

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

ROBERT HUTCHINSON and  
JEFFREY SHAPIRO,

*Petitioners,*

*v.*

Case No. 2023-CA-002361

RON DESANTIS, *in his official capacity as  
Governor of the State of Florida,*

*Respondent.*

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**GOVERNOR DESANTIS'S MOTION TO TRANSFER ACTION**

Respondent Ron DeSantis, in his official capacity as Governor of the State of Florida, pursuant to Florida Rule of Civil Procedure 1.270(a), moves to transfer this action to another division within this judicial circuit to join a related case. In support, the Governor states:

1. On July 21, 2023, the City of Gainesville filed a lawsuit against the Governor, Attorney General, and Secretary of State challenging the constitutionality of House Bill 1645, Ch. 2023-348, Laws of Florida.

2. That case, styled *City of Gainesville v. The State of Florida, et al.*, Case No. 2023-CA-1928 (Fla. 2d Cir. Ct. July 21, 2023), is assigned to Judge Angela Dempsey in Division S.

3. On September 29, 2023, Judge Dempsey issued an order granting summary judgment for the Defendants.

4. The Court, however, has not yet issued a final judgment. Moreover, the City of Gainesville has neither sought, nor waived its right to file, a motion for reconsideration or rehearing, nor has it sought leave to amend its complaint.

5. Accordingly, the case remains active, and Division S retains jurisdiction over it.

6. On October 2, 2023, the Petitioners in this case filed a petition for writ of quo warranto challenging the Governor's appointment of three individuals to the Authority pursuant to his duty under HB 1645.

7. That action was assigned to this Court, Division V.

8. For the reasons that follow, the Court should transfer this action to Division S to promote efficiency and avoid unnecessary delay.

### **ARGUMENT**

Florida Rule of Civil Procedure 1.270(a) permits trial courts to consolidate and jointly consider all actions “involving a common question of law or fact” to “avoid unnecessary costs or delay.” *See also* Fla. R. Civ. P. 1.270 cmt. (“Generally, justice requires that an action should not be handled piecemeal when it reasonably can be avoided . . .”).

To the best of the Governor's knowledge, the Second Judicial Circuit does not have a local rule, formal policy, or administrative order governing the transfer of actions within its divisions. Nevertheless, nine of Florida's judicial circuits follow the simple, fair procedure of transferring all related actions to the division and judge with the

lowest-numbered case. *See* 6th Jud. Cir. L.R. 3; 8th Jud. Cir. Admin. Order No. 9.11 ¶ 2; 9th Jud. Cir. Uniform Admin. Policies & Proc. § 4(B)(2); 10th Jud. Cir. L.R. 1.5(a); 11th Jud. Cir. Admin. Order No. 16-04; 13th Jud. Cir. Admin Order No. S-2021-014 ¶ 7; 15th Jud. Cir. Admin. Order No. 2.302; 17th Jud. Cir. Admin. Order No. 2018-100-Civ; 18th Jud. Cir. Admin. Order No. 02-12-B. This Court should follow that procedure here.

Indeed, Florida appellate courts recognize that circuit courts should transfer actions sharing issues of fact or law with an earlier-filed case to the first-filed action. *See, e.g., Graham v. Graham*, 648 So. 2d 814, 815–16 (Fla. 4th DCA 1995) (holding that trial court correctly did not rule on issues which were being litigated in a previously filed dissolution action in another county).

Florida’s federal courts follow a similar procedure. *See, e.g., Florida v. Jackson*, No. 3:10cv503/RV/MD, 2011 WL 679556, at \*3-4 (N.D. Fla. Feb. 15, 2011) (transferring later-filed case to pending case in the same district so that they may be “handled by the judge who has already been handling the related cases” because the cases involve “substantial overlap between them” and transfer will “promote[s] judicial economy and consistency”); *Florida Rising Together, et al. v. Lee, et al.*, No. 4:21-cv-201-AW-MJF, Doc. 50 (N.D. Fla. July 2, 2021) (same).<sup>1</sup>

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<sup>1</sup> *See also* M.D. Florida Local Rule 1.07(a)(2) (“If actions before different judges present the probability of inefficiency or inconsistency, a party may move to transfer a later-filed action to the judge assigned to the first-filed action.”); S.D. Florida Internal Operating Procedure 2.15.00 (“Whenever an action or proceeding is filed in the Court which involves subject matter which is a

Further, transferring this action to Division S would promote judicial efficiency. First, both actions involve the same statute (HB 1645) and involve common questions of law and fact. That is, both involve the Governor's authority to make appointments to the Authority. Second, by virtue of presiding over the *City of Gainesville* case, Judge Dempsey is familiar with the relevant law and facts in both cases. As a result, transferring this action to Division S will likely accelerate its consideration because Judge Dempsey will need less time to familiarize herself with the facts and relevant law. For the same reason, transfer will avoid the unnecessary and inefficient delays caused by two divisions reviewing the same relevant statute.

Last, transferring this action to Division S will not affect the Parties' substantive rights. Petitioners will have the same rights and remedies in Division S as in this Court. Nor will it prejudice the Parties because the case has just begun. Petitioners have just amended their Petition and the Governor waived service formal service the day before this filing. *See Pages v. Dominguez*, 652 So. 2d 864, 869 (Fla. 4th DCA 1995) (“[W]e would recommend that both cases be transferred to the same judge and, at a minimum, consolidated for discovery on liability issues. We agree that it makes no sense for either side to face potentially inconsistent discovery rulings, duplicative discovery or inconsistent trial rulings.”).

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material part of the subject matter of another action or proceeding then pending before this Court, or for other reasons the disposition thereof would appear to entail the unnecessary duplication of judicial labor if heard by a different Judge, the Judges involved shall determine whether the higher-numbered action or proceeding shall be transferred to the Judge assigned to the lower-numbered action.”).

For all of these reasons, this Court should transfer this later-filed action to Division S. The undersigned has conferred with Petitioners' counsel, who oppose transfer.

Dated: October 12, 2023,

**RON DESANTIS**

*Governor*

/s/ Nicholas J.P. Meros

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed via the Florida Courts E-Filing portal, which serves a copy to all counsel of record, on October 12, 2023.

/s/ Nicholas J.P. Meros

Deputy General Counsel