

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

MICHAEL C. VOELTZ,

Plaintiff,

v.

Case No.: 2012 CA 03857

BARACK HUSSEIN OBAMA, Winner
of the 2012 Florida General Election,
KEN DETZNER, Secretary of State of Florida,
and FLORIDA ELECTIONS CANVASSING
COMMISSION,

Defendants.

**THE SECRETARY AND CANVASSING COMMISSION'S
ALTERNATIVE ANSWER TO COMPLAINT
CONTESTING ELECTION OF BARACK HUSSEIN OBAMA**

Defendants, Florida Secretary of State Kenneth W. Detzner (“Secretary”) and Florida Elections Canvassing Commission (“Canvassing Commission”), moved to dismiss Plaintiff’s Complaint Contesting Election of Barack Hussein Obama for lack of jurisdiction and failure to state a cause of action. In abundance of caution and pursuant to section 102.168(6), Florida Statutes, the Secretary and Canvassing Commission answer the Complaint as follows:

1. As to the first sentence, admitted that Plaintiff brings an election contest; denied that he is entitled to such relief. As to the second sentence, admitted that the Constitution speaks for itself; otherwise denied.
2. Admitted the statutes speak for themselves; otherwise denied.
3. As to the first sentence, without knowledge as to whether Plaintiff is a taxpayer and therefore denied; denied that the presidential preference primary held on January 31, 2012 “select[ed] a national Democratic Party candidate for President;” and denied that the general

election held on November 6, 2012 “elect[ed] the President of the United States;” otherwise admitted. As to the second sentence, admitted that Plaintiff has taken the oath, which speaks for itself.

4. Admitted that Barack Hussein Obama is the current President of the United States, but is not sued in that capacity; otherwise without knowledge and therefore denied.

5. Admitted that the Secretary is the Secretary of State, the chief election officer of the state and that he has taken the oath, which speaks for itself; otherwise denied.

6. Admitted that the Canvassing Commission certifies the returns of elections for each state office and makes certificates of the result of those elections; otherwise denied.

7. Admitted that Plaintiff has taken the oath, which speaks for itself; otherwise denied.

8. Admitted that the Constitution speaks for itself; otherwise denied.

9. Admitted that Plaintiff makes the assertion, but without knowledge as to whether the assertion is true or not and therefore denied.

10. Admitted that the Act speaks for itself; otherwise without knowledge and therefore denied.

11. Denied.

12. As to the first sentence, denied. As to the second sentence, without knowledge and therefore denied.

13. Denied that Plaintiff has any such duty; otherwise without knowledge and therefore denied.

14. Admitted that the cases and Constitution speak for themselves; otherwise denied.

15. Admitted that the book, cases, Constitution and statute speak for themselves; otherwise denied.

16. Admitted that the book speaks for itself; otherwise denied.
17. Admitted that the book and cases speak for themselves; otherwise denied.
18. As to the first sentence, admitted that the statute speaks for itself; otherwise denied. As to the second sentence, admitted that the presidential electors pledged to Mr. Obama were appointed at the November 6 general election; otherwise denied. As to the third sentence, denied.
19. Admitted that the case speaks for itself; otherwise denied.
20. Admitted that the Constitution speaks for itself; otherwise denied.
21. Admitted that the cases and statute speak for themselves; otherwise denied.
22. Admitted that the statute speaks for itself; otherwise denied.
23. Admitted that the Canvassing Commission certified the returns of the November 6, 2012 general election; otherwise denied.
24. The Secretary and Commission re-allege all responses in paragraphs 1-23 as if fully stated herein.
25. Denied.
26. Without knowledge and therefore denied.
27. Admitted that Plaintiff brings an election contest; denied that he is entitled to such relief.

FIRST AFFIRMATIVE DEFENSE

The Court lacks jurisdiction.

SECOND AFFIRMATIVE DEFENSE

Plaintiff fails to state a cause of action.

Respectfully submitted,

/s/ Ashley E. Davis

Ashley E. Davis
Assistant General Counsel
Florida Bar No. 48032
Florida Department of State
R. A. Gray Building
500 South Bronough Street
Tallahassee, FL 32399-0250
(850) 245-6536
(850) 245-6127 facsimile

*Counsel for Kenneth W. Detzner
Secretary of State and the Florida
Elections Canvassing Commission*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by email this

10th day of December, 2012 to the following:

Mark Herron
mherron@lawfla.com
Joseph Brennan Donnelly
bdonnelly@lawfla.com
Robert J. Telfer, III
rtelfer@lawfla.com

Stephan F. Rosenthal
srosenthal@podhurst.com

Richard B. Rosenthal
rbr@rosenthalappeals.com

Counsel for Defendant Barack Obama

Larry Klayman, Esq.
leklayman@gmail.com

Counsel for Plaintiff Michael Voeltz

/s/ Ashley E. Davis
Attorney