

IN THE CIRCUIT COURT OF THE 17<sup>TH</sup> JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA

NORML OF FLORIDA, INC., a Florida  
Not for Profit Corporation, and KAREN  
GOLDSTEIN, a registered voter in Broward  
County, Florida,

Petitioners,

CASE NO.

vs.

DR. BRENDA SNIPES, as Supervisor of  
Elections of Broward County, Florida,

Respondent.

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**PETITION FOR EMERGENCY INJUNCTIVE RELIEF, DECLARATORY  
JUDGMENT, AND EXTRAORDINARY REMEDY**

Petitioners, NORML OF FLORIDA, INC. (hereinafter NORML), a Florida Not for Profit Corporation, and KAREN GOLDSTEIN (hereinafter GOLDSTEIN), a registered voter in Broward County, Florida, pursuant to Rule 1.630, Florida Rules of Civil Procedure, file this Complaint against Respondent, DR. BRENDA SNIPES (hereinafter SNIPES), as Supervisor of Elections of Broward County, Florida and state:

1. This is an action for emergency extraordinary relief, injunctive relief, and declaratory judgment.
2. This Court has jurisdiction under Article V, Section 5(b) of the Florida Constitution, Section 26.012, Florida Statutes, Chapter 86, Florida Statutes, and Rule 1.610 and 1.630, Florida Rules of Civil Procedure.
3. Venue is proper in Broward County, Florida, where Petitioner NORML is incorporated and Petitioner GOLDSTEIN is a resident for purposes of voting.

4. Venue is proper in Broward County, Florida where Respondent SNIPES is the duly elected Supervisor of Elections.

### **STATEMENT OF FACTS**

5. Petitioner NORML is a non-profit corporation organized under the laws of the State of Florida with its headquarters and principal place of business in Broward County, Florida.
6. Petitioner GOLDSTEIN is an individual registered to vote in the 2016 general election in Broward County, Florida.
7. Respondent SNIPES is the duly elected Supervisor of Elections in Broward County, Florida.
8. Petitioner NORML is an organization created for the purpose of pursuing the reform of anti-cannabis laws within the State of Florida, and to pursue the legalization of access to cannabis, both medically and otherwise, for Floridians.
9. Florida Amendment 2, whose full title is Florida Right to Medical Marijuana Initiative, Amendment 2, is a 2016 citizen initiated state constitutional amendment to allow legal access to medical cannabis in the State of Florida.
10. Florida Amendment 2 has satisfied the requirements for citizen initiated constitutional amendments and has been approved by the Florida Supreme Court for placement on the 2016 general election ballot for the election to be held on November 8, 2016.
11. All registered voters are eligible to vote on Amendment 2 in the November 8, 2016, general election, including through overseas, absentee, vote by mail, and early voting methods, as well as during the regularly scheduled voting period held on November 8, 2016.

12. In July, 2016, the State of Florida replaced the term “absentee ballot” with “vote-by-mail ballot”, and the Supervisor of Elections website describes the “vote-by-mail ballot as follows:

“Vote-by-mail refers to voting a ballot received by mail or picked up by or for a voter who is unable or unwilling to go to the polls to vote during early voting or Election Day. A voter does not have to be absent from the county of residence or have an excuse in order to vote-by-mail except on Election Day.”

13. Under the laws of the State of Florida, passage of this a citizen initiated constitutional amendment requires 60% of the voting public to support the measure (a super majority) and therefore every vote is critical.

14. In 2014, a similar amendment which addressed medical use of cannabis went before the voters of the State of Florida but fell short, securing only 58% of the vote, just 2% shy of approval. Every voter and vote, therefore, is critical.

15. On or about October 19, 2016, less than three weeks from the general election date, several local media outlets began reporting on problems with some vote-by-mail ballots, namely, that the ability to vote for Amendment 2 has been excluded from those ballots. (See Exhibit “A”)

16. It was reported by some recipients of vote-by-mail ballots in Broward County that their ballots failed to include Amendment 2 and simply jumped from Amendment 1 to Amendment 3 on the printed page.

17. Petitioners are in possession of a copy of a vote-by-mail ballot, sent to a Broward County voter, that is missing Amendment 2, however, the ballot is already completed and displays the voter’s selections and is therefore inappropriate for attachment to a publicly accessible pleading. Petitioners are willing to provide the ballot for *in camera* review or submit it under seal once provisions to do so have been made.

18. The Respondent's failure to include Amendment 2 on certain vote-by-mail ballots carries with it the imminent danger that a significant portion of the voting public in Broward County, Florida will be deprived of the opportunity to fully participate in the 2016 general election and violates the constitutional rights of all citizens with Broward County.
19. The end result of this error is catastrophic and cataclysmic as it applies to this ballot item, effectively disenfranchising voters and eliminating the right to vote on certain matters which have been lawfully placed on the ballot.
20. The direct and proximate result of this egregious error, even if unintentional and inadvertent, is grossly inexcusable and cannot be permitted to stand.
21. The Respondent has been made aware of this error, but has failed to act in any manner to correct it.
22. As of the filing of this complaint, no proactive steps have been taken by the Respondent to determine the scope of the error, or to provide amended and/or corrected ballots to those adversely impacted by the error.
23. With the election less than three weeks away, it is requested that this Honorable Court address this matter on an emergency basis and act expeditiously to adjudicate the claims presented herein.
24. Failure to provide the relief sought herein under these circumstances would cause irreparable harm to the Petitioners and all voters of Broward County. The granting of said relief is in the public interest in that it furthers the democratic process of fair and open elections and the Petitioner's likelihood of success on the merits is great.

WHEREFORE, Petitioners respectfully request the Court enter an order granting declaratory, injunctive and other relief as follows:

- a) Requiring the Respondent to print and distribute new ballots to all voters who have already received vote-by-mail ballots for the 2016 general election which allow for the opportunity to vote on Amendment 2.
- b) Requiring the Respondent to include with the new ballots an information sheet explaining the reason why new ballots are being provided and explaining that Amendment 2 had been excluded from previous ballots.
- c) Requiring the Respondent to insure that Amendment 2 appears on all ballots which are already printed and have not yet been sent out, as well as on any ballots that have not yet been printed.
- d) Requiring the Respondent to provide an explanation as to how Amendment 2 was excluded from certain ballots and an accounting of the number of ballots that are believed to have been effected.
- e) Requiring payment of Petitioners' costs and reasonable attorney's fees to the extent allowable by law.
- f) Any other relief the Court deems just and appropriate.

Dated: October 20, 2016

Respectfully Submitted,

NORMAN ELLIOTT KENT, ESQ.

Attorney for the Petitioners

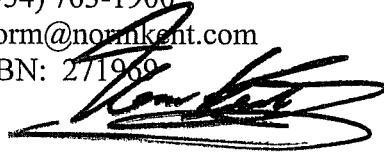
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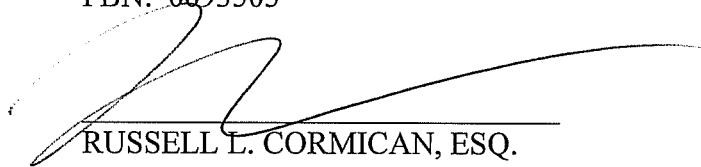
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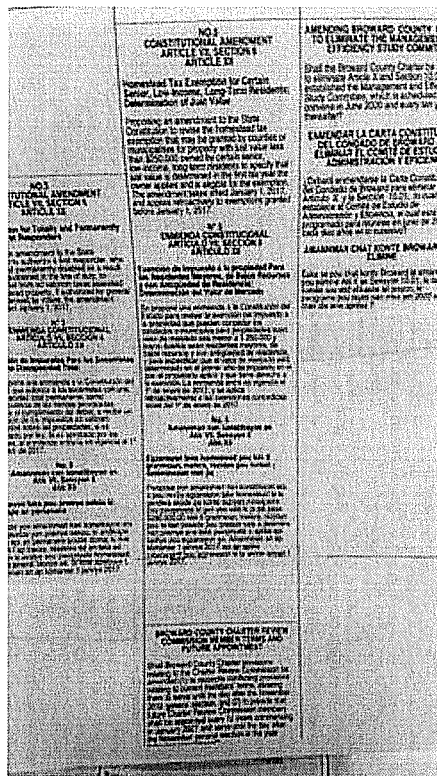


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RUSSELL L. CORMICAN, ESQ.

**EXHIBIT "A"**

# Broward voter's ballot is missing marijuana question



The Amendment 2 is missing from this ballot (Brittany Wallman)



By **Brittany Wallman**  
Sun Sentinel

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MISSING: Marijuana question isn't on former Oakland Park commish's ballot

OCTOBER 20, 2016, 12:09 PM

**F**ormer Oakland Park Commissioner Anne Sallee noticed something troubling about her vote-by-mail ballot. It is missing Constitutional Amendment 2, the medical marijuana question.

Sallee, now Broward chapter director of the Florida Restaurant and Lodging Association, knows her



way around government. Yet she said she spent a week unsuccessfully trying to get someone at the Broward elections office to pay attention to her complaint.

"They said, 'Oh, no, you're mistaken. It's there,' " she recounted.

The ballot, a scanned image of which Sallee sent to the Sun Sentinel, goes from Amendment 1 to Amendment 3.

Broward Elections Supervisor Dr. Brenda Snipes said Wednesday that she hasn't seen Sallee's ballot yet and can't confirm there's something wrong with it. But she and her technical staff spent much of the day investigating, and found no evidence of faulty ballots being sent to voters.

"We have a check-and-balance system. We can go back and see what we did send to the printer," she said. "When you're dealing with this much paper and this many people, we may have made a mistake. But I haven't heard a lot of people saying, 'I don't have it, either.' We've already sent [Sallee] another ballot."

Snipes said her office plans to retrieve it "we can start to examine what may have caused the problem."

Snipes was cleared Wednesday in another election snafu, the early posting of primary election results. Her office also was criticized for sending out inaccurate voter ID cards, and for printing ballots for November that include the word "no" in the "yes" line on the county's transportation sales surtax question.

The ballots are printed off-site, at Commercial Printing, Snipes said, But the different ballot layouts — depending on a person's city, County Commission district or other boundaries — are created by the elections office.

Snipes told the Sun Sentinel she looked at other ballots for Sallee's Oakland Park precinct and specific ballot layout, and they are not missing the medical marijuana question.

"We can't find a copy of a ballot that does not have the marijuana issue on it," she said.

Sallee said her husband's ballot was missing the question, and that after she sent an email warning to neighbors, a couple of them said their ballots were missing Amendment 2, also.

Vote-by-mail ballots have not been opened yet by elections officials. That starts Monday.

The Broward State Attorney's Office on Wednesday cleared Snipes and her office of any wrongdoing on primary Election Day, when results were posted before polls closed.

Secretary of State Ken Detzner requested the investigation, because early posting of election results is against the law. The Florida Department of Law Enforcement assisted in the investigation.

Assistant State Attorney Tim Donnelly said in a closeout memo Wednesday that the results were "negligently posted, for a brief period of time, prior to the closing of the polls. However, there is insufficient evidence that anyone purposely intended to post any election results prior to the closing of the polls, in violation of the criminal statutes."

The mistake was made by a customer support technician at VR Systems, the vendor hired by the elections office.

It ultimately delayed election results across the state, with Broward posting its results last, at 7:52 p.m., the report says.

Donnelly said the case is closed, "pending any future re-occurrence."

*bwallman@sunsentinel.com or 954-356-4541. On Twitter @BrittanyWallman and @BrowardPolitics.*

### **Tell us about your voting experience**

Call the Sun Sentinel Election Hotline to report problems with your ballot. Leave your name, phone number and a brief description of the issue.

**Broward County:** 954-356-4537

**Palm Beach County:** 561-243-6635

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