, 2018) so that ballots can be printed and shipped back to Supervisor Griffin in time for her to fulfill her statutory obligation to mail out certain vote-by-mail ballots to uniformed services (i.e. military) and oversees voters by *no later than* July 14, 2018 as required by F.S. 101.62(4)(a).

¹ 200 So.3d 765, 778 (Fla. 2016).

5. Subparagraph (4)(a) of F.S. 101.62 reads: "No later than 45 days before each presidential preference primary election, primary election, and general election, the supervisor of elections shall send a vote-by-mail ballot as provided in subparagraph (c)2. to each absent uniformed services voter and to each overseas voter who has requested a vote-by-mail ballot."
6. The election in question is scheduled for August 28, 2018. July 14, 2018 is the 45th day prior to election day.
7. To date, Supervisor Griffin has received over 13,000 requests for vote-by-mail ballots some of which have been requested by members of the uniformed services and/or other qualified overseas voters.
8. The situation requires the immediate attention of the Court. Any issue contesting a candidate's qualifications must be raised prior to the election and cannot be deferred until afterwards during a post-election statutory election contest under F.S. 102.168. *See, Burns v. Tondreau*, 139 So.3d 481 (Fla. 3d DCA 2014).
9. On Friday evening, June 22, 2018, Supervisor Griffin personally notified all candidates of her intention to file her action on Monday, June 25, 2018.
10. Supervisor Griffin directed the undersigned counsel to email all Defendants copies of the suit on Sunday, June 24, 2018, as soon as the complaint was finalized.

WHEREFORE, for the foregoing reasons, Plaintiff, R. Joyce Griffin, Supervisor of Elections of Monroe County, Florida, respectfully requests that this Honorable Court declare that an emergency exists and schedule an immediate hearing on this matter.

I hereby certify that on June 24, 2018, a copy of the foregoing motion as well as the complaint for declaratory relief was furnished by email to the parties listed on the attached service list and by U.S. mail on June 25, 2018. Hand delivery was also attempted on June 24, 2018.

Respectfully submitted,

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ROMERO, and MARK ROSSI, and the CITY
OF KEY WEST, Defendants.

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