



Plaintiffs Harriett Tubman Freedom Fighters, Corp. and Head Count, Inc.
(collectively,

denigrate their own efforts to promote political association and participation, in violation of the First and Fourteenth Amendments.

2. The right to vote is “a fundamental political right, because [it is] preservative of all rights.” *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886). Moreover, “discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections.” H.R. Rep. 103-9 (1993). Such registration laws “disproportionately harm voter participation by various groups, including the disabled and racial minorities.” *Id.*

3. Plaintiffs’ voter registration efforts are “core political speech” involving “interactive communication concerning political change.” *Meyer v. Grant*, 486 U.S. 414, 422 (1988). Plaintiffs’ endeavors to assist others in registering to vote are themselves political and philosophical statements, signaling that they value the democratic process and believe in the capacity of the popular will to shape the composition and direction of the government.

4. Governor Ron DeSantis signed Senate Bill 90 into law (“SB 90”) on May 6, 2021. Section 7 of SB 90 modified Florida Statute Section 97.0575, pertaining to third-party voter registration organizations (“3PVROs”). The modified statute now requires 3PVROs to warn voter registration applicants, at the point where the applicant entrusts their application to the organization, that they may not

timely submit applicants' registration applications and to inform them "how to register online with the [state] division [of elections]."

5. This inaccurate "warning" ignores that Plaintiffs make and/or will make every effort to timely submit registration applications in furtherance of their missions and compels them and other non-governmental organizations, their staff, and their volunteers who assist Floridians to register to vote to issue a self-denigrating, misleading, and contradictory warning to a voter registration applicant when they accept an application for the purpose of submitting it to election officials on the applicant's behalf.

6. In so doing, SB 90 obstructs Plaintiffs' efforts to associate with potential voters. SB 90 also interferes with voters' opportunity to register, impedes Plaintiffs' participatory messages and missions, interferes with Plaintiff organizations and their associated individuals'

Plaintiffs build trusted relationships with the applicants as they work to expand their volunteer network and a community of engaged and active voters.

8. By mandating that Plaintiffs issue this misleading warning and instructions for other voter registration avenues, SB 90 inserts Florida's government into the middle of that private, trusted relationship—in which the organization is a fiduciary—between a potential voter and registration agents. This interference frustrates Plaintiffs' ability to foster that trust and hampers their voter registration efforts, communications with potential voters, and ability to associate with potential voters.

9. Unless the challenged disclaimer and disclosure of provisions of SB 90 are enjoined, Plaintiffs' constitutionally protected First Amendment speech and activity will continue to be co-opted by the government. Plaintiffs, as well as many other individuals and groups, will be forced to mislead voter registration applicants as to their own efforts, denigrating their own associational activity integral to advancing their missions and beliefs. By making Plaintiffs less effective at communicating their message, the public will have fewer options to register to vote, and fewer opportunities to associate with Plaintiffs in meaningful civic activities.

10. By co-opting Plaintiffs' First Amendment activities to convey the state of Florida's own onerous, misleading, and irrational message, the challenged

provision of SB 90 does not serve any government interest and cannot survive the exacting scrutiny applied to such restrictions.

11. SB 90 also fails to put Plaintiffs on adequate notice as to possible penalties they might face for any non-compliance with the law and, thus, creates a chilling effect on Plaintiffs' voter registration and associated civic engagement activities in violation of the Fourteenth Amendment.

12. Plaintiffs seek a declaratory judgment that the challenged provisions of Fla. Stat. § 97.0575 are unconstitutional, and an injunction prohibiting Defendants from enforcing them, thereby permitting Plaintiffs' constitutionally protected,

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15. Venue in this district is proper pursuant to 28 U.S.C. § 1391(b) because Defendants conduct business in this District and all Defendants reside in Florida, and because a substantial portion of the events giving rise to these claims occurred in the Northern District of Florida.

PARTIES

Harriet Tubman Freedom Fighters, Corp.

16. Plaintiff Harriet Tubman Freedom Fighters, Corp. (“HTFF”) is a Florida 501(c)(3) non-profit corporation with a principal place of business, office, and registered agent in Jacksonville, Florida.

17. HTFF was incorporated in October 2020 by a formerly incarcerated Black woman and voting rights activist, Rosemary McCoy (“McCoy”).

18. McCoy and HTFF’s Secretary, Sheila Singleton, have been passionate and tireless advocates in the Florida voting rights space for several years: they participated in collecting enough signatures to put the Voting Rights Restoration Amendment (“Amendment 4”), restoring voting rights to citizens disenfranchised in Florida due to prior felony convictions, on the ballot in 2018; they helped voters to register and Get-Out-the-Vote to ensure that Amendment 4 passed in 2018; and, when Florida’s legislature enacted SB 7066 (which prevents returning citizens from registering to vote if they are unable to pay all fines, court costs, and restitution associated with their sentences), they became plaintiffs in a lawsuit challenging it.

19. Recognizing that their voting rights work is bigger than themselves and

in which they work, and fails to provide them with proper notice as to the penalties for any alleged violations of the law.

26. Delivering SB 90's disclaimer and disclosures also will require that HTFF divert time and resources to train its staff and volunteers to comply with SB 90, lengthen HTFFs interactions with each prospective registered voter (thereby making it harder to reach the same number of prospective voters in the same amount of time), and will necessitate HTFF diverting time and resources away from its other activities for SB 90-specific trainings and voter registration requirements.

Head Count, Inc.

27. Head Count, Inc. ("HeadCount") is a national 501(c)(3) non-profit, non-partisan organization with a small full-time staff based in New York City. HeadCount's mission is to work with musicians and other popular influencers to promote participation in democracy, including through their voter registration efforts. To that end, HeadCount conducts voter registration activities at concerts and music festivals nationwide and runs programs that connect the popularity and power of music with action. By reaching young people and music fans where they already are—at concerts and online—HeadCount makes civic participation accessoa()TJ21.3(acces)-

28. HeadCount has assisted over one million voter registration applicants nationwide since its founding, with nearly three hundred thousand applicants registering through their field programs. The organization has built a network of approximately forty-five thousand volunteers nationwide and has conducted more than six thousand in-person field events nationally since 2004, including hundreds in Florida since 2012 alone.² During these field events, HeadCount collects voter registration applications and then delivers them to election officials. HeadCount has helped over seven thousand Florida voters register by collecting and delivering their applications through their work in the field since 2012.

29. HeadCount promotes partnerships between musicians, concert promoters, and volunteers. When artists affiliated with HeadCount play a concert in a major city, HeadCount helps voters register and rallies music fans to participate in democracy and increase their participation and voice in government. These live music events with voter registration facilitated by HeadCount take place all over the country and, during busy times in the election cycle, almost every night of the week. HeadCount also works directly with many festivals, concert venues, and partners to help extend their reach. At every event, HeadCount offers voter registration for residents of 45 states using the federal mail-in voter registration form.

² Plaintiff HeadCount has been a registered 3PVRO in Florida since June 2012.

30. HeadCount receives grant money, direct donations, and sponsorships to fund voter registration activities, including registration activities at concerts, festivals, and other events in Florida.

31. The bulk of HeadCount's work nationally is done by thousands of volunteers. Some volunteers help voters register at concerts by engaging potential voters, assisting them with filling out forms, and collecting their applications for submission to election officials. Other volunteers take on leadership roles in the organization. As part of HeadCount's core mission, the organization builds civic volunteerism focused on young people and others who have not previously engaged in civic engagement work.

32. HeadCount's voter registration activities in Florida are spearheaded by volunteer team leaders who are dedicated, experienced volunteers for the organization. HeadCount staffs each event with at least one volunteer team leader so that it can maintain the security of voter registration applications in the field to ensure that they are properly collected and delivered to election officials and requires all team leaders to review the organization's Team Leader manual.

37. If HeadCount is unable to build trusted relationships with Florida voters during its voter registration activities in the state, it would be a significant loss to the organization's core mission, message, and partner relationships.

38. The disclaimer and disclosure requirements in SB 90 will diminish HeadCount's message because, despite the fact that HeadCount prioritizes processing applications in accordance with each state's turnaround time using state-approved registration forms or federal voter registration forms,

performing duties with respect to chapters 97 through 102 and 105 or to enforce compliance with a rule of the Department of State adopted to interpret or implement any of those chapters.” *Id.* § 97.012 (14). Complaints of violations may be filed with the Department of State. *Id.* § 97.023(1)(a).

44. Defendant Ashley Moody is the Attorney General of the State of Florida. If the Secretary of State “reasonably believes that a person has committed a violation of [Section 97.0575], the Secretary may refer the matter to the Attorney General for enforcement. The Attorney General may institute a civil action for a violation of [Section 97.0575] or to prevent a violation of this section.” Such an action for relief may include a “permanent or temporary injunction, a restraining order, or any other appropriate order.” Fla. Stat. § 97.0575(4).

FACTS

I. Voter Registration in Florida

45. Floridians need more, not fewer, voter registration opportunities.

November 2020, approximately 33 percent of eligible citizens in Florida, or one in three, were not registered to vote. The unregistered citizen population is not distributed equally among racial groups. While approximately only 29 percent of voting-age white citizens are unregistered, 35 percent of Black voting-age citizens, nearly 44 percent of Asian American voting-age citizens, and 41 percent of Hispanic voting-age citizens are unregistered.⁴

46. Voter registration drives play an important role in facilitating voter registration of eligible citizens. Community-based voter registration drives are a particularly important tool for members of marginalized communities to register to vote. According to the CPS, voters of color are more likely to identify as having registered at a registration drive or at a school, hospital, or campus compared with white voters. For example, in the 2018 election cycle, while 3.1 percent of white voters reported registering through a drive, the percentage was 5.3 for voters identifying as Black and 5.5 percent for those identifying as Hispanic.⁵ Similarly, in 2018, 4.1 percent of white

ensuring people's voter registration forms are properly submitted, Plaintiffs ensure the fullest expression of their communities and voters' views on issues such as government responsiveness, racial justice, and policies that promote religious tolerance and acceptance. Plaintiffs' assistance to others in registering to vote is a political statement in and of itself: that they value the democratic process and the rights of all eligible citizens to access the franchise. Plaintiffs' voter registration activities are among the most effective and credible means of expressing these views.

51. By engaging in voter registration activities, Plaintiffs also develop, and intend to develop in the future, ass(n)15a Tw mTw (ra)c4 Tc4l2 (ra)c4 Tc4l2 .8()-18.81

conduct community voter registration activity. Fla. Stat. § 97.0575 (2005). It imposed fines upon 3PVROs if the completed voter registration applications they collected—through no fault of their own—were not delivered to the applicable supervisor of elections within 10 days, before the registration books closed, or at all. *Id.* The Law exempted political parties from these regulations without any demonstration that the penalties or the carveout of the parties advanced the state's interests. *League of Women Voters of Fla. v. Cobb*, 447 F. Supp. 2d. 1314, 1339 (S.D. Fla. 2006).

54. This Court found these provisions unconstitutionally violated the plaintiffs' First Amendment rights and enjoined Florida from enforcing them. *Id.* at 1342. The court found that:

the Law's demonstrated impact is to limit the means of voter registration in Florida, contradict the longstanding tradition of not discriminating against non-political parties with respect to voter registration, and burden the Plaintiffs' protected speech and associational rights. While the Court is extremely reluctant to set aside an enactment of the Legislature, given the magnitude of Plaintiffs' First Amendment freedoms at stake in this case, the Third-Party Voter Registration Law's civil penalties scheme and exclusion of political parties is unconstitutional.

Id. at 1339.

55. Undeterred, Florida's policing of community voter registration escalated in 2011 with the passage of a new set of amendments to the Law that required 3PVROs to deliver voter registration applications to the applicable

supervisor of elections within 48 hours of completion or the next business day and fined them anywhere from \$50 to \$500 per voter registration application for failing to do so, with a cap of \$1000 assessed to an organization in a calendar year. *See*, Fla. Stat. § 97.0575(3)(a) (2011).

56. The 2011 amendments to the Law also required 3PVROs to identify each of its officers and/or agents (including volunteers who solicit, but do not collect, voter registration forms) to the Division of Elections (“the Division”) and, if any such person departs the organization, to report such change within 17.2(e)-7.6(ol)2.2(i)19v0.1

59. Once again, this Court found these provisions likely violated the plaintiff organizations' First Amendment rights and the National Voter Registration Act of 1993, and preliminarily enjoined Florida from enforcing them fully as written. *League of Women Voters of Fla. v. Browning*, 863 F. Supp. 2d 1155, 1168 (N.D. Fla. May 31, 2012). The court later entered a permanent injunction under similar terms with only minor changes pursuant to the parties' agreement. *League of Women Voters of Fla. v. Detzner*, No. 4:11CV628-RH/WCS, 2012 WL 12810507, at *1 (N.D. Fla. Aug. 30, 2012).¹⁰

III. Prior to SB 90, Florida Significantly Regulated 3PVROs

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66. If a 3PVRO fails to return a voter registration applicant's forms within the specified period it may be subject to fines and referred to the Florida Attorney General for legal action. Fla. Stat. § 97.0575(3)-(4) (2020).

IV. SB 90's Changes to Florida's Existing 3PVROs Regulatory Framework

67. The 2021 amendments to the Law encompassed within SB 90 Section 7, are cut from the same unconstitutional cloth as their predecessors; they are an unnecessary abrogation of 3PVROs' First Amendment rights.

68. Specifically, they require that 3PVROs "notify the applicant at the time the application is collected that the organization might not deliver the application to the division or the supervisor of elections in the county in which the applicant resides in less than 14 days or before registration closes for the next ensuing election and must advise the applicant that he or she may deliver the application in person or by mail." Fla. Stat. Ann. § 97.0575(3)(a) (2021) (emphases added).

69. They also require that, at the time of soliciting voter registrations, 3PVROs "inform the applicant how to register online with the division and how to determine whether the application has been delivered."¹³ *Id.* (emphasis added).

prescribed speech disclaiming their effectiveness and competence, and provide potential voters information about the state’s preferred method of “how to register” online, regardless of whether that option is actually available to the applicant, and pass along information regarding application status that is not uniformly available.

V. Florida’s 2021 Legislative Session Created a Cloud of Repression for First Amendment Freedoms

75. SB 90 and its heightened restrictions on C3450.31 0 Td [(r)9.4(e)-17108g6

77. Governor DeSantis publicly advocated for HB 1 well before it came to his desk for signature; on September 21, 2020, a week before voter registration closed for the 2020 general election, he issued a proposed legislation blueprint for what would eventually become HB 1 and exhorted “every single person running for

80. Given the lack of transparency throughout the consideration and passage of SB 90, coupled with legislators and the governor's

“rigorous adherence” to the Due Process Clause’s notice requirements when crafting statutes regulating free speech. *Wollschlaeger v. Gov. of Fla.*, 848 F.3d 1293, 1320 (11th Cir. 2017) (quoting *FCC v. Fox Television Stations, Inc.*, 567 U.S. 239 (2012)).

86. The void for vagueness doctrine applies when violation of a statute triggers civil proceedings, as well as when criminal prosecution is threatened. *See id.* (invalidating as void for vagueness a statute subjecting noncompliant medical doctors to disciplinary action by the Florida Board of Medicine). Given Plaintiffs’ finite resources, the imposition of substantial financial penalties, costs associated with unknown legal proceedings, or revocation of their 3PVRO status for inadvertent violations of Section 97.0575 would threaten Plaintiffs’ ability to carry out voter registration activities.

87. Section 97.0575 does not specify the penalties for failing to issue these statements to potential applicants; it simply provides that:

If the Secretary of State reasonably believes that a person has committed a violation of this section, the secretary may refer the matter to the Attorney General for enforcement. The Attorney General may institute a civil action for a violation of this section or to prevent a violation of this section.

Fla Stat. § 97.0575(4). Nor does it identify what civil penalties the Attorney General may pursue, the range or maximum amount of such penalties, or even whether failure to provide the required disclaimer and disclosures constitutes a “violation” within the meaning of this provision. Nor does it indicate whether its provisions apply to

unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests.” *Id.* at 2365 (quoting *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015)).

95. Voter registration activity is “the type of interactive communication concerning political chaooI37ddm4I3(m)6.2.25cpo1 37ddm4(w5(.)-10p(on)17.3op(on)17.3.5o

97. The portion of the disclosure requirement requiring Plaintiffs' agents to tell applicants that Plaintiffs may fail to timely submit their completed voter registration forms is false. Section 97.0575(3)(a) requires that completed registration forms "be promptly delivered to the division or the supervisor of elections in the county in which the applicant resides within 14 days after completed by the applicant." Fla. Stat. § 97.0575(3)(a). This provision, therefore, unconstitutionally forces Plaintiffs to speak for the government, making disclaimers that Plaintiffs would not otherwise recite.

98. Furthermore, Plaintiffs make every effort to turn in applications on time in conjunction not only with Florida state law,

This is particularly true where there are already existing penalties for late-delivered forms. There is also no evidence that telling applicants they can register online or submit in their applications themselves produces *more* timely-registered voters. To the contrary, in Plaintiffs' experience, this approach is likely to lead to *fewer* voters becoming registered.

103. However, the mandatory disclaimer does serve to significantly impede Plaintiffs' mission of connecting with new voters and those without Florida driver's licenses and printer access (who must print, sign, and submit their applications created online in order to register to vote) because in-person registration is more effective for reaching these prospective voters and field registration using paper forms is the most effective means of promoting voter registration at the events, festivals, and communities where Plaintiffs operate.

104. Additionally, in Plaintiffs' experience, individuals who express interest in voter registration are far more likely to become registered and vote when the application is submitted on the applicant's behalf by a trusted organization with whom the prospective vi 31.c04c 0.16 Tw -21.586 .g (o)4(s)-3.4((e v)(i)6. Tc -0)073.4(s)-3.6(o

Florida's Secretary of State could—but has not—created a centralized system to

111. For these reasons, Section 97.0575's mandated disclosures constitute compelled speech, in violation of the First Amendment.

COUNT III

Free Speech and Association **(Violation of Plaintiffs' First Amendment Rights** **Pursuant to 42 U.S.C. § 1983)**

112. Plaintiffs repeat and reallege each and every allegation contained in preceding paragraphs as if fully set forth herein.

113. Plaintiffs wish to exercise their rights to promote civic engagement and associate with potential voters. The “freedom to associate with others for the common advancement of political beliefs and ideas is a form of orderly group activity protected by the First and Fourteenth Amendments.” *Kusper v. Pontikes*, 414 U.S. 51, 56–57 (1973) (internal quotations omitted).

114. As a consequence of requiring Plaintiffs to undermine their own credibility, effectiveness, and message, SB 90 directly restricts Plaintiffs' core political speech and expressive conduct in communicating their belief in the capacity of the popular will to shape the composition and direction of the government. Advocating for that belief through their endeavors to assist others in registering to vote is in itself a political statement. Moreover, the Law implicates Plaintiffs' associational rights in banding together to engage in voter registration activity and in assisting community members to join the civic community by registering to vote.

exacting scrutiny applied in *Meyer*, or any other level of judicial scrutiny, these requirements fail.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment in their favor and:

A. Declare that the disclaimer and disclosure requirements in Fla. Stat. § 97.0575(3)(a) violate the First and Fourteenth Amendments of the United States Constitution;

B. Preliminarily and permanently enjoin Defendants from enforcing the disclaimer and disclosure requirements in Fla. Stat. § 97.0575(3)(a).

C. Retain jurisdiction to render any and all further orders that this Court may deem necessary;

D. Award Plaintiffs their attorneys' costs and fees pursuant to statute; and

E. Grant any and all other relief this Court deems just and proper.

Dated: June 14, 2021

Respectfully submitted,

/s/ Nancy G. Abudu
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