

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

BLACK VOTERS MATTER CAPACITY
BUILDING INSTITUTE, INC., *et al.*,

Plaintiffs,

Case No. 2022-CA-000666

v.

CORD BYRD, in his official capacity as
Florida Secretary of State, *et al.*,

Defendants.

_____ /

ORDER TO SHOW CAUSE

THIS CAUSE having come before the Court upon Plaintiff's Renewed Motion to Rule on Objection to Non-Party Subpoena. The Court, having reviewed the motion, Defendant Secretary of State's Response, and Plaintiffs' Reply, the casefile, and being advised in the premises,

ORDERS and ADJUDGES:

1. Defendant Secretary of State shall **SHOW CAUSE** within 5 days of the date of this order, why the motion should not be granted for lack of standing to raise the objection. Plaintiffs shall then have 5 days to respond. The Court then intends to rule on the motion on the filings without a hearing.

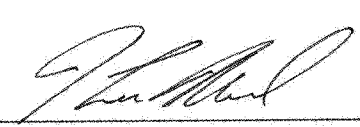
2. In his objection, Defendant Secretary of State claims "Mr. Foltz was 'specially employed' by the Secretary as a redistricting expert." Pl. Renewed Motion at Ex. A. He also objects based on work-product. *Id.* However, Defendant Secretary of State has produced no evidence of Mr. Foltz's relationship to him. In fact, Defendant Secretary of State, in his Secretary of State's Answer (to the Amended Complaint), admits in

paragraph 74 that “the **Governor’s office** retained Adam Foltz to assist.” (emphasis added).

3. The Governor of Florida is not a party to this case but has already demonstrated that he is capable of litigating a motion for protective order. See, e.g., Supplemental Order on Governor and J. Alex Kelly’s Motion to Quash & for Protection from Subpoena Duces Tecum for Deposition After *In Camera* Review. The Court has no doubt Mr. Foltz is as capable as Mr. J. Alex Kelly (who also was/is employed by the Governor) to litigate a motion for protective order. See *id.*

4. The Court takes no position as to the possible merits of any position taken by the Governor or Mr. Foltz as to protection from subpoena. However, based on the upcoming trial in this case, paired with Plaintiffs’ request at the last hearing in this case for the Court to rule on the motion, the Court is issuing this order. At that hearing Defendant Secretary of State’s counsel, after a brief discussion with the Court, indicated he would like a hearing on this motion. The Court instructed him to contact the Court’s Judicial Assistant to set it for the following week (which is the current week in which this order is being released.) It is now Thursday evening, and no hearing was set.

DONE AND ORDERED this Thursday, June 15, 2023.

2022-CA-000666 06/15/2023 05:54:40

Lee Marsh, Circuit Judge

37-2022-CA-000666 06/15/2023 05:54:40 PM

Copies furnished to: All Counsel of Record