

Multiple Suits After an Election to Relax the Standards for Counting and Recounting Votes

Democratic Executive Committee of Florida v. Detzner
(4:18-cv-520), *VoteVets Action Fund v. Detzner*
(4:18-cv-524), *DSCC v. Detzner* (4:18-cv-526),
and Democratic Senatorial Campaign
Committee v. Detzner (4:18-cv-528)
(Mark E. Walker and Robert L. Hinkle, N.D. Fla.)

The campaign for the ultimately unsuccessful reelection of a U.S. senator filed four federal complaints during the week following a general election. Each complaint raised a different issue: signature matching on mail and provisional ballots, mail-ballot deadlines, manual-recount rules, and recount deadlines. The judge enjoined disqualification of votes for mismatched signatures without an opportunity to resolve the mismatch. He denied relief in the other cases.

Subject: Absentee and early voting. *Topics:* Signature matching; absentee ballots; provisional ballots; recounts; recusal; case assignment; intervention.

Four federal complaints were filed in the Northern District of Florida two to seven days after the 2018 general election by organizations affiliated with Senator Bill Nelson's ultimately unsuccessful reelection campaign.¹ The plaintiffs filed with their complaints motions for temporary restraining orders and preliminary injunctions.²

1. Complaint, *Democratic Senatorial Campaign Comm. v. Detzner*, No. 4:18-cv-528 (N.D. Fla. Nov. 13, 2018), D.E. 1 [hereinafter *Democratic Senatorial Campaign Comm. Complaint*]; Complaint, *DSCC v. Detzner*, No. 4:18-cv-526 (N.D. Fla. Nov. 13, 2018), D.E. 1 [hereinafter *DSCC Complaint*]; Complaint, *VoteVets Action Fund v. Detzner*, No. 4:18-cv-524 (N.D. Fla. Nov. 12, 2018), D.E. 1 [hereinafter *VoteVets Action Fund Complaint*]; Complaint, *Democratic Exec. Comm. of Fla. v. Detzner*, No. 4:18-cv-520 (N.D. Fla. Nov. 8, 2018), D.E. 1 [hereinafter *Democratic Exec. Comm. of Fla. Complaint*]; see Daniel Chang, Alex Daugherty & Maya Kaufman, *Dade Finishes Its Machine Recount as Broward Starts Process*, Miami Herald, Nov. 14, 2018, at 1A; Daniel Chang, Elizabeth Koh & Nicholas Nehamas, *Legal Sparring Continues; Recounts Get Uneven Start*, Miami Herald, Nov. 13, 2018, at 1A; David Smiley, Kyra Gurney, Steve Bousquet & Emily L. Mahoney, *It's "Prayer Mode" as Legal Decisions and Deadlines Loom*, Miami Herald, Nov. 15, 2018, at 1A; Sean Sullivan, Beth Reinhard, Vanessa Williams & Lori Rozsa, *New Court Moves Could Prolong Fla., Ga. Races*, Wash. Post, Nov. 14, 2018, at A1; see also Steve Bousquet & Steve Contorno, *Sluggish Campaign Ends a Lengthy Career*, Miami Herald, Nov. 18, 2018, at 1A; Joshua Jamerson, Alex Leary & Andrew Duehren, *GOP Wins Senate Race in Florida*, Wall St. J., Nov. 19, 2018, at A1; Patricia Mazzei, Frances Robles & Maggie Astor, *Scott Unseats Senate Democrat After a Manual Recount in Florida*, N.Y. Times, Nov. 19, 2018, at A11; Jeffrey Schweers, *Seven Lawsuits and Counting: Tallahassee Is Ground Zero*, Tallahassee Democrat, Nov. 14, 2018, at A6. See generally Jay Weaver & Steve Bousquet, *Federal Judge Takes Center Stage in Recount Battle*, Miami Herald, Nov. 15, 2018, at 3A.

2. Motion, *Democratic Senatorial Campaign Comm.*, No. 4:18-cv-528 (N.D. Fla. Nov. 13, 2018), D.E. 3; Temporary-Restraining-Order Motion, *DSCC*, No. 4:18-cv-526 (N.D. Fla. Nov.

A case filed on Thursday, November 8, challenged the protocol for matching voters' signatures on mail and provisional ballots.³ A case filed on Monday sought an extension of deadlines for receipt of mail ballots.⁴ One case filed on the next day challenged rules for a manual recount.⁵ Another case filed that day sought an extension of recount deadlines.⁶

Signature Mismatches

Judge Robert L. Hinkle held a telephonic hearing in the signature-matching case on November 9, the day after the case was filed.⁷ He granted⁸ motions to intervene by the National Republican Senatorial Committee⁹ and Florida's attorney general.¹⁰ Observing that relief from the matching protocol was not required before the November 10 submissions of unofficial election results, Judge Hinkle ordered a response from the defendants to the motion for relief by November 12—acknowledging that that was a federal holiday in observance of Sunday's Veterans Day—and set the case for hearing again at 1:00 p.m. on November 14.¹¹ On Saturday, November 10, however, Judge Hinkle disqualified himself from the case:

13, 2018), D.E. 3; Motion, *VoteVets Action Fund*, No. 4:18-cv-524 (N.D. Fla. Nov. 12, 2018), D.E. 4; Motion, *Democratic Exec. Comm. of Fla.*, No. 4:18-cv-520 (N.D. Fla. Nov. 8, 2018), D.E. 3.

3. *Democratic Exec. Comm. of Fla.* Complaint, *supra* note 1; *Democratic Exec. Comm. of Fla. v. Nat'l Republican Senatorial Comm.*, 950 F.3d 790, 792 (11th Cir. 2020); *Democratic Exec. Comm. of Fla. v. Lee*, 915 F.3d 1312, 1317 (11th Cir. 2019); see Amy Gardner, *In the Land of Hanging Chads, a New Balloting Issue*, Wash. Post, Nov. 15, 2018, at A1; Patricia Mazzei & Frances Robles, *Protests and Lawsuits as Florida Keeps Counting*, N.Y. Times, Nov. 10, 2018, at A1; John McCarthy, *As Recount Rhetoric Rises, Scott and Nelson File Suit*, Tallahassee Democrat, Nov. 10, 2018, at A5.

4. *VoteVets Action Fund* Complaint, *supra* note 1; see Nick Madigan & Frances Robles, *Judge Urges Parties to "Ramp Down" Rhetoric in Florida Recount*, N.Y. Times, Nov. 13, 2018, at A10.

5. DSCC Complaint, *supra* note 1.

6. *Democratic Senatorial Campaign Comm.* Complaint, *supra* note 1; see Larry Barszewski & Lois Solomon, *Suits Seek to Extend Recount Deadlines*, Orlando Sentinel, Nov. 14, 2018, at A1; Allison McCann & Karen Yourish, *In Some Races, Results May Still Be Weeks Away*, N.Y. Times, Nov. 14, 2018, at A18.

7. Minutes, *Democratic Exec. Comm. of Fla.*, No. 4:18-cv-520 (N.D. Fla. Nov. 9, 2018), D.E. 19 [hereinafter Nov. 9, 2018, *Democratic Exec. Comm. of Fla.* Minutes] (noting that the hearing ran from 4:07 p.m. to 4:34 p.m.).

A docket entry gave parties and the public dial-in information. Docket Sheet, *id.* (Nov. 8, 2018) (D.E. 10).

8. Nov. 9, 2018, *Democratic Exec. Comm. of Fla.* Minutes, *supra* note 7; Scheduling Order, *Democratic Exec. Comm. of Fla.*, No. 4:18-cv-520 (N.D. Fla. Nov. 9, 2018), D.E. 20 [hereinafter *Democratic Exec. Comm. of Fla.* Scheduling Order]; *Democratic Exec. Comm. of Fla.*, 950 F.3d at 792–93.

9. Intervention Motion, *Democratic Exec. Comm. of Fla.*, No. 4:18-cv-520 (N.D. Fla. Nov. 9, 2018), D.E. 11.

10. Intervention Motion, *id.* (Nov. 9, 2018), D.E. 15; see McCarthy, *supra* note 3.

11. *Democratic Exec. Comm. of Fla.* Scheduling Order, *supra* note 8; see Glenn Thrush, Audra D.S. Burch & Frances Robles, *Parsing Signatures, Not Chads, in Florida Vote*, N.Y. Times, Nov. 15, 2018, at A1.

After conducting the scheduling conference and entering an order on November 9, I remembered that my brother is a party to a lawsuit involving Governor Rick Scott. This would not affect my handling of this case, but a reasonable person might think otherwise.

Accordingly, I hereby disqualify myself from this case.¹²

Judge Mark E. Walker adopted Judge Hinkle’s previously issued scheduling order.¹³ On Sunday, Judge Walker issued guidance on the information he expected to receive at the Wednesday hearing, including an intention to seek testimony pursuant to Federal Rule of Evidence 614 from the local county supervisor of elections.¹⁴ At the November 14 hearing, “Reporters and campaign officials packed three rows of seats inside the courtroom, while cameras were staked out in the rain.”¹⁵ The afternoon hearing lasted more than five hours.¹⁶

On November 15, Judge Walker granted the plaintiffs a preliminary injunction.¹⁷

The precise issue in this case is whether Florida’s law that allows county election officials to reject vote-by-mail and provisional ballots for mismatched signatures—with no standards, an illusory process to cure, and no process to challenge the rejection—passes constitutional muster. The answer is simple. It does not.¹⁸

12. Disqualification Order, *Democratic Exec. Comm. of Fla.*, No. 4:18-cv-520 (N.D. Fla. Nov. 10, 2018), D.E. 21; see Minutes, *id.* (Nov. 14, 2018), D.E. 50; see also Schweers, *supra* note 1 (“Don Hinkle sued [Governor] Scott for not disclosing what’s in his blind trust.”).

13. Order, *Democratic Exec. Comm. of Fla.*, No. 4:18-cv-520 (N.D. Fla. Nov. 10, 2018), D.E. 25.

Tim Reagan interviewed Judge Walker for this report by telephone on December 12, 2018.

14. Order, *Democratic Exec. Comm. of Fla.*, No. 4:18-cv-520 (N.D. Fla. Nov. 11, 2018), D.E. 26; see Transcript at 4, *Fla. Democratic Party v. Detzner*, No. 4:16-cv-607 (N.D. Fla. Oct. 14, 2016, filed Oct. 16, 2016), D.E. 32 (using the same procedure in an earlier case); see also Schweers, *supra* note 1.

At the status conference in the recount deadlines case, Judge Walker expressed regret for not using Rule 614:

THE COURT: . . .

. . . I wish under Rule 614 I’d have called the supervisor as a witness, and she could have testified by video in my courtroom from the video in the federal courthouse in Palm Beach, so I could have done it in the least disruptive way possible, but I—I didn’t, and that’s a failing on my part.

Transcript at 4–5, *Democratic Senatorial Campaign Comm. v. Detzner*, No. 4:18-cv-528 (N.D. Fla. Nov. 15, 2018, filed Nov. 15, 2018), D.E. 40 [hereinafter *Democratic Senatorial Campaign Comm. Transcript*].

15. Sean Sullivan, Beth Reinhard & Amy Gardner, *Deadline to Certify Elections Looms in Fla. as Campaigns Await Court Ruling*, Wash. Post, Nov. 15, 2018, at A4.

16. Transcript, *Democratic Exec. Comm. of Fla.*, No. 4:18-cv-520 (N.D. Fla. Nov. 14, 2018, filed Nov. 15, 2018), D.E. 66; see Jeffrey Schweers & Jeff Burlew, *All Eyes on Local Judge in Recount*, Tallahassee Democrat, Nov. 15, 2018, at A7; see also John Kennedy & Jane Musgrave, *Federal Judge Under Gun as 7 Lawsuits Await Action*, Palm Beach Post, Nov. 15, 2018, at 1A.

17. *Democratic Exec. Comm. of Fla. v. Detzner*, 347 F. Supp. 3d 1017 (N.D. Fla. 2018); *Democratic Exec. Comm. of Fla. v. Nat’l Republican Senatorial Comm.*, 950 F.3d 790, 793.

18. *Democratic Exec. Comm. of Fla.*, 347 F. Supp. 3d at 1022.

Judge Walker ordered election officials to provide voters whose ballots were rejected for apparently mismatched signatures opportunities to cure.¹⁹

Judge Walker denied the plaintiffs' request that he "order the Secretary of State to immediately produce, both to Plaintiffs and publicly, a list of all voters whose ballots were determined to contain a mismatched signature and have not yet been cured."²⁰

On that same day, the court of appeals denied, by a vote of two to one, motions to stay the injunction and expedite the appeal.²¹ The majority and dissenting judges issued opinions on February 15, 2019.²² The majority concluded, among other things, that "Defendants have identified no fraud-prevention interest that justifies depriving legitimate vote-by-mail and provisional voters of the ability to cure the signature mismatch, thereby disenfranchising them."²³

A compliance report filed by the secretary on December 7, 2018, showed 637 ballots statewide with signature mismatches cured since Judge Walker's order.²⁴ Judge Walker often required an after-action report in election litigation so that there was a public record of the impact of the court's order.²⁵

The plaintiffs voluntarily dismissed an amended complaint following Florida's June 28, 2019, enactment of statutory changes "specifically address[ing] issues brought to light by Plaintiffs' lawsuit."²⁶ In 2020, the court of appeals denied the National Republican Senatorial Committee's motions to vacate earlier opinions by the district court and the court of appeals in this case, which had become moot; none of them would be binding in future proceedings.²⁷

19. *Id.* at 1032–33; *Democratic Exec. Comm. of Fla. v. Lee*, 915 F.3d 1312, 1317 (11th Cir. 2019); see Andrew Duehren, *Florida Race Gets Manual Recount*, Wall St. J., Nov. 16, 2018, at A4; Beth Reinhard, Sean Sullivan, Amy Gardner & Lori Rozsa, *DeSantis Gains in Bid to Be Fla. Governor*, Wash. Post, Nov. 16, 2018, at A1; David Smiley & Steve Bousquet, *Florida Orders First Ever Statewide Hand Recounts for Senate and Agriculture Post*, Miami Herald, Nov. 16, 2018, at 1A.

20. Minutes, *Democratic Senatorial Campaign Comm. v. Detzner*, No. 4:18-cv-520 (N.D. Fla. Nov. 15, 2018), D.E. 61; see *Emergency Motion, id.* (Nov. 15, 2018), D.E. 52.

A tally of rejected ballots per county showed a total of 5,686 statewide. Compliance Notice, *id.* (Nov. 16, 2018), D.E. 72.

21. Order, *Detzner v. Democratic Exec. Comm. of Fla.*, No. 18-14758 (11th Cir. Nov. 15, 2018); *Democratic Exec. Comm. of Fla.*, 950 F.3d at 793; see Reinhard et al., *supra* note 19; Smiley and Bousquet, *supra* note 19.

22. *Democratic Exec. Comm. of Fla.*, 915 F.3d 1312; *Democratic Exec. Comm. of Fla.*, 950 F.3d at 793; see Dara Kam, *Appeals Court Agrees That Florida's Signature Rules on Mail Votes Are "Serious Burden"*, Miami Herald, Feb. 17, 2019, at 29A.

23. *Democratic Exec. Comm. of Fla.*, 915 F.3d at 1322.

24. Compliance Notice, *Democratic Exec. Comm. of Fla.*, No. 4:18-cv-520 (N.D. Fla. Dec. 7, 2018), D.E. 84.

25. Interview with Hon. Mark E. Walker, Dec. 12, 2018; see Order, *Democratic Exec. Comm. of Fla.*, No. 4:18-cv-520 (N.D. Fla. Nov. 19, 2018), D.E. 78.

26. Voluntary Dismissal at 6, *Democratic Exec. Comm. of Fla.*, No. 4:18-cv-520 (N.D. Fla. July 2, 2019), D.E. 143; *Democratic Exec. Comm. of Fla.*, 950 F.3d at 793; see 2019 Fla. Laws ch. 162; see also Order, *Democratic Exec. Comm. of Fla.*, No. 4:18-cv-520 (N.D. Fla. July 29, 2019), D.E. 149 (granting voluntary dismissal); Amended Complaint, *id.* (Jan. 14, 2019), D.E. 100.

27. *Democratic Exec. Comm. of Fla.*, 950 F.3d 790.

Mail Ballot Deadlines

Senior Judge William Stafford disqualified himself from the mail-ballot-deadlines-case filed on November 12, 2018, the federal holiday,²⁸ and Judge Walker set the case for a telephonic status conference on Tuesday, November 13.²⁹ The docket sheet provided the parties and the public with dial-in information.³⁰

THE COURT: . . .

. . . This is a public proceeding, but these proceedings should not and must not be recorded. Any proceeding that I do by phone will be open to the public because, again, it's a public proceeding. Any proceeding I conduct in the courtroom will be likewise open to the public.

But proceedings in federal court are not to be recorded.³¹

An evidentiary hearing was held at 1:06 p.m. on Thursday.³² Judge Walker granted intervention motions³³ by the Republican Senatorial Committee,³⁴ Florida's Republican Party,³⁵ and Florida's attorney general.³⁶

On November 16, Judge Walker denied the plaintiffs immediate relief:

This case involves Florida laws that allow overseas voters the opportunity to vote, and have their votes counted, 10 days after election day, yet require domestic vote-by-mail voters to vote, and have their votes counted, on election day.

. . .

In this case, the asserted injury is outweighed by the state's important regulatory interest. . . . The fact that there might be problems with the mail does not outweigh the state's important interest in delineating finality in elections. . . . The restriction is reasonable, and the state's regulatory interest is sufficient to justify the deadline.

. . .

. . . The law plainly imposes different deadlines for domestic and overseas voters to have their vote-by-mail ballots counted. But . . . the whole point of the 10-day exception for overseas voters is to give them the same right to vote as domestic voters.³⁷

28. Disqualification Order, *VoteVets Action Fund v. Detzner*, No. 4:18-cv-524 (N.D. Fla. Nov. 12, 2018), D.E. 8; *see Schweers, supra* note 1.

29. Order, *VoteVets Action Fund*, No. 4:18-cv-524 (N.D. Fla. Nov. 12, 2018), D.E. 14; *see Minutes, id.* (Nov. 13, 2018), D.E. 30; *see Schweers, supra* note 1.

30. Docket Sheet, *VoteVets Action Fund*, No. 4:18-cv-524 (N.D. Fla. Nov. 11, 2018) (D.E. 15).

31. Transcript at 3, *id.* (Nov. 13, 2018, filed Nov. 15, 2018), D.E. 52 [hereinafter Nov. 13, 2018, *VoteVets Action Fund* Transcript].

32. Transcript, *id.* (Nov. 15, 2018, filed Nov. 15, 2018), D.E. 53; Minutes, *id.* (Nov. 15, 2018), D.E. 55.

33. *See Schweers, supra* note 1.

34. Order, *VoteVets Action Fund*, No. 4:18-cv-524 (N.D. Fla. Nov. 12, 2018), D.E. 16; *see Intervention Motion, id.* (Nov. 12, 2018), D.E. 10.

35. Order, *id.* (Nov. 12, 2018), D.E. 19; *see Intervention Motion, id.* (Nov. 13, 2018), D.E. 21.

36. Order, *id.* (Nov. 13, 2018), D.E. 23; *see Intervention Motion, id.* (Nov. 13, 2018), D.E. 28.

37. Opinion at 1, 6–7, *id.* (Nov. 16, 2018), D.E. 56; *see Audra D.S. Burch & Glenn Thrush,*

Judge Walker ordered Florida's secretary of state to provide the court with a count of how many non-overseas mail-in ballots each county received that were postmarked before election day and received after election day.³⁸ There were 6,882 statewide.³⁹

The plaintiffs voluntarily dismissed the action on January 18, 2019.⁴⁰

Challenge to the Rules for the Manual Recount

On November 13, 2018, the day that the case was filed, Judge Hinkle disqualified himself from the case challenging the rules for the manual recount.⁴¹ Judge Walker set a status conference for 11:00 on the next day.⁴² He granted motions to intervene by the Republican Senatorial Committee⁴³ and the Democratic Party's gubernatorial campaign.⁴⁴ At the status conference it was agreed that the case posed a question of law and not a question of fact.⁴⁵

Judge Walker denied the plaintiffs immediate relief on November 15, because the rules for ascertaining the intent of voters who did not properly mark their ballots were neutral and reasonable.⁴⁶ The plaintiffs voluntarily dismissed the action on January 18, 2019.⁴⁷

Recount Deadlines

Judge Walker set the November 13 recount-deadline case for a status conference at 9:00 a.m. on November 15.⁴⁸ He granted motions to intervene by the Republican Senatorial Committee⁴⁹ and the Democratic Party's gubernatorial

Florida Recounts Senate Votes Again, and Democrat's Chances Dwindle, N.Y. Times, Nov. 17, 2018, at A20.

38. Order, *VoteVets Action Fund*, No. 4:18-cv-524 (N.D. Fla. Nov. 19, 2018), D.E. 57.

39. Compliance Notice, *id.* (Dec. 14, 2018), D.E. 65; see Gary Fineout, *Thousands of Mailed Ballots in Florida Were Not Counted*, Miami Herald, Dec. 12, 2018, at 3A.

40. Dismissal Notice, *VoteVets Action Fund*, No. 4:18-cv-524 (N.D. Fla. Jan. 18, 2019), D.E. 73; Order, *id.* (Jan. 22, 2019), D.E. 74.

41. Disqualification Order, *DSCC v. Detzner*, No. 4:18-cv-526 (N.D. Fla. Nov. 13, 2018), D.E. 5.

42. Order, *id.* (Nov. 13, 2018), D.E. 8; see Minutes, *id.* (Nov. 14, 2018), D.E. 20; see also Nov. 13, 2018, *VoteVets Action Fund* Transcript, *supra* note 31, at 30 (noting in a mail-ballot-deadlines case proceeding that Judge Walker planned to set the manual-recount-rules case for a proceeding on the following morning).

43. Order, *DSCC*, No. 4:18-cv-526 (N.D. Fla. Nov. 13, 2018), D.E. 12; see Intervention Motion, *id.* (Nov. 13, 2018), D.E. 10.

44. Order, *id.* (Nov. 15, 2018), D.E. 32; see Intervention Motion, *id.* (Nov. 15, 2018), D.E. 30; see also Withdrawal Order, *id.* (Dec. 6, 2018), D.E. 44 (granting a motion to withdraw from intervention by the Democratic Party's gubernatorial campaign).

45. Transcript at 4–5, *id.* (Nov. 14, 2018, filed Nov. 15, 2018), D.E. 34 [hereinafter *DSCC* Transcript].

46. Democratic Senatorial Campaign Comm. v. Detzner, 347 F. Supp. 3d 1033 (N.D. Fla. 2018); see Burch & Thrush, *supra* note 37; Manuel Roig-Franzia & Amy Gardner, *Nelson's Chances in Senate Race Dim as Key Fla. Counties Complete Recount*, Wash. Post, Nov. 17, 2018, at A4.

47. Dismissal Notice, *DSCC*, No. 4:18-cv-526 (N.D. Fla. Jan. 18, 2019), D.E. 53.

48. Order, Democratic Senatorial Campaign Comm. v. Detzner, No. 4:18-cv-528 (N.D. Fla. Nov. 13, 2018), D.E. 8; see Minutes, *id.* (Nov. 15, 2018), D.E. 33.

49. Order, *id.* (Nov. 14, 2018, filed Nov. 13, 2018), D.E. 12; see Intervention Motion, *id.*

campaign.⁵⁰ At the beginning of the status conference, he determined from the parties that the case did not require testimony.⁵¹

Judge Walker denied the plaintiffs immediate relief on November 15.⁵²

The question [is] whether the statutory scheme of the Florida Election Code, which defaults to the acceptance of unofficial election returns if a recount cannot be completed by the official reporting deadline, is constitutionally tenable when it means that the votes of citizens in 66 counties will be recounted while those in the one remaining county will not.⁵³

The plaintiffs were not entitled to equitable relief, because “there is a complete dearth of evidence before this Court concerning the status, progress, or expected completion of the ordered recounts in Palm Beach County. . . . This Court does not and will not fashion a remedy in the dark.”⁵⁴

In the event, all counties completed their manual recounts on time.⁵⁵ The case was voluntarily dismissed in December.⁵⁶

Managing Four Related Emergency Cases

Judge Walker’s strategy for managing these four cases under time pressure was to ascertain as early as possible whether he would need to hear evidence.⁵⁷ Another priority was establishing a time frame that would allow for appellate review.⁵⁸ “THE COURT: . . . [T]he people of Florida need to get orders out of me, as well as the parties, sooner rather than later. And then all the parties need to be able to get to the Eleventh Circuit”⁵⁹

In addition to the 11:00 a.m. conference and the 1:00 p.m. hearing on Wednesday, November 14, and the 9:00 a.m. conference and the 1:06 p.m. hearing on Thursday, November 15, in these four cases, Judge Walker held a conference at 10:02 a.m. on Wednesday⁶⁰ and hearings on Thursday at 2:19

(Nov. 14, 2018), D.E. 10.

50. Order, *id.* (Nov. 15, 2018), D.E. 39; see Intervention Motion, *id.* (Nov. 15, 2018), D.E. 37; see also Withdrawal Order, *id.* (Dec. 6, 2018), D.E. 48 (granting a motion to withdraw from intervention by the Democratic Party’s gubernatorial campaign).

51. *Democratic Senatorial Campaign Comm.* Transcript, *supra* note 14, at 4–5.

52. Opinion, *Democratic Senatorial Campaign Comm.*, No. 4:18-cv-528 (N.D. Fla. Nov. 15, 2018), D.E. 36 [hereinafter *Democratic Senatorial Campaign Comm. Opinion*]; see Duehren, *supra* note 19.

53. *Democratic Senatorial Campaign Comm.* Opinion, *supra* note 52, at 2.

54. *Id.* at 5.

55. See Order, *Democratic Senatorial Campaign Comm.*, No. 4:18-cv-528 (N.D. Fla. Nov. 19, 2018), D.E. 42.

56. Dismissal Order, *id.* (Dec. 17, 2018), D.E. 50.

57. Interview with Hon. Mark E. Walker, Dec. 12, 2018.

58. *Id.*

59. *DSCC Transcript*, *supra* note 45, at 8.

60. Minutes, *League of Women Voters of Fla. v. Scott*, No. 4:18-cv-525 (N.D. Fla. Nov. 14, 2018), D.E. 16.

p.m.⁶¹ and 5:12 p.m.⁶² in other emergency-election-litigation cases.⁶³ Long nights at work followed the proceedings.⁶⁴

The clerk's office in this district was especially attuned to the possibility of recusal, and it identified election litigation and other emergency litigation as cases in which recusal decisions should be made quickly.⁶⁵

61. Minutes, *id.* (Nov. 15, 2018), D.E. 28; *see* League of Women Voters of Fla. v. Scott, 366 F. Supp. 3d 1311 (N.D. Fla. 2018) (denying a motion to order the governor to recuse himself from vote-counting oversight while a candidate for another office).

62. Minutes, Jim Bonfiglio Campaign v. Detzner, No. 4:18-cv-527 (N.D. Fla. Nov. 15, 2018), D.E. 49; *see* Order, *id.* (Nov. 15, 2018), D.E. 42; *see also* Opinion, *id.* (Nov. 16, 2018), D.E. 53 (clarifying the discretion of county election officials to recount a race that would require less time before recounting races that would require more time).

63. *See* John McCarthy, *Recount Rundown of What Happened Wednesday*, Tallahassee Democrat, Nov. 15, 2018, at A3.

64. Interview with Hon. Mark E. Walker, Dec. 12, 2018.

65. *Id.*