

No. 17-14194

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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CAROL WILDING, *et al.*,

Appellants/Plaintiffs,

vs.

DNC SERVICES CORPORATION, *et al.*,

Appellees/Defendants.

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Appeal from the United States District Court  
for the Southern District of Florida

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**PLAINTIFFS'/APPELLANTS' RESPONSE TO THIS COURT'S  
OCTOBER 11, 2017 JURISDICTIONAL QUESTION**

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Cullin O'Brien, Esq.  
Cullin O'Brien Law, P.A.  
6541 NE 21st Way  
Ft. Lauderdale, FL 33308  
cullin@cullinobrienlaw.com  
Tel: (561) 676-6370  
Fax: (561) 320-0285

Antonino G. Hernandez, Esq.  
Antonino G. Hernandez, P.A.  
4 SE 1st St. 2nd Floor  
Miami, FL 33131  
Tel: (305) 282-3698  
Fax: (786) 513-7748  
hern8491@bellsouth.net

Jared H. Beck, Esq.  
Elizabeth Lee Beck, Esq.  
Beverly Virues, Esq.  
Beck & Lee Trial Lawyers  
12485 SW 137th Ave., Suite 205  
Miami, FL 33186  
Tel: (305) 234-2060  
Fax: (786) 664-3334  
jared@beckandlee.com  
elizabeth@beckandlee.com  
beverly@beckandlee.com

Counsel for Appellants/Plaintiffs

**CERTIFICATE OF INTERESTED PERSONS AND CORPORATE  
DISCLOSURE STATEMENT**

To the best of undersigned's knowledge, the following is a complete list of the trial judges, attorneys, persons, associations of persons, firms, partnerships, or corporations that have or may have an interest in the outcome of this case, including subsidiaries, conglomerates, affiliates, and parent corporations, including any publicly held company that owns 10% or more of the party's stock, and other identifiable legal entities related to a party.

1. Kimberly Alberts, Plaintiff/Appellant.
2. Connie Anderson, Plaintiff/Appellant.
3. Antonino Hernandez, P.A., trial and appellate counsel for Plaintiffs/Appellants.
4. Kayite Ashcraft, Plaintiff/Appellant.
5. Lester John Bates, Plaintiff/Appellant.
6. Beck & Lee P.A., trial and appellate counsel for Plaintiffs/Appellants.
7. Elizabeth Lee Beck, trial and appellate counsel for Plaintiffs/Appellants.
8. Jared H. Beck, trial and appellate counsel for Plaintiffs/Appellants.
9. Mark Bedard, Plaintiff/Appellant.

10. Nancy Berners-Lee, Plaintiff/Appellant.
11. Jen Betterley, Plaintiff/Appellant.
12. Harris Bierhoff, Plaintiff/Appellant.
13. Timothy Bingen, Plaintiff/Appellant.
14. Stephanie Birdsong, Plaintiff/Appellant.
15. Marianne Blair, Plaintiff/Appellant.
16. Richard Booker, Plaintiff/Appellant.
17. Barbara Bowen, Plaintiff/Appellant.
18. Richard Boylan, Plaintiff/Appellant.
19. Matthew Joseph Brady, Plaintiff/Appellant.
20. Kyle Braund, Plaintiff/Appellant.
21. Chris Bubb, Plaintiff/Appellant.
22. Tristan Burgener, Plaintiff/Appellant.
23. D.J. Buschini, Plaintiff/Appellant.
24. Bruce Busto, Plaintiff/Appellant.
25. Joseph Callan, Plaintiff/Appellant.

26. Mark R. Caramanica, counsel for Defendants/Appellees.
27. Patricia Cassidy, Plaintiff/Appellant.
28. Susan Catterall, Plaintiff/Appellant.
29. Vincent Cauchi, Plaintiff/Appellant.
30. Cynthia Chan, Plaintiff/Appellant.
31. Torsha Childs, Plaintiff/Appellant.
32. Karlie Cole, Plaintiff/Appellant.
33. Aimee Coleman, Plaintiff/Appellant.
34. Rosalie Consiglio, Plaintiff/Appellant.
35. Daniel Cooper, Plaintiff/Appellant.
36. Yalonda Dye Cooper, Plaintiff/Appellant.
37. Suzanne Cork, Plaintiff/Appellant.
38. Rhiannon Crandall, Plaintiff/Appellant.
39. William Crandall, Plaintiff/Appellant.
40. Sharon Crawford, Plaintiff/Appellant.
41. Phyllis Criddle, Plaintiff/Appellant.

42. John Crowe, Plaintiff/Appellant.
43. Cullin O'Brien Law P.A., trial and appellate counsel for Plaintiffs/Appellants.
44. Craig Richard Currier, Plaintiff/Appellant.
45. Catherine Cyko, Plaintiff/Appellant.
46. Heather Dade, Plaintiff/Appellant.
47. Alecia Davis, Plaintiff/Appellant.
48. Sherry Davis, Plaintiff/Appellant.
49. Tammy Deitch-Coulter, Plaintiff/Appellant.
50. DNC Services Corporation, Defendant/Appellee.
51. Kathleen Dodge, Plaintiff/Appellant.
52. Diane Emily Dreyfus, Plaintiff/Appellant.
53. Dan Ellis Dudley, Plaintiff/Appellant.
54. Amalie Duvall, Plaintiff/Appellant.
55. Marc. E. Elias, counsel for Defendants/Appellees.
56. Eliza Feero, Plaintiff/Appellant.

57. Erik Michael Ferragut, Plaintiff/Appellant.
58. Elizabeth Figueroa, Plaintiff/Appellant.
59. Diana Flores, Plaintiff/Appellant.
60. William Scott Franz, Plaintiff/Appellant.
61. Susan Frisbie, Plaintiff/Appellant.
62. Elisabeth C. Frost, counsel for Defendants/Appellees.
63. Erik Furreboe, Plaintiff/Appellant.
64. Lisa Gale, Plaintiff/Appellant.
65. Laura Genna, Plaintiff/Appellant.
66. Ryan Ghan, Plaintiff/Appellant.
67. Joseph Gleason, Plaintiff/Appellant.
68. Jeffrey Goldberg, Plaintiff/Appellant.
69. Estrella Gonzalez, Plaintiff/Appellant.
70. Jose Alberto Gonzalez, Plaintiff/Appellant.
71. Prabu Gopalakrishnan, Plaintiff/Appellant.
72. Luke Grim, Plaintiff/Appellant.

73. Lucille Grooms, Plaintiff/Appellant.
74. Anthony Grudin, Plaintiff/Appellant.
75. Lauren Hale, Plaintiff/Appellant.
76. Julie Hampton, Plaintiff/Appellant.
77. Zachary James Haney, Plaintiff/Appellant.
78. Gayle Ann Harrod, Plaintiff/Appellant.
79. Jarath Hemphill, Plaintiff/Appellant.
80. Antonino Hernandez, trial and appellate counsel for Plaintiffs/Appellants.
81. Kirsten Hoffman, Plaintiff/Appellant.
82. Rebecca Hohm, Plaintiff/Appellant.
83. Kim Marie Houle, Plaintiff/Appellant.
84. Stephen Houseknecht, Plaintiff/Appellant.
85. Lewis Humiston, Plaintiff/Appellant.
86. United States Magistrate Judge Patrick M. Hunt.
87. Kirsten Hurst, Plaintiff/Appellant.

88. Benjamin Ilarraza, Plaintiff/Appellant.
89. Bakh Inamov, Plaintiff/Appellant.
90. Danielle Ingrassia, Plaintiff/Appellant.
91. Carolyn Jacobson, Plaintiff/Appellant.
92. Tukoi Jarrett, Plaintiff/Appellant.
93. Timo Johann, Plaintiff/Appellant.
94. Tamara Johnston, Plaintiff/Appellant.
95. Heather Jordan, Plaintiff/Appellant.
96. Rana Kangas-Kent, Plaintiff/Appellant.
97. Brandy Kincaid, Plaintiff/Appellant.
98. Amber Rae Knowlton, Plaintiff/Appellant.
99. Theda Larson-Wright, Plaintiff/Appellant.
100. Peggy Lew, Plaintiff/Appellant.
101. Melissa Liang, Plaintiff/Appellant.
102. Sarah Lopez, Plaintiff/Appellant.
103. Ruthzee Louijeune, counsel for Defendants/Appellees.



104. Edwin Lugo, Plaintiff/Appellant.
105. John Lynch, Plaintiff/Appellant.
106. Sean Lynch, Plaintiff/Appellant.
107. Christine Maiurano, Plaintiff/Appellant.
108. Melissa Marcotte, Plaintiff/Appellant.
109. Raymond Maxwell, Plaintiff/Appellant.
110. Lisa Anne Meneely, Plaintiff/Appellant.
111. David Meuli, Plaintiff/Appellant.
112. Greta Mickey, Plaintiff/Appellant.
113. Carl Miller, Plaintiff/Appellant.
114. Teri Monaco, Plaintiff/Appellant.
115. Angela Monson, Plaintiff/Appellant.
116. Brittany R. Musick, Plaintiff/Appellant.
117. Cullin O'Brien, trial and appellate counsel for Plaintiff/Appellant
118. Daniel O'Meara, Plaintiff/Appellant.
119. Andrew Orrino, Plaintiff/Appellant.

120. Perkins Coie LLP, counsel for Defendants/Appellees.
121. Steve Philipp, Plaintiff/Appellant.
122. Susan Phillips, Plaintiff/Appellant.
123. Jane Ellen Plattner, Plaintiff/Appellant.
124. Alette Prichett, Plaintiff/Appellant.
125. Kenneth Puckett, Plaintiff/Appellant.
126. David Pulaski, Plaintiff/Appellant.
127. David Pyles, Plaintiff/Appellant.
128. Valerie Elyse Rasch, Plaintiff/Appellant.
129. Michael Reed, Plaintiff/Appellant.
130. Susan Reed, Plaintiff/Appellant.
131. Daniel Reynolds, Plaintiff/Appellant.
132. Stanley Rifken, Plaintiff/Appellant.
133. Diane Robinson, Plaintiff/Appellant.
134. Rachel Roderick, Plaintiff/Appellant.
135. Jeff Rogers, Plaintiff/Appellant.

136. Dominic Ronzani, Plaintiff/Appellant.
137. Susan Lynne Roppel, Plaintiff/Appellant.
138. Andrew Rousseau, Plaintiff/Appellant.
139. Deborah Wasserman Schultz, Defendant/Appellee.
140. Lisa Settle, Plaintiff/Appellant.
141. Julianna Seymour, Plaintiff/Appellant.
142. Matthew Shaw, Plaintiff/Appellant.
143. Zeke Shaw, Plaintiff/Appellant.
144. James Simon, Plaintiff/Appellant.
145. Susan Singer, Plaintiff/Appellant.
146. Erika Sitzer, Plaintiff/Appellant.
147. Brenda Lee Smith, Plaintiff/Appellant.
148. Elesha Snyder, Plaintiff/Appellant.
149. Erich Sparks, Plaintiff/Appellant.
150. Bruce Spiva, counsel for Defendants/Appellees.
151. Marlowe St. Cloud Primack, Plaintiff/Appellant.

152. Alaina Talboy, Plaintiff/Appellant.
153. Felicia Michelle Taylor, Plaintiff/Appellant.
154. Brett Teegardin, Plaintiff/Appellant.
155. Thomas & Locicero PL, counsel for Defendants/Appellees.
156. George Thomas, Plaintiff/Appellant.
157. Gregg Thomas, counsel for Defendants/Appellees.
158. Laura Michelle Vaughn, Plaintiff/Appellant.
159. Carlos Villamar, Plaintiff/Appellant.
160. Beverly Virues, trial and appellate counsel for Plaintiff/Appellant.
161. Rick Washik, Plaintiff/Appellant.
162. Duffy Robert Weiss, Plaintiff/Appellant.
163. Mary Jasmine Welch, Plaintiff/Appellant.
164. Rebecca White-Hayes, Plaintiff/Appellant.
165. Carol Wilding, Plaintiff/Appellant.
166. Catherine Willott, Plaintiff/Appellant.
167. AnnMarie Wilson, Plaintiff/Appellant.

168. Graham Wilson, counsel for Defendants/Appellees.
169. Gregory Witkowski, Plaintiff/Appellant.
170. Emma Young, Plaintiff/Appellant.
171. United States District Court Judge William J. Zloch.

**RESPONSE TO JURISDICTIONAL QUESTION**

Plaintiffs/Appellants (“Plaintiffs”) respectfully file this response to this Court’s October 11, 2017 jurisdictional question as follows:

**I. The Parties Have Stipulated to the Florida Citizenship of Defendant/Appellee Deborah Wasserman Schultz**

1. On October 16, 2017, Defendants/Appellees (“Defendants”) stipulated “to the fact that Deborah Wasserman Schultz is a citizen of Florida.” *See Exhibit 1.*<sup>1</sup> Thus, this Court can accept the parties’ stipulation that Defendant/Appellee Deborah Wasserman Schultz (hereinafter “Congresswoman Wasserman Schultz”) is a Florida citizen. *See, e.g., Travelers Indem. Co. of America v. Portal Healthcare Solutions, L.L.C.*, No. 14–1944, 644 Fed.Appx. 245, 247 (4th Cir. Apr. 11, 2016) (accepting stipulation about party’s citizenship).

**II. There Is Sufficient Current Record Evidence that Adequately Establishes the Florida Citizenship of Congresswoman Wasserman Schultz**

2. Plaintiffs maintain that the current record evidence adequately establishes the citizenship of Congresswoman Wasserman Schultz. Plaintiffs allege that Congresswoman Wasserman Schultz is a Congresswoman representing

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<sup>1</sup> Defendants, however, also stated: “We will not stipulate that the issues of diversity jurisdiction are moot.” *See Exhibit 1.*

portions of South Florida. (Doc. 8, pg. 5). The United States Constitution appears to, thus, require that Congresswoman Wasserman Schultz be a citizen of Florida.<sup>2</sup> Consistent with these allegations, the reference in the complaint that Congresswoman Wasserman Schultz “resides” and has offices in South Florida, (Doc. 8, pgs. 5, 20), should connote that her domicile is in Florida. “Citizenship is equivalent to ‘domicile’ for purposes of diversity jurisdiction.” *McCormick v. Aderholt*, 293 F.3d 1254, 1257 (11th Cir. 2002) (internal citation and quotation omitted).

3. In other words, taking Plaintiffs’ allegations in the light most favorable to them,<sup>3</sup> this Court should find that Plaintiffs sufficiently alleged that Florida is Congresswoman Wasserman Schultz’s “true, fixed, and permanent home

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<sup>2</sup> U.S. Const. Art. I, §2, cl. 2 (“No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.”); *compare Schaefer v. Townsend*, 215 F.3d 1031, 1039 (9th Cir. 2000) (“[B]ecause states do not have the power to add to or alter the requirements enumerated in the Qualifications Clause, Section 201 of the California Elections Code is unconstitutional insofar as it requires candidates for the state’s delegation to the House of Representatives to reside in the state prior to the election.”).

<sup>3</sup> *Hunt v. Aimco Props., L.P.*, 814 F.3d 1213, 1221 (11th Cir. 2016) (“We review the district court’s grant of a motion to dismiss for failure to state a claim *de novo*, accepting the allegations in the complaint as true and construing them in the light most favorable to the plaintiff.”).

and principal establishment, and to which [she] has the intention of returning whenever [she] is absent therefrom.” *McCormick*, 293 F.3d at 1257-1258 (internal citations and quotations omitted).

### **III. There Is Sufficient Current Record Evidence that Adequately Establishes the Citizenship of the Remaining Parties**

4. Plaintiffs maintain that the current record evidence adequately establishes the citizenship of the remaining parties. Plaintiffs allege that the citizenship of the parties is diverse. (Doc. 8, pg. 5). In light of this allegation of citizenship, any subsequent references to the state residency of the remaining parties should also, in the light most favorable to Plaintiffs, be seen as a reference to state domicile and “equivalent to” state citizenship. *McCormick*, 293 F.3d at 1257.

### **IV. Alternatively, Plaintiffs Intend to Amend and Supplement The Allegations On Appeal**

5. Alternatively, to the extent that this Court does not accept the parties’ stipulation of the Florida citizenship of Congresswoman Wasserman Schultz and does not deem that there is sufficient record evidence that adequately established the citizenship of the parties, Plaintiffs intend to: (a) seek leave of this Court to amend the citizenship allegations on appeal, pursuant to 28 U.S.C. § 1653, and, (b) seek leave of this Court to provide additional evidence to demonstrate the parties’ citizenships. *See Stafford v. Mobil Oil Corp.*, 945 F.2d 803, 806 (5th Cir. 1991)



(“a party shall be allowed to amend its complaint in order to make a complete statement of the basis for federal diversity jurisdiction where diversity jurisdiction was not questioned by the parties and there is no suggestion in the record that it does not in fact exist” (internal quotation marks and citation omitted)); *McArthur v. Kerzner Int’l Bahamas Ltd.*, 607 Fed. Appx. 845, 846 n.1 (11th Cir. Mar. 30, 2015) (granting motion to amend allegations of citizenship and jurisdiction under 28 U.S.C. § 1653).

Plaintiffs intend to make these motions within 14 days of this Court’s ruling on its October 11, 2017 jurisdictional question or pursuant to any other schedule this Court orders.

**V. Plaintiffs Intend to Substantively Challenge the District Court’s Conclusion that They Failed to properly Allege Complete Diversity of Citizenship Under 28 U.S.C. §1332(a) or Minimal Diversity of Citizenship Under CAFA**

6. Plaintiffs intend to substantively challenge the District Court’s conclusion that they failed to properly allege complete diversity of citizenship under the Class Action Fairness Act (“CAFA”). On its face, CAFA confers federal jurisdiction over any proposed class action where the amount in controversy exceeds \$5 million and “any member of a class of plaintiffs is a citizen of a State different from any defendant.” 28 U.S.C. § 1332(d)(2)(A). Here, the claims are alleged on behalf of three different classes: (1) all donors to the Bernie Sanders

campaign (from January 1, 2015 through the date of the action); (2) all donors to the Democratic National Committee (from January 1, 2015 through the date of the action); and (3) all members of the Democratic Party. It is apodictic that each of these proposed classes contains at least one member who is a citizen of a State different from either of the two defendants, Congresswoman Wasserman Schultz and the Democratic National Committee, such that jurisdiction under CAFA is established.

DATED: October 25, 2017

Respectfully submitted,

/s/Cullin O'Brien

Cullin O'Brien, Esq.

Cullin O'Brien Law, P.A.

6541 NE 21st Way

Ft. Lauderdale, FL 33308

cullin@cullinobrienlaw.com

Tel: (561) 676-6370

Fax: (561) 320-0285

Jared H. Beck, Esq.

Elizabeth Lee Beck, Esq.

Beverly Virues, Esq.

Beck & Lee Trial Lawyers

Corporate Park at Kendall

12485 SW 137th Ave., Suite 205

Miami, FL 33186

Tel: (305) 234-2060

Fax: 786-664-334

jared@beckandlee.com

elizabeth@beckandlee.com

[additional counsel on following page]

Antonino G. Hernandez, Esq.  
Antonino G. Hernandez, P.A.  
4 SE 1st St. 2nd Floor  
Miami, FL 33131  
Tel: 305-282-3698  
Fax: 786-513-7748  
hern8491@bellsouth.net

*Counsel for Appellants/Plaintiffs*

### **CERTIFICATE OF COMPLIANCE**

**Type-Volume.** This document complies with the word limit of FRAP 32 because, excluding the parts of the document exempted by FRAP 32(f) and applicable rules, this document contains 982 words according to Microsoft Word word processing software. **Typeface and Type-Style.** This document complies with the typeface requirements of FRAP 32(a)(5) and the type-style requirements of FRAP 32(a)(6).

*/s/Cullin O'Brien*

\_\_\_\_\_  
Cullin O'Brien

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on October 25, 2017, a true and correct copy of the foregoing has been sent via ECF portal to attorneys for Defendants/Appellants.

*s/Cullin O'Brien*

\_\_\_\_\_  
Cullin O'Brien