

No. 23-11854-D

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**In the United States Court of Appeals  
for the Eleventh Circuit**

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GRACE, INC.; ENGAGE MIAMI, INC.;  
SOUTH DADE BRANCH OF THE NAACP;  
MIAMI-DADE BRACH OF THE NAACP;  
CLARICE COOPER; YANELIS VALDES;  
JARED JOHNSON; AND ALEXANDER  
CONTRERAS,

*Plaintiffs/Appellees,*

v.

CITY OF MIAMI,

*Defendant/Appellant.*

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**APPELLANT'S MOTION FOR LEAVE TO FILE  
DOCUMENTS OUT OF TIME**

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*Attorneys for Defendant/Appellant*

**CERTIFICATE OF INTERESTED PERSONS  
AND CORPORATE DISCLOSURE STATEMENT**

Appellant, the City of Miami, furnishes this certificate of interested persons and corporate disclosure statement.

1. ACLU Foundation of Florida, Inc., Counsel for Plaintiffs/Appellees
2. Bardos, Andy, Counsel for Defendant/Appellant
3. Carollo, Joe, Defendant/Appellant
4. City of Miami, Defendant/Appellant
5. Cody, Steven, Defendant/Appellant's expert
6. Contreras, Alexander, Plaintiff/Appellee
7. Cooper, Clarice, Plaintiff/Appellee
8. Covo, Sabina, Defendant/Appellant
9. De Grandy, Miguel, Defendant/Appellant's expert
10. Dechert LLP, Counsel for Plaintiffs/Appellees
11. Diaz de la Portilla, Alex, Defendant/Appellant
12. Engage Miami, Inc., Plaintiff/Appellee
13. GrayRobinson, P.A., Counsel for Defendant/Appellant
14. Grace, Inc., Plaintiff/Appellee
15. Greco, John A, Counsel for Defendant/Appellant
16. Johnson, Christopher N., Counsel for Defendant/Appellant

***GRACE, Inc., et al. v. City of Miami***

**No. 23-11854-D**

17. Johnson, Jared, Plaintiff/Appellee
18. Jones, Kevin R., Counsel for Defendant/Appellant
19. King, Christine, Defendant/Appellant
20. Kirsch, Jocelyn Kirsch, Counsel for Plaintiff/Appellee
21. Levesque, George T., Counsel for Defendant/Appellant
22. McNamara, Caroline A., Counsel for Plaintiff/Appellee
23. McNulty, Kerri L., Counsel for Defendant/Appellant
24. Méndez, Victoria, Counsel for Defendant/Appellant
25. Merken, Christopher J., Counsel for Plaintiff/Appellee
26. Miami-Dade Branch of the NAACP, Plaintiff/Appellee
27. Moore, K. Michael, United States District Judge, Southern District of Florida
28. Quintana, Marlene, Counsel for Defendant/Appellant
29. Reyes, Manolo, Defendant/Appellant
30. South Dade Branch of the NAACP, Plaintiff/Appellee
31. Steiner, Neil A., Counsel for Plaintiff/Appellee
32. Suarez, Francis, Defendant/Appellant
33. Tilley, Daniel T., Counsel for Plaintiff/Appellee
34. Unger, Jason L., Counsel for Defendant/Appellant
35. Valdes, Yanelis, Plaintiff/Appellee

***GRACE, Inc., et al. v. City of Miami***

**No. 23-11854-D**

36. Warren, Nicholas L.V., Counsel for Plaintiff/Appellee

37. Wysong, George, Counsel for Defendant/Appellant

Appellant, the City of Miami, certifies that, to the best of its knowledge, no publicly traded company or corporation has an interest in the outcome of the case or appeal.

**MOTION FOR LEAVE TO FILE DOCUMENTS OUT OF TIME**

Appellant, the City of Miami, respectfully moves this Court for leave to file the attached Civil Appeal Statement and Transcript Order Form out of time. The delay, which resulted from inadvertence of counsel, has caused no prejudice to any party.

Appellees oppose the relief requested in this motion and intend to file a response.

Respectfully submitted,

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*Attorneys for Defendant-Appellant*

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT,  
TYPEFACE REQUIREMENTS, AND TYPE-STYLE REQUIREMENTS**

This document complies with the word limit of Federal Rule of Appellate Procedure 27(d)(2)(A) because, excluding the parts of the document exempted by Rule 32(f), this document contains 63 words.

This document was prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font and therefore complies with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6).

/s/ George T. Levesque  
George T. Levesque (FBN 555541)  
GRAYROBINSON, P.A.

Rev. 4/18

UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT  
**CIVIL APPEAL STATEMENT**

Please TYPE. Attach additional pages if necessary.

11th Circuit Docket Number: 23-11854-D

Caption:  GRACE, Inc.; Engage Miami, Inc.; South Dade Branch of the NAACP; Miami-Dade Branch of the NAACP; Clarice Cooper; Yanelis Valdes; Jared Johnson; and Alexander Contreras,  v.  City of Miami.	District and Division: <u>Southern District of Florida, Miami Division</u> Name of Judge: <u>K. Michael Moore</u> Nature of Suit: <u>Civil Rights: Other</u> <hr/> Date Complaint Filed: <u>12/15/2022</u> District Court Docket Number: <u>1:22-cv-24066-KMM</u> <hr/> Date Notice of Appeal Filed: <u>05/31/2023</u> <input type="checkbox"/> Cross Appeal <input type="checkbox"/> Class Action <hr/> Has this matter previously been before this court? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, provide (a) Caption: _____ (b) Citation: _____ (c) Docket Number: _____
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	Attorney Name	Mailing Address	Telephone, Fax, Email
For Appellant: <input type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant <input type="checkbox"/> Other (Specify)	<b>See Attachment A.</b>		

	Attorney Name
For Appellee: <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (Specify)	<b>See Attachment A.</b>

Please CIRCLE/CHECK/COMPLETE the items below and on page 2 that apply.

Jurisdiction	Nature of Judgment	Type of Order	Relief
<input checked="" type="checkbox"/> Federal Question <input type="checkbox"/> Diversity <input type="checkbox"/> US Plaintiff <input type="checkbox"/> US Defendant	<input type="checkbox"/> Final Judgment, 28 USC 1291 <input checked="" type="checkbox"/> Interlocutory Order, 28 USC 1292(a)(1) <input type="checkbox"/> Interlocutory Order Certified, 28 USC 1292(b) <input type="checkbox"/> Interlocutory Order, Qualified Immunity <input type="checkbox"/> Final Agency Action (Review) <input type="checkbox"/> 54(b)	<input type="checkbox"/> Dismissal/Jurisdiction <input type="checkbox"/> Default Judgment <input type="checkbox"/> Summary Judgment <input type="checkbox"/> Judgment/Bench Trial <input type="checkbox"/> Judgment/Jury Verdict <input type="checkbox"/> Judgment/Directed Verdict/NOV <input checked="" type="checkbox"/> Injunction <input type="checkbox"/> Other _____	Amount Sought by Plaintiff: \$ _____  Amount Sought by Defendant: \$ _____  Awarded: \$ _____ to _____  Injunctions: <input type="checkbox"/> TRO <input checked="" type="checkbox"/> Preliminary <input checked="" type="checkbox"/> Granted <input type="checkbox"/> Permanent <input type="checkbox"/> Denied

Based on your present knowledge:

- (1) Does this appeal involve a question of First Impression?  Yes  No  
 What is the issue you claim is one of First Impression? Whether a governmental entity may be required to draw a Voting Rights Act protected District, but still have to set the Voting Age Population for the protected class at less than 50%.
- (2) Will the determination of this appeal turn on the interpretation or application of a particular case or statute?  Yes  No

If Yes, provide

- (a) Case Name/Statute Negron v. City of Miami Beach  
 (b) Citation 113 F.3d 1563 (11th Cir. 1997)  
 (c) Docket Number if unreported \_\_\_\_\_

- (3) Is there any case now pending or about to be brought before this court or any other court or administrative agency that  
 (a) Arises from substantially the same case or controversy as this appeal?  Yes  No  
 (b) Involves an issue that is substantially the same, similar, or related to an issue in this appeal?  Yes  No

If Yes, provide

- (a) Case Name \_\_\_\_\_  
 (b) Citation \_\_\_\_\_  
 (c) Docket Number if unreported \_\_\_\_\_  
 (d) Court or Agency \_\_\_\_\_

- (4) Will this appeal involve a conflict of law  
 (a) Within the Eleventh Circuit?  Yes  No  
 (b) Among circuits?  Yes  No

If Yes, explain briefly:

- (5) Issues proposed to be raised on appeal, including jurisdictional challenges:

Whether a governmental entity may be required to draw a Voting Rights Act protected District, but still have to set the Voting Age Population for the protected class at less than 50%.  
 Whether 50.3% Voting Age Population is sufficiently narrowly tailored to meet the strict scrutiny standard articulated in *Bethune-Hill v. Virginia State Board of Elections (Bethune-Hill I)*, 580 U.S. 178, 195–96 (2017)).  
 Whether *Negron v. City of Miami Beach*, 113 F.3d 1563, 1569 (11th Cir. 1997), requires a governmental entity to use Citizen Voting Age Population in setting the population of a Voting Rights Act protected District.  
 Whether the record supports the conclusion that the City Commission rejected alternative maps with less discriminatory impact.  
 Whether the record reflects that any actual racial gerrymandering occurred.  
 Whether Plaintiffs have standing to bring their challenge to the Resolution establishing the challenged districts.  
 Whether Plaintiffs unduly delayed seeking injunctive relief pursuant to *Purcell v. Gonzalez*, 549 U.S. 1 (2006).

I CERTIFY THAT I SERVED THIS CIVIL APPEAL STATEMENT ON THE CLERK OF THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT AND  
 SERVED A COPY ON EACH PARTY OR THEIR COUNSEL OF RECORD, THIS 10th DAY OF July, 2023.

George T. Levesque

NAME OF COUNSEL (Print)

/s/ George T. Levesque

SIGNATURE OF COUNSEL



**ATTACHMENT A**

**Attorneys for the Parties**

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**ELEVENTH CIRCUIT TRANSCRIPT ORDER FORM**  
*Provide all required information and check the appropriate box(es)*

**PART I. Transcript Information**

*Within 14 days of the filing of the notice of appeal, the appellant must complete Part I and file this form with the District Court Clerk and the Court of Appeals Clerk for all cases. 11th Cir. R. 10-1.*

**Case Information:**

Short Case Style: GRACE, Inc., et al. vs City of Miami  
District Court No.: 1:22-cv-24066-KMM Date Notice of Appeal Filed: 06/02/2023  
Court of Appeals No. (if available): 23-11854-D

**Transcript Order Information:**

No hearing  No transcript is required for appeal purposes  All necessary transcript(s) already on file  
(as of June 22, 2023)  
 I am ordering a transcript of the following proceedings:

\_\_\_\_\_ HEARING DATE(S) / JUDGE/MAGISTRATE / COURT REPORTER NAME(S)

Pre-Trial Proceedings \_\_\_\_\_  
 Trial \_\_\_\_\_  
 Sentence \_\_\_\_\_  
 Plea \_\_\_\_\_  
 Other \_\_\_\_\_

**Criminal Appeals:**

In a criminal appeal, if the appellant pleaded guilty and intends to raise an issue regarding the guilty plea, the record must include a transcript of the guilty plea colloquy, and if the appellant intends to raise an issue regarding the sentence, the record must include a transcript of the sentencing hearing. ***If such transcripts are not ordered or are not already on file, you must check the appropriate box(es) below:***

A transcript of a guilty plea colloquy is not being ordered and is not already on file, and I certify that no issue regarding a guilty plea will be raised in a merits brief in this appeal.  
 A transcript of the sentencing hearing is not being ordered and is not already on file, and I certify that no issue regarding sentencing will be raised in a merits brief in this appeal.

**Note: Counsel who seek leave to withdraw pursuant to *Anders v. California*, 386 U.S. 738 (1967), must ensure the record contains transcripts of all relevant proceedings. See 11th Cir. R. 27-1(a)(8).**

I certify that I have made satisfactory arrangements with the Court Reporter(s) for paying the cost of the transcript(s).

Criminal Justice Act: My completed AUTH-24 for government payment of transcripts has been uploaded in eVoucher and is ready for submission to the magistrate judge or district judge [if appointed by the district court] or to the circuit judge [if ordered by or appointed by the circuit court]. [A transcript of the following proceedings will be provided *only if specifically authorized* in Item 13 on the AUTH-24: Voir Dire; Opening and Closing Statements of Prosecution and Defense; Prosecution Rebuttal; Jury Instructions.]

Ordering Counsel/Party: George T. Levesque  
Address: GrayRobinson, P.A., 301 S. Bronough Street, Suite 600, Tallahassee, FL 32301  
E-mail: george.levesque@gray-robinson.com Phone No.: 850-577-9090

**I certify that I have completed and filed Part I with the District Court Clerk and the Court of Appeals Clerk, served all parties, AND sent a copy to the appropriate Court Reporter(s) if ordering a transcript. 11th Cir. R. 10-1.**

Date: 07/10/23 Signature: /s/ George T. Levesque Attorney for: Appellant

**PART II. Court Reporter Acknowledgment**

*Within 14 days of receipt, the Court Reporter must complete this section, file this form with the District Court Clerk, and send a copy to the Court of Appeals Clerk and all parties. The transcript must be filed within 30 days of the date satisfactory arrangements for paying the cost of the transcript were made unless the Court Reporter obtains an extension of time to file the transcript.*

Date Transcript Order received: \_\_\_\_\_

Satisfactory arrangements for paying the cost of the transcript were made on: \_\_\_\_\_

Satisfactory arrangements for paying the cost of the transcript have not been made.

No. of hearing days: \_\_\_\_\_

Estimated no. of transcript pages: \_\_\_\_\_

Estimated filing date: \_\_\_\_\_

Date: \_\_\_\_\_ Signature: \_\_\_\_\_ Phone No.: \_\_\_\_\_

**PART III. Notification That Transcript Has Been Filed In District Court**

*On the date the transcript is filed in the district court, the Court Reporter must complete this section, file this form with the District Court Clerk, and send a copy to the Court of Appeals Clerk.*

I certify that the transcript has been completed and filed with the district court on (date): \_\_\_\_\_

Date: \_\_\_\_\_ Signature: \_\_\_\_\_