

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT,
IN AND FOR DUVAL COUNTY, FLORIDA

REPUBLICAN EXECUTIVE
COMMITTEE OF DUVAL
COUNTY,

Case No.: 16-2026-CA-004155
Division: CV-H

Plaintiff, Counterclaim Defendant,
v.

ADDISON LIBERTY PATRICK,
a candidate,

Defendant, Counterclaimant, Crossclaimant
v.

and JERRY HOLLAND,
in his official capacity as Supervisor
of Elections for Duval County, Florida,

Defendant, Crossclaimant Defendant,
v.

DEBORAH L. WESLEY,

Counterclaim Defendant.

**DEFENDANT/COUNTERCLAIMANT ADDISON LIBERTY PATRICK'S EMERGENCY
MOTION FOR REHEARING AND TO ALTER OR AMEND FINAL ORDER DISMISSING
COUNTERCLAIM AND CROSSCLAIM WITH PREJUDICE, AND REQUEST FOR
EXPEDITED HEARING**

Defendant, Counterclaimant, and Crossclaimant ADDISON LIBERTY PATRICK (“Patrick”), by and through undersigned counsel, pursuant to Florida Rule of Civil Procedure 1.530, respectfully moves for rehearing of the dismissal of the Defendant, Counterclaimant’s, Crossclaimant’s claims against the Plaintiff, Counter Defendants, and Crossclaimant in the Court’s July 2, 2026 Order Dismissing Amended Complaint, Counterclaim and Cross Claim with Prejudice (the “Order”). Rehearing of Patrick’s Counterclaim and Crossclaim is necessary because the Order analyzed Patrick’s independent challenge under § 99.0211, Fla. Stat., as though it arose solely under § 99.021(1)(g), Fla. Stat. Those are separate statutes with different subjects, different elements, and different scopes. In support, Patrick states:

PRELIMINARY STATEMENT

1. The Order correctly recognized that § 99.021(1)(g), Fla. Stat., is a narrow enforcement mechanism tied to the 365-day party-registration statements in § 99.021(1)(b)2 and (c)1, Fla. Stat..

2. The Counterclaim, however, pleaded a different claim under § 99.0211, Fla. Stat., a separate statute created by the Legislature in the same 2026 enactment. Section 99.0211, Fla. Stat. authorizes a candidate to challenge another candidate in the same race who will not satisfy all statutory and constitutional requirements for the office sought. Unlike § 99.021(1)(g), Fla. Stat., § 99.0211, Fla. Stat. is not limited to party-registration statements, party nominations, primary elections, or general elections.

3. The Order's dispositive premise was that “[b]oth the Complaint and the Counterclaim rely on the same newly enacted statute, Section 99.021(1)(g).” Order at 2. The record shows otherwise. The Counterclaim's opening paragraph invoked § 99.0211, Fla. Stat.; its jurisdictional allegations invoked § 99.0211, Fla. Stat.; and its sole count was expressly titled “Challenge to Wesley's Candidacy Under § 99.0211, Fla. Stat.” Counterclaim ¶¶ 4, 15-18, 41-50.

4. One introductory paragraph in the Counterclaim inadvertently referred to § 99.021(1)(g), Fla. Stat.. Counterclaim ¶ 5. That isolated cross-reference was a scrivener's error. It did not erase the operative count, the jurisdictional allegations, the statutory elements pleaded, or the relief expressly requested under § 99.0211(4), Fla. Stat.. At minimum, the isolated error was readily curable and could not make amendment futile.

5. The controversy remains live. Patrick and Deborah L. Wesley ("Wesley") are candidates in the same August 18, 2026 election. Patrick alleges that Wesley failed to satisfy Jacksonville's mandatory 183-consecutive-day residence-area qualification. Section 99.0211, Fla. Stat. expressly requires an expedited final hearing and expressly provides relief even if ballots have already been printed. Prompt adjudication therefore serves the statutory command, the candidates, the election officials, and the voters.

RELEVANT PROCEDURAL HISTORY

6. On June 30, 2026, Patrick filed her Emergency Verified Counterclaims and Crossclaims and Demand for Expedited Final Hearing. The pleading alleged that Wesley was required to have resided in, and remained a qualified elector of, the At-Large Group 1 residence area for 183 consecutive days immediately before qualifying under Jacksonville Charter § 5.04.

7. The Counterclaim alleged specific facts and attached public records concerning Wesley's claimed Group 1 apartment, her continuing connections to 235 Amber Ridge Road in At-Large Group 5, voter-registration history, property and homestead records, and comparative utility consumption. Counterclaim ¶¶ 23-40.

8. The Counterclaim expressly alleged that Patrick and Wesley are candidates in the same race and that § 99.0211(2), Fla. Stat. authorizes Patrick to challenge Wesley's compliance with the statutory qualifications for the office. *Id.* ¶¶ 16-19, 42-49.

9. On July 2, 2026, the Court entered the Order. The Court did not reach the merits of either candidate-qualification dispute. Order at 2. The Court concluded that § 99.021(1)(b) and (g), Fla. Stat. apply only to a general election or a party-nomination primary and dismissed Plaintiff's Amended Complaint with prejudice. *Id.* at 4-5.

10. The Order then dismissed Patrick's Counterclaim and Crossclaim with prejudice “[u]pon the Court's own motion,” based on the conclusion that the election was outside the scope of “that cited statute.” *Id.* at 5 & n.4. The Order did not quote, analyze, or apply § 99.0211, Fla. Stat..

STANDARD FOR REHEARING

11. A timely motion under Rule 1.530 permits a trial court to reconsider a final order and correct an error of law or a matter the court overlooked or failed to consider. *Fast Funds, Inc. v. Aventura Orthopedic Care Center*, 279 So. 3d 168, 171 (Fla. 4th DCA 2019) (recognizing that Rule 1.530 gives the trial court an opportunity to consider matters overlooked or not considered).

12. This Motion identifies a discrete and outcome-determinative oversight apparent from the pleadings and the Order: Patrick's operative claim arose under § 99.0211, Fla. Stat. not under § 99.021(1)(g), Fla. Stat..

ARGUMENT

I. THE ORDER OVERLOOKED THE SEPARATE AND INDEPENDENT CAUSE OF ACTION CREATED BY § 99.0211, FLA. STAT.

13. Chapter 2026-26, Laws of Florida, created two distinct pre-election enforcement provisions relevant here. They appear in separate statutory sections and address different qualifying requirements.

14. First, § 99.021(1)(g), Fla. Stat. makes the specific statements in § 99.021(1)(b)2. and (c)1, Fla. Stat. substantive and mandatory. Those subparagraphs concern whether a party candidate has maintained the required party registration and whether a no-party-affiliation candidate has remained unaffiliated. The paragraph states that it is the sole method to enforce those requirements like the party-registration requirements identified in that paragraph.

15. Second, the Legislature separately created § 99.0211, Fla. Stat. titled “Challenging candidacy.” Its operative provisions state:

(1) A candidate must be able to satisfy all statutory and constitutional requirements for the office for which he or she is seeking nomination or election.

(2) A candidate or a political party with a candidate in the same race, or an affiliated party committee as authorized by s. 103.092, may challenge a candidate's compliance with subsection (1) by filing an action for declaratory and injunctive relief in the circuit court for the county in which the filing officer is headquartered.

(3) A person may not be qualified as a candidate for nomination or election, and his or her name may not appear on the ballot, if, in an order that has become final, the court determines that the candidate will not, at the time of qualification, election, or assumption of office, as applicable, satisfy all statutory and constitutional requirements for the office for which he or she is seeking nomination or election.

(4) A candidate, a political party, or an affiliated party committee bringing an action for declaratory and injunctive relief under subsection (2) is entitled to an expedited final hearing.

16. Section 99.0211, Fla. Stat. thus supplies a broad, direct cause of action to test a candidate's compliance with all statutory and constitutional qualifications for office. Its text applies when a person seeks "nomination or election" and when compliance must exist at qualification, election, or assumption of office. Nothing in § 99.0211, Fla. Stat. limits the action to a statewide general election or a closed party primary.

17. The limitation found by the Court in § 99.021(1)(b)2. and (g), Fla. Stat. cannot be imported into § 99.0211, Fla. Stat.. Courts must give effect to the statutory language chosen by the Legislature and may not add a limitation the Legislature did not place in the text. *Borden v. East-European Insurance Co.*, 921 So. 2d 587, 595 (Fla. 2006); *Holly v. Auld*, 450 So. 2d 217, 219 (Fla. 1984).

18. Reading the two provisions according to their own terms gives each independent work to do. Section 99.021(1)(g) enforces the specific party-registration statements in § 99.021(1)(b)2. and (c)1. Section 99.0211 adjudicates whether a candidate will satisfy all other statutory and constitutional qualifications for the office. This reading avoids conflating the provisions and gives effect to the Legislature's decision to enact both.

19. The recently filed complaint in *Collins v. Fishback*, Case No. 2026-CA-001364 (Fla. 2d Jud. Cir.), illustrates the same distinction. There, a candidate challenges another candidate's durational-residency qualification and alleges that the candidate therefore could not truthfully execute the general Candidate's Oath. But the pleading identifies § 99.0211, Fla. Stat. not § 99.021(1)(g), Fla. Stat. as the mechanism to adjudicate the residency qualification and obtain pre-election relief. Patrick cites that filing only as a contemporaneous procedural example under the newly enacted statute, not as precedent.

20. The Court's analysis of § 99.021(1)(g), Fla. Stat. supports dismissal of Plaintiff's party-registration claim. It does not dispose of Patrick's separate residency-qualification claim under § 99.0211, Fla. Stat..

II. THE COUNTERCLAIM EXPRESSLY PLEADED AN EXISTING CLAIM UNDER § 99.0211, FLA. STAT.

21. The substance and organization of the Counterclaim leave no doubt about the statutory basis of Count I. The first paragraph after the title states that Patrick proceeds “pursuant to § 99.0211, Fla. Stat.” Counterclaim at 1.

22. The Introduction alleges that § 99.0211, Fla. Stat. expressly authorizes a candidate to challenge another candidate's compliance with statutory and constitutional qualifications for the same office and provides an expedited final hearing. *Id.* ¶ 4.

23. The jurisdictional section invokes §§ 99.0211 and 86.011, Fla. Stat., and specifically alleges that § 99.0211(2), Fla. Stat. authorizes this same-race candidate challenge in the circuit court for the county where the filing officer is headquartered. *Id.* ¶¶ 15-18.

24. The operative count is titled: “Count I—Challenge to Wesley's Candidacy Under § 99.0211, Fla. Stat.” *Id.* at 6.

25. Count I alleges each statutory component: (a) Patrick and Wesley are candidates in the same race; (b) Jacksonville Charter § 5.04 imposes a mandatory 183-consecutive-day residence-area qualification; (c) Wesley did not satisfy that qualification; and (d) § 99.0211(4) entitles Patrick to an expedited final hearing and ballot-related relief. *Id.* ¶¶ 42-50.

26. Those allegations present a concrete dispute affecting the legal composition of the August 18, 2026 ballot. The issue is not hypothetical or advisory. Qualifying has concluded, both candidates claim qualification for the same office, the alleged residency period has already elapsed, and election preparation is underway.

27. Section 99.0211(4), Fla. Stat. expressly contemplates that litigation may remain active after ballots have been printed by prescribing notices to vote-by-mail voters, early-voting locations, and polling precincts. The Legislature therefore rejected the notion that ballot printing extinguishes the controversy. The present dispute remains justiciable and capable of effective relief.

III. THE ISOLATED REFERENCE TO § 99.021(1)(g), FLA. STAT. WAS A CURABLE SCRIVENER'S ERROR, NOT A BASIS FOR DISMISSAL WITH PREJUDICE.

28. Patrick acknowledges that introductory paragraph 5 referred to § 99.021(1)(g), Fla. Stat.. That citation was inconsistent with the opening paragraph, the jurisdictional allegations, the heading and allegations of Count I, and the requested relief. The intended reference was § 99.0211, Fla. Stat..

29. Florida pleading rules reject disposition based on technical form where the pleading's substance provides fair notice. Rule 1.110(a) abolishes technical forms, and Rule 1.110(g) requires that pleadings be construed to do substantial justice. Florida courts likewise examine the substance of a pleading rather than elevate a label over the claim actually pleaded. *Patterson v. Weathers*, 476 So. 2d 1294, 1296 (Fla. 5th DCA 1985).

30. No party could reasonably have been misled about Count I. The title, statutory allegations, count heading, and prayer all identified § 99.0211, Fla. Stat.. The Counterclaim did not allege that Wesley violated the 365-day party-registration requirement. It alleged that she failed the 183-day residence-area qualification for the office.

31. Even if the Court concluded that the mistaken citation created ambiguity, the proper response was clarification or amendment, not dismissal with prejudice. Rule 1.190(a) gives a party an automatic right to amend a pleading once before a responsive pleading is served. *Boca Burger, Inc. v. Forum*, 912 So. 2d 561, 567 (Fla. 2005). The Fourth District likewise emphasizes that Florida public policy favors liberal amendment so disputes are resolved on their merits. *PWBC, LLC v. Palm Vista Homeowners Ass'n, Inc.*, 417 So. 3d 4, 9-10 (Fla. 4th DCA 2025); *Dimick v. Ray*, 774 So. 2d 830, 833 (Fla. 4th DCA 2000).

32. The Counterclaim was filed on June 30, 2026 and dismissed on July 2, 2026. No responsive pleading had been served. Patrick therefore had not abused amendment, and a one-line correction would have eliminated any possible ambiguity.

33. Amendment also was not futile. A corrected pleading would invoke the statute the Legislature expressly created for this precise category of dispute: a same-race candidate's pre-election challenge to another candidate's statutory and constitutional qualification for office. The Fourth District has repeatedly held that dismissal with prejudice should not be ordered without giving the pleader an opportunity to amend unless it is apparent that the pleading cannot be amended to state a cause of action. *Aydulun v. Cardona*, 419 So. 3d 88, 90-91 (Fla. 4th DCA 2025) (reversing dismissal with prejudice of a counterclaim after the trial court denied rehearing and afforded no opportunity to amend); *Golden v. Jones*, 194 So. 3d 1060, 1063 (Fla. 4th DCA 2016). The First District applies the same rule: leave to amend should be granted unless amendment would prejudice the opposing party, the privilege has been abused, or the pleading is clearly not amendable. *Newberry Square Florida Laundromat, LLC v. Jim's Coin Laundry & Dry Cleaners, Inc.*, 296 So. 3d 584, 589 (Fla. 1st DCA 2020). None of those circumstances exists here.

34. Accordingly, even if the Court does not immediately reinstate Count I, it should alter the Order to remove the with-prejudice adjudication and allow Patrick to file a corrected amended counterclaim on an expedited schedule.

IV. THE STATUTE AND THE PUBLIC INTEREST REQUIRE AN EXPEDITED MERITS DETERMINATION.

35. Section 99.0211(4), Fla. Stat. provides that a qualifying challenger “is entitled to an expedited final hearing” and that any appeal must receive expedited consideration. The Legislature therefore made speed part of the substantive remedial scheme, not merely a matter of convenience.

36. That command reflects longstanding Florida public policy. The Florida Supreme Court has explained that permitting an ineligible person to remain a candidate is contrary to sound public policy because an election may become a futility and because voters and campaign supporters may undertake vain and fruitless efforts. *State ex rel. Fair v. Adams*, 139 So. 2d 879, 882-84 (Fla. 1962).

37. Prompt resolution protects every participant without prejudging the merits. If Wesley satisfies the residence-area requirement, an expedited final judgment will remove uncertainty before voting. If she does not, the statutory remedy can be implemented before the election or through the notices expressly authorized by § 99.0211(4), Fla. Stat.. Delay, by contrast, increases administrative burden, voter confusion, and the risk of post-election litigation.

38. The Counterclaim alleges a factual dispute that cannot properly be resolved by treating it as a party-affiliation claim under another statute. The appropriate course is to reinstate the claim, permit narrowly tailored expedited discovery, and conduct the final hearing required by § 99.0211(4), Fla. Stat..

V. REHEARING IS ALSO WARRANTED BECAUSE THE COUNTERCLAIM WAS DISMISSED SUA SPONTE ON A GROUND NOT IDENTIFIED IN A MOTION DIRECTED TO IT.

39. The Order identifies Patrick's motion as directed to Plaintiff's Amended Complaint and states that the Counterclaim was dismissed “[u]pon the Court's own motion.” Order at 1, 5. No motion to dismiss the Counterclaim had been filed, no responsive pleading was due, and the Counterclaim had been pending for approximately one day.

40. To the extent the noticed July 1 hearing did not place Patrick on notice that the Court would treat Count I solely as a § 99.021(1)(g), Fla. Stat. claim and dismiss it with prejudice, rehearing is independently required to provide notice and a meaningful opportunity to address § 99.0211, Fla. Stat.. The Fourth District holds that due process requires notice and an opportunity to be heard before a court dismisses an action sua sponte, and that an order adjudicating an issue neither presented by the pleadings nor litigated by the parties denies fundamental due process. *Trauma & Rehab Associates v. Esurance Property & Casualty Insurance Co.*, 339 So. 3d 1004, 1005-06 (Fla. 4th DCA 2022); *Comprehensive Spine Center, PLLC v. Equity Insurance Co.*, 330 So. 3d 35, 37 (Fla. 4th DCA 2021); *Jones v. Sayer*, 313 So. 3d 126, 127-28 (Fla. 4th DCA 2021). The First District similarly prohibits

sua sponte dismissal based on a technicality not raised and litigated by the parties. *Santana v. Henry*, 12 So. 3d 843, 847-48 (Fla. 1st DCA 2009), approved, 62 So. 3d 1122 (Fla. 2011).

41. A short, expedited rehearing will cure any procedural concern and allow the parties to address the correct statute while preserving the election calendar.

VI. DISMISSAL OF THE AMENDED COMPLAINT DOES NOT REQUIRE DISMISSAL OF THE INDEPENDENT COUNTERCLAIM.

42. Patrick's § 99.0211, Fla. Stat. claim seeks independent relief against Wesley and implementation relief against the Supervisor of Elections. It does not depend on Plaintiff prevailing on its § 99.021(1)(g), Fla. Stat. claim against Patrick.

43. Florida procedure recognizes that a counterclaim capable of independent adjudication may remain pending even when the opposing party's claim is dismissed or otherwise disposed of. See Fla. R. Civ. P. 1.420(a)(2); *Our Gang, Inc. v. Commvest Securities, Inc.*, 608 So. 2d 542, 544 (Fla. 4th DCA 1992).

44. Here, the Court has subject-matter jurisdiction over the independent statutory action; Patrick alleges statutory standing as a same-race candidate; the filing officer is headquartered in Duval County; and the requested final relief can be adjudicated without reviving Plaintiff's dismissed claim.

45. The Crossclaim against the Supervisor likewise exists to implement any final judgment under § 99.0211(4), Fla. Stat.. Reinstating it permits complete and effective relief in the same expedited proceeding.

CONCLUSION AND REQUESTED RELIEF

The Court's ruling on Plaintiff's § 99.021(1)(g), Fla. Stat. claim and Patrick's § 99.0211, Fla. Stat. claim need not rise or fall together. The former concerns party-registration statements in a particular statutory setting. The latter concerns whether a same-race candidate satisfies a mandatory residence-area qualification for office. Because the Order did not analyze the separate statute governing Patrick's operative count, rehearing should be granted.

WHEREFORE, Defendant/Counterclaimant Addison Liberty Patrick respectfully requests that the Court:

- A. Grant this Emergency Motion for Rehearing and to Alter or Amend Final Order;
- B. Vacate the portion of the July 2, 2026 Order dismissing Patrick's Counterclaim and Crossclaim with prejudice;
- C. Reinstate Count I under § 99.0211, Fla. Stat., together with the related implementation claim against the Supervisor of Elections;
- E. Set an immediate case-management conference and an expedited final hearing as required by § 99.0211(4), Fla. Stat.;
- F. Authorize narrowly tailored expedited discovery concerning Wesley's residence and qualified-electors status during the relevant 183-day period;
- H. Alternatively, alter the Order to dismiss the Counterclaim without prejudice and permit Patrick to file a corrected amended counterclaim and crossclaim immediately;
- I. Retain jurisdiction to enforce any election-related judgment and statutory notices; and
- J. Grant such further relief as the Court deems just, equitable, and necessary to protect the election calendar and the public interest.

Date Submitted: July 6, 2026.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6 day of July 2026, a true and correct copy of the foregoing was filed through the Florida Courts E-Filing Portal and served through the Portal upon all counsel and parties of record.

/s/ Michael C. Minardi, Esq.
Michael C. Minardi., Esq.