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IN THE SUPREME COURT OF FLORIDA

MARGARET "MAGGIE" WAGNER,
and
MARCELLE "MARCIE" ADKINS,

Petitioners,

v. CASE NO.:

RON DESANTIS, in his official capacity as the Governor of Florida, CORD BYRD, in his official capacity as Florida's Secretary of State and Florida's Chief Elections Officer, MARIA MATTHEWS, in her official capacity as Director of the Florida Department of State's Division of Elections; and TIM BOBANIC, in his official capacity as Supervisor of Elections for Brevard County, Florida,

Respondents.
_________________________________/

EMERGENCY PETITION FOR WRIT OF QUO WARRANTO AND INCORPORATED MOTION FOR STAY AND WRIT OF MANDAMUS, OR ALTERNATIVE MOTION FOR DECLARATORY JUDGMENT

(REQUESTING STAY BEFORE 4-24-26 AT 12:00PM)

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NATURE OF RELIEF SOUGHT

Petitioners seek quo warranto relief because the public right at issue includes the right to have the Governor exercise his powers in a constitutional manner and not in a manner that circumvents the electorate's opportunity to select officials by election where the elective process is reasonably available. *Whiley v. Scott*, 79 So. 3d 702 (Fla. 2011). Incorporated is a motion to stay the qualifying period and appointment process and, should this Court find in Candidate Wagner's favor, a mandamus action seeking to allow her to be placed on the ballot. Alternatively, Petitioners seek a declaratory judgment that the election cancellation process employed herein violates the Florida and Federal Constitutions.

JURISDICTION

This Court has original jurisdiction pursuant to Article V, Section 3(b)(8) of the Florida Constitution, which provides that the Supreme Court "may issue writs of mandamus and quo warranto to state officers and state agencies." *See also* Fla. R. App. P. 9.030(a)(3). Respondents are state officers within the meaning of Article V, Section 3(b)(8). *See Florida House of Representatives v. Crist*, 999 So. 2d 601 (Fla. 2008).

EMERGENCY RELIEF REQUESTED

A writ of quo warranto is proper to challenge a public officer's attempt to exercise a right or privilege derived from the State. *State ex rel. Bruce v. Kiesling*, 632 So. 2d 601, 603 (Fla. 1994). The importance and immediacy of the issue justify this Court's exercise of original jurisdiction. *See Crist*, 999 So. 2d at 607. The qualifying period for the judicial election at issue closes at noon on Friday, April 24, 2026. There is no adequate alternative remedy given this timeline.

STATEMENT OF CASE AND FACTS

Judge Benjamin B. Garagozlo is a County Court Judge for the Brevard County Court in the Eighteenth Judicial Circuit. His current term is scheduled to expire on January 5, 2027. In accordance with Article V, section 10(b) of the Florida Constitution, a judicial election was scheduled to fill his seat - designated as Brevard County Court Judge, Group 8 - upon the expiration of that term. Candidate Margaret Wagner, along with at least one other qualified candidate, had been actively campaigning for nearly a year and submitted prequalifying paperwork during the statutory prequalifying period

that opened on April 6, 2026, pursuant to section 99.061(8), Florida Statutes. (App. D, E.)

<u>The Governor's Office Directive Concerning Judicial Retirement Letters</u>

On August 20, 2025, the Office of the State Courts Administrator ("OSCA") emailed all trial court chief judges and district court of appeal chief judges, with copies to trial court administrators and DCA marshals. The subject of the email was, "Sending Notice of Judicial Resignation or Retirement to the Governor's Office." The email stated that the Governor's Office had requested that OSCA provide updated contact information for notifications of judicial resignations or retirements and advised that staff in the Governor's Office recommended emailing copies of resignation or retirement letters directly to the Executive Office of the Governor's Office of Judicial Appointments. The directive instructed chief judges to share this information with judges in their respective circuits and districts. (App. G.)

On April 6, 2026 - the same date that the statutory pre-qualifying period opened for the 2026 judicial election cycle - OSCA issued an updated email with revised staff contact information.

This updated directive again instructed that copies of judicial resignation or retirement letters be emailed directly to Ms. Taylor Gustafson, Director of Judicial Appointments with the Governor's Office, explaining that the purpose was to "streamline the appointment process and increase efficiency." (App. H.) Together these directives established an administrative process by which judicial retirement paperwork would be promptly transmitted to the Governor's Office.

That same afternoon, Chief Judge Melanie Chase of the Eighteenth Judicial Circuit forwarded the April 6th directive to circuit personnel staff, inquiring whether copies of retiring judges' resignation letters were available and asking whether such letters should be requested if not already on file. (App. I.) Thirteen minutes later, the directive was forwarded directly to retiring the judges themselves, including Judge Garagozlo, with an explanation that copies of retirement or resignation letters were being requested both in response to the Governor's Office directive and for routine payroll and retirement paperwork required by OSCA. (App. J.) This email chain demonstrates that the Governor's Office directive, issued on the opening day of the pre-qualifying period, was disseminated within

hours from OSCA to the Chief Judge, to circuit administrative staff, and directly to retiring judges, creating a direct administrative pipeline for transmission of retirement paperwork to the Governor's Office.

Judge Garagozlo's Retirement Letter

Nine days after the April 6th administrative request for copies of retirement paperwork, Judge Garagozlo submitted a letter dated April 15, 2026, addressed to Chief Justice Carlos G. Muniz of the Florida Supreme Court, providing notice of his intent to *retire* from the bench effective December 31, 2026. The letter was copied only to the Honorable Melanie Chase, Chief Judge of the Eighteenth Judicial Circuit. It was not addressed to, submitted to, or copied to Governor Ron DeSantis, his Director of Judicial Appointments, or any member of the Governor's staff. (App. A.)

Judge Garagozlo's letter does not use the word "resign" or "resignation" at any point. Instead, it states: "Please accept my notice to retire from the bench effective December 31, 2026." Judge Garagozlo's term does not expire until January 5, 2027. By selecting a retirement date of December 31, 2026, Judge Garagozlo was ending his service just five calendar days early, but only one business day

(January 4, 2027) early due to holidays. Judges routinely select end-of-month retirement dates because retiring even one day into the following month can delay retirement and Social Security benefit payments by an entire month. (App. M.)

Therefore, it appears that Judge Garagozlo submitted his retirement letter to the Court and not the Governor in response to the April 6th administrative request for routine retirement paperwork, understanding it to be a standard personnel matter and not an act that would be treated as a resignation, trigger a gubernatorial appointment, or cancel a scheduled judicial election. It is believed that the retirement letter was transmitted to the Governor's Office by administrative staff as part of this routine process, without Judge Garagozlo's knowledge or intent that it be used for any purpose other than retirement administration.

According to Michelle Kennedy, Public Information Officer and Administrative Services Manager for the Eighteenth Judicial Circuit, and the official spokesperson for the court's administration, Judge Garagozlo did not intend for his retirement letter to initiate a judicial appointment process or cancel the scheduled election. In an email dated April 23, 2026, sent in her official capacity to Petitioner

Wagner, Ms. Kennedy stated that she "personally spoke to Judge Garagozlo, and he was shocked to learn that his letter somehow initiated the judicial appointment process. He assured me that this was never his intention." Ms. Kennedy further stated: "Judge Garagozlo did not resign from office, he wrote a letter notifying the Chief Judge and Chief Justice of his intent to retire, effective December 31. Many judges have used the last day of the year as their retirement date without initiating the gubernatorial appointment process." Ms. Kennedy added that "Judge Garagozlo sees this as a black mark on his good name, as many people who do not know him or the circumstances will believe he acted intentionally to keep the judicial vacancy from going on the ballot. This was certainly not his intention." (App. M.) Judge Garagozlo has not submitted a sworn affidavit in this proceeding likely because, as a sitting judge, providing testimony in a matter that directly affects whether his seat is filled by election or appointment could implicate the prohibitions on political activity set forth in Canon 7 of the Florida Code of Judicial Conduct.

The Governor’s Recharacterization and Acceptance

On the morning of April 17, 2026, at 9:27 a.m., April L. Copp, Chief of Personnel Services for the Eighteenth Judicial Circuit, emailed Judge Garagozlo's retirement letter directly to three officials in the Governor's Office: Taylor Gustafson, Director of Judicial Appointments (taylor.gustafson@eog.myflorida.com); David Axelman, General Counsel (david.axelman@eog.myflorida.com); and Jake Whealdon, Deputy General Counsel (jake.whealdon@eog.myflorida.com). The subject line of Copp's email read; "Please find attached, the Honorable Benjamin Garagozlo's Retirement Letter." The email stated; "Please confirm receipt. Thank you." Judge Garagozlo was not copied on this email and it appears he was not aware that his retirement letter was being transmitted to the Governor's Office. (App. N.)

Later that same day, Governor Ron DeSantis sent a letter to Judge Garagozlo stating; "I accept your resignation as Judge of the Brevard County Court." (App. B.) The Governor's letter recharacterized Judge Garagozlo's retirement notice as a "resignation," even though the Governor's own staff received a document that the sender herself labeled a "retirement” letter. The

Governor's Office did not contact Judge Garagozlo to confirm whether he intended to resign, to clarify the nature of his letter, or to afford him any opportunity to withdraw it before it was used to cancel a scheduled election. (App. M.)

The Governor's acceptance letter was dated Friday, April 17, 2026, the last day of the prequalifying period. The formal qualifying period for the 2026 judicial election was scheduled to commence at noon on Monday, April 20, 2026.

Cancellation of the Judicial Election

Also on April 17, 2026, at approximately 4:00 p.m., Respondent Tim Bobanic, the Brevard County Supervisor of Elections, notified Candidate Wagner by telephone that Judge Garagozlo had submitted to the Governor a letter of resignation with an effective date of December 31, 2026. Later that evening, Supervisor Bobanic sent a written letter stating the same. (App. C.) Arguably, these statements are incorrect because Judge Garagozlo's letter was submitted to Chief Justice Muniz, not to the Governor, and expressed an intent to retire, not to resign.

Supervisor Bobanic further informed Candidate Wagner that her name had been removed from the candidate listing, that the

judicial seat was “no longer up for election during the 2026 election cycle,” and that the Governor would fill the purported vacancy by appointment pursuant to Article V, section 11(b) of the Florida Constitution. Candidate Wagner and other candidates were notified of the cancellation of the election between approximately 4:00 and 4:30 p.m. on Friday, April 17, 2026 - approximately thirty minutes before the close of business on the last business day before the qualifying period began.

Impact on Candidates and Voters

The qualifying period for the 2026 Brevard County Court judicial election (Group 8) commenced at noon on Monday, April 20, 2026, and remains open until noon on Friday, April 24, 2026.

Candidate Margaret Wagner is a qualified candidate who had taken affirmative steps to qualify for the Brevard County Court Judge, Group 8 seat in the 2026 election cycle.

Prior to the start of the prequalifying process, Candidate Wagner, along with other qualified candidates, had been actively building their campaigns in anticipation to run in the election for Judge Garagozlo’s judicial seat.

On May 23, 2025, almost one year prior to the election, Candidate Wagner filed Statement of Candidate (§ 106.023, Fla. Stat.), Statement of Candidate for Judicial Office (§ 105.031(5), Fla. Stat.), and Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates (§ 106.021(1), Fla. Stat.) with the Supervisor of Elections Brevard County indicating her intent to run in the election for Brevard County Judge – Group 8. (App. D.)

Candidate Wagner attempted to qualify for that seat by petitions and by March 13, 2026, had submitted 1,856 signed petitions to the Supervisor of Elections, 1,534 of which were verified and deemed valid by the Supervisor of Elections. (App. E.)

Pursuant to Section 99.061(8), Florida Statutes, candidates were permitted to submit qualifying documents beginning on April 6, 2026, two weeks before the start of the formal qualifying period. Candidate Wagner and at least one other candidate had submitted prequalifying paperwork necessary to run for Brevard County Court Judge, Group 8 to the Supervisor of Elections Office, including Candidate Oath Judicial Office (DS-DE 303 JU Rev 4/2026), prior to the close of prequalifying on April 17, 2026, as authorized by statute. (App. F.)

On April 23, 2026, during the formal qualifying period, Petitioner Wagner personally appeared at the Brevard County Supervisor of Elections Office and attempted to submit her qualifying fee of $7,590.20 for Brevard County Court Judge, Group 8. The Supervisor of Elections Office refused to accept her payment on the basis that the seat was no longer up for election and was being filled by gubernatorial appointment. Candidate Wagner met with Debra Strasser, Candidate Coordinator for the Supervisor of Elections, who informed her that she had received an email from Erica Reeve of the Florida Division of Elections (Erica.Reeve@dos.fl.gov) at 3:52 p.m. on April 23, 2026, stating that the Supervisor of Elections could accept Wagner's documents but that "the seat is no longer up for election." Ms. Strasser indicated she would hold Wagner's paperwork until the qualifying period closes at noon on April 24, 2026. (App. K & P.) This refusal occurred during the open qualifying period, which does not close until noon on April 24, 2026. Petitioner Wagner was ready, willing, and financially able to complete the qualifying process but was prevented from doing so by Respondent Bobanic's decision to cancel the election based on the Governor's recharacterization of Judge Garagozlo's retirement letter.

As of the date of this filing, Judge Garagozlo continues to serve on the bench and will do so for approximately eight more months, until his stated retirement date of December 31, 2026. No actual vacancy currently exists in the judicial office. Nonetheless, by obtaining Judge Garagozlo's retirement letter through administrative channels and unilaterally recharacterizing it as a resignation, not a retirement, mere business hours before the qualifying period opened, the Governor manufactured a constitutional vacancy that foreclosed the scheduled election and converted the seat from one filled by election of the voters to one filled by gubernatorial appointment.

As a result, Respondent Bobanic cancelled the judicial election for Brevard County Court Judge, Group 8, removed Candidate Wagner and all other candidates from the ballot, deprived Candidate Wagner of her right to run for elected judicial office, and deprived the voters of Brevard County - including Voter Marcelle "Marcie" Adkins - of their constitutional right to elect their county court judge as guaranteed by Article V, section 10(b) of the Florida Constitution.

If the vacancy is filled by gubernatorial appointment rather than election, the voters of Brevard County, including Voter Adkins, will

be deprived of their constitutional right to elect their county court judge.

If the vacancy is filled by gubernatorial appointment rather than election, Candidate Wagner and all other candidates who had submitted or intended to submit qualifying paperwork will be deprived of their opportunity to run for judicial office after investing substantial time, effort, and resources in their campaigns.

STANDING

A. Candidate Margaret "Maggie" Wagner

Candidate Margaret "Maggie" Wagner is a Florida resident and a prospective candidate for the judicial office at issue whose candidacy was eliminated by the Governor's actions. Although candidacy is not a freestanding fundamental right, restrictions on access to the ballot implicate the First and Fourteenth Amendments and must be justified by legitimate governmental interests. *Anderson v. Celebrezze*, 460 U.S. 780, 786–88 (1983); *Bullock v. Carter*, 405 U.S. 134, 142–43 (1972). The rights of candidates and voters are inseparable; restrictions on one necessarily burden the other. *Bullock*, 405 U.S. at 143.

The Florida Constitution reinforces these protections. Article I, section 1 provides that all political power is inherent in the people, and Article I, section 2 guarantees equal civil and political rights. Florida statutory law likewise protects the right to candidacy, declaring that nothing in the election code "shall be construed so as to prevent any person from becoming a candidate for and actively campaigning for any elective office in this state." § 104.31, Fla. Stat.

Candidate Wagner took concrete steps in reliance on the scheduled election. She designated a campaign treasurer, opened a campaign account, invested substantial time and resources in her campaign for nearly a year, and submitted prequalifying paperwork during the statutory prequalifying period pursuant to section 99.061(8), Florida Statutes. She did so in reliance on the constitutionally required election for Brevard County Court Judge, Group 8. *See* Art. V, § 10(b), Fla. Const.

The Governor's actions did not merely regulate ballot access; they extinguished Candidate Wagner's candidacy entirely by cancelling the election. There is no filing fee dispute, signature threshold, or ballot-access condition at issue. The office was simply declared "no longer up for election" and converted to an appointed

seat through the unilateral recharacterization of a retirement letter that was never addressed or tendered to the Governor.

The deprivation was compounded by the manner in which it occurred. Candidate Wagner was notified at approximately 4:00 p.m. on Friday, April 17, 2026 - the last business day before qualifying opened - that her name had been removed from the candidate listing and that the election had been cancelled. She received no notice, no opportunity to be heard, and no due process of any kind. The Governor acted unilaterally, and the Supervisor of Elections implemented the decision without independent inquiry.

Article I, section 9 of the Florida Constitution, guarantees that no person shall be deprived of liberty or property without due process of law. Candidate Wagner has a protected liberty interest in her candidacy and a property interest in the campaign resources she invested in reliance on the scheduled election. Both were taken without notice, hearing, or judicial determination. The Governor did not seek an advisory opinion from this Court, as has been done in prior cases involving disputed judicial vacancies.

The injury is irreparable. The qualifying period closes at noon on April 24, 2026. Absent immediate relief, Candidate Wagner's

opportunity to seek judicial office in the 2026 election cycle will be permanently lost. No monetary damages or future election can restore that lost opportunity. This Court should therefore hold that the Governor's actions unlawfully deprived Candidate Wagner of her right to seek judicial office in an election that Article V, section 10(b) requires and that the Florida and United States Constitutions protect.

B. Voter Marcelle "Marcie" Adkins

Voter Marcelle "Marcie" Adkins is a Florida citizen, taxpayer, and longstanding Brevard County voter who has been disenfranchised by the Governor's actions, which deprived her of the opportunity to vote in the judicial election that would otherwise have occurred. *See Trotti v. Scott*, 271 So. 3d 904 (Fla. 2018) (Lewis, J., dissenting).

Article V, section 10(b) of the Florida Constitution, provides that the election of county court judges "shall be preserved" and that such judges shall be elected by the qualified electors within the court's jurisdiction. This right belongs to the voters, not the Governor, and was reaffirmed by a statewide referendum. In 2000, voters in every judicial circuit and county in Florida, including Brevard County,

voted to retain the election of trial court judges rather than adopt merit selection. This Court has held that conflicts between the appointment and election provisions must be resolved in favor of "the clear will of the voters that circuit and county judges be selected by election." *Advisory Op. to the Governor re Appointment or Election of Judges*, 824 So. 2d 132, (Fla. 2002).

Article I, section 1 of the Florida Constitution, declares that all political power is inherent in the people, and the right to vote for county court judges is among those protected political rights. The United States Supreme Court has likewise recognized that restrictions on the electoral process injures voters and candidates alike. *Bullock v. Carter*, 405 U.S. 134, 143 (1972).

Voter Adkins, a voter registered in Brevard County since 1996, was prepared to exercise her right to vote in the 2026 election for Brevard County Court Judge, Group 8. (App. L.) That election was cancelled. The injury is concrete, particularized, and irreparable; no monetary damages can remedy the loss of the right to vote.

By unilaterally recharacterizing a retirement letter as a resignation and accepting it days before qualifying opened, the Governor nullified the voters' constitutional rights and converted an

elective office into an appointed one. This is precisely the outcome Article V, section 10(b) was designed to prevent. The appointment mechanism of Article V, section 11(b) exists to fill vacancies only when the election process is unavailable, not to supplant an election that is available and already underway. *Spector v. Glisson*, 305 So. 2d 777 (Fla. 1974).

ARGUMENT AND AUTHORITY

Here, the Governor's cancellation of the judicial election and substitution of appointment authority represents a structural constitutional violation that exceeds the limited authority granted under Article V, Section 11, disrupts the constitutional preference for elections, and extinguishes both candidacy and voting rights protected under the Florida and United States Constitutions. The governing provisions, when read together and in light of controlling precedent, do not permit such an outcome.

I. THE GOVERNOR'S APPOINTMENT POWER IS CONDITIONED ON THE EXISTENCE OF A TRUE VACANCY AND CANNOT BE USED TO SUPPLANT AN AVAILABLE ELECTION

Article V, Section 11(b) authorizes appointment only "[w]henever a vacancy *occurs*." Art. I, § 11, Fla. Const. (Emphasis

added.) This language imposes a condition precedent and does not confer independent authority to create or manipulate vacancies. The Governor's authority is reactive, not generative. This Court's decision in *Spector v. Glisson*, 305 So. 2d 777 (Fla. 1974), remains the controlling constitutional framework. There, the Court held:

> "If the elective process is available, and if it is not expressly precluded by the applicable language, it should be utilized to fill any available office by vote of the people at the earliest possible date." *Id.* at 782.

The Court further emphasized that, "Interim appointments need only be resorted to when there is no earlier, reasonably intervening election process available." *Id.* at 784. These statements establish a substantive rule: the availability of an election controls over formalistic vacancy timing. The Governor's position in this case reverses that hierarchy.

II. THE CONSTITUTIONAL PREFERENCE FOR ELECTIONS MUST PREVAIL

The First District's decision in *Trotti v. Detzner*, 147 So. 3d 641 (Fla. 1st DCA 2014) (*Trotti I*) extended this framework by focusing on the timing of acceptance rather than the constitutional purpose.

This Court declined to review *Trotti I*. However, members of this Court have already recognized the constitutional infirmity of the *Trotti I* approach. Justice Pariente explained:

> "Clearly there is a problem with the current constitutional provision as interpreted when the decision of whether a judicial vacancy is to be filled by general election or gubernatorial appointment rests solely with actions of the retiring judge, rather than with the clear directive of the Constitution." *Trotti v. Scott*, 271 So. 3d 904, 905-06 (Fla. 2018) (Pariente, J., dissenting).

Those concerns are magnified here, where it appears the Governor - not the judge – may have taken advantage of an unclear retirement letter that was not intended for the Governor's review.

III. PRIOR CASE LAW HAS NOT ANALYZED THE CONSTITUTIONAL IMPACT TO CANDIDATES AND VOTERS

Prior decisions have not meaningfully analyzed the constitutional impact on candidates and voters and are therefore not directly on point. The facts and procedural postures of those cases differ materially from those presented here.

This Court has held that when a vacancy occurs before the commencement of the qualifying period, the vacancy must be filled by gubernatorial appointment. *See Advisory Op. to the Gov. re Sheriff & Judicial Vacancies Due to Resignations*, 928 So. 2d 1218, 1220–21

(Fla. 2006). Conversely, when a vacancy occurs after the election process has begun, the office must be filled by election. *See Advisory Op. to the Gov. re Judicial Vacancy Due to Resignation*, 42 So. 3d 795, 797 (Fla. 2010).

Despite this ostensibly election-protective framework, the jurisprudence governing when a vacancy "occurs" has evolved into a circular doctrine - one that begins with the constitutional preference for elections but ultimately operates to defeat them. The most recent cases trace back to *Spector* yet warp its meaning and intent by using its language to deny elections, rather than to have elections.

In 2018, this Court, in *Trotti v. Scott*, 271 So. 3d 904 (Fla. 2018), declined to review the First District Court of Appeals case of *Scott v. Trotti*, 283 So. 3d 340 (Fla. 1st DCA 2018) (*Trotti II*). In *Trotti II*, Mr. Trotti filed a combined action for declaratory and injunctive relief in circuit court seeking to prevent the Governor from filling a judicial vacancy by appointment. The First District reversed the circuit court's grant of injunctive relief, holding that Mr. Trotti could not demonstrate a substantial likelihood of success on the merits because the same court's earlier decision in *Trotti v. Detzner*, 147 So. 3d 641 (Fla. 1st DCA 2014) (*Trotti I*), constituted binding precedent.

Though this Court disposed of *Trotti II* by per curiam order, three justices wrote separate dissents questioning the constitutionality of a procedure that allowed a prospective resignation by a judge to cancel an election.

In the 2014 case of *Trotti I,* the First District framed "the salient question" as "when the vacancy occurred in relation to the election process." *Trotti I,* 147 So. 3d at 644. Because the action was brought as a petition for writ of mandamus, relief was denied on the ground that there was "no clear right to qualify as a candidate for a seat that is required to be filled by gubernatorial appointment." *Id.* at 645. The court concluded that the vacancy occurred when the Governor accepted the judge's prospective resignation, which occurred before the qualifying period opened and cancelled the election.

Trotti I's conclusion rested on *In re Advisory Opinion to the Governor (Judicial Vacancies)*, 600 So. 2d 460, 462 (Fla. 1992), which stated that "[w]hen a letter of resignation to be effective at a later date is received and accepted [by the Governor], a vacancy in that office occurs and actuates the process to fill it."

Both *Trotti I* and *In re Advisory Opinion to the Governor (Judicial Vacancies)*, relied on *Spector v. Glisson*, 305 So. 2d 777 (Fla. 1974), which held that a vacancy occurred when a judge tendered a resignation effective at a future date - yet *Spector* nevertheless required that the office be filled by election, consistent with Florida's constitutional preference for elections.

Although *Trotti I* cited *Spector*, it distinguished it to justify cancelling an election reasoning that *Spector* was limited to circumstances in which a judge resigns effective at a future date and no interim vacancy would exist between the effective resignation date and the start of the new term. For this proposition, *Trotti I* cited *Pincket v. Harris,* 765 So. 2d 284 (Fla. 1st DCA 2000).

In doing so *Trotti I* overlooked the portions of *Pincket* that acknowledged *Spector's* finding that, absent clear provisions otherwise, vacancies should always be resolved in favor of retention in the people of the power and opportunity to select officials of the people's choice, and that the law favors an election over appointment if reasonably possible. *Pincket*, 765 So. 2d at 286.

Additionally, *Trotti I* ignored that the question posed in *In re Advisory Opinion to the Governor (Judicial Vacancies)*, *supra,* which

was whether the governor could appoint a new judge or whether a special election had to be held prior to the next election to fill a vacancy that otherwise would be open for five months from August to January.

Trotti I also conveniently overlooked the citation of *Judicial Nominating Commission, Ninth Circuit v. Graham*, 424 So. 2d 10 (Fla. 1982), which held that the Constitution mandates an election when sufficient time affords the electorate the opportunity to fill a judicial vacancy. *In re Advisory Opinion to the Governor (Judicial Vacancies)*, 600 So. 2d at 463.

When *Trotti I* was presented to this Court for review, no opinion was issued. It is therefore unclear whether review was declined because this Court agreed with the First District's analysis or because it agreed mandamus was an improper procedural vehicle.

There is, however, strong indication that the latter explanation is correct. In *Pincket v. Detzner*, No. SC16-768, 2016 Fla. LEXIS 1167 (Fla. 2016) (unpublished), this Court denied mandamus relief, with Justices Pariente and Lewis concurring only because the claim was brought in mandamus and no clearly established right could be shown in light of *Trotti I*. However, Justice Pariente's made it explicit

that she did not agree with the First District's constitutional analysis in *Trotti I*, writing that she did "not agree that the decision of the First District Court of Appeal is faithful to the true purpose of the Florida Constitution and the voters' preference for election of their circuit and county judges." *Id.* at 1–2. She further explained that, if the case were before the Court on the merits and not constrained by the narrow scope of mandamus relief, she would adopt Judge Padovano's dissent in *Trotti I* as "most consistent with the intent of our Constitution and our citizens." *Id.* at 2. Justice Lewis similarly wrote that, "if I were here writing on a clean slate, I would apply *Spector v. Glisson* … I believe that *Spector* more closely adheres to the letter and spirit of our Constitution." *Id.* at 6. He concluded by warning that it was "truly a sad day for Floridians when their trial court judges may manipulate the electoral process and prioritize their personal preferences over those espoused in the very Constitution that they swore to defend." *Id.* at 7.

Despite these warnings, the Court's stated goal in *Spector* - to preserve the constitutional right to an election - has been frustrated by *Trotti I* and its progeny. This Court is not bound by *Trotti I*, and it now has the opportunity to correct a doctrinal path that is being used

to thwart candidates and disenfranchise voters. Although this Court declined review in *Trotti I* and *Trotti II*, those cases involved materially different facts and were constrained by procedural vehicles ill-suited to resolving the constitutional question presented here. Petitioners do not seek only mandamus or injunctive relief. They seek quo warranto relief, directly challenging the Governor's authority to convert Judge Garagozlo's retirement into a resignation and to employ a methodology based on ill-reasoned case law to cancel a constitutionally required election - an action that has unlawfully deprived both Candidate Wagner and Voter Adkins of their rights under the Florida Constitution.

IV. A RETIREMENT IS NOT A RESIGNATION UNDER ARTICLE X, SECTION 3

Article X, Section 3 of the Florida Constitution provides that a vacancy in office shall occur upon, inter alia, the "resignation of the incumbent." The Constitution does not list "retirement" as a basis for creating a vacancy. These are distinct legal concepts with distinct legal consequences, and the Governor may not collapse them into one by fiat.

Judge Garagozlo's letter uses the word "retire" and does not use the word "resign" or "resignation" at any point. The letter states: "please accept my notice to retire from the bench effective December 31, 2026." (App. A.) Judge Garagozlo appears to have disavowed any characterization of his letter as a resignation. The distinction is not merely semantic - it reflects the judge's intent, which is a necessary element of a valid resignation.

A resignation is a voluntary relinquishment of office. It requires the officeholder's intent to surrender the office. *See* 63A Am. Jur. 2d Public Officers and Employees § 162 ("A resignation is a formal renouncement or relinquishment of an office. It must be made with an intention of relinquishing the office.") A retirement, by contrast, is the conclusion of service at the end of or near the end of a term, typically for the purpose of triggering retirement benefits. The two acts have different purposes, different legal consequences, and different implications for the officeholder's reputation and legacy.

Even if retirement could theoretically be treated as functionally equivalent to resignation for vacancy purposes in some circumstances, that equivalence cannot be imposed by the Governor over the judge's express characterization of his own letter. A

retirement notice addressed to the Chief Justice as part of routine administrative paperwork is not a resignation tendered to the Governor for the purpose of creating a vacancy. To hold otherwise would mean that every judge who files routine retirement paperwork is unwittingly triggering the Governor's appointment power and potentially cancelling an election, regardless of the judge's intent, the language of the letter, or the identity of the recipient.

V. NO VALID VACANCY EXISTS BECAUSE NO RESIGNATION WAS TENDERED TO THE GOVERNOR

The constitutional framework governing judicial vacancies rests on a foundational premise: that a judge voluntarily and intentionally submits a resignation to the Governor, and that the Governor accepts it. This premise is not merely assumed in the case law; it is the express, operative mechanism by which a vacancy is created. In the cases cited herein, the judge submitted a resignation directly to the Governor; the Governor accepted it, and the vacancy was deemed to occur upon that acceptance. That sequence did not occur here, and for that reason alone, no valid vacancy has been created.

This Court's seminal articulation of the vacancy framework stated the rule in terms that are explicitly addressed to the Governor:

"When a letter of resignation to be effective at a later date is received and accepted by you, a vacancy in that office occurs and actuates the process to fill it." *In re Advisory Opinion to the Governor (Judicial Vacancies)*, 600 So. 2d 460, 462 (Fla. 1992) (emphasis added). The phrase "by you" is not a surplusage. It identifies the Governor as the necessary recipient of the resignation. Without tender to the Governor, there is nothing to "accept," and without acceptance, there is no vacancy.

A review of the caselaw in this line of precedent shows resignations directed to the Governor:

In *Spector v. Glisson*, 305 So. 2d 777 (Fla. 1974), Justice Ervin tendered his resignation as part of a deliberate, publicly known plan. The Court described it as a "tendered resignation" that created a vacancy because it was unconditional and directed to the appropriate authority. *Id.* at 780.

In re Advisory Opinion to the Governor (Judicial Vacancies), 600 So. 2d 460, 461 (Fla. 1992), Judge Fuller "resigned on March 3, 1992, the resignation to be effective July 31, 1992." The Governor accepted it on March 10. The entire advisory opinion is structured as a

response to the Governor's letter, and the operative language is directed to "you," the Governor.

In *Advisory Opinion to the Governor re Sheriff & Judicial Vacancies Due to Resignations*, 928 So. 2d 1218 (Fla. 2006), Judge Stephenson "tendered his resignation" to the Governor on April 5, 2006. The Court held that "a vacancy occurred when you received and accepted Judge Stephenson's resignation on April 14, 2006." Again, "you" is the Governor.

In *Trotti I* Judge Moran submitted his resignation and "Governor Scott accepted Judge Moran's resignation on April 10, 2014." The resignation was directed to the Governor. *Trotti v. Detzner*, 147 So. 3d at 644.

In *Trotti II,* Judge Foster submitted a letter of resignation to the Governor stating his last day would be December 31. The Governor accepted it before the qualifying period. *Trotti v. Scott*, 283 So. 3d 340 (Fla. 1st DCA 2018).

In every one of these cases, the judge made a deliberate, voluntary decision to resign and directed that resignation to the Governor. The Governor's authority to "accept" a resignation and thereby create a vacancy is predicated entirely on the judge having

first tendered that resignation to the Governor. This is not a technicality. It is the constitutional mechanism itself.

Judge Garagozlo did none of these things. His letter of April 15, 2026, was addressed to Chief Justice Carlos G. Muniz of this Court. It was copied to Chief Judge Melanie Chase of the Eighteenth Judicial Circuit. It was not addressed to, submitted to, or copied to the Governor or any member of his staff. The letter reached the Governor's office only because circuit HR personnel, acting in compliance with an administrative directive from the Office of the State Courts Administrator. The Governor accepted the retirement letter as a resignation, Judge Garagozlo was shocked to hear that it had been used to cancel an election.

The mechanism by which the Governor obtained Judge Garagozlo's letter further confirms that no resignation was tendered. On the morning of April 17, 2026, the circuit's Chief of Personnel Services emailed the letter to three Governor's office staff members with the subject line: "Please find attached, the Honorable Benjamin Garagozlo's *Retirement* Letter." (Emphasis added.) Even the person who transmitted the letter to the Governor's office called it what it was: a retirement letter. The Governor's own staff received a

document labeled "Retirement Letter" by its sender and, within hours, recharacterized it as a resignation and used it to cancel a democratic election, all without contacting the judge to confirm his intent or afford him any opportunity to clarify or withdraw his letter.

The Governor cannot "accept" a document that was never tendered to him. Acceptance presupposes an offer. A resignation must be tendered before it can be accepted. *See State ex rel. Jackson v. Crawford*, 79 So. 875 (Fla. 1918) (recognizing that a resignation must be accepted by a competent authority to be effective); *State ex rel. Gibbs v. Lunsford*, 192 So. 485 (Fla. 1939) (same). The logical corollary of this established principle is that where no resignation is tendered to the Governor, there is nothing for the Governor to accept, and no vacancy can be created through purported acceptance.

Notably, in every prior case in this Court's vacancy jurisprudence, the judge either intentionally submitted a resignation to the Governor or, at minimum, did not contest the characterization of the letter as a resignation. No case in this line of precedent involves a judge who disputes that he resigned, who insists he retired, who never addressed his letter to the Governor, and who was unaware that his routine retirement paperwork would be used to cancel an

election and trigger a gubernatorial appointment. Judge Garagozlo is not a willing participant in a scheme to circumvent the electoral process. He is its unwitting victim. If the dissenting justices in Trotti condemned the practice when judges voluntarily engineered vacancies, there is no constitutional basis to permit it when the Governor engineers the vacancy unilaterally, over the judge's express objection, by intercepting and recharacterizing a retirement letter that was never intended for him.

VI. REGARDLESS, THE GOVERNOR'S ACTION VIOLATES THE CONSTITUTIONAL RIGHTS OF BOTH CANDIDATES AND VOTERS

Even if Judge Garagozlo had intended to resign before the end of his term, and not retire, the Governor's use of his appointment power under the case law discussed herein violates the constitutional rights of Candidate Wagner, Voter Adkins, and all voters of Brevard County.

The United States Supreme Court has consistently held that restrictions on candidacy burden fundamental associational and voting rights. *See Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983); *Burdick v. Takushi*, 504 U.S. 428, 434 (1992). As the Court explained in *Bullock v. Carter*, 405 U.S. 134, 143 (1972): "The rights of voters

and the rights of candidates do not lend themselves to neat separation." The action here is not a mere regulation - it is the elimination of the election itself. No legitimate state interest supports such an extreme measure. *See Storer v. Brown*, 415 U.S. 724 (1974); *Lubin v. Panish*, 415 U.S. 709 (1974).

Florida law similarly protects candidacy and ballot access. *See Reform Party of Fla. v. Black*, 885 So. 2d 303 (Fla. 2004); *Perez v. Marti*, 770 So. 2d 176 (Fla. 3d DCA 2000). Section 104.31, Florida Statutes, confirms that the election code should not be construed to prevent candidacy. The Governor's action contravenes each of these principles. This case presents not merely a statutory or procedural violation, but a direct constitutional impairment affecting both candidates and voters.

Article V, Section 10(b) provides that the election of county court judges "shall be preserved." This language is mandatory, not precatory. It reflects a constitutional guarantee adopted and reaffirmed by the voters of Florida, including through the 2000 referenda.

The Governor's action extinguishes that guarantee. It prevents candidates from accessing the ballot and denies voters the right to

select their judicial officers. The injury is not theoretical; it is immediate and irreversible.

As this Court recognized in *Advisory Opinion to the Governor re Appointment or Election of Judges*, 824 So. 2d 132, 136 (Fla. 2002): "The conflict must be resolved by a construction which gives effect to the clear will of the voters…"

The Governor's construction does the opposite. It converts a constitutional mandate into a discretionary executive function. The resulting disenfranchisement is complete. Once the qualifying period closes, the opportunity to participate in the election is permanently lost. No subsequent remedy can restore that right.

A. Candidate Margaret "Maggie" Wagner

Candidate Wagner has a protected right to seek public office that has been unlawfully abridged by the Governor's actions. While the United States Supreme Court has not recognized candidacy as a freestanding fundamental right, it has consistently held that restrictions on candidacy implicate First and Fourteenth Amendment protections and must be measured against the governmental interests asserted to justify them. *See Anderson v. Celebrezze*, 460 U.S. 780, 786-88 (1983); *Bullock v. Carter*, 405 U.S. 134, 142-43

(1972); *Williams v. Rhodes*, 393 U.S. 23 (1968). These rights are not merely theoretical. They are intertwined with the rights of voters, and any restriction on one necessarily burdens the other. As the Supreme Court stated in Bullock, "the rights of voters and the rights of candidates do not lend themselves to neat separation; laws that affect candidates always have at least some theoretical, correlative effect on voters." *Bullock,* 405 U.S. at 143.

The Florida Constitution reinforces these protections. As set forth above, Article I, Sections 1 and 2 guarantee equal political rights and vest all political power in the people. The right to seek public office is among those political rights retained by the people.

Florida statutory law also protects the right to candidacy. Section 104.31, Florida Statutes, provides that nothing in the election code "shall be construed so as to prevent any person from becoming a candidate for and actively campaigning for any elective office in this state." This is not merely a permissive statement. It is an affirmative legislative declaration that the right to seek office shall not be impaired.

Candidate Wagner did not merely contemplate running for office. She took concrete, legally authorized steps in reliance on the

scheduled election. She designated a campaign treasurer, opened a campaign account, invested substantial time and resources building her campaign for nearly a year, and submitted prequalifying paperwork during the statutory prequalifying period that opened on April 6, 2026, as authorized by Section 99.061(8), Florida Statutes. She did all of this in reliance on the fact that a judicial election for Brevard County Court Judge, Group 8, was scheduled to occur, as required by Article V, Section 10(b) of the Florida Constitution.

The Governor's actions did not merely burden Candidate Wagner's right to seek office. They extinguished it entirely.

The deprivation of Candidate Wagner's right is compounded by the circumstances under which it occurred. She was notified at approximately 4:00 p.m. on Friday, April 17, 2026, the last business day before the qualifying period opened the following Monday, that her name had been removed from the Candidate Listing and that the election had been cancelled. She was given no prior notice that her candidacy was in jeopardy. She had no opportunity to be heard before the decision was made. She received no due process of any kind. The Governor acted, the Supervisor of Elections implemented, and Candidate Wagner's candidacy, built over nearly a year of effort

and investment, was eliminated by a phone call on a Friday afternoon.

Article I, Section 9 of the Florida Constitution provides that "no person shall be deprived of life, liberty or property without due process of law." Candidate Wagner has a protected liberty interest in her candidacy and a property interest in the campaign resources she invested in reliance on the scheduled election. She was deprived of both without notice, without hearing, and without any process at all. The Governor did not seek a judicial determination that a valid resignation had been tendered. He did not seek an advisory opinion from this Court, as governors have done in every prior case involving disputed judicial vacancies. He acted unilaterally, and the Supervisor of Elections implemented his decision without independent analysis or inquiry.

The injury to Candidate Wagner is irreparable. The qualifying period closes at noon on Friday, April 24, 2026. If the election is not reinstated before that deadline, Candidate Wagner's opportunity to seek judicial office in the 2026 election cycle will be permanently lost. No monetary award, no future election, and no administrative remedy can restore the opportunity that is being taken from her now. The

next regularly scheduled election for this seat would not occur for six years, by which time the Governor's appointee will have served and established incumbency, fundamentally altering the competitive landscape that Candidate Wagner and the voters of Brevard County are constitutionally entitled to.

This Court should hold that the Governor's actions have unlawfully deprived Candidate Wagner of her right to seek judicial office in an election that Article V, Section 10(b) requires to occur, that Section 104.31, Florida Statutes, protects, and that the First and Fourteenth Amendments to the United States Constitution and Article I, Sections 1, 2, and 9 of the Florida Constitution safeguard.

B. Voter Marcelle "Marcie" Adkins

Article V, Section 10(b) of the Florida Constitution provides that the election of county court judges "shall be preserved" and that county court judges shall be elected "by a vote of the qualified electors within the territorial jurisdiction of the court." This right belongs to the voters. It is not a privilege conferred by the Governor's forbearance. It is a constitutional right vested in the people by Article V, Section 10(b) and confirmed by the people themselves through referendum.

In the year 2000 referendums conducted pursuant to Article V, Section 10(b)(3), the voters of Florida affirmatively voted to retain the election of trial court judges rather than adopt merit selection. This Court recognized the significance of that vote in holding that conflicts between the appointment and election provisions "must be resolved by a construction which gives effect to the clear will of the voters that circuit and county judges be selected by election." *Advisory Opinion to the Governor re Appointment or Election of Judges*, 824 So. 2d 132, 136 (Fla. 2002). The Court did not say the clear will of candidates or the clear will of the Governor. It said the clear will of the voters.

As set forth above, Article I, Section 1, declares that all political power is inherent in the people, and the right to elect a county court judge is among those protected political rights. The rights of voters and candidates are inseparable. *Bullock v. Carter*, 405 U.S. 134, 143 (1972).

Voter Adkins, a Brevard County voter continuously registered since 1996, was prepared to exercise her constitutional right to vote in the 2026 judicial election for Brevard County Court Judge, Group 8. That election has been cancelled. No amount of monetary damages can remedy the deprivation of the right to vote. The injury

to Voter Adkins is concrete, particularized, imminent, and irreparable.

The Governor's unilateral recharacterization of a retirement letter as a resignation, and his strategically timed acceptance three days before qualifying opened, converted the voters' constitutional right into a nullity. The voters of Brevard County will now have a county court judge imposed upon them by gubernatorial appointment, a judge they had no voice in selecting, for a seat they were constitutionally entitled to fill by election. This is precisely the outcome that Article V, Section 10(b) was designed to prevent and that the voters of Brevard County rejected when they voted to preserve judicial elections in 2000.

This Court has recognized that the appointment mechanism of Article V, Section 11(b) exists to fill vacancies when the election process is unavailable, not to supplant the election process when it is available and actively underway. *See Spector v. Glisson*, 305 So. 2d 777, (Fla. 1974) ("Interim appointments need only be resorted to when there is no earlier, reasonably intervening election process available.") Here, the election process was not merely available. It

was actively underway, with candidates having submitted prequalifying paperwork and the qualifying period days away.

VII. THE GOVERNOR'S CONSTRUCTION WOULD RENDER JUDICIAL ELECTIONS ILLUSORY

The practical consequences of the *Trotti I* analysis Governor's position cannot be overstated. If this Court permits the Governor to treat any retirement letter, however characterized, addressed to any recipient, transmitted through any channel, as a "resignation" that the Governor may "accept" to create a vacancy, then the constitutional guarantee that county court judges "shall be elected" becomes meaningless.

Under the Governor's construction, any judge who files retirement paperwork selecting an end-of-month date, as judges routinely do for legitimate benefit reasons, has unwittingly handed the Governor the power to cancel the election for that seat. The Governor needs only to "accept" the letter before the qualifying period opens. The judge's intent is irrelevant. The language of the letter is irrelevant. The recipient of the letter is irrelevant. The only thing that matters is that the Governor acts before the qualifying period, a deadline the Governor controls by choosing when to "accept."

This is not a construction that "preserves" the election of county court judges. It is a construction that renders election contingent on the Governor's forbearance, converting a constitutional right into a gubernatorial privilege. Article V, Section 10(b) does not say that county court judges shall be elected unless the Governor decides otherwise. It says the election "shall be preserved." This Court should enforce that command.

VIII. JUSTICE PARIENTE AND JUDGE PADOVANO IDENTIFIED THIS EXACT CONSTITUTIONAL INFIRMITY, AND THIS CASE PRESENTS THE PROPER VEHICLE TO ADDRESS IT

The proper constitutional framework is the one articulated in *Spector* - if an election is available, it must be used. Here, the election was scheduled, candidates had acted in reliance upon it, and the qualifying period was imminent.

Justice Pariente's concurrence in *Pincket v. Detzner*, No. SC16-768, 2016 Fla. LEXIS 1167 (Fla. 2016), stated: "I agree with the dissent in Trotti. If this case were before us on the merits to decide the constitutional question and we were thus not constrained by the narrow scope of mandamus relief, I would adopt the reasoning [of] Judge Padovano's dissent." Justice Pariente identified two critical points: first, that the constitutional question had never been decided

on the merits; and second, that mandamus was too narrow a vehicle to reach it.

Judge Padovano's dissent in *Trotti I* reasoned that when a judge resigns prospectively near the end of his term and no meaningful interim vacancy will exist, the election process should prevail over the appointment mechanism. Judge Padovano warned that the majority's holding "creates a high potential for abuse" and would "allow departing judges to manipulate the election process according to their own goals." *Trotti v. Detzner*, 147 So. 3d at 645-46.

Justice Lewis's dissent in *Trotti v. Scott*, 253 So. 3d at 907, went further, describing the practice as one that "allow[s] judges to make a mockery of our Florida Constitution with impunity" and characterizing it as a "travesty." Justice Pariente concurred with Justice Quince's dissent in that case, which would have held that the vacancy should be filled by election.

This case presents the precise constitutional question that Justices Pariente, Quince, and Lewis identified as urgently needing resolution, through the proper procedural vehicle. This is not a mere mandamus proceeding constrained by the requirement of a "clear legal right." This is a quo warranto proceeding that directly

challenges the Governor's authority to exercise a power derived from the State. This Court is free to examine the constitutional question on its merits.

And the case for election is far stronger here than in *Trotti I, Trotti II,* or *Pincke*t. In those cases, the judges at least submitted resignation letters directly to the Governor with the apparent intent of triggering the appointment process. Here:

First, Judge Garagozlo did not resign. He retired.

Second, his letter was not directed to the Governor. It was addressed to the Chief Justice.

Third, the Governor unilaterally recharacterized the letter over the judge's express characterization.

Fourth, two candidates had already submitted prequalifying paperwork, demonstrating that the election process was effectively underway.

Fifth, the Governor's "acceptance" was strategically timed three days before the qualifying period opened, on the last business day of the prequalifying period, with notification to candidates at 4:00 p.m. that same Friday afternoon, leaving no opportunity to seek judicial relief before qualifying began.

Sixth, the letter reached the Governor's office only through an administrative pipeline that the Governor's office itself created, by directing the Office of the State Courts Administrator to instruct chief judges to send retirement and resignation letters directly to the Governor's Office of Judicial Appointments.

Seventh, the Governor exercised his authority in a manner that is constitutionally infirm, even if a judge is a willing participant.

Eighth, the judge did not intend to resign or end his retirement term early, thereby cancelling an election.

The practice condemned by Justices Pariente, Quince, and Lewis has been used to cancel an election and install a gubernatorial appointee which robs the Petitioners of their rights and the voters of Brevard County of the power of the people.

IX. INCORPORATED MOTION FOR EMERGENCY STAY AND PETITION FOR WRIT OF MANDAMUS

The qualifying period closes at noon on Friday, April 24, 2026. If this Court does not act before that deadline, the election will be permanently foreclosed and voters irreparably deprived of their constitutional right to elect a county court judge. The injury is distinct, concrete, irreparable, and immediate.

Petitioner respectfully requests that this Court immediately:

1. Stay the Governor's exercise of appointment power with respect to Brevard County Court Judge, Group 8;
2. Direct the Brevard County Supervisor of Elections to reinstate the Candidate Listing and reinstate all candidates; and
3. Toll or extend the qualifying period as necessary.

Upon a finding by this Court that no valid vacancy has been created and that the judicial election must proceed, the Secretary of State and the Supervisor of Elections will have a clear, ministerial, nondiscretionary duty to accept Candidate Wagner's qualifying papers, verify her qualifications, and place her name on the ballot for Brevard County Court Judge, Group 8. This duty is ministerial because it requires no exercise of discretion or judgment; it requires only the verification of qualifying documents against statutory requirements. Where an officeholder has a clear legal duty to perform a ministerial act and refuses to do so, mandamus is the proper remedy to compel performance. The predicate for this mandamus relief is the Court's resolution of the quo warranto question. Once this Court declares that the Governor exceeded his authority, the

legal right to qualify becomes clear, and the ministerial duty to accept qualifying papers and place the candidate on the ballot attaches.

An emergency stay or temporary injunction is warranted because there is an irreparable harm – the loss of the right to run for office and vote, there is no adequate remedy at law, there is a substantial likelihood of success based on the mandates of *Spector* and the failures of subsequent case law to properly evaluate the constitutional impact on candidates and voters of the prospective resignation scheme sanctioned by *Trotti I*, and there is a great public interest and need to decide the peoples right and power to vote in election.

X. ALTERNATIVE MOTION FOR DECLARATORY JUDGMENT

Alternatively, should this Court find that the foregoing procedural vehicles are inapplicable, Petitioners moves this Court for a declaratory judgment in their favor because there is a bonafide, actual, present need for the declaration, there is an ascertainable controversy, and the rights of the Petitioners, who have adverse interests with the Governor, are not mere legal advice and depend on this Court's ruling.

CONCLUSION

WHEREFORE, Petitioner's respectfully seek the relief set forth herein thereby allowing Margaret "Maggie" Wagner to enter as a candidate as intended and allowing Marcelle "Marcie" Adkins, and all voters of Brevard County, to cast their vote and exercise the power of the people thereby preserving Petitioners rights under Article V, Section 10(b) and Article I, Sections 1, 2, and 9 of the Florida Constitution, and the First and Fourteenth Amendments to the United States Constitution.

Respectfully submitted this 23rd day of April 2026.

By:

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CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that this petition complies with the font and word count requirements of Florida Rule of Appellate Procedure 9.045 and 9.210. This petition is filed in Bookman Old Style 14-point font and contains less than 13,000 words, exclusive of the caption, table of contents, table of authorities, certificate of compliance, certificate of service, and signature block.

/s/ Jessica J. Travis
Jessica J. Travis, FBN 76701

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was filed through the Florida e-filing portal on the 23rd day of April 2026 and electronically served on counsel for Respondents as set forth below.

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