

STEPHEN L. POPE

467 Inwood Road
Pittsburgh, PA 15237

FILED
THOMAS D. HALL

NOV 15 2000

CLERK, SUPREME COURT
BY _____

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Stephen L. Pope

November 15, 2000

VIA FAX

Clerk, Florida Supreme Court
ATTN: Tom Hall
Florida Supreme Court
500 South Duval Street
Tallahassee FL 32399-1927

Dear Mr. Hall:

In accordance with our telephone conversation of this afternoon, please find enclosed the Motion of Stephen L. Pope in Opposition to the Emergency Petition for Extraordinary Relief filed by Florida Secretary of State Katherine Harris.

The original and nine copies will be sent to your office along with a copy on a computer disk in WordPerfect format. I thank you for permitting me to file the enclosed pleading by fax.

Very truly yours,



Stephen L. Pope

FILED
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IN THE SUPREME COURT OF FLORIDA

Case No.:

CLERK, SUPREME COURT
BY _____

KATHERINE HARRIS, as
SECRETARY OF STATE, STATE OF
FLORIDA, and as CHAIRPERSON OF THE
FLORIDA ELECTIONS CANVASSING
COMMISSION,

Petitioner,

vs.

THE CIRCUIT JUDGES OF THE ELEVENTH,
FIFTEENTH AND SEVENTEENTH
JUDICIAL CIRCUITS OF FLORIDA,
PALM BEACH COUNTY CANVASSING
BOARD, MIAMI-DADE COUNTY CANVASSING
BOARD, AND BROWARD COUNTY
CANVASSING BOARD,

Respondents.

**MOTION OF STEPHEN L. POPE IN OPPOSITION TO
THE EMERGENCY PETITION FOR EXTRAORDINARY RELIEF**

Movants, Stephen L. Pope and Russell F. Brunner hereby file the within Motion opposing the Emergency Petition for Extraordinary Relief ("Petition") filed by Katherine Harris, Secretary of State, State of Florida ("Harris") and in support thereof respectfully states the following:

1. Movants are Intervenor in Fladell v. Palm Beach Canvassing Board, CL00-10965 (Fla. 15th Judicial Circuit) which is a declaratory judgement action brought by several private citizens.
2. Movants, are residents of Pennsylvania who have intervened in the aforementioned action pursuant to Florida Statutes §86.091.

3. In ¶¶2 and 3 of her Petition, Harris avers and *admits* that the numerous actions filed as a result of the confusion over the results of the Presidential Election in Florida are “based on many numerous legal theories.”

4. Additionally, Harris in her Petition, seeks to change the venue of “any proceeding contesting the election for the Presidency and Vice Presidency of the United States of America shall be in the Circuit Court of the Second Judicial Circuit in and for Leon County.” (Addendum ¶2 of Harris’s Petition)

5. In ¶6 of her Petition, Harris alleges that venue in all of the cases “...contesting the statewide elections..” rests exclusively in Leon County. In support of her argument, Harris cites §102.1685 of the Florida Statute. This section pertains to Venue in *Election Contests Actions*.

6. Movants respectfully submit to this Honorable Court that Harris in her zeal to see George W. Bush elected as the 43rd President of the United States has misapprehended the nature and scope of the Fladell action as well as all of the other actions set forth in Exhibit ‘A’ of her Petition to this Court. The action in Fladell is clearly a declaratory judgement action, not an Election Contest Action brought pursuant to Florida Statute §102.168 or an action for Protest of Election Returns pursuant to Florida Statute §102.166.

7. Movants have reviewed the statutes and case law cited in ¶6 of her Petition and respectfully submit that none of the authority cited therein are controlling or even applicable in the instant matter and more specifically the Fladell matter.

8. It is respectfully submitted that the Fladell case is properly venued in Palm Beach County in accordance with Florida Statute §47.122, inasmuch as the plaintiffs’ are seeking declaratory relief, most of the defendant parties are domiciled or residents of Palm Beach County, and more

importantly neither the **Fladell** action or to the best of Movants knowledge, none of the pending actions set forth in Exhibit "A" of Harris's Petition are Election Contest actions or Protest of Election Returns.¹

9. Movants while speaking solely for themselves, have no objection to this Honorable Court taking jurisdiction and adjudicating the merits of the **Fladell** matter, Movants submit that the Petition of Katherine Harris should be denied as it relates to the change of venue she is seeking in the **Fladell** matter.

10. Sadly, Secretary Harris is using her official position to thwart, obstruct and prevent the proper and lawful exercise of the duties of the local election officials to bring about a rapid and accurate resolution of the result of the Presidential Election in Florida.

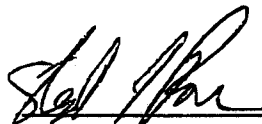
WHEREFORE, Movants respectfully request this Court to deny the Petition of Katherine Harris in ordering that case of **Fladell v. Palm Beach Canvassing Board**, CL00-10965 (Fla. 15th Judicial Circuit) be transferred to the Second Judicial Circuit in Leon County.

In the alternative Movants respectfully request this Court to take jurisdiction and adjudicate all of the **Fladell v. Palm Beach Canvassing Board**, CL00-10965 (Fla. 15th Judicial Circuit) and all


¹ To the best of Movants knowledge at least one if not two of the actions pending that are set forth on Exhibit "A" of Harris's Petition for Extraordinary Relief are class actions involving claims that citizens voting rights were violated. None of the actions and more importantly the **Fladell** action, are not actions contesting or protesting the election being brought by a candidate.

other cases set forth on Exhibit "A" the Emergency Petition for Extraordinary Relief filed by Katherine Harris..

Respectfully Submitted,



Stephen L. Pope
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(412) 369-8299



Russell F. Brunner

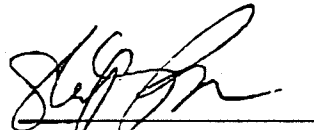
CERTIFICATE OF SERVICE

I Stephen L. Pope, hereby certify that a true and correct copy of the foregoing was served on the below on this 15 day of June, 2000.

Deborah K. Kearney
Florida Department of State
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Tallahassee, Florida 32399-0250

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Stephen L. Pope