

THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

Roque "Rocky" De La Fuente Guerra,
Victor Dimaio, Jose Ramon Bolano Valladares,
Ada L. Hernandez, Marco A. Bolano Hernandez,
Carlos H. Aleman Gonzalez, Sobeida Aleman, and
Carlos Heriberto Aleman,

Plaintiffs,

CASE NO.:

vs.

Democratic Party of Florida and
Ken Detzner, Secretary of State of Florida,

Defendants.

PLAINTIFF'S COMPLAINT
FOR DECLARATORY AND INJUNCTIVE RELIEF

COUNT I

1. This is an action for declaratory and injunctive relief pursuant to 28 U.S.C. §§ 1331, 1343, 1361, and 2201.
2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) because a substantial part of the real and immediate harm faced by the Plaintiffs is threatened in this judicial district and the Defendant maintains its headquarters in this district.

3. Defendant, Florida Democratic Party, is the official representative entity of the Democratic National Committee in Florida, and is responsible for, among other things, promulgating delegate selection rules for Florida for the 2016 Democratic National Convention.
4. The Florida Democratic Party is the official representative entity of the Democratic National Committee in the State of Florida, and is responsible for, among other things, ensuring compliance with the rules of the National Party regarding the delegate selection process for the 2016 Democratic National Convention.
5. The Defendant, Ken Detzner, Secretary of State of Florida, is the agent of the State of Florida responsible for administering elections in the State of Florida.
6. Section 103.101(2) of the Florida Statutes provides in part that by November 30, of the year preceding the presidential preference primary each political party shall submit to the Secretary of State a list of its presidential candidates to be placed on the Presidential Preference Primary ballot or candidates entitled to have delegates to appear on the Presidential Preference Primary ballot.
7. Plaintiff, Roque “Rocky” De La Fuente Guerra, is a candidate for President, a registered Democratic voter, an Hispanic, and has selected the Democratic Party as the political party with whom he chooses to seek the nomination for President.
8. Plaintiff, Victor DiMaio is a registered Democratic voter, an Hispanic, has voted in past primary elections, and intends to vote in the Florida Democratic Presidential Primary election on March 1, 2016.

9. Plaintiff Jose Ramon Bolano Valladares is a registered Democratic voter, an Hispanic, has voted in past primary elections and intends to vote in the Florida Democratic Presidential Primary election on March 1, 2016.
10. Plaintiff Ada L. Hernandez is a registered Democratic voter, an Hispanic, has voted in past primary elections and intends to vote in the Florida Democratic Presidential Primary election on March 1, 2016.
11. Plaintiff Marco A. Bolano Hernandez is a registered Democratic voter, an Hispanic, has voted in past primary elections and intends to vote in the Florida Democratic Presidential Primary election on March 1, 2016.
12. Plaintiff Carlos H. Aleman Gonzalez is a registered Democratic voter, an Hispanic, has voted in past primary elections and intends to vote in the Florida Democratic Presidential Primary election on March 1, 2016.
13. Plaintiff Sobeida Aleman is a registered Democratic voter, an Hispanic, has voted in past primary elections and intends to vote in the Florida Democratic Presidential Primary election on March 1, 2016.
14. Plaintiff Carlos Heriberto Aleman is a registered Democratic voter, an Hispanic, has voted in past primary elections and intends to vote in the Florida Democratic Presidential Primary election on March 1, 2016.
15. Rules of the Florida Democratic Party provides in part:

Ballot Access

A presidential candidate gains access to the Florida presidential preference primary ballot by the following procedure: (1) The Florida Democratic Party

will prepare and approve a list of recognized Democratic presidential candidates. By Monday, November 30, 2015, the Florida Democratic Party will submit a list of its presidential candidates to the Secretary of State to be placed on the Presidential Preference Primary ballot. (2) The Secretary of State shall prepare and publish a list of names of the presidential candidates submitted no later than December 15, 2015. (3) The Department of State shall immediately notify each presidential candidate listed by the Secretary of State. Such notification shall be in writing, by registered mail, with return receipt requested. (4) There is no other procedure (i.e., filing process) by which presidential candidates gain access to the Florida Presidential Preference Primary ballot.

16. On or about November 1, 2015 the Florida Democratic Party submitted a list of its presidential candidates to the Secretary of State to be placed on the Presidential Preference Primary ballot. This list included Hillary Clinton, Bernie Sanders, and Martin O'Malley. Prior to November 30, 2015, the Plaintiff requested that the Defendant include his name on the list of candidates to be placed on the Florida presidential primary ballot for the Democratic Party, but the Defendant refused to include his name on the list. Attached hereto is Plaintiff's request, marked Exhibit "A", and made a part hereof by reference.

17. By refusing to submit Roque "Rocky" De La Fuente Guerra name on the list of candidates to be placed on the Florida presidential primary ballot for the

Democratic party, the Florida Democratic Party is violating the rights of both Plaintiffs under the 14th Amendment of the United States Constitution.

18. Plaintiff, Roque “Rocky” De La Fuente Guerra has been harmed by the decision of the Florida Democratic Party, in that Democratic voters in the state of Florida will not be able to vote for the Plaintiff as their preference for the Democratic nominee for president, and Plaintiff will not be able to have Florida delegates, pledged to support his candidacy, seated at the Democratic National Convention.
19. Plaintiffs, Victor Di Maio, Jose Ramon Bolano Valladares, Ada L. Hernandez, Marco A. Bolano Hernandez, Carlos H. Aleman Gonzalez, Sobeida Aleman and Carlos Heriberto Aleman have been harmed by the decision of the Florida Democratic Party, in that Democratic voters in the state of Florida, such as the Plaintiffs, Victor Di Maio, Jose Ramon Bolano Valladares, Ada L. Hernandez, Marco A. Bolano Hernandez, Carlos H. Aleman Gonzalez, Sobeida Aleman and Carlos Heriberto Aleman will not be able to vote for the Plaintiff, Roque “Rocky” De La Fuente Guerra as their preference for the Democratic nominee for president.
20. In addition to the foregoing, the Democratic Delegate Selection Plan is unconstitutionally vague depriving the Plaintiffs of due process of law and/or the Defendant’s implemented the Democratic Selection Plan in a manner which deprived the Plaintiffs of equal protection and due process. The Democratic Selection Plan is authorized by the above state statute. The plan provides that the party will prepare and approve a list of “recognized” Democratic Presidential candidates. The Party has a non-discretionary duty to prepare and approve a list of

all recognized Democratic Presidential candidates, not just the ones they favor or choose. In the alternative, if the Florida Democratic Party asserts they have the discretion to choose which candidates are approved to be listed on the ballot, based on being “recognized” this term is so vague and ambiguous that it unconstitutionally deprives the Plaintiffs of due process. The Plaintiff is clearly recognized by the Federal Elections Commission, the news media, and other states as a Democratic candidate for President.

21. The rules of the Florida Democratic Party allow the Defendant to arbitrarily deny ballot access to a candidate, regardless of voter support, and national recognition. The decision of the Florida Democratic Party to only include the above referenced candidates has resulted in actual discrimination based on racial and national origin, which serves no legitimate party goal.
22. While the Defendant, Florida Democratic Party, is a private organization, and may, speaking through their rules, choose to define their associational rights by limiting who can participate in any binding process leading to the selection of their delegates to their National Convention, they may not refuse to allow ballot access to a state run presidential primary election arbitrarily, where such refusal results in de facto discrimination against a candidate based on national origin.
23. The Florida Democratic Party, acting under color of state law, is committing acts in violation of the 14th Amendment to the United States Constitution in determining the number and percentage of pledged delegates assigned to each candidate for the Democratic nomination for president, and to have delegates

seated in those numbers and percentages at the National Party's national nominating convention, pursuant to party rule.

WHEREFORE, the Plaintiffs, Roque "Rocky" De La Fuente Guerra, Victor DiMaio, Jose Ramon Bolano Valladares, Ada L. Hernandez, Marco A. Bolano Hernandez, Carlos H. Aleman Gonzalez, Sobeida Aleman and Carlos Heriberto Aleman request that this court assume jurisdiction and enter a declaratory judgment determining the decision of the Defendants, that it would not include the Plaintiff, Roque De La Fuente's name on the list of approved candidates to appear on the Florida's presidential preference primary on March 1, 2016, is unconstitutional and violative of the 14th Amendment to the United States Constitution. Plaintiff further requests injunctive relief, preliminarily and permanently, as is appropriate to remedy the violations of Plaintiffs' constitutional rights.

COUNT II

21. Plaintiff re-alleges paragraphs 1 through 14, as if specifically set forth herein.
22. The Defendant, Florida Democratic Party, is subject to 42 U.S.C. § 200d et seq., also known as Title VI of the Civil Rights Act of 1964 (hereinafter "The Act"), in that their Presidential Preference Primary is conducted by and through the State of Florida, and their delegate selection process is an integral component of the electoral process.
23. As set forth above, the Defendant's refusal to include the Plaintiff, Roque "Rocky" De La Fuente Guerra's name on the list of approved candidates to

appear on the Florida presidential preference primary on March 1, 2016 has resulted in de facto discrimination against the Plaintiffs based on national origin.

24. Because the decision of the Defendant to refuse to include the Plaintiff, Roque “Rocky” De La Fuente’s name on the list of approved candidates to appear on the Florida presidential preference primary on March 1, 2016 violates the rights of the Plaintiffs as set forth above, the Defendant should be required to notify the State of Florida, Secretary of State, to include the name of the Plaintiff on the list of approved candidates to appear on the Florida presidential preference primary on March 1, 2016.

WHEREFORE, the Plaintiffs, Roque “Rocky” De La Fuente Guerra and Victor Di Maio, Jose Ramon Bolano Valladares, Ada L. Hernandez, Marco A. Bolano Hernandez, Carlos H. Aleman Gonzalez, Sobeida Aleman and Carlos Heriberto Aleman request that this court assume jurisdiction and enter a declaratory judgment determining the decision of the Defendant, to refuse to include the Plaintiff’s name on the list of approved candidates to appear on the Florida presidential preference primary on March 1, 2016 violates 42 U.S.C. § 200d et seq., also known as Title VI of the Civil Rights Act of 1964. Plaintiff further requests that the Defendant, Secretary of State, be directed to include the name of the Plaintiff, Roque “Rocky” De La Fuente Guerra on the March 1, 2016 Presidential Preference ballot and any other injunctive relief, preliminarily and

permanently, as is appropriate to remedy the violations of Plaintiff's rights

Respectfully Submitted,

s/Michael A. Steinberg
Michael A. Steinberg, Esquire
Florida Bar No.: 340065
Michael Steinberg & Associates
4925 Independence Parkway, Suite 195
Tampa, FL 33634
Telephone: (813) 221-1300
Facsimile: (813) 221-1702
Frosty28@aol.com
Attorney for Plaintiff

EXHIBIT "A"



November 11, 2015

The Honorable Allison Tant
Florida Democratic Party Chairwoman
214 S. Bronough St.,
Tallahassee, FL 32301

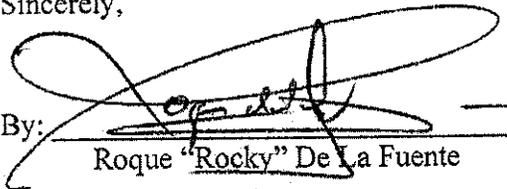
**RE: DEMOCRATIC PARTY PRESIDENTIAL CANDIDATE
ROQUE "ROCKY" DE LA FUENTE
FORMAL REQUEST TO BE PLACED ON THE PRESIDENTIAL
BALLOT**

Dear Judge Tant:

This letter constitutes a formal written request to be included on the Presidential Primary Ballot. Enclosed please find the following documents: (a) Presidential Primary Candidate's Authorized Representative(s) Certification; and (b) a written statement indicating the specific steps my campaign is willing to take to encourage full participation in Florida's delegate selection process.

Please do not hesitate to contact my office, should you have any questions in this regard. Thank you for your time and cooperation in this matter.

Sincerely,

By: 
Roque "Rocky" De La Fuente

NOV 11 / 2015

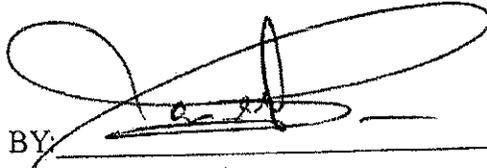


Certification of Authorized Representative

I, Roque "Rocky" De La Fuente, hereby authorize the following representatives:

1. Dariusz Behrashi;
2. Chad Payne; and
3. Adanys Clerch Gutierrez

for purposes of appearing and acting on behalf of my political campaign for Florida Democratic Party's presidential nomination for 2016 presidential elections.

BY: 

Roque "Rocky" De La Fuente Nov/11/2015



November 15, 2015

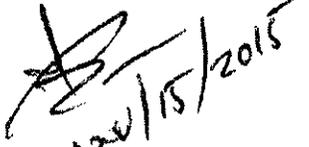
The Honorable Allison Tant
Florida Democratic Party Chairwoman
214 S. Bronough St.,
Tallahassee, FL 32301

Dear Mrs. Tant:

Pursuant to the Democratic National Committee's Rules, Call, and Regulations for the 2016 Democratic National Convention and the Florida Democratic Party 2016 Delegate Selection Plan, I would like to outline the steps my Presidential campaign will take to encourage full participation in the Florida's delegate selection process.

My campaign plan is as follows:

1. I will certify an Authorized Representative, who will work with the Florida Democratic Party to coordinate the full participation efforts of my campaign;
2. My campaign will encourage and assist delegate candidates to meet the necessary requirements to become delegates from all of Florida's Democratic constituencies, focusing on historically underrepresented groups by virtue of race, age, sexual orientation, or disability;
3. My campaign will hold public meetings open to all members of the Democratic Party regardless of race, sex, age, color, creed, national origin, religion, ethnic identity, sexual orientation, economic status, or physical disability;
4. My campaign will assist the Florida Democratic Party's efforts to publicize the delegate selection process among all Democrats, with a particular focus on underrepresented groups;
5. Persons who wish to be a delegate candidate pledged to my candidacy may apply by contacting my national campaign headquarters;
6. My campaign will use its best efforts to ensure that our delegates and alternates meet the Florida Democratic Party's approved representational goals, including an equal division of men and women;


Nov 15 / 2015



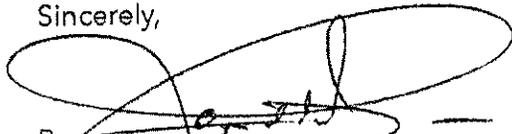
7. My campaign will make every attempt to provide approved delegate lists detailing the demographic information of each candidate; and

8. My campaign will also strive to ensure that approved candidates for the Florida Democratic Party's allotted members of the 2016 Democratic National Committee's Permanent Standing Committees will be demographically balanced with respect to the aforementioned representation goals and the equal division requirement for men and women.

If you have any questions, or if we can provide any assistance in promoting full and fair participation in the delegate selection process, please contact my staff at my national campaign headquarters.

Enclosed please also find a duly executed Certificate of Authorized Representatives.

Sincerely,


By: _____
Roque "Rocky" De La Fuente

NOV/15/2015

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Loque "Rocky" De La Fuente Guerra and Victor DiMaio, et al

DEFENDANTS

Democratic Party of Florida and Ken Detzner, Secretary of State of Florida

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Michael A. Steinberg, Esquire, 4925 Independence Parkway
Suite 195, Tampa 33634 813-221-1300

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN

- (Place an "X" in One Box Only)
- 1 Original Proceeding
 - 2 Removed from State Court
 - 3 Remanded from Appellate Court
 - 4 Reinstated or Reopened
 - 5 Transferred from another district (specify)
 - 6 Multidistrict Litigation
 - 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

- CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
- DEMAND \$ _____
- CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE

1-15-16

SIGNATURE OF ATTORNEY OF RECORD

Michael A. Steinberg

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____