

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

LARRY KLAYMAN, On Behalf of Himself and Others  
Similarly Situated,

Plaintiff,

v.

THE REPUBLICAN NATIONAL COMMITTEE, REINCE  
PRIEBUS, THE REPUBLICAN NATIONAL PARTY OF  
FLORIDA, BLAISE INGOGLIA, and KEN DETZNER

Defendants.

Case No.: 2016-CA-000925

**PLAINTIFF LARRY KLAYMAN'S OPPOSITION TO DEFENDANTS THE  
REPUBLICAN PARTY OF FLORIDA AND BLAISE INGOGLIA'S MOTION TO  
DISMISS COMPLAINT**

**I. INTRODUCTION**

Plaintiff brought this action to ensure that he, and his fellow voters who voted in Florida's Republican Presidential Primary, are afforded their fundamental constitutional right to cast a binding vote for the nomination of the presidential candidate of their choice. Instead, Defendants, each and every one of them, have threatened to stage what is in effect a *coup d'état* at the Republican National Convention to have Florida Republican delegates not vote for the presumptive Republican nominee, Donald Trump ("Trump"), prevent Trump from securing the party's nomination and substitute the establishment candidate of their choice instead.

As a direct result of this conspiracy between Defendants, each and every one of them, Plaintiff, along with each and every voter who voted in the Florida Republican Presidential Primary, faces the increasingly strong probability that he or she will be severely and irreparably injured due to being disenfranchised and deprived of the right to cast a binding vote to determine

the Republican Presidential nominee—the very touchstone that our democratic government rests upon. Indeed, Defendants’ plan is already in motion, as the movement to install a candidate of Defendants’ choice has been extensively disclosed.

Any assertion that Defendants may make that Plaintiff’s Complaint is moot by virtue of Trump securing, in theory, enough delegates to win the Republican Presidential Nomination is severely undermined by Defendants’ own efforts to effectively stage a *coup d’état* at the Republican National Convention, deny the popular vote of the Republican voters of Florida and the nation as a whole, and insert an establishment candidate of their own choosing. These efforts have been disclosed in detail by news outlets all over the nation, and in alarmingly increasing numbers. An article titled *Delegates Launching ‘Anything by Trump’ Movement for Convention* discloses:

Republican convention delegates are coming together with a new plan to block Donald Trump's nomination as fears climb that his views are not conservative and that his temperament is not suitable to successfully campaign against likely Democratic nominee Hillary Clinton. **"This literally is an 'Anybody but Trump' movement,"** Kendal Unruh, a Colorado delegate leading the campaign, told The Washington Post. "Nobody has any idea who is going to step in and be the nominee, but we're not worried about that. **We're just doing that job to make sure that he's not the face of our party.**" The organized effort is underway as Trump's poll numbers drop and following a spate of controversial statements in recent weeks, including his attacks on U.S. District Court Judge Gonzalo Curiel's Mexican heritage; his revived calls for a temporary ban on Muslims entering the country following the Orlando shootings; and his support for changing national gun control laws. **The anti-Trump movement kicked off its efforts on Thursday with a conference call involving at least 30 delegates from 15 states, and Unruh and fellow Colorado delegate Regina Thomson have brought in coordinators in Arizona, Louisiana, Iowa and Washington, among other states.** The delegates believe that there are enough Republicans to back their efforts to change the party rules, which would then allow them to vote for the candidate of their choice at the Cleveland convention, no matter who won in the nation's primaries. And while many of the delegates who are involved in the push, backed Texas Sen. Ted Cruz while he was still in the race, they say that the push isn't about any particular candidate, but about blocking Trump from being the face of the Republican Party. Further, they are not alone with their opposition to Trump, as many prominent Republicans, including Ohio Gov. John Kasich, are

saying they can't support his bid for the presidency. Even House Speaker Paul Ryan, who took nearly a month after Trump became the presumptive nominee to say he supports him, has shown many doubts, and says in a "Meet the Press" interview airing Sunday that other House Republicans should follow their conscience on whether to back Trump. Further, the post reports, Ryan's use of the word "conscience" could help the anti-Trump delegates if they push a "conscience clause" to unbind delegates, reports The Post. Trump says he's not worried about the plots, as he has already won about 14 million votes, the largest of any Republican party candidate in history, and gets the biggest crowds at his rallies. What's more, he said, a "never Trump" move would be "totally illegal," and candidates he already defeated in the primaries will do whatever they can to get a second shot at the nomination.

Republican National Committee spokesman Sean Spicer also played down the push, calling discussion about the RNC Rules Committee eventually undermining Trump "silly." "There is no organized effort, strategy or leader of this so-called movement," said Spicer. "It is nothing more than a media creation and a series of tweets."<sup>1</sup> (emphasis added)

Additionally, "CNN" has disclosed the same—that the Republican establishment is mounting an effort to block Trump from securing the nomination. In an article titled *RNC Delegates Launch 'Anybody but Trump' Drive*, the efforts of Republican delegates to come up with a way to block Trump's nomination are detailed.<sup>2</sup> "Kendal Unruh, a Colorado delegate, organized a call with dozens of other delegates Thursday night to discuss ways to block Trump at the convention. The group, Unruh says, marks the coalescing of disparate "pockets of resistance" -- including backers of Sen. Ted Cruz, Sen. Marco Rubio and Ohio Gov. John Kasich -- which had been opposing Trump with little success."<sup>3</sup> Paul Ryan ("Ryan"), in his capacity as House Speaker, has gone so far as to threaten to sue Trump over Trump's proposed policies.<sup>4</sup> In that "World Net Daily" article, Ryan is quoted as saying "I would sue any president that exceeds his

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<sup>1</sup> Sandy Fitzgerald, *Delegates Launching 'Anything by Trump' Movement for Convention*, Newsmax (June 18, 2016) (available at <http://www.newsmax.com/t/newsmax/article/734518>)

<sup>2</sup> Tom LoBianco, Tal Copan, *RNC Delegates Launch 'Anybody but Trump' Drive*, CNN Politics (June 17, 2016) (available at <http://www.cnn.com/2016/06/17/politics/delegate-unbinding-effort-organized/index.html>)

<sup>3</sup> *Id.*

<sup>4</sup> Cheryl Chumley, *Paul Ryan Threatens To Sue Trump Over Immigration Ban*, WND Politics, June 17, 2016 (available at [http://mobile.wnd.com/2016/06/paul-ryan-threatens-to-sue-trump-over-immigration-ban/?cat\\_orig=politics#!](http://mobile.wnd.com/2016/06/paul-ryan-threatens-to-sue-trump-over-immigration-ban/?cat_orig=politics#!))

or her powers”, while expressing doubt that Trump’s border suggestion was legal.<sup>5</sup> Ryan went on to state that Republicans needed to “follow their conscience” in deciding whether to endorse Trump and that he was only doing so “because to do otherwise could hurt the GOP.”<sup>6</sup>

Jeb Bush, a former Republican presidential candidate and former governor of Florida—the state in which Plaintiff voted in the Republican Presidential Primary—has also been identified as being “behind a ‘movement’ pushed by delegates to the Republican National Convention...that would change party rules so they can vote for the candidate of their choice instead of who won their states in the primaries.”<sup>7</sup> This is especially relevant to Plaintiff’s Complaint, since it is indicative of the fact that Defendants’ “Dump Trump” movement has, in fact, reached the state of Florida.

Even more, a recent “CNN” article titled *Trump, GOP Poised for Collision* discloses:

And yet a fourth group has emerged in recent days, with the most provocative proposal: to dump Trump at the Republican Convention should he not improve over the next two or three weeks. Given Trump's delegate haul, that would require a major change in RNC rules to trigger an open convention.

One name is emerging as the saving grace: Wisconsin Gov. Scott Walker, who has privately told friends he is "intrigued" by the possibility of allowing his name to be put in the ring at the GOP convention as a challenge to Trump, two sources with direct knowledge say.<sup>8</sup> (emphasis added)

Additionally, “Politico” disclosed in an article titled *4-in10 GOP insiders want to derail Trump at the convention*, which details the efforts of “nearly four-in-10 Republican members... who would “like to see changes that could deny Trump the party’s nod....”<sup>9</sup>

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<sup>5</sup> *Id.*

<sup>6</sup> Bill Hoffman, *Paul Ryan: This Election is a ‘Very Strange Situation’*, Newsmax (June 17, 2016) (available at <http://www.newsmax.com/t/newsmax/article/734432>)

<sup>7</sup> Todd Beamon, *Trump Links Jeb to Delegate-Revolt ‘Movement’ Planned for Convention*, Newsmax (June 18, 2016) (available at <http://www.newsmax.com/t/newsmax/article/734536>)

<sup>8</sup> Theodore Schleifer, Gloria Borger, and Sara Murray, *Trump, GOP poised for collision*, CNN Politics, (June 15, 2016) (available at <http://www.cnn.com/2016/06/15/politics/trump-gop-leadership/>)

<sup>9</sup> Steven Shepard, *4-in10 GOP insiders want to derail Trump at the convention*, POLITICO, (June 10, 2016) (available at <http://www.politico.com/story/2016/06/donald-trump-convention-block-gop-insiders-224152>)

“NBC News” also disclosed in the distinct plan to wage a *coup d’état* at the Republican National Convention, in an article titled *Some Republicans Discuss Anti-Trump Convention Coup*, which speaks to how “Bob Vander Plaats, a supporter and campaign co-chair of former candidate Sen. Ted Cruz, suggested that a convention coup at next month’s Republican nominating convention in Cleveland is possible.”<sup>10</sup>

Hugh Hewitt, a known shill for the Republican establishment, went so far as to call for an “unprecedented effort to change the Republican National Convention rules to allow them to dump Donald Trump as the nominee.” In an article published by “Mediaite” titled, *Conservative Radio Host Hugh Hewitt Says GOP Should Change Convention Rules to Dump Trump*, Hewitt compares having Trump as the nominee to “stage-four cancer.”<sup>11</sup> Indeed there are dozens of confirmed news reports evidencing Defendants’ concerted effort to block the popular vote of Florida Republican voters, and Republican voters generally, in order to insert a candidate who will cater to Defendants’ own agendas. *See also Could the Republican Party Still Dump Trump This July*<sup>12</sup>; *Pending Trump nomination spurs talk of coup at GOP convention*<sup>13</sup>; *Anti-Trump Republicans seek last-ditch ‘delegate revolt’*<sup>14</sup>; *Talk of a convention coup rattles Republican politics*<sup>15</sup>.

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<sup>10</sup> Vaughn Hillyard, *Some Republicans Discuss Anti-Trump Convention Coup*, NBC NEWS, (June 8, 2016) (available at <http://www.nbcnews.com/politics/2016-election/some-republicans-discuss-anti-trump-convention-coup-n588301>)

<sup>11</sup> Alex Griswold, *Conservative Radio Host Hugh Hewitt Says GOP Should Change Convention Rules to Dump Trump*, Mediaite, (June 8, 2016) (available at <http://www.mediaite.com/election-2016/hugh-hewitt-gop-should-change-convention-rules-to-dump-donald-trump/>)

<sup>12</sup> Diana Pearl, PEOPLE, (June 14, 2016) (available at <http://www.people.com/article/dump-trump-donald-republican-convention>)

<sup>13</sup> Kevin Diaz, San Antonio Express News, (June 14, 2016) (available at <http://www.expressnews.com/news/local/article/Pending-Trump-nomination-spurs-talk-of-coup-at-8152403.php>)

<sup>14</sup> Tai Kopan, CNN, (June 10, 2016) (available at <http://www.cnn.com/2016/06/10/politics/gop-delegate-revolt-stop-donald-trump/>)

<sup>15</sup> Steve Benen, MSNBC, (June 8, 2016) (available at <http://www.msnbc.com/rachel-maddow-show/talk-convention-coup-rattles-republican-politics>)

In sum, there is, therefore, an overwhelming amount of evidence that Defendants are, in fact, actively engaged in efforts to block and subvert the popular vote of the citizens of Florida and the American people by staging a *coup d'état* at the Republican National Convention. Given the enormous amount of evidence presented that, in fact, Defendant the Republican National Committee, along with members of the Republican establishment, are indeed still actively taking steps to preclude the popular vote of the citizens of Florida and the American people, Plaintiff's Complaint is clearly ripe for this Court's declaratory judgment. When the voters who voted in Florida's Republican Presidential Primary cast their vote, they truly believed that they were casting a binding vote for the Republican Presidential nominee and that the delegates would indeed be bound to carry out the will of the voters. No one told them otherwise.

Plaintiff seeks declaratory judgment from this Court, that Florida's Republican delegates must remain bound to the candidate selected by Florida's voters, Trump, at the Republican National Convention set to begin on July 18, 2016 throughout every round of voting that takes place. This is the obligation that Plaintiff, and Florida's voters who participated in the Florida Presidential Primary, believed their vote set forth upon Florida's Republican delegates. Plaintiff and other Florida Republican voters were never made aware of Defendants' obscure and hidden rule which only binds Florida's delegates through three rounds of voting at the Republican National Convention due to the fraudulent concealment of each and every Defendant. Even if this obscure and hidden rule was to be given effect, Florida's delegates must still carry out the popular vote of Florida's Republican voters for at least the first three rounds of voting at the Republican National Convention, especially given the "Dump-Trump" Movement's efforts to convince delegates to completely ignore the popular vote immediately.

It is of crucial importance that this Court decides this issue immediately, since it becomes moot once the Republican National Convention has passed and that this Court grant the relief prayed for in order to ensure that Florida's voters are granted their constitutional right to vote and to set a significant precedent that it is the voters, not the establishment, who decided the next President of the United States.

## **II. LEGAL ARGUMENT**

To the extent that Defendants the Republican Party of Florida and Blaise Ingolia ("Defendants" unless individually named) adopt and incorporate by reference the arguments made in the Republican National Committee's Answer and Motion to Dismiss Complaint, Plaintiff too adopts and incorporates by reference the arguments made in Plaintiff's Opposition to the Republican National Committee and Reince Priebus' Motion to Dismiss Complaint, filed June 22, 2016. Here, Plaintiff addresses arguments specifically raised by Defendants in their Motion to Dismiss.

### **A. Plaintiff Has Stated a Valid Cause of Action for Declaratory Relief**

Fla. Stat. § 86.011 governs a court's ability to grant declaratory relief. The statute, in its entirety, says:

The circuit and county courts have jurisdiction within their respective jurisdictional amounts to declare rights, status, and other equitable or legal relations whether or not further relief is or could be claimed. No action or procedure is open to objection on the ground that a declaratory judgment is demanded. The court's declaration may be either affirmative or negative in form and effect and such declaration has the force and effect of a final judgment. The court may render declaratory judgments on the existence, or nonexistence: (1) Of any immunity, power, privilege, or right; or (2) Of any fact upon which the existence or nonexistence of such immunity, power, privilege, or right does or may depend, whether such immunity, power, privilege, or right now exists or will arise in the future. Any person seeking a declaratory judgment may also demand additional, alternative, coercive, subsequent, or supplemental relief in the same action.

Pursuant to the statute, Florida’s circuit courts are expressly allowed to grant the type of declaratory judgment that Plaintiff seeks—a declaration that Florida’s Republican Delegates must carry through the popular vote of Florida’s voters who voted in the Florida Presidential Primary at the Republican National Convention in July 2016 in order to vindicate the right that each voter has to cast a binding vote.

**1. There Is a Ripe and Justiciable Issue Presented to This Court**

A justiciable controversy properly giving rise to Declaratory Relief exists when: (1) there is a bona fide, actual, present practical need for the declaration, (2) the declaration deals with a present, ascertained or ascertainable state of facts or present controversy as to a state of facts, (3) that some immunity, power, privilege or right of the complaining party is dependent upon the facts or the law applicable to the facts, and (4) that there is some person or persons who have, or reasonably may have an actual, present, adverse and antagonistic interest in the subject matter, either in fact or law; that the antagonistic and adverse interest are all before the court by proper process or class representation and that the relief sought is not merely the giving of legal advice by the courts or the answer to questions propounded from curiosity. *Apthorp v. Detzner*, 162 So. 3d 236, 240 (Fla. Dist. Ct. App. 1st Dist. 2015).

Defendants contend that Plaintiff’s Complaint “falls far outside the jurisdictional limitations on the judicial power.” Defendants’ Motion at 2. In support, Defendant asserts that Plaintiff “Plaintiff himself is not a delegate, nor does he allege any legal or factual basis to seek a declaratory judgment regarding the duties of non-parties to this proceeding.” The fact that Plaintiff is not a delegate is not determinative. Plaintiff indeed does have a significant legal interest—the ability to exercise his right to cast a binding vote for the Republican presidential candidate—which Defendants have threatened to take away.



As Plaintiff pled in his Complaint, there is an actual, present need for this declaration since the Republican National Convention is scheduled to take place from July 18, 2016 to July 21, 2016. The only way that a declaratory judgment could have any effect on the Republican National Convention is if it is given prior to its commencement, creating a clear, actual, and present need. Moreover, the declaration deals with a present controversy as to a state of facts—whether Florida’s Republican delegates are bound to carry through the popular vote for every round of voting at the Republican National Convention. Plaintiff’s Comp. ¶ 25. Next, there is a clear issue of fundamental right dependent upon the facts or law applicable to the facts because the ability of Florida’s voters to cast a binding vote in the Florida Republican Presidential Primary that will be carried out at the Republican National Convention, not subject to any back-channeling by the Republican Establishment, is entirely dependent upon this Court’s declaration. Lastly, Plaintiff clearly has an actual, present interest in the subject matter, since Plaintiff “voted for a Republican candidate at the March 15, 2016 Florida Republican Presidential Primary.” Plaintiffs’ Comp. ¶ 1.

**B. Plaintiff Has Standing to Bring this Complaint**

Florida’s circuit courts are tribunals of plenary jurisdiction. These courts “have authority over any matter not expressly denied them by the constitution or applicable statutes.” *Dep’t of Revenue v. Kuhnlein*, 646 So. 2d 717, 720 (Fla. 1994). As such, while Florida’s circuits still require parties to have standing, the principle is not applied “in the rigid sense employed in the federal system.” *Id.* Instead, Florida’s general standing requirement only requires that “every case must involve a real controversy as to the issue or issues presented.” *Id.*

As described above in *supra* section II(a), there is a clear, justiciable issue presented—whether Florida’s Republican Presidential delegates must carry through the popular vote of

Florida's Republican voters for every round of voting at the Republican National Convention. To the extent that Defendants' Motion to Dismiss applies the "rigid" standing analysis of the federal system, Plaintiff has clearly alleged a tangible, immediate injury—that he will be deprived of his fundamental right to cast a binding vote—if Florida's Republican Presidential delegates do, in fact, become unbound at the Republican National Convention. Courts have held that the injury alleged need not necessarily be one that the Plaintiff has already suffered, and can be satisfied by a future injury that is likely to occur.

For example, in the landmark case of *Texas v. United States*, 86 F. Supp. 3d 591 (S.D. Tex. 2015), the Court found that the state of Texas adequately alleged injury satisfying Article III requirements when Texas claimed that "...the DHS Directive will create a new class of individuals eligible to apply for driver's licenses, the processing of which will impose substantial costs on its budget." *Id.* at 616. The court found that, by virtue of the Federal Government's directive, the state of Texas would have no choice but to incur the additional cost of processing drivers' licenses for those who suddenly would become eligible to obtain those licenses due to the directive. *Id.* Importantly, the state of Texas did not allege an injury that had already occurred, but instead alleged that the DHS Directive "will" create substantial costs on the state budget. *Id.* The court found that this was enough to constitute an injury in fact, *id.* at 616-622, a finding that was affirmed on appeal by the Fifth Circuit. "At least one state—Texas—has satisfied the first standing requirement by demonstrating that it would incur significant costs in issuing driver's licenses to DAPA beneficiaries. Under current state law, licenses issued to beneficiaries would necessarily be at a financial loss." *Texas v. United States*, 809 F.3d 134, 155 (5th Cir. Tex. 2015). "If permitted to go into effect, DAPA would enable at least 500,000 illegal aliens in Texas to satisfy that requirement." *Id.* (emphasis added). *Id.*

Likewise, Plaintiff's injury here may not have already occurred, but it is imminent, since the Republican National Convention is set to commence on July 18, 2016. Should Defendants be allowed to carry through their conspiracy to stage a *coup d'état* at the Republican National Convention and prevent the popular vote of Plaintiff and the public at large, then Plaintiff too will suffer an imminent injury in that he will be deprived of his fundamental right to cast a binding vote to nominate the Republican Presidential candidate.

**C. Plaintiff Has Pled Facts That Support Plaintiff's Contention That Florida's Delegates to the Republican National Convention Intend to Disregard RPOF Rule 10**

Defendants' assertion that Plaintiff has failed to plead facts in support of Plaintiff's claim that Florida's delegates intend to disregard RPOF Rule 10 is patently false. Plaintiffs pled "...the ninety-nine (99) delegates awarded to Trump become unbound after the first round of voting at the Republican National Convention and are according to Defendants, from that point, free to disregard the popular vote and cast their vote in support of any candidate they desire." Plaintiff's Complaint ¶ 25. "Practically, this...enables delegates to simply sell their allegiance to and be in effect bribed by the highest bidder...." Plaintiff's Complaint Introduction.

This, in conjunction with the litany of news reports that have recently emerged disclosing the "Dump Trump" movement's efforts to have the delegates completely ignore the popular vote, *supra* section(I), renders Defendants' assertion disingenuous at best. The amount evidence that Defendants are scheming to stage what is effectively a *coup d'état* at the Republican National Convention and disregard RPOF Rule 10 is enormous, and increasing by the day.

**III. CONCLUSION**

Plaintiff's Complaint raises a critical issue that is fundamental to the basic touchstone of our Democratic government—that our elected official must, in fact, be elected by the people.

Defendants here have defrauded Plaintiff and Florida's voters into believing that the vote that was cast at Florida's Republican Presidential Primary was a binding vote that must be carried through at the Republican National Convention. Instead, using other means or at least a hidden and obscure rule that limits the binding effect of the popular vote to three rounds of voting, Defendants have engaged in what is effectively a *coup d'état* to substitute an establishment candidate of their choice at the Republican National Convention. This act of fraud severely undercuts the Democratic system of government that America employs. Based on the foregoing, Plaintiff respectfully requests that this Court deny Defendants the Republican Party of Florida and Blaise Ingoglia's Motion to Dismiss Complaint.

Dated: June 22, 2016

Respectfully submitted,

/s/ Larry Klayman  
Larry Klayman, Esq.  
Florida Bar No.: 246220  
Klayman Law Firm  
Email: leklayman@gmail.com  
Attorney for Plaintiff and *Pro Se*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing OPPOSITION TO DEFENDANT THE REPUBLICAN PARTY OF FLORIDA AND BLAISE INGOGLIA'S MOTION TO DISMISS COMPLAINT was filed electronically and served through the Florida Courts' E-Filing Portal to all counsel of record or parties on June 22, 2016.

*/s/ Larry Klayman* \_\_\_\_\_  
Attorney