

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT,
IN AND FOR ORANGE COUNTY, FLORIDA

GLEN GILZEAN, in his official
capacity as Orange County
Supervisor of Elections

CASE NO.: 2024-CA-010780-O

Petitioner,

v.

ORANGE COUNTY, FLORIDA, a
political subdivision of the State of Florida, and
PHIL DIAMOND, in his official capacity as
Orange County Comptroller

Respondents.

ORDER DENYING RECONSIDERATION

THIS MATTER comes before the Court on Petitioner's "Motion for Reconsideration of the Briefing Schedule in the Alternative Writ of Mandamus," filed on December 16, 2024. The Court, having the benefit of arguments by counsel, having considered the same and being otherwise duly advised in the premises, finds as follows:

Through his Petition, **Petitioner seeks to compel, by writ of mandamus, Respondents to release the entire monthly allocation of funding to the Orange County Supervisor of Elections as mandated by § 129.202(1)(a), Florida Statutes.** On December 12, 2024, this Court issued an Alternative Writ of Mandamus after finding the Petition stated a *prima facie* claim for relief. Fla. R. Civ. P. 1.630(d)(2); *Bd. of Cnty. Com'rs Broward Cnty. Fla. v. Parrish*, 154 So. 3d 412 (Fla. 4th DCA 2014). In the Alternative Writ, this Court ordered Respondents to file their Response within 20 days of service of process. Thereafter, **Petitioner may file his Reply within 20 days** of the service of the Response.

Florida Rule of Civil Procedure 1.630 governs the procedure for extraordinary writs, including writs of mandamus. Rule 1.630(d)(2) requires the issuance of an Alternative Writ if the Petition states a *prima facie* case for relief. Rule 1.630 “inures to the benefit of the respondent, as the purpose of the alternative writ is to allow the non-moving party to show cause as to why relief should not be granted . . . Any abridgment of the respondent's right to respond to the mandamus petition creates a presumption of prejudice.” *Stern v. City of Miami Beach*, 359 So. 3d 1209, 1211 (Fla. 3d DCA 2023) (internal citations omitted). Indeed, “[t]he respondent has the right to plead to the alternative writ and will be prejudiced by the failure to allow a reasonable time within which to do so.” *Conner v. Mid-Florida Growers, Inc.*, 541 So. 2d 1252, 1256 (Fla. 2d DCA 1989). Rule 1.630(e) provides that “Defendant must respond to the writ as provided in [R]ule 1.140.”

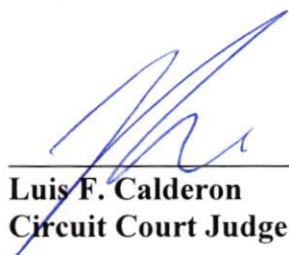
Rule 1.140 provides the deadlines for a Defendant’s/Respondent’s Answer/Response. Under Rule 1.140(a)(1), “[u]nless a different time is prescribed in a statute of Florida, a defendant must serve an answer within 20 days after service of original process and the initial pleading on the defendant, or not later than the date fixed in a notice by publication.” Fla. R. Civ. P. 1.140(a)(1). While the Court understands Petitioner’s outstanding urgency with respect to vendors and employee benefits being underfunded, Respondents are nonetheless entitled to file their Response under Rule 1.140, which gives Respondents 20 days to file their Response unless Florida Statute prescribes a different time. Petitioner has not presented any Florida statute permitting a reduction in the 20 days required by Rule 1.140.

Additionally, Respondents are entitled to notice and a reasonable opportunity to Respond. Petitioner requests that Respondents be ordered to file their Response by December 19, 2024. That would be less than 2 days after the issuance of this Order and only 7 days after the issuance of the Alternative Writ. This Court is afforded the discretion to shorten the time periods under appropriate

circumstances, and having considered the arguments and the evidence presented at the December 18, 2024 hearing, finds that a shortened time for response, as suggested by Plaintiff, would not give Respondents a reasonable opportunity to Respond to the Petition.

Accordingly, it is hereby **ORDERED AND ADJUDGED** that Petitioner's "Motion for Reconsideration of the Briefing Schedule in the Alternative Writ of Mandamus," filed on December 16, 2024, is **DENIED**.

DONE AND ORDERED in chambers at Orlando, Orange County, Florida, this 18 day of December 2024.



Luis F. Calderon
Circuit Court Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was filed with the Clerk of the Court this 18 day of December, 2024 by using the Florida Courts E-Filing Portal System. Accordingly, a copy of the foregoing is being served on this day to all attorney(s)/interested parties identified on the ePortal Electronic Service List via transmission of Notices of Electronic Filing generated by the ePortal System.



O. Bennett
Judicial Assistant