

STIPULATION OF THE PARTIES

Plaintiffs Karla Vanessa Arcia, Melande Antoine, Veye Yo, Florida Immigrant Coalition, Inc., National Congress For Puerto Rican Rights, Florida New Majority, Inc., and 1199SEIU United Healthcare Workers East (“Plaintiffs”); and Defendant Kenneth W. Detzner, in his official capacity as Secretary of State of the State of Florida (the “Secretary”), enter into this Stipulation regarding certain claims at issue in *Arcia et al. v. Detzner*.

RECITALS

WHEREAS, Plaintiffs initiated litigation against the Secretary in the United States District Court for the Southern District of Florida in an action entitled *Arcia et al. v. Detzner*, Case No. 1:12-cv-22282-WJZ; and

WHEREAS, on August 14, 2012, the Florida Department of State entered into a Memorandum of Agreement with the United States Department of Homeland Security governing access to the Systematic Alien Verification for Entitlements (SAVE) Program for the purpose of verifying citizenship and immigration status information of non-citizen and naturalized or derived U.S. citizen registrants on Florida’s voter registration rolls; and

WHEREAS, in correspondence on August 29, 2012, and September 4, 2012, Plaintiffs sought information regarding the Secretary’s plans with respect to individuals whose names appeared on lists of potentially-ineligible registered voters sent to Florida Supervisors of Elections in April 2012 (the “April Lists”), before the Florida Department of State obtained access to the SAVE Program; and

WHEREAS, in correspondence dated September 6, 2012, the Secretary responded to Plaintiffs’ inquiries by identifying the actions that the Secretary states he has announced will be

taken with respect to these individuals and the dates by which these actions will be concluded;
and

WHEREAS, the Secretary believes that Plaintiffs' claims in this action with respect to the April Lists are now moot because the process used to identify these potentially-ineligible registered voters was voluntarily discontinued before this action was filed by Plaintiffs; and

WHEREAS, the Secretary is nonetheless willing to enter this Stipulation describing steps he states were previously announced with respect to individuals on the April Lists; and

WHEREAS, Plaintiffs disagree with the Secretary's position regarding whether their claims with respect to the April Lists are moot; and

WHEREAS, all Parties wish to resolve these matters without the time, expense, and uncertainty of litigation

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the adequacy and sufficiency of which are acknowledged by the Parties, and intending to be legally bound, the Parties hereby agree as follows:

I.

DEFINITIONS

As used in this Stipulation, the following terms shall have the meanings set forth below:

- (a) **"Effective Date"** means the date this Stipulation shall become effective which shall occur as of the date when the last signature is placed on this Stipulation by the Parties.
- (b) **"SAVE"** refers to the Systematic Alien Verification for Entitlements Program administered by the United States Department of Homeland Security.
- (c) **"Department"** refers to the Florida Department of State.
- (d) **"Supervisor(s) of Elections"** refers to the Supervisors of Elections in the State of Florida.

(e) **“Litigation”** refers to the action entitled *Arcia v. Detzner*, Case No. 1:12-cv-22282-WJZ (S.D. Fla.).

(f) **“April Lists”** refers to lists of over 2,600 individuals identified as “potential non-U.S. citizens” that were sent to Florida’s Supervisors of Elections in April 2012.

II.

UNDERTAKINGS BY DEFENDANT

With respect to individuals on the April Lists, the Department will take the following steps:

(a) The Department will advise the Supervisors of Elections that any individual on the April Lists who has been removed from the voter rolls for whom SAVE cannot verify non-citizenship, and who has not admitted to non-citizenship, should be restored to the voter rolls unless he or she was removed by a Supervisor of Elections on a basis unrelated to citizenship status (such as deceased, adjudicated mentally incompetent, or request by voter) and that this process should be concluded before October 15, 2012. Any individual who has been removed from the voter rolls may appeal the removal in accordance with Florida law.

(b) When the Department’s review of the April Lists is complete, all registered voters on the April Lists who received notice indicating that they may be ineligible to vote, and who have not been removed, will be sent notice advising them that they remain registered to vote. These notices will be sent no later than October 15, 2012.

(c) The Department will reiterate to Supervisors of Elections that the presence of any individual on the prior lists of potential non-citizens should not be interpreted as a determination regarding that individual’s eligibility to vote.

(d) The Department agrees that no registered voter should be required to cast a provisional ballot due solely to his or her inclusion on any prior list of potential non-citizens.

(e) The Department agrees that nothing in this Stipulation affects its obligation to respond to Plaintiffs' requests submitted under the Florida Public Records Law and will provide responsive documents to Plaintiffs on or before September 15, 2012.

III.

UNDERTAKINGS BY PLAINTIFFS

In exchange for the Undertakings above, Plaintiffs agree as follows:

(a) On the Effective Date, Plaintiffs will dismiss with prejudice all of their claims in the Litigation other than the claim under Section 8(c)(2)(A) of the National Voter Registration Act (the "90-day claim") through the filing of a Joint Stipulation of Dismissal in the form attached as Exhibit 1. This dismissal does not preclude Plaintiffs from amending the 90-day claim in their Complaint in a manner consistent with the Court's Scheduling Orders entered in the Litigation.

(b) On the Effective Date, Plaintiffs will withdraw all discovery subpoenas, document requests, and deposition notices and subpoenas issued in the Litigation.

(c) Plaintiffs agree that none of the actions taken by the Department provide a basis for any determination that Plaintiffs are entitled to attorney's fees or costs in the Litigation.

IV.

MISCELLANEOUS

(a) Any Party may seek specific performance to enforce the terms of this Stipulation.

(b) This Stipulation constitutes a single integrated written document that expresses the entire agreement and understanding between the Parties. This Stipulation may not be amended, altered or modified except by a written agreement duly executed by each Party.

(c) By entering into this Stipulation, none of Parties has waived or shall be deemed to have waived any rights, obligations, or positions it or they have asserted or may in the future assert in connection with any matter or person outside the scope of this Stipulation other than as set forth herein. No part of this Stipulation, its negotiation, or performance may be used in any manner in any action, suit or proceeding by any person as evidence of the rights, duties or obligations of any of the Parties with respect to matters or persons outside the scope of this Stipulation. All actions taken and statements made by the Parties or by their representatives, relating to this Stipulation or participation in this Stipulation, including but not limited to its development and implementation, shall be without prejudice or value as precedent, and shall not be used as a standard by which other matters may be judged. In entering this Stipulation, Plaintiffs make no admission about the accuracy or use of the SAVE database.

(d) This Stipulation shall not be deemed an admission or concession by any Party of liability, culpability, or wrongdoing. Any evidence of the terms of this Stipulation or negotiations or discussions associated with this Stipulation shall be inadmissible in any action or proceeding for purposes of establishing any rights, duties, or obligations of the Parties, except in an action or proceeding between the Parties to enforce the terms of this Stipulation.

(e) All notices, demands, or other communication to be provided pursuant to this Stipulation (including communications to Supervisors of Elections) shall be in writing and sent to the Parties at the addresses set forth below, or to such other Person or address as any of them may designate in writing from time to time:

Plaintiffs:

Lorelie S. Masters
Marc Goldman
Jenner & Block LLP
1099 New York Avenue, NW

Washington, DC 20001

Defendant:

Daniel Nordby
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(f) This Stipulation may be executed in multiple counterparts, all of which together shall constitute one and the same instrument. This Stipulation may be executed and delivered by facsimile, which facsimile counterparts shall be deemed to be originals. The Parties have authorized the signatories below to sign on their behalf.

[signatures on following page]

IN WITNESS WHEREOF, the Parties have duly executed this Stipulation as of the last date indicated below.

On behalf of: **Plaintiffs, Karla Vanessa Arcia, Melande Antoine, Veye Yo, Florida Immigrant Coalition, Inc., National Congress For Puerto Rican Rights, Florida New Majority, Inc., and 1199SEIU United Healthcare Workers East**

By: *Marc Guldman*

Name: *Marc Guldman*

Title: *Partner, Jenner & Block*

Date: *9/12/12*

on behalf of: **Defendant, Ken Detzner, in his Capacity as Secretary of State of the State of Florida**

By: *Daniel Nordby*

Name: *Daniel Nordby*

Title: General Counsel

Date: 9-12-12

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NO. 1:12-cv-22282-WJZ**

**KARLA VANESSA ARCIA, an individual,
MELANDE ANTOINE, an individual,
VEYEYO, a civic organization based in
Miami-Dade County, FLORIDA
IMMIGRANT COALITION, INC., a
Florida non-profit corporation, NATIONAL
CONGRESS FOR PUERTO RICAN
RIGHTS, a Pennsylvania non-profit
corporation, FLORIDA NEW MAJORITY,
INC., a Florida non-profit corporation, and
119SEIU UNITED HEALTHCARE
WORKERS EAST, a Labor Union,**

Plaintiffs,

v.

**KEN DETZNER, in his official capacity as
Florida Secretary of State,**

Defendant.

**STIPULATION OF DISMISSAL AS TO COUNTS I, II AND PART OF COUNT IV OF
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

The parties, pursuant to Federal Rule of Civil Procedure 41(a), stipulate and have agreed that Counts I, II and IV (except to the extent it seeks relief as to the claim in Count III) of Plaintiffs' Complaint for Declaratory and Injunctive Relief (ECF No. 1)¹ are resolved and that these counts are hereby dismissed with prejudice.

Date: September 12, 2012

Respectfully submitted,

¹ Although leave has been granted to file an amended complaint, such a complaint has not yet been filed. *See* (ECF No. 46).

For the Plaintiffs:

/s/ Marc A. Goldman

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