

Candidate Petition Handbook



September 2013
Florida Department of State
Division of Elections
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Table of Contents

Chapter 1 : Explanation.....	2
Chapter 2 : Forms	3
Chapter 3 : Collecting Signatures	5
Chapter 4 : Verifying Petitions	9
Chapter 5 : Fees	13
Chapter 6 : Certification to the Division of Elections.....	15
Appendices:	
Appendix A (Section 99.095, Florida Statutes)	18
Appendix B (Section 99.09651, Florida Statutes)	19
Appendix C (Section 99.097, Florida Statutes)	20
Appendix D (Rule 1S-2.045, Florida Administrative Code)	22
Appendix E (Form DS-DE 104, 18A and 18B)	27
Appendix F (2014 Petition Requirements for Representative in Congress)	29
Appendix G (2014 Petition Requirements for State Senator).....	30
Appendix H (2014 Petition Requirements for State Representative)	31
Appendix I (2014 Petition Requirements for Circuit Court Judge, State Attorney and Public Defender).....	33
Appendix J (Form DS-DE 9)	34
Appendix K (<i>Wood v. State</i>).....	35
Appendix L (<i>Publix Super Markets, Inc. v. Tallahasseans for Practical Law Enforcement</i>).....	39
Appendix M (Affidavit of Undue Burden).....	45

Chapter 1

Explanation

This handbook explains the process for collecting candidate petitions.

The information contained in this publication is intended only as a quick reference guide and is current upon publication. To the extent that this handbook covers material beyond that contained in law or rule, the Division of Elections offers such material to candidates as guidelines.

The following statutes and rules should be reviewed in their entirety:

- Section [99.095](#), Florida Statutes (see [Appendix A](#))
- Section [99.09651](#), Florida Statutes (see [Appendix B](#))
- Section [99.097](#), Florida Statutes (see [Appendix C](#))
- Rule [1S-2.045](#), Florida Administrative Code (see [Appendix D](#))

All Division of Elections forms and publications are available on the Division of Elections' website at <http://election.myflorida.com>.

Please direct questions to the Division of Elections at **850-245-6280**.

Chapter 2 Forms

1. What petition form should be used?

To obtain signatures of registered voters, all candidates¹, except Presidential candidates, are required to use **Form DS-DE 104, Candidate Petition (eff. 9/11)**. Presidential candidates are required to use **Form DS-DE 18A or 18B (eff. 9/11)**. (See [Appendix E](#).)

Petition forms are available on the Division of Elections' website at <http://election.myflorida.com/forms/index.shtml>.

Petitions on previous versions of Form DS-DE 104 are not valid.

A separate petition is required for each candidate.

2. Who is responsible for reproducing the petition form?

Candidates are responsible for reproducing the petition form.

3. Can the petition form be altered?

If reproduced, Form DS-DE 104 must be reproduced in its exact wording and format without any changes in its text or format.

Form DS-DE 104 may be reduced or enlarged proportionally in size as a whole document. The form may not be less than 3 inches by 5 inches and no larger than 8 1/2 inches by 11 inches.

The petition form may be included within a larger advertisement, provided the form is clearly defined by a solid or broken border.

Candidates may choose to have petition forms translated into minority languages at their own expense. Petitions may be two-sided with one side in English and the second side in a minority language. However, regardless of which side is used, the petition may be signed by only one person. If both sides of the form should be completed, the supervisor of elections will check only the English side of the form for signature verification.

¹ Municipal candidates may use a different form if provided for by city charter or ordinance.

4. Is a disclaimer required on a petition?

No. However, if the petition is included as a part of a larger advertisement that meets the definition of a political advertisement, the political advertisement would need a disclaimer. A missing disclaimer on such an advertisement is a violation of [Chapter 106](#), Florida Statutes, but does not affect the validity of the petition.

Chapter 3 Collecting Signatures

1. How many signatures are needed?

Representative in Congress – (see [Appendix F](#))

Governor and Cabinet – 119,345 signatures

State Senator – (see [Appendix G](#))

State Representative – (see [Appendix H](#))

Circuit Court Judge, State Attorney and Public Defender – (see [Appendix I](#))

Special District Candidates – 25 signatures

2. When can a candidate start collecting signatures on petitions?

A candidate can collect signatures as soon as Form DS-DE 9, Appointment of Campaign Treasurer and Designation of Campaign Depository, is filed with the filing officer (see [Appendix J](#)). Petitions signed prior to the date Form DS-DE 9 is filed with the filing officer are not valid.

Exception: Federal and special district candidates are not required to file Form DS-DE 9 prior to collecting signatures. (However, special district candidates must file Form DS-DE 9 if they collect contributions or make expenditures other than the filing fee or signature verification fee.)

3. How long are signed petitions valid?

Signatures for all candidates are valid only for the next qualifying period for that office immediately following such filings.

Example

Candidate A is a 2014 State Representative candidate. The candidate may not begin collecting signatures until after the 2012 qualifying period.

Exception: If a special election is held and a candidate decides not to participate in the special election, any petition verified prior to the special election qualifying period will remain valid for the regularly scheduled election.

Examples

Candidate B is a 2014 State Representative candidate. In December of 2013, a special election is called for this office. Candidate B may transfer his/her petitions to the special election or, if he/she elects not to participate in the special election, keep them for the 2014 election.

Candidate C is a 2014 State Representative candidate. In December of 2013, a special election is called for this office. Candidate C wants to qualify for the special election but does not want to transfer the petitions already signed to the special election. Candidate C may accomplish this by filing a new Form DS-DE 9 and opening an entirely separate campaign depository for the special election. Candidate C must start anew with contributions and petition gathering for the special election while maintaining his/her former campaign account opened for the general election. Candidate C may not use the funds or petitions previously collected for the special election. Candidate C may not use the funds or petitions gathered in the special election for the subsequent general election.

Exception: If the normal term of office ends early as the result of a resignation or death, petitions verified prior to an off-cycle election qualifying period will remain valid for the regularly scheduled election.

Example

Candidate D is a 2016 County Commission candidate. The incumbent for that office resigns to run for another office. The office will now appear on the 2014 ballot for a term to end in 2016. Candidate D may transfer his/her petitions to the 2014 election or keep them for the 2016 election. However, to retain the petitions for the 2016 election, Candidate D must open a separate campaign account for the 2014 election.

5. Where can candidates collect signatures on petitions?

Absent a local ordinance, a candidate can collect petition signatures in any public place including government-owned buildings. Section [106.15\(4\)](#), Florida Statutes, is often misconstrued to prohibit collecting petition signatures in a government-owned building. However, this prohibition only applies to soliciting or knowingly accepting contributions. Therefore, soliciting petition signatures would not be prohibited in a government-owned building unless the petition form is part of a larger document that includes a request for a political contribution or unless a local ordinance precludes petition signature gathering in local government-owned or occupied buildings. Section [104.31\(2\)](#), Florida Statutes, prohibits employees of the state or any political subdivision from participating in a political campaign for an elective office while on duty.

Whether a person is prohibited from collecting candidate petitions on private property is not addressed in the Election Code.

NOTE: Section [100.371\(7\)](#), Florida Statutes, is applicable only to collecting petitions for initiative petitions. This issue has been addressed by the Florida courts and turns on whether the private property is a quasi-public or public forum (such as a mall) rather than simply a private business. Compare *Wood v. State*, 2003 WL 1955433 (Fla. Cir. Ct. 2003) (see [Appendix K](#)) and *Publix Super Markets, Inc. v. Tallahasseeans for Practical Law Enforcement*, 2005 WL 3673662 (Fla. Cir. Ct. 2005) (see [Appendix L](#)).

Collecting signatures on candidate petitions at a church is not prohibited by the Election Code. However, a candidate should check with the presiding church official. A church's involvement in political campaigns may threaten the loss of the church's IRS tax exempt status.

6. Can a candidate pay someone to collect petitions?

Yes. There is nothing in the Election Code that prohibits a candidate from paying persons to collect petitions. However, if any person is paid to solicit signatures on a petition, an undue burden oath may not subsequently be filed in lieu of paying the fee to have signatures verified for that petition.

If an undue burden oath has been filed and payment is subsequently made to any person to solicit signatures on a petition, the undue burden oath is no longer valid and a fee for all signatures previously submitted to the supervisor of elections, and any that are submitted thereafter, shall be paid by the candidate that submitted the undue burden oath.

Candidate Petition Handbook
September 2013

If a candidate receives monetary contributions, as defined in Section [106.011](#), Florida Statutes, after the candidate has filed an undue burden oath and subsequently paid a signature gatherer, the monetary contributions must first be used to reimburse the supervisor of elections for any signature verifications fees that were not paid because of the filing of the oath.

Chapter 4

Verifying Petitions

1. Where are petitions submitted?

Signed petition forms are submitted for verification to the supervisor of elections in the county in which the voter is registered.

It is the responsibility of the candidate to ensure that the signed petition form is properly filed with, or if misfiled, forwarded to the supervisor of elections of the county in which the signee is a registered voter. In the case of a misfiled petition, the filing date of the petition is the date such petition is filed with the proper county.

2. When is the deadline for submitting petitions to the supervisor of elections?

The deadline for submitting candidate petitions is noon of the 28th day preceding the first day of the qualifying period for the office sought. For 2014, these deadlines are:

- **March 31, 2014** – Federal, Judicial, State Attorney and Public Defender
- **May 19, 2014** – State, Multicounty, County and District (this includes Governor, Cabinet, State Senator, and State Representative)

3. Is this petition valid?

- **If a petition is signed and dated before the filing date of Form DS-DE 9?** A petition signed and dated before the filing date of Form DS-DE 9 is invalid (except for federal candidates and those special district candidates who have not collected contributions and whose only expense is the signature verification fee or filing fee). Form DS-DE 9 is not valid until filed (received) by the qualifying officer. The form is not effective upon mailing.
- **If a petition is missing a required group, seat or district designation?** If a candidate is running for an office that requires a group, seat or district designation the petition must contain the designation or it is invalid.
- **If a candidate changes the office that he/she is running for?** If a candidate changes the office that he/she is running for, any previously submitted petitions are not valid for the new office. This would include changing seats, groups or districts.

Example

Changing from Circuit Court Judge, 17th Judicial Circuit, Group 1 to 17th Judicial Circuit, Group 5, will invalidate all previously verified petitions.

- **If a candidate changes election years?** If a candidate changes from the 2014 election to the 2016 election, the petitions verified for the 2014 qualifying period will not be valid for the 2016 election.
- **If a candidate changes to a special election?** If a candidate changes from a regularly scheduled election to a special election being held for that office, the petitions verified for the regular election are valid for the special election.
- **If a candidate elects not to participate in an intervening special election?** If there is an intervening special election and the candidate decides not to participate in the special election, any petitions verified prior to the special election will remain valid for the regularly scheduled election.
- **If a candidate's party affiliation on the petition is not the same as the party affiliation listed on the candidate's Form DS-DE 9?** The party affiliation listed on the petition must match the party affiliation listed on Form DS-DE 9 or if NPA is listed on the petition, the DS-DE 9 must indicate NPA. If they do not match, the petition is invalid.

The candidate's party affiliation as indicated in his/her registration records is irrelevant and has no bearing on the validity of the petitions. The candidate's voter registration party affiliation does not become an issue until such time as he/she files qualifying documents during the qualifying period.

Example 1

Invalid Petition: Candidate A files Form DS-DE 9 indicating that he is running as a Republican candidate. His petition forms also indicate that he is running as a Republican candidate. After submitting a number of petitions for verification, Candidate A submits a new DS-DE 9 indicating that he is running as a Democratic candidate. All previously verified petitions will not be eligible for qualifying as a Democratic candidate.

Example 2

Valid Petition: Candidate B files Form DS-DE 9 indicating that he is running as a Republican candidate. His petition forms also indicate that he is running as a Republican candidate. Candidate B's voter registration party affiliation is Democrat. After submitting a number of petitions for verification, Candidate B changes his voter registration party affiliation to Republican. All petitions verified prior to Candidate B's change in voter registration remain valid.

Example 3

Valid Petition: Candidate C circulates petitions as an NPA candidate but is registered as a voter with party affiliation. As long as Form DS-DE 9 indicates that the candidate is running with no party affiliation, the petitions are valid.

Example 4

Valid Petition: Candidate D circulates petitions for a nonpartisan office but is registered as a voter with party affiliation. As long as the petition indicates that the candidate is running for a nonpartisan office, the petitions are valid.

Example 5

Valid Petition: Candidate E changes party affiliation on his voter registration record while running for a nonpartisan office. If the candidate is running for a nonpartisan office, changing his voter registration party affiliation will have no effect on previously verified petitions.

- **If a candidate puts his/her party affiliation on a petition for a nonpartisan office?** A candidate for a nonpartisan office must check the block that indicates "Nonpartisan" on the petition when collecting petitions for a nonpartisan office. While the candidate may be a member of a party and still run in a nonpartisan race, he/she must collect petitions as a nonpartisan candidate and indicate this on the petition. If a nonpartisan candidate indicates that he/she is running as a party affiliated candidate, it will invalidate the petitions.
- **If a petition does not have an original voter's signature?** Rule [1S-2.045\(5\)\(f\)4](#), Florida Administrative Code, provides that the supervisor of elections shall not verify a signature on a candidate petition unless the petition

form contains the voter's original signature. Thus, copies of petitions, electronic submission (such as email) or a petition with an electronic signature are not valid.

- **If a petition is signed by a voter who is not registered in the geographical area represented by office being sought?** If a petition is signed by a voter who is not registered in the geographical area represented, it is not valid.
- **If the voter who signs the petition has a protected address under Florida's public records law, may the voter write "protected" on the address line of the petition?** No. There is no special consideration given to voters who have **protected addresses** when they sign petition forms. When a person signs a petition, it does not become a public record until it is submitted to the supervisor of elections for signature verification. When a person has a protected address which is exempt from being disclosed under the public records law and someone later requests to inspect (view or copy) the petition in the possession of the supervisor's office, the address must be redacted to protect unauthorized disclosure of the address. If the person with a protected address wants to sign the petition, the person may elect to place a business address or some other address. If the voter lists an address other than the legal residence where the voter is registered, the supervisor must treat the signature as if the voter had listed the address where the voter is registered (see below).

An address on a petition signed by a voter that is different from the legal residence where the voter is registered is valid. Section [99.097](#), Florida Statutes, and Rule [1S-2.045](#), Florida Administrative Code, provide that if the voter lists an address other than the voter registration address, the supervisor shall treat the signature as if the voter had listed the address where the voter is registered.

Chapter 5 Fees

1. What is the verification fee?

There is a fee of 10 cents per signature or the actual cost of checking such signatures, whichever is less, to be paid to the supervisor of elections for the cost of verifying the signature.

The fees must be paid in advance of verifying the petitions.

2. Who is responsible for the verification fee?

Section [99.097\(4\)](#), Florida Statutes, provides that the supervisor of elections shall be paid in advance by the candidate. Thus, there are three ways to pay for the verification fees:

- The verification fee is paid with a campaign check or the campaign's petty cash;
- The candidate pays the verification fee with personal funds and reports it as an in-kind contribution or is reimbursed by the campaign; or,
- Someone else pays for the verification fees and is reimbursed by the campaign.

Because the statute specifically states that the candidate shall pay the verification fee, ultimately, the candidate is responsible for paying the fee. If someone else pays the verification fee, it is the candidate's responsibility to ensure that the person is reimbursed by the campaign.

3. What is an undue burden oath?

If a candidate cannot pay this fee without imposing an undue burden on the candidate's resources, the candidate may file an undue burden oath (see [Appendix M](#)) with the supervisor of elections to have the fee waived.

If any person is paid to solicit signatures on a petition, a candidate may not subsequently file an undue burden oath in lieu of paying the fee to have signatures verified for that petition.

If an undue burden oath has been filed and payment is subsequently made to any person to solicit signatures on a petition, the oath is no longer valid and a fee for all

Candidate Petition Handbook
September 2013

signatures previously submitted to the supervisor of elections and any that are submitted thereafter shall be paid by the candidate who submitted the oath.

If a candidate receives monetary contributions, as defined in Section [106.011](#), Florida Statutes, after the candidate has filed an undue burden oath and subsequently paid a signature gatherer, the monetary contributions must first be used to reimburse the supervisor of elections for any signature verifications fees that were not paid because of the filing of the oath.

NOTE: A violation of Section [99.097\(6\)](#), Florida Statutes, is a misdemeanor (see Section [104.41](#), Florida Statutes).

Chapter 6

Certification to the Division of Elections

1. Which candidate petitions must be certified to the state?

The supervisors of elections must certify the number of verified petitions for the following offices to the Department of State, Division of Elections:

- **Federal**
- **State** (Governor, Cabinet, Circuit Court Judge, State Attorney and Public Defender)
- **Legislative**
- **Multicounty**

After receipt of the certifications from the supervisors of elections, the Division of Elections will determine whether the required number of signatures has been obtained in order for the name of the candidate to be placed on the ballot and will notify the candidate.

2. How do I confirm the number of signatures certified to the Division of Elections?

To check the number of signatures certified to the Division of Elections from your county, search for the candidate's name on the Candidate Listing for the applicable election at this web address: <http://election.dos.state.fl.us/candidate/canlist.asp>. Click **View List** and then click on the candidate's name.

Candidate Listing for 2014 General Election

Change Election

Group: ALL Status: ALL (except WIT/DNQ)

Office: Governor County: ALL

Last Name Like: Order by: Name

★ You can narrow your search results for candidates by county. This will bring up the list of candidates who qualified with the Division of Elections, and are multi-county candidates. It will include every district within the county. If you would like to know the candidates you will be voting on at the county level, please contact your local county [Supervisor of Elections](#)

RUN QUERY

Governor

Candidate	Status	Primary	General
Gibson, Kyle Chaderwick (NPA)	Active		
Anderson, Rubin Lewis (NPA)	Active		

Candidate Petition Handbook
September 2013

Click **Petition Signatures** at the bottom of the screen.

NOTE: The Petition Signatures button will not appear on a candidate's page if no certifications have been received and processed by the Division of Elections.

Candidate Tracking System

2014 General Election
Governor

Kyle Chaderwick Gibson
No Party Affiliation

Address
Post Office Box 590581
Tamarac, FL 33359

Phone: (850)322-8815

Campaign Treasurer
Kyle C. Gibson
Post Office Box 590581
Tamarac, FL 33359-0581

Status: Active
Date Filed: 01/04/2011
Date Qualified:
Method: Filed intent to qualify by petition method
Email: KC2020Vision@aol.com

Campaign Finance Activity

Campaign Documents

Petition Signatures



This will provide the total required signatures, total verified and the last date petitions were verified from a county to the Division of Elections.

Candidate's Petition Signatures

2014 General Election
Governor

Kyle Chaderwick Gibson
No Party Affiliation

Total Required	Total Verified
119,345	6,461

County	Last Verified Date	Total Verified Number
Alachua	12/18/2012	29
Baker	06/01/2011	1
Bay	11/28/2012	19
Bradford	08/06/2012	3
Brevard	11/30/2012	40
Broward	03/27/2013	2,040
Calhoun	12/14/2012	28
Charlotte	11/08/2012	2

3. What do I do if I believe the totals are incorrect?

You will need to contact the county Supervisor of Elections' office in question.

4. What is the deadline for supervisors of elections to certify signatures to the Division of Elections?

No later than 5:00 p.m. on the 7th day before the first day of qualifying.

- **April 21, 2014** – Federal, Judicial, State Attorney and Public Defender
- **June 9, 2014** – Statewide, District and Multicounty

Certifications received after the deadline will not be accepted.

Appendix A

99.095 Petition process in lieu of a qualifying fee and party assessment.—

(1) A person who seeks to qualify as a candidate for any office and who meets the petition requirements of this section is not required to pay the qualifying fee or party assessment required by this chapter.

(2)(a) Except as provided in paragraph (b), a candidate must obtain the number of signatures of voters in the geographical area represented by the office sought equal to at least 1 percent of the total number of registered voters of that geographical area, as shown by the compilation by the department for the immediately preceding general election. Signatures may not be obtained until the candidate has filed the appointment of campaign treasurer and designation of campaign depository pursuant to s. [106.021](#) and are valid only for the qualifying period immediately following such filings.

(b) A candidate for a special district office shall obtain 25 signatures of voters in the geographical area represented by the office sought.

(c) The format of the petition shall be prescribed by the division and shall be used by candidates to reproduce petitions for circulation. If the candidate is running for an office that requires a group or district designation, the petition must indicate that designation and, if it does not, the signatures are not valid. A separate petition is required for each candidate.

(d) In a year of apportionment, any candidate for county or district office seeking ballot position by the petition process may obtain the required number of signatures from any registered voter in the respective county, regardless of district boundaries. The candidate shall obtain at least the number of signatures equal to 1 percent of the total number of registered voters, as shown by a compilation by the department for the immediately preceding general election, divided by the total number of districts of the office involved.

(3) Each petition must be submitted before noon of the 28th day preceding the first day of the qualifying period for the office sought to the supervisor of elections of the county in which such petition was circulated. Each supervisor shall check the signatures on the petitions to verify their status as voters in the county, district, or other geographical area represented by the office sought. No later than the 7th day before the first day of the qualifying period, the supervisor shall certify the number of valid signatures.

(4)(a) Certifications for candidates for federal, state, multicounty district, or multicounty special district office shall be submitted to the division no later than the 7th day before the first day of the qualifying period for the office sought. The division shall determine whether the required number of signatures has been obtained and shall notify the candidate.

(b) For candidates for county, district, or special district office not covered by paragraph (a), the supervisor shall determine whether the required number of signatures has been obtained and shall notify the candidate.

(5) If the required number of signatures has been obtained, the candidate is eligible to qualify pursuant to s. [99.061](#).

Appendix B

99.09651 Signature requirements for ballot position in year of apportionment.—

(1) In a year of apportionment, any candidate for representative to Congress, state Senate, or state House of Representatives seeking ballot position by the petition process prescribed in s. [99.095](#) shall obtain at least the number of signatures equal to one-third of 1 percent of the ideal population for the district of the office being sought.

(2) For the purposes of this section, “ideal population” means the total population of the state based upon the most recent decennial census divided by the number of districts for representative to Congress, state Senate, or state House of Representatives. For the purposes of this section, ideal population shall be calculated as of July 1 of the year prior to apportionment. The ideal population for a state Senate district and a state representative district shall be calculated by dividing the total population of the state by 40 for a state Senate district and by dividing by 120 for a state representative district.

(3) Signatures may be obtained from any registered voter in Florida regardless of party affiliation or district boundaries.

(4) Petitions shall state the name of the office the candidate is seeking, but shall not include a district number.

(5) Except as otherwise provided in this section, all requirements and procedures relating to the petition process shall conform to the requirements and procedures in nonapportionment years.

Appendix C

99.097 Verification of signatures on petitions.—

(1)(a) As determined by each supervisor, based upon local conditions, the checking of names on petitions may be based on the most inexpensive and administratively feasible of either of the following methods of verification:

1. A check of each petition; or

2. A check of a random sample, as provided by the Department of State, of the petitions. The sample must be such that a determination can be made as to whether or not the required number of signatures has been obtained with a reliability of at least 99.5 percent.

(b) Rules and guidelines for petition verification shall be adopted by the Department of State. Rules and guidelines for a random sample method of verification may include a requirement that petitions bear an additional number of names and signatures, not to exceed 15 percent of the names and signatures otherwise required. If the petitions do not meet such criteria or if the petitions are prescribed by s. [100.371](#), the use of the random sample method of verification is not available to supervisors.

(2) When a petitioner submits petitions which contain at least 15 percent more than the required number of signatures, the petitioner may require that the supervisor of elections use the random sampling verification method in certifying the petition.

(3)(a) If all other requirements for the petition are met, a signature on a petition shall be verified and counted as valid for a registered voter if, after comparing the signature on the petition and the signature of the registered voter in the voter registration system, the supervisor is able to determine that the petition signer is the same as the registered voter, even if the name on the petition is not in substantially the same form as in the voter registration system.

(b) In any situation in which this code requires the form of the petition to be prescribed by the division, no signature shall be counted toward the number of signatures required unless it is on a petition form prescribed by the division.

(c) If a voter signs a petition and lists an address other than the legal residence where the voter is registered, the supervisor shall treat the signature as if the voter had listed the address where the voter is registered.

(4) The supervisor shall be paid in advance the sum of 10 cents for each signature checked or the actual cost of checking such signature, whichever is less, by the candidate or, in the case of a petition to have an issue placed on the ballot, by the person or organization submitting the petition. However, if a candidate, person, or organization seeking to have an issue placed upon the ballot cannot pay such charges without imposing an undue burden on personal resources or upon the resources otherwise available to such candidate, person, or organization, such candidate, person, or organization shall, upon written certification of such inability given under oath to the supervisor, be entitled to have the signatures verified at no charge. In the event a candidate, person, or organization submitting a petition to have an issue placed upon the ballot is entitled to have the signatures verified at no charge, the supervisor of elections of each county in which the signatures are verified at no charge shall submit the total number of such signatures checked in the county to the Chief Financial Officer no later than December 1 of the general election year, and the Chief Financial Officer shall cause such supervisor of elections to be reimbursed from the General Revenue Fund in an amount equal to 10 cents for each name

Candidate Petition Handbook
September 2013

checked or the actual cost of checking such signatures, whichever is less. In no event shall such reimbursement of costs be deemed or applied as extra compensation for the supervisor. Petitions shall be retained by the supervisors for a period of 1 year following the election for which the petitions were circulated.

(5) The results of a verification pursuant to subparagraph (1)(a)2. may be contested in the circuit court by the candidate; an announced opponent; a representative of a designated political committee; or a person, party, or other organization submitting the petition. The contestant shall file a complaint, together with the fees prescribed in chapter 28, with the clerk of the circuit court in the county in which the petition is certified or in Leon County if the petition covers more than one county within 10 days after midnight of the date the petition is certified; and the complaint shall set forth the grounds on which the contestant intends to establish his or her right to require a complete check of the petition pursuant to subparagraph (1)(a)1. In the event the court orders a complete check of the petition and the result is not changed as to the success or lack of success of the petitioner in obtaining the requisite number of valid signatures, then such candidate, unless the candidate has filed the oath stating that he or she is unable to pay such charges; announced opponent; representative of a designated political committee; or party, person, or organization submitting the petition, unless such person or organization has filed the oath stating inability to pay such charges, shall pay to the supervisor of elections of each affected county for the complete check an amount calculated at the rate of 10 cents for each additional signature checked or the actual cost of checking such additional signatures, whichever is less.

(6)(a) If any person is paid to solicit signatures on a petition, an undue burden oath may not subsequently be filed in lieu of paying the fee to have signatures verified for that petition.

(b) If an undue burden oath has been filed and payment is subsequently made to any person to solicit signatures on a petition, the undue burden oath is no longer valid and a fee for all signatures previously submitted to the supervisor of elections and any that are submitted thereafter shall be paid by the candidate, person, or organization that submitted the undue burden oath. If contributions as defined in s. [106.011](#) are received, any monetary contributions must first be used to reimburse the supervisor of elections for any signature verification fees that were not paid because of the filing of an undue burden oath.

Appendix D

1S-2.045 Candidate Petition Process.

(1) Qualification by Petition.

(a) A person who seeks to qualify as a candidate for any office and who meets the petition requirements of this rule and Sections 99.095 and 105.035, F.S., is not required to pay the qualifying fee or party assessment required by Chapters 99 and 105, F.S.

(b) Persons who seek to have their names printed on the ballot as candidates for President and Vice President of the United States as no party affiliated candidates and minor political parties that are not affiliated with a national party holding a national convention to nominate candidates for President and Vice President of the United States shall comply with the petition requirements in this rule to have the candidates' names placed on the ballot.

(2) Required Number of Signatures. Except in a year of apportionment as specified in Sections 99.095 and 99.09651, F.S., a candidate shall obtain the number of signatures of voters in the geographical area represented by the office sought equal to at least 1 percent of the total number of registered voters of that geographical area, as shown by the compilation by the Department of State for the immediately preceding general election. Special district candidates may qualify by obtaining at least 25 signatures of voters in the geographical area represented by the office sought. Except for special district candidates who have not collected contributions and whose only expense is the signature verification fee and federal candidates, signatures may not be obtained until the candidate has filed the appointment of campaign treasurer and designation of campaign depository pursuant to Section 106.021, F.S.

(3) Format of Petition.

(a) Except for presidential and vice presidential candidates, the format of a candidate petition shall be in accordance with Form DS-DE 104 (effective 09/11), entitled "Candidate Petition" (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00623>). The format of a candidate petition for presidential and vice presidential candidates seeking ballot position as no party affiliated candidates shall be in accordance with DS-DE Form 18A (effective 09/11), entitled "President and Vice President Candidate Petition – No Party Affiliation" (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00624>), and the format of the candidate petition for a minor political party that is not affiliated with a national party holding a national convention to nominate candidates for President and Vice President of the United States shall be in accordance with Form DS-DE 18B (effective 09/11), entitled "President and Vice President Candidate Petition – Minor Political Party" (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00625>). Forms DS-DE 18A, 18B and 104 are hereby incorporated by reference and are available from the Division of Elections, Room 316, R. A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250, (850) 245-6240, or by download from the Division of Elections' rules webpage or forms webpage at: <http://elections.myflorida.com>. Forms may be reduced or enlarged proportionally in size as a whole document. The forms may not be less than 3 inches by 5 inches and no larger than 8 1/2 inches by 11 inches. Each form must be submitted for verification as a separate card or individual sheet of paper. Candidates may have the forms translated into a minority language if the format of the forms and their blank entries remain the same. If a translated version is made, the forms may be made into a two-sided form with one side in English and the other side in a minority language; however, a voter shall complete only one side of the form. If both sides should be completed, the supervisor of

Candidate Petition Handbook
September 2013

elections to whom the form is submitted shall verify only the signature on the English side of the form.

(c) Except for the signature of the voter and date the voter signs the form, the entries on Forms DS-DE 18A, 18B and 104 may be completed prior to the voter signing and dating the form.

(d) A separate petition form is required for each candidate.

(e) The petition form may be included within a larger advertisement, provided the form is clearly defined by a solid or broken border. If included within a larger advertisement, the petition form may have information from the advertisement on the reverse of the petition form; otherwise, when used as a standalone petition form, it may only have a translation into a minority language on its reverse.

(4) Submission of Petition.

(a) Each Form DS-DE 104 must be submitted before noon of the 28th day preceding the first day of the qualifying period for the office sought to the supervisor of elections of the county in which the signee is registered to vote.

(b) Each Form DS-DE 18A or Form DS-DE 18B must be submitted no later than July 15 of each presidential election year to the supervisor of elections of the county in which the signee is a registered voter.

(c) It is the responsibility of the candidate or minor political party, as applicable, to ensure that the signed petition form is properly filed with, or if misfiled, forwarded to the supervisor of elections of the county in which the signee is a registered voter. If the supervisor of elections determines that the signer of the petition is not a registered voter in his or her county, the supervisor of elections shall notify the candidate or minor political party, as applicable, that the petition has been misfiled. In the case of a misfiled petition, the filing date of the petition is the date such petition is filed with the proper county.

(5) Verification of Signatures.

(a) Upon receipt of candidate petition forms and payment of applicable signature verification fees, the supervisor of elections shall verify the signatures on each petition form to ensure that each person signing the petition form is a registered voter in the county, district, or other geographical area represented by the office sought, unless otherwise specified in Sections 99.095 and 99.09651, F.S.

(b) Except for special district candidates who have not collected contributions and whose only expense is the signature verification fee and federal candidates, the supervisor of elections shall also verify that the date the voter signed the petition form is on or after the date the candidate filed the appointment of campaign treasurer and designation of campaign depository pursuant to Section 106.021, F.S., with the appropriate filing officer.

(c) If the candidate is running for an office that requires a group or district designation, the petition must indicate that designation and, if it does not, the signatures are not valid, unless otherwise specified in Sections 99.095 and 99.09651, F.S.

(d) No signature on a candidate petition form shall be counted toward the number of signatures required unless it is on the candidate petition form prescribed by the Division in this rule.

Candidate Petition Handbook
September 2013

(e) A signature on a candidate petition form shall not be counted toward the number of signatures required if the voter has previously signed a candidate petition form for the same candidate for the same office in the same election that had been verified as valid.

(f) In addition to the above requirements, the supervisor of elections shall not verify as valid signature on a candidate petition form unless all of the following information is contained on the petition form:

1. The voter's name;
2. The voter's address (including city and county);
3. The voter's complete voter registration number or date of birth (to include the month, day, and year) that matches the date of birth on the voter's registration application;
4. The voter's original signature; and
5. The date the voter signed the petition (to include the month, day, and year) as recorded by the voter.

(g) If all other requirements for the petition are met, a signature on a petition shall be verified and counted as valid for a registered voter if, after comparing the signature on the petition and the signature of the registered voter in the voter registration system, the supervisor is able to determine that the petition signer is the same as the registered voter, even if the name on the petition is not in substantially the same form as in the voter registration system.

(h) If a voter signs a petition and lists an address other than the legal residence where the voter is registered, the supervisor shall treat the signature as if the voter had listed the address where the voter is registered.

(i) The following represents a nonexclusive listing of examples based upon the requirements in this rule that will make the candidate petition invalid:

1. The petition is signed and dated before the candidate has filed the appointment of campaign treasurer and designation of campaign depository pursuant to Section 106.021, F.S., unless the candidate is a special district candidate who has not collected contributions and whose only expense is the signature verification fee or the candidate is a candidate for federal office.
2. The petition has a different party affiliation or office being sought by the candidate than that listed by the candidate on the current form the candidate has on file for the appointment of campaign treasurer and designation of campaign depository pursuant to Section 106.021, F.S.
3. The petition fails to list a group, seat, or district designation, except when otherwise provided by law.
4. The petition indicates the candidate is running for a non-partisan office or the petition indicates the candidate is running as a no party affiliated candidate and the petition lists the candidate's political party.
5. The petition is signed by a voter who is not a registered voter in the county, district, or other geographical area represented by the office sought, unless otherwise specified in Sections 99.095 and 99.09651, F.S., at both the time of signing and verification of the petition.
6. The petition is dated after the date the petition is submitted to the supervisor of elections.
7. The petition fails to contain the original signature of the voter. (Photocopied, scanned, or facsimile signatures are not original for purposes of this rule.)

Candidate Petition Handbook
September 2013

(e) A signature on a candidate petition form shall not be counted toward the number of signatures required if the voter has previously signed a candidate petition form for the same candidate for the same office in the same election that had been verified as valid.

(f) In addition to the above requirements, the supervisor of elections shall not verify as valid signature on a candidate petition form unless all of the following information is contained on the petition form:

1. The voter's name;
2. The voter's address (including city and county);
3. The voter's complete voter registration number or date of birth (to include the month, day, and year) that matches the date of birth on the voter's registration application;
4. The voter's original signature; and
5. The date the voter signed the petition (to include the month, day, and year) as recorded by the voter.

(g) If all other requirements for the petition are met, a signature on a petition shall be verified and counted as valid for a registered voter if, after comparing the signature on the petition and the signature of the registered voter in the voter registration system, the supervisor is able to determine that the petition signer is the same as the registered voter, even if the name on the petition is not in substantially the same form as in the voter registration system.

(h) If a voter signs a petition and lists an address other than the legal residence where the voter is registered, the supervisor shall treat the signature as if the voter had listed the address where the voter is registered.

(i) The following represents a nonexclusive listing of examples based upon the requirements in this rule that will make the candidate petition invalid:

1. The petition is signed and dated before the candidate has filed the appointment of campaign treasurer and designation of campaign depository pursuant to Section 106.021, F.S., unless the candidate is a special district candidate who has not collected contributions and whose only expense is the signature verification fee or the candidate is a candidate for federal office.
2. The petition has a different party affiliation or office being sought by the candidate than that listed by the candidate on the current form the candidate has on file for the appointment of campaign treasurer and designation of campaign depository pursuant to Section 106.021, F.S.
3. The petition fails to list a group, seat, or district designation, except when otherwise provided by law.
4. The petition indicates the candidate is running for a non-partisan office or the petition indicates the candidate is running as a no party affiliated candidate and the petition lists the candidate's political party.
5. The petition is signed by a voter who is not a registered voter in the county, district, or other geographical area represented by the office sought, unless otherwise specified in Sections 99.095 and 99.09651, F.S., at both the time of signing and verification of the petition.
6. The petition is dated after the date the petition is submitted to the supervisor of elections.
7. The petition fails to contain the original signature of the voter. (Photocopied, scanned, or facsimile signatures are not original for purposes of this rule.)

Candidate Petition Handbook
September 2013

8. The petition is in a different format than the applicable candidate petition form incorporated by reference in this rule.

9. The petition was circulated for a different election than the election for which the candidate is seeking to qualify, unless the candidate seeks to qualify in an intervening special election for the identical office for which the candidate was originally seeking to qualify. (If the candidate does not seek to qualify for the intervening special election, the candidate may continue to use his or her petitions to qualify in the subsequent general election for the office being sought.)

(6) Determination of Required Number of Signatures.

(a) No later than 5:00 p.m. on the 7th day before the first day of the qualifying period, the supervisor of elections shall submit to the Division of Elections a certificate indicating the number of valid signatures received on Form DS-DE 104 for each candidate for federal, state, multicounty district, or multicounty special district office. Certificates may be submitted to the Division via facsimile or e-mail in order to meet the deadline, followed by an original copy by mail. The Division shall determine whether the required number of signatures has been obtained and shall notify the candidate.

(b) For candidates for county, district or special district office not covered by paragraph (a), the supervisor shall determine whether the required number of signatures has been obtained and shall notify the candidate.

(c) If the required number of signatures has been obtained, the candidate is eligible to qualify pursuant to Section 99.061 or 105.031, F.S., as applicable.

(d) Supervisor of elections shall verify the signatures on Forms DS-DE 18A and 18B and submit to the Division of Elections a certificate indicating the number of valid signatures for each candidate for President and Vice President and minor political party, as applicable, on or before the date of the primary election held in the presidential election year. Certificates may be submitted to the Division via facsimile or e-mail in order to meet the deadline, followed by an original copy by mail. The Division shall determine whether the required number of signatures has been obtained and shall notify the candidate and minor political party, as applicable.

(e) A minor political party that is not affiliated with a national party holding a national convention to nominate candidates for President and Vice President of the United States and that has obtained the requisite number of signatures on DS-DE 18B shall file with the Department of State no later than September 1 of the year in which the election is held a certificate naming its candidates for President and Vice President of the United States and listing the required number of persons to serve as presidential electors.

(7) Effect on Previously Approved Candidate Petition Form. Any candidate petition form which contains the substantive requirements of subsections (3) and (5) and which was approved by the Division of Elections prior to the effective date of this rule may continue to be used and circulated for signature gathering until July 16, 2012.

Rulemaking Authority 20.10(3), 97.012(1), 99.095, 105.035(2) FS. Law Implemented 99.095, 99.061, 99.097, 103.021, 105.031, 105.035 FS. History—New 10-23-07, Amended 11-7-10, 12-5-11.

Appendix E

CANDIDATE PETITION			
Notes: - All information on this form becomes a public record upon receipt by the Supervisor of Elections. - It is a crime to knowingly sign more than one petition for a candidate. [Section 104.185, Florida Statutes] - If all requested information on this form is not completed, the form will not be valid as a Candidate Petition form.			
I, _____ the undersigned, a registered voter (print name as it appears on your voter information card)			
in said state and county, petition to have the name of _____ placed on the Primary/General Election Ballot as a: [check/complete box, as applicable]			
<input type="checkbox"/> Nonpartisan <input type="checkbox"/> No party affiliation <input type="checkbox"/> _____ Party candidate for the office of _____ (insert title of office and include district, circuit, group, seat number, if applicable)			
Date of Birth or Voter Registration Number (MM/DD/YY)	Address		
City	County	State	Zip Code
Signature of Voter	Date Signed (MM/DD/YY) [to be completed by Voter]		
Rule 1S-2.045, F.A.C.		DS-DE 104 (Eff. 09/11)	

PRESIDENT & VICE PRESIDENT CANDIDATE PETITION - NO PARTY AFFILIATION			
Notes: - All information on this form becomes a public record upon receipt by the Supervisor of Elections. - It is a crime to knowingly sign more than one petition for a candidate. [Section 104.185, Florida Statutes] - If all requested information on this form is not completed, the form will not be valid as a Candidate Petition form.			
I, _____ the undersigned, a registered voter (print name as it appears on your voter information card)			
in said state and county, petition to have the name of _____ for President and _____ for Vice President placed on the General Election Ballot for the presidential election occurring in _____ as no party affiliation candidates. (insert year)			
Date of Birth or Voter Registration Number (MM/DD/YY)	Address		
City	County	State	Zip Code
Signature of Voter	Date Signed (MM/DD/YY) [to be completed by voter]		
Rule 1S-2.045, F.A.C.		DS-DE 18A (Eff. 09/11)	

Candidate Petition Handbook
September 2013

PRESIDENT AND VICE PRESIDENT CANDIDATE PETITION - MINOR POLITICAL PARTY

*Notes: - All information on this form becomes a public record upon receipt by the Supervisor of Elections.
- It is a crime to knowingly sign more than one petition for a candidate. [Section 104.185, Florida Statutes]
- If all requested information on this form is not completed, the form will not be valid as a Candidate Petition form.*

I, _____ the undersigned, a registered voter
(print name as it appears on your voter information card)

in said state and county, petition to have the candidates for President and Vice President nominated by

(insert name of minor political party)

placed on the General Election ballot for the presidential election occurring in _____.
(insert year)

Date of Birth (MM/DD/YY)	or	Voter Registration Number	Address
_____		_____	_____

City	County	State	Zip Code
_____	_____	_____	_____

Signature of Voter	Date Signed (MM/DD/YY) [to be completed by voter]
_____	_____

Rule 19-2.045, F.A.C. DS-DE 18B (Eff. 09/11)

Appendix F

2014 Petition Requirements by U.S. House District

U.S. House District	Total Registration	1%
1	489,705	4,898
2	453,392	4,534
3	446,683	4,467
4	461,576	4,616
5	404,558	4,046
6	497,147	4,972
7	456,182	4,562
8	483,335	4,834
9	421,351	4,214
10	447,929	4,480
11	488,064	4,881
12	478,344	4,784
13	468,704	4,688
14	419,014	4,191
15	417,458	4,175
16	483,865	4,839
17	422,657	4,227
18	476,371	4,764
19	442,417	4,425
20	404,524	4,046
21	463,679	4,637
22	484,822	4,849
23	434,789	4,348
24	390,672	3,907
25	345,092	3,451
26	394,703	3,948
27	357,065	3,571

Appendix G

2014 Petition Requirements by State Senate District

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Senate District	Total Registration	1%
1	318,491	3,185
2	332,079	3,321
3	309,649	3,097
4	318,209	3,183
5	300,741	3,008
6	341,200	3,412
7	312,988	3,130
8	305,563	3,056
9	290,665	2,907
10	309,097	3,091
11	338,117	3,382
12	258,560	2,586
13	316,468	3,165
14	271,324	2,714
15	288,441	2,885
16	325,509	3,256
17	316,769	3,168
18	310,614	3,107
19	257,244	2,573
20	323,509	3,236

Senate District	Total Registration	1%
21	280,621	2,807
22	325,827	3,259
23	275,760	2,758
24	279,993	2,800
25	324,526	3,246
26	302,420	3,025
27	262,893	2,629
28	340,184	3,402
29	312,193	3,122
30	307,606	3,077
31	281,521	2,816
32	323,426	3,235
33	316,010	3,161
34	353,279	3,533
35	262,221	2,623
36	270,815	2,709
37	265,019	2,651
38	218,280	2,183
39	242,942	2,430
40	240,563	2,406

□

Appendix H

2014 Petition Requirements by State House District

House District	Total Registration	1%
1	101,850	1,019
2	108,770	1,088
3	119,550	1,196
4	113,873	1,139
5	99,552	996
6	106,962	1,070
7	91,479	915
8	98,521	986
9	116,253	1,163
10	86,308	864
11	109,984	1,100
12	99,660	997
13	94,923	950
14	99,502	996
15	97,276	973
16	107,529	1,076
17	127,537	1,276
18	106,028	1,061
19	92,928	930
20	93,564	936
21	109,426	1,095
22	106,770	1,068
23	102,489	1,025
24	114,781	1,148
25	114,167	1,142
26	95,272	953
27	103,231	1,033
28	106,720	1,068
29	103,592	1,036
30	100,521	1,006
31	103,186	1,032
32	106,212	1,063
33	120,735	1,208
34	110,535	1,106
35	111,204	1,113
36	101,177	1,012

House District	Total Registration	1%
37	110,639	1,107
38	98,506	986
39	93,927	940
40	91,994	920
41	91,814	919
42	95,425	955
43	90,642	907
44	98,490	985
45	87,357	874
46	76,365	764
47	112,714	1,128
48	88,706	888
49	97,948	980
50	106,256	1,063
51	109,247	1,093
52	118,924	1,190
53	105,842	1,059
54	106,161	1,062
55	90,669	907
56	79,388	794
57	100,190	1,002
58	85,122	852
59	98,784	988
60	111,130	1,112
61	91,892	919
62	84,217	843
63	95,947	960
64	111,601	1,117
65	116,455	1,165
66	111,946	1,120
67	95,823	959
68	104,192	1,042
69	112,191	1,122
70	85,686	857
71	108,126	1,082
72	115,595	1,156

Candidate Petition Handbook
September 2013

House District	Total Registration	1%
73	116,821	1,169
74	115,351	1,154
75	115,050	1,151
76	106,226	1,063
77	105,131	1,052
78	92,762	928
79	84,828	849
80	76,772	768
81	96,915	970
82	108,839	1,089
83	104,837	1,049
84	96,869	969
85	117,635	1,177
86	102,651	1,027
87	65,932	660
88	93,388	934
89	118,988	1,190
90	102,168	1,022
91	123,825	1,239
92	88,061	881
93	121,817	1,219
94	103,519	1,036
95	89,976	900
96	102,382	1,024

House District	Total Registration	1%
97	106,547	1,066
98	108,170	1,082
99	103,162	1,032
100	90,030	901
101	93,182	932
102	96,379	964
103	80,601	807
104	102,659	1,027
105	69,350	694
106	102,696	1,027
107	82,806	829
108	87,530	876
109	85,171	852
110	70,980	710
111	66,936	670
112	82,683	827
113	71,816	719
114	93,293	933
115	93,482	935
116	92,504	926
117	74,541	746
118	88,551	886
119	85,189	852
120	90,346	904

Appendix I

2014 Petition Requirements by Judicial Circuit

Judicial Circuit	Total Registration	1%
1	482,449	4,825
2	259,801	2,599
3	107,928	1,080
4	741,474	7,415
5	721,061	7,211
6	936,670	9,367
7	598,583	5,986
8	237,896	2,379
9	854,029	8,541
10	425,507	4,256
11	1,313,850	13,139
12	503,516	5,036
13	747,587	7,476
14	185,454	1,855
15	870,186	8,702
16	51,524	516
17	1,140,454	11,405
18	657,845	6,579
19	390,143	3,902
20	708,489	7,085

Appendix J

APPOINTMENT OF CAMPAIGN TREASURER AND DESIGNATION OF CAMPAIGN DEPOSITORY FOR CANDIDATES (Section 106.021(1), F.S.) (PLEASE PRINT OR TYPE)					
NOTE: This form must be on file with the qualifying officer before opening the campaign account.					OFFICE USE ONLY
1. CHECK APPROPRIATE BOX(ES): <input type="checkbox"/> Initial Filing of Form Re-filing to Change: <input type="checkbox"/> Treasurer/Deputy <input type="checkbox"/> Depository <input type="checkbox"/> Office <input type="checkbox"/> Party					
2. Name of Candidate (in this order: First, Middle, Last) _____			3. Address (include post office box or street, city, state, zip code) _____		
4. Telephone () _____		5. E-mail address _____			
6. Office sought (include district, circuit, group number) _____			7. If a candidate for a <u>nonpartisan</u> office, check if applicable: <input type="checkbox"/> My intent is to run as a Write-In candidate.		
8. If a candidate for a <u>partisan</u> office, check block and fill in name of party as applicable: My intent is to run as a <input type="checkbox"/> Write-In <input type="checkbox"/> No Party Affiliation <input type="checkbox"/> _____ Party candidate.					
9. I have appointed the following person to act as my <input type="checkbox"/> Campaign Treasurer <input type="checkbox"/> Deputy Treasurer					
10. Name of Treasurer or Deputy Treasurer _____					
11. Mailing Address _____				12. Telephone () _____	
13. City _____		14. County _____	15. State _____	16. Zip Code _____	17. E-mail address _____
18. I have designated the following bank as my <input type="checkbox"/> Primary Depository <input type="checkbox"/> Secondary Depository					
19. Name of Bank _____			20. Address _____		
21. City _____		22. County _____		23. State _____	24. Zip Code _____
UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING FORM FOR APPOINTMENT OF CAMPAIGN TREASURER AND DESIGNATION OF CAMPAIGN DEPOSITORY AND THAT THE FACTS STATED IN IT ARE TRUE.					
25. Date _____			26. Signature of Candidate _____ <div style="text-align: center; font-size: 2em; font-weight: bold;">X</div>		
27. Treasurer's Acceptance of Appointment (fill in the blanks and check the appropriate block)					
I, _____, do hereby accept the appointment (Please Print or Type Name)					
designated above as: <input type="checkbox"/> Campaign Treasurer <input type="checkbox"/> Deputy Treasurer.					
_____ Date				_____ Signature of Campaign Treasurer or Deputy Treasurer	
X					
DS-DE 9 (Rev. 10/10)			Rule 1S-2.0001, F.A.C.		

Appendix K

Westlaw

Page 1

Not Reported in So.2d, 2003 WL 1955433 (Fla.Cir.Ct.)
(Cite as: 2003 WL 1955433 (Fla.Cir.Ct.))

C
Only the Westlaw citation is currently available.

Florida Circuit Court.
Kevin E. WOOD, Appellant/Defendant,
v.
STATE of Florida Appellee/Plaintiff.
No. 00-0644-MMM-A.
Feb. 26, 2003.

Background: Defendant was convicted in the County Court, Bay County, Elijah Smiley, J., of trespass. Defendant appealed.

Holdings: The Circuit Court, Costello, J., held that:

- (1) as an issue of first impression, State Constitution prohibits a private owner of a "quasi-public" place from using state trespass laws to exclude peaceful political activity, and
- (2) evidence was not sufficient to support conviction for trespass.

Reversed and remanded.

West Headnotes

[1] **Constitutional Law 92** ⇨ 1460

92 Constitutional Law
92XVII Political Rights and Discrimination

92k1460 k. In General. Most Cited
Cases
(Formerly 92k82(8))

Trespass 386 ⇨ 84

386 Trespass
386III Criminal Responsibility
386k84 k. Defenses. Most Cited
Cases

(Formerly 92k82(8))
State Constitution prohibits a private owner of a "quasi-public" place from using state trespass laws to exclude peaceful political activity. West's F.S.A. Const. Art. 1, § 5.

[2] **Trespass 386** ⇨ 88

386 Trespass
386III Criminal Responsibility
386k88 k. Evidence. Most Cited
Cases

Evidence was not sufficient to support conviction for trespass; evidence indicated that defendant was asked to leave the premises of shopping mall solely based on his desire to conduct political activity in the manner of collecting signatures for his petition to run for office, and only testimony with regards to the mall's policy on political activity was that of mall manager who testified that the policy prohibited any solicitation of signatures for any petition.

An appeal from the County Court of Bay County. Elijah Smiley, Judge. Patrick J. Faucheux, III, for Appellant.

C. Marie King, for Appellee.

OPINION

COSTELLO, J.

*1 Property rights are the core of the fabric of our society. Our country was, in part, founded to ensure that property owners had the right to the free use and enjoyment of their land. The fundamental nature of property rights creates tension however, when they compete with equally fundamental rights such as the right to free speech. Free speech serves "as a method of assuring in-

Not Reported in So.2d, 2003 WL 1955433 (Fla.Cir.Ct.)
(Cite as: 2003 WL 1955433 (Fla.Cir.Ct.))

dividual self-fulfillment, as a means of attaining the truth, as a method of securing participation by the members of society, including political decision-making, and as a means of maintaining the balance between stability and change in society.”^{FN1} The instant case presents a situation where these two fundamental rights clash.

FN1. See THOMAS I. EMERSON, TOWARD A GENERAL THEORY OF THE FIRST AMENDMENT 3 (1963).

Facts

The Appellant, Wood, is appealing his conviction for trespass as the result of a trial by jury. The pertinent facts are as follows. The Appellant decided to run for political office in 1999. In order to get his name on the ballot without having to pay a qualifying fee he began to collect enough signatures to waive the fee. Wood then decided that the Panama City Mall would be the best place to collect signatures and he began to solicit such signatures at the Mall. After several previous visits to the Mall, Mr. Wood was approached by Mall security on the evening of February 5, 2000, and told that he was in violation of rules regulating the Mall. Mr. Wood was told to either stop soliciting signatures or leave. The Appellant chose to stay and was ultimately arrested for trespass by officers from the Panama City Police Department. Wood was tried by jury and found guilty of trespass. This appeal ensued.

Law

One of the first cases dealing with the issue of requiring shopping mall owners to allow access to their premises for those desiring to exercise their First Amendment rights

arose in *Marsh v. Alabama*, 326 U.S. 501, 66 S.Ct. 276, 90 L.Ed. 265 (1946). A suburb of Mobile, Alabama, Chickasaw, was wholly owned by Gulf Shipbuilding Corporation. The property was open to the public and contained residential buildings, streets, a sewer system, and a business district. Policing was performed by a deputy of the Mobile County Sheriff, who was paid by the corporation. A Jehovah's Witness stood on the sidewalk next to the post office to distribute religious literature. He was asked to leave the corporation's property but refused and was arrested for criminal trespass.

The United States Supreme Court, resolved the issue by holding that Chickasaw, the “company town”, could not curtail First Amendment liberties for several reasons. First, “ownership does not always mean absolute dominion,” especially when private ownership is permitted to operate a town in such a manner to be a de facto municipality. *Id.* at 506. Second, when balancing the competing constitutional rights, the Court stated that First Amendment rights occupy a preferred status, because the First Amendment “lies at the foundation of free government by free men.” *Id.* at 509.

*2 The Supreme Court shaped the law in this arena in various cases until arriving at the seminal case of *Pruneyard Shopping Center v. Robins*, 447 U.S. 74, 100 S.Ct. 2035, 64 L.Ed.2d 741 (1980). There, the shopping center had a strict policy of prohibiting public expressive activity. This policy was enforced against a group of students soliciting signatures for a petition against the United Nations' stance on Zionism. The group was promptly asked to leave by security, which they did. The students then filed suit against the shopping

Not Reported in So.2d, 2003 WL 1955433 (Fla.Cir.Ct.)
(Cite as: 2003 WL 1955433 (Fla.Cir.Ct.))

center claiming it violated the First and Fourteenth Amendments of the United States Constitution and the California Constitution. The California Supreme Court held that the California Constitution “protects speech and petitioning, reasonably exercised, in shopping centers even when the centers are privately owned.” *Robins v. Pruneyard Shopping Center*, 23 Cal.3d 899, 153 Cal.Rptr. 854, 592 P.2d 341 (Cal.1979). The shopping center sought certiorari, contending that a state constitutional provision cannot usurp a constitutionally established right under the Fourteenth Amendment.

The United States Supreme Court rejected the shopping center's blanket claim that “a private property owner has a First Amendment right not to be forced by the State to use his property as a forum for the speech of others.” *Pruneyard*, 447 U.S. at 85. The Court held that a State could, consistent with the Federal Constitution, prohibit the private owner of a shopping center from using state trespass law to exclude peaceful expressive activity in the open areas of the shopping center.

Florida's Constitutional Protections

[1] Thus, the critical question is whether Florida's Constitution affords its citizens a similar right to peaceful and expressive activity. Counsel for both parties agree that this issue is one of first impression in this state. Our sister states that have addressed this same issue appear to be fairly split on either side of the fence.^{FN2} This state has long recognized that the exercise of the right to petition is a form of democratic expression at its purest. Art. I § 5, Fla. Const. This fundamental right is recognized in the First Amendment to the United States Constitution which states that Congress shall

make no law abridging the freedom to petition the Government for a redress of grievances. Florida also recognizes the right of its people to petition the government. See *Krivanek v. Take Back Tampa Political Committee*, 625 So.2d 840 (Fla.1993); Art. I § 5, Fla. Const. Citizens of this state should be entitled to no less protection than citizens of other states. Courts in this state have recognized this generally accepted principle that malls and other shopping centers are still private property, but have a “quasi-public” nature. See *State v. Woods*, 624 So.2d 739 (Fla. 5th DCA 1993). This Court holds that the Constitution of Florida prohibits a private owner of a “quasi-public” place from using state trespass laws to exclude peaceful political activity.

FN2. See *Batchelder v. Allied Stores International, Inc.*, 388 Mass. 83, 445 N.E.2d 590 (Mass.1983)(finding state right to political speech on quasi-public property); *Commonwealth v. Tate*, 495 Pa. 158, 432 A.2d 1382 (Pa.1981); *Alderwood Assocs. v. Washington Envtl. Council*, 96 Wash.2d 230, 635 P.2d 108 (Wash.1981); *State v. Schmid*, 84 N.J. 535, 423 A.2d 615 (N.J.1980); but see *Minnesota v. Wicklund*, 589 N.W.2d 793 (Minn.1999)(no right to political speech on private property); *Cologne v. Westfarms Assocs.*, 192 Conn. 48, 469 A.2d 1201 (Conn.1984).

*3 This still does not end this Court's inquiry. Having held that the Florida Constitution grants citizens of this state the right of expression on a shopping mall owners's property, this Court must determine if the lower court erred in denying Wood's Mo-

Not Reported in So.2d, 2003 WL 1955433 (Fla.Cir.Ct.)
(Cite as: 2003 WL 1955433 (Fla.Cir.Ct.))

tion for Judgment of Acquittal. In reviewing an order denying a motion for a judgment of acquittal, the appellate court must consider the evidence and all reasonable inferences from the evidence in a light most favorable to the state. *Woods v. State*, 733 So.2d 980 (Fla.1999). Put in another light, courts should not grant a motion for judgment of acquittal unless the evidence is such that no view favorable to the state by the jury can be sustained under the law.

[2] The undisputed testimony establishes that Wood was asked to leave the premises solely based on his desire to conduct political activity in the manner of collecting signatures for his petition to run for office. The only testimony with regards to the Mall's policy on political activity was that of the Mall manager who testified that the policy prohibited any solicitation of signatures for any petition. Since the Mall's policy was absolute, this Court need not, and cannot, inquire into whether the restrictions on Wood's right to engage in political activity was reasonably and narrowly tailored such that the Mall could restrict Wood and other citizens' peaceful expressive activity. The policy, as established by the uncontradicted testimony, was that there was never a circumstance in which the Mall would allow an individual or group to conduct political activity.^{FN3} Such a policy runs afoul of the right to free speech and right of political expression as set out by the Florida Constitution and amounts to no policy at all. Since Wood was exercising his right of political expression, his actions are constitutionally protected and cannot form the basis for a conviction of criminal trespass.

FN3. If the policy established a specific time or place that such activity may be conducted then it might not

have run afoul of the constitutional protections based on a reasonable restriction analysis. The absolute nature of the policy is what distinguishes the instant case from that of *Woods*, 733 So.2d 980 (Fla.1999). It is possible that a policy that allows citizens to conduct such activity under reasonable time and place restrictions would comply with the constitutional protections.

ACCORDINGLY, THIS CAUSE IS REVERSED AND REMANDED with instructions to vacate the Judgment and Sentence of guilt and enter a Judgment of Acquittal.

Fla.Cir.Ct.,2003.
Wood v. State
Not Reported in So.2d, 2003 WL 1955433
(Fla.Cir.Ct.)

END OF DOCUMENT

Appendix L

Westlaw

Page 1

Not Reported in So.2d, 2005 WL 3673662 (Fla.Cir.Ct.)
(Cite as: 2005 WL 3673662 (Fla.Cir.Ct.))

C

Only the Westlaw citation is currently available.

Florida Circuit Court, Second Judicial Circuit, Leon County.
PUBLIX SUPER MARKETS, INC, a Florida corporation, Plaintiff,

v.

TALLAHASSEANS FOR PRACTICAL LAW ENFORCEMENT, a political action Committee within the meaning of Chapter 106, Florida Statutes, Ben Fox, an individual, Chris Mulligan, an individual, and Richard Bradford, an individual, Defendants.

No. 2004 CA 1817.

Dec. 13, 2005.

Background: Operator of chain of grocery stores brought action against citizens and political action committee, seeking to establish its entitlement to exclude citizens from soliciting signatures for political petition on property owned or leased by operator.

Holding: The Second Judicial Circuit Court, Leon County, Janet E. Ferris, J., held that operator was entitled to prohibit citizens from soliciting signatures for petition on its property.
Judgment accordingly.

West Headnotes

Constitutional Law 92 ⇌ 1683

92 Constitutional Law
92XVIII Freedom of Speech, Expression, and Press
92XVIII(F) Politics and Elections
92k1683 k. Petitions in General.
Most Cited Cases

(Formerly 92k90.1(4))

Operator of chain of grocery stores, all of which were located on private property, was entitled to prohibit citizens from soliciting signatures for a petition on such property, even though operator occasionally allowed civic and educational groups to use space in or near supermarkets; citizens had constitutional right to engage in political speech only on public property, supermarket was not the functional equivalent of town center, so as to be treated like public property for free speech purposes, and granting permission to some groups to use space for purposes deemed beneficial to shoppers did not waive operator's right to exclude other groups from using space for different purposes. U.S.C.A. Const. Amend. 1, 14; West's F.S.A. Const. Art. 1, § 4.

FINAL JUDGMENT

FERRIS, J.

*1 This case was tried in a non-jury trial on November 7, 2005. After considering the materials submitted by the parties, as well as argument of counsel, and following the parties' stipulated withdrawal of Count II of the Complaint, this Court finds as follows:

The parties submitted a Joint Statement of Issues Presented and of Undisputed Facts ("Joint Statement") prior to trial. Based on that stipulation, the Court accepts, and will rely upon, the facts as they are set forth in the Joint Statement.

Publix is a Florida corporation that owns or leases grocery stores at each of the locations in Leon County listed in Exhibit A to the Joint Statement. Each supermarket is

Not Reported in So.2d, 2005 WL 3673662 (Fla.Cir.Ct.)
(Cite as: 2005 WL 3673662 (Fla.Cir.Ct.))

situated on privately owned property in Leon County. None of those supermarkets are located on property owned by a city, county, the State, or any other municipality or government entity. Publix's right to exclude and prohibit solicitation on store property, including on the sidewalks immediately adjacent to the stores and in the parking lots in front of the stores, is the same regardless of whether Publix owns or leases the particular property. For each of the leased stores identified in Exhibit A to the Joint Statement, the leases specifically grant Publix all rights otherwise possessed by the landlord to prohibit solicitation on the store property, including on the interior sidewalks immediately adjacent to the stores, and in the parking lots in front of the stores. For those properties Publix actually owns, Publix pays ad valorem taxes on such property.

Publix invites the public to enter upon its owned or leased properties for the purpose of shopping for groceries, filling prescriptions (for those stores with a pharmacy), and similar supermarket customer business. Publix also occasionally allows certain organizations to use a designated space in front of stores for civic or educational purposes. Publix' stated reasons for allowing such groups to use the designated space are: (a) to provide a benefit to Publix's customers, hopefully enhancing their shopping experience; (b) to generate additional traffic at the stores; and (c) to generate goodwill. The parties agree that Publix has a policy against third parties soliciting on Publix's property. Publix posted signs by July 2004 notifying the public that no solicitation is allowed at its stores, including on the sidewalks and in the parking lots in front of Publix's stores.

At all times relevant to this lawsuit, TPLE

was a PAC organized under the laws of the State of Florida. TPLE was attempting to place a proposed amendment to the Tallahassee Municipal Charter on the ballot in November, 2004. That proposed amendment would have required the Tallahassee Police Department and all other law enforcement authorities to make cases involving an adult's personal use of marijuana within the City of Tallahassee the "lowest law enforcement priority." At all times material to the Complaint, TPLE and each of the individual defendants were, directly or through direction of others, attempting to gather signatures from registered voters who reside in Tallahassee for its petition to amend the Tallahassee Municipal Charter. This petition form, entitled "Practical Law Enforcement Amendment for Tallahassee" is posted on a website maintained by TPLE located at http://www.signtheplea.org/index_files/plea.pdf. The individual defendants named in this lawsuit each solicited signatures from Publix's customers, or coordinated and directed others to engage in such solicitation, on private property owned or leased by Publix.

*2 On numerous occasions during June and July, 2004, defendants and others working for TPLE solicited customers' signatures on Publix's property, including on the privately owned sidewalks in the shopping center and parking lots in front of Publix's stores. During June and July 2004, Publix managers advised TPLE's workers, including the defendants, about Publix's policy prohibiting solicitation at or in front of its stores, gave the defendants copies of Publix's no-solicitation policy, and showed the no-solicitation signs to TPLE's workers, including the individual defendants. Publix's managers further asked TPLE's workers to either stop soliciting or to leave the prop-

Not Reported in So.2d, 2005 WL 3673662 (Fla.Cir.Ct.)
(Cite as: 2005 WL 3673662 (Fla.Cir.Ct.))

erty, and on numerous occasions the TPLE workers, including Fox, Bradford, and Mulligan, refused to leave and asserted that they had the right to continue soliciting signatures on Publix's private property.

Publix asserts that a number of its customers complained to store managers about being solicited to sign petitions as they entered and left the store. The customers said that they were bothered by the solicitors and did not feel safe being approached by strangers in the parking lots. The Court has considered the affidavit of Marjorie Grussing, a copy of which is attached to the Joint Statement as Exhibit G. Ms. Grussing stated in her affidavit that she was approached by persons soliciting petition signatures at Publix stores in Tallahassee on a number of occasions, including solicitations by TPLE workers on at least one occasion. She indicated that she does not like being approached by solicitors, and that it makes her feel uncomfortable and in some cases unsafe, especially when she is with her children. In her affidavit, Ms. Grussing stated that the presence of solicitors on Publix's property made Publix seem like a "less safe and comfortable place" for her to shop.

On some occasions, Publix requested that the Tallahassee Police Department and the Leon County Sheriff's office either remove TPLE workers who refused to leave when asked by a Publix manager, or to issue trespass warnings to TPLE workers. Both those law enforcement agencies informed Publix that they were uncertain of the legality of forcibly removing petition gatherers who were behaving peaceably. Both law enforcement agencies advised Publix to create a "reasonable zone" for the petition gatherers to use, and that the agencies would only remove TPLE workers if the

TPLE workers refused to remain within the reasonably designated zone.

The issue presented in this litigation is whether Publix, which invites the public onto its premises primarily for the purpose of grocery shopping, has the right to exclude persons in a non-discriminatory manner where such persons seek to use the property for purposes other than shopping. Publix contends that its right to exclude such individuals extends to activities that are characterized as political speech, including soliciting customers and other persons to sign petitions seeking some form of governmental action or, as here, seeking signatures for what Defendants claim was a "ballot initiative."

*3 The Court is sympathetic to Defendants' assertion that there are few places left for citizens to seek signatures for petitions, to hand out literature, or to generally engage in political speech. The Court also agrees that many laws in Florida specifically authorize the submission of petitions for various political purposes, and that the Florida and United States' Constitutions fully protect such activities and other forms of political speech. The Court would also prefer that businesses that attract large numbers of people would provide a "neutral" space where solicitors could at least sit at a table and obtain signatures from those customers willing to do so. That being said, the precise legal issues presented in this case mandate that Publix' solicitation policy be upheld.

Under applicable case law, the Court concludes that Publix has the right to exclude persons who seek to use its private property for purposes other than shopping, including the solicitation of signatures on political initiatives. The First Amendment to the United States Constitution and Art-

Not Reported in So.2d, 2005 WL 3673662 (Fla.Cir.Ct.)
(Cite as: 2005 WL 3673662 (Fla.Cir.Ct.))

icle I, section 4 of the Florida Constitution only protect against *governmental* infringement of an individual's right to engage in free speech or similar conduct. Because each of the Publix stores is located on privately owned properties, with that ownership held by either Publix or its landlords, the Court can find no authority to support Defendants' contention that they have a constitutional right to solicit at such properties over Publix's objection.

It is well established that there is no right under the First Amendment to the United States Constitution for a person to engage in free speech or other political activity on private property without the property owner's permission. *Lloyd Corp. v. Tanner*, 407 U.S. 551, 569, 92 S.Ct. 2219, 33 L.Ed.2d 131 (1972); *United Food & Commercial Workers' Union Local 919 v. Crystal Mall Assocs.*, 270 Conn. 261, 852 A.2d 659, 666 (Conn.2004) (citing *Lloyd* and numerous decisions from other state courts). In *Lloyd*, the Supreme Court established that the First Amendment protects against *government infringement* of a citizen's right to engage in free speech, and that such constitutional protections can not be invoked in the absence of State action. The Court said that

The basic issue in this case is whether respondents, in the exercise of asserted First Amendment rights, may distribute handbills on Lloyd's private property contrary to its wishes and contrary to policy enforced against all handbilling. *In addressing this issue, it must be remembered that the First and Fourteenth Amendments safeguard the rights of free speech and assembly by limitations on State action, not on action by the owner of private property used nondiscriminately for private purposes only....*"

Lloyd, 407 U.S. at 567 (emphasis added).

Because each of the Publix stores involved in this case is situated on privately owned property, and as there is no evidence of government control over such property, there is no State action in this case. Thus, the actions of Publix, a private owner and/or lessee of property, to prohibit the Defendants from soliciting petition signatures on Publix's property does not in any way implicate the protections afforded by the First Amendment to the United States Constitution. Defendants have no right under the First Amendment to engage in soliciting or other forms of political speech on Publix's property over Publix's objection.

*4 The United States Supreme Court has held that, notwithstanding the court's ruling in *Lloyd*, a state may provide greater protection under its state constitution for free expression on private property, so long as such protection does not conflict with any federally protected property right of the owners. See *Pruneyard Shopping Center v. Robins*, 447 U.S. 74, 81, 100 S.Ct. 2035, 64 L.Ed.2d 741 (1980). Thus, the Court must also determine the scope of the Florida Constitution's protection of free speech.

Like the First Amendment, article I, section 4 of the Florida Constitution only protects individuals' freedom of expression *against government infringement*. See *Quail Creek Property Owners Assoc., Inc. v. Hunter*, 538 So.2d 1288, 1289 (Fla. 2d DCA 1989). Furthermore, the Florida Supreme Court has held that the scope of the Florida Constitution's protection of freedom of speech is the same as that required under the First Amendment. *Department of Education v. Lewis*, 416 So.2d 455, 461 (Fla.1982). Florida courts must apply the principles of freedom of speech announced in the decisions of the United States Supreme Court. *Café Erotica v. Department*

Not Reported in So.2d, 2005 WL 3673662 (Fla.Cir.Ct.)
(Cite as: 2005 WL 3673662 (Fla.Cir.Ct.))

of Transportation, 830 So.2d 181, 183 (Fla. 1st DCA 2001)(citing *Lewis*). Thus, under *Lloyd* and the aforementioned cases, Publix has no obligation to allow persons to come onto or remain on its property to engage in free speech activity, and no constitutional right of free speech is implicated.

Although most states have resolved this issue similarly, the Court is aware of decisions from other states holding that their state constitution's protection of speech is not limited to government infringement. This Court is, however, bound to follow the Florida cases set forth above, all of which require State action to invoke the protections of Article I, section 4 of the Florida Constitution. In addition, none of the decisions adopting the minority position involved a supermarket. Instead, those few cases generally involve large regional shopping malls, and those decisions generally found something analogous to "State action" by concluding that large malls have, in some cases, become the functional equivalent of "town centers" where people gather to socialize. See *Robins v. Pruneyard Shopping Ctr.*, 23 Cal.3d 899, 153 Cal.Rptr. 854, 592 P.2d 341 (Cal.1979), *aff'd* 447 U.S. 74, 100 S.Ct. 2035, 64 L.Ed.2d 741 (1980); *Batchelder v. Allied Stores International, Inc.*, 388 Mass. 83, 445 N.E.2d 590 (1983); *New Jersey Coalition Against War In The Middle East v. JMB Realty Corp.*, 138 N.J. 326, 650 A.2d 757, 770-71 (N.J.1994). This court could not find any decisions holding that a smaller shopping center or a free standing supermarket is the functional equivalent of a "town center." Indeed, every decision reviewed by the Court involving a supermarket has held that individuals have no constitutional right to solicit, or to engage in free speech or political activity, over the

store owner's objection. See *Albertson's, Inc. v. Young*, 107 Cal.App.4th 106, 131 Cal.Rptr.2d 721 (Ct.App.2003)(distinguishing supermarket from large shopping mall); *New Jersey Coalition, supra* (holding that its conclusion that large, privately-owned shopping malls are the functional equivalent of town centers did not apply to "small to medium shopping centers"); *Walmart, Inc. v. Progressive Campaigns, Inc.*, 139 Wash.2d 623, 989 P.2d 524 (Wash.1999)(holding that right to engage in petition signature gathering at large malls under its prior *Alderwood* decision does not apply to supermarkets); *Lingelbach v. Hy-Vee, Inc.*, 84 P.3d 636 (Kan.App.2004)(holding that Kansas Constitution only protects free speech against government infringement, and further distinguishing supermarket from large mall); *People v. DiGuida*, 152 Ill.2d 104, 178 Ill.Dec. 80, 604 N.E.2d 336 (1992)(holding that State action is required to implicate Illinois Constitution's protection of free speech, and concluding that freestanding grocery store was not the functional equivalent of a public or quasi-public entity).

*5 The Court is compelled to note that Publix has historically allowed certain organizations to use space in front of its stores for civic or educational purposes. As noted above, Publix claims that its purpose of allowing such groups to use the designated space is to provide a "benefit" to Publix's customers, to generate additional traffic at the stores, and to generate goodwill. Joint Statement, ¶ 14. The case law in this areas recognizes that owners of private property have the right to allow such periodic use of their premises by civic groups without waiving or otherwise forfeiting their right to exclude other groups seeking to use the premises for political speech, so-

Not Reported in So.2d, 2005 WL 3673662 (Fla.Cir.Ct.)
(Cite as: 2005 WL 3673662 (Fla.Cir.Ct.))

liciting petition signatures, or other non-shopping purposes, and have rejected claims that the retailers were improperly discriminating based upon such action. See *Lloyd*, 407 U.S. at 555 (mall allowed some civic groups to use designated area, but could still prohibit war protestors from handing out leaflets at mall); *Woodland v. Michigan Citizens Lobby*, 423 Mich. 188, 378 N.W.2d 337, 340 n. 5 (Mich.1985)(noting that mall had established policy regulating noncommercial and political activities by groups at mall in designated area, and holding that mall owners could prohibit consumer interest group from entering various malls for purpose other than shopping); *Southcenter Joint Venture v. National Democratic Policy Committee*, 113 Wash.2d 413, 780 P.2d 1282, 1283 (1989)(noting mall maintained a policy of allowing charitable, civic and political groups to use designated "public service centers" within the mall, and holding that mall's owner could exclude political group seeking to raise funds at mall); *Charleston Joint Venture v. McPherson*, 308 S.C. 145, 417 S.E.2d 544, 548 (1992)(noting that mall owners allowed certain civic and charitable activities, such as diabetes screening, bloodmobiles, fingerprinting demonstrations and, for a fee, promotional activities such as boat and antique shows, but holding that mall owners did not improperly discriminate against persons who sought to engage in political speech at mall). The Court must therefore conclude that Publix has not improperly discriminated against the Defendants by excluding or attempting to exclude them from using its private property, while at the same time permitting civic and service organizations' access to its private property for civic purposes. The Court further concludes and holds that Publix has not, by allowing such limited use by civic

and service organizations, converted its private property into a public forum, and that Publix retains the right to exclude persons and groups who seek to use the property for purposes other than shopping. It is therefore

ORDERED AND ADJUDGED as follows:

Publix Super Markets, Inc. is entitled to exclude the Defendants from coming onto Publix's privately owned or leased properties where such persons seek to use the premises for any purpose other than shopping. Further, Defendants are not entitled under the First Amendment or the Florida Constitution to solicit signatures or engage in political speech on Publix's privately owned or leased property without Publix's permission. To the extent required, Plaintiff may seek supplemental relief to enforce its rights against Defendants, and those acting in concert with Defendants, pursuant to section 86.061, Florida Statutes (2005).

*6 DONE AND ORDERED.

Fla.Cir.Ct.,2005.

Publix Super Markets, Inc. v. Tallahasseeans for Practical Law Enforcement
Not Reported in So.2d, 2005 WL 3673662 (Fla.Cir.Ct.)

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Appendix M

AFFIDAVIT OF UNDUE BURDEN
(Section 99.097(4), Florida Statutes)

IMPORTANT: Paying signature gatherers will preclude or invalidate the filing of an undue burden oath. Section 99.097(6), Florida Statutes, provides: (a) If any person is paid to solicit signatures on a petition, an undue burden oath may not subsequently be filed in lieu of paying the fee to have signatures verified for that petition. (b) If an undue burden oath has been filed and payment is subsequently made to any person to solicit signatures on a petition, the undue burden oath is no longer valid and a fee for all signatures previously submitted to the supervisor of elections and any submitted thereafter shall be paid by the candidate, person, or organization that submitted the undue burden oath. If contributions as defined in s. 106.011 are received, any monetary contributions must first be used to reimburse the supervisor of elections for any signature verification fees that were not paid because of the filing of the undue burden oath. [Note: The second sentence in (b) applies only when payment is made to a signature gatherer after an undue burden oath had been filed.]

I certify under oath that I intend to qualify as a candidate for the office of _____ and that I am unable to pay the fee for verification of petition signatures for that office without imposing an undue burden on my personal resources or on resources otherwise available to me.

X

Signature of Candidate

Print Candidate's Name

Address

City

State

Zip

()
Telephone Number

State of Florida

County of _____

Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20____
by _____

Personally Known: _____ or

Produced Identification: _____

Type of Identification Produced:

Signature of Notary Public – State of Florida
Print, Type or Stamp Commissioned Name of
Notary Public