

**IN THE SUPREME COURT OF FLORIDA**

LEAGUE OF WOMEN VOTERS OF  
FLORIDA, INC., COMMON CAUSE,  
PATRICIA M. BRIGHAM, JOANNE  
LYNCH AYE, and ELIZA  
McCLENAGHAN,

Petitioners,

v.

Case No.: SC18-1573

HON. RICK SCOTT, in His Official  
Capacity as Governor of Florida,  
FLORIDA SUPREME COURT JUDICIAL  
NOMINATING COMMISSION,  
and JASON L. UNGER, in His Official  
Capacity as Chair of the Florida Supreme  
Court Judicial Nominating Commission,

Respondents.

---

**BRIEF OF AMICI CURIAE  
THE FLORIDA ASSOCIATION FOR WOMEN LAWYERS ET AL. IN  
PARTIAL SUPPORT OF THE PETITIONERS**

---

Jennifer Shoaf Richardson  
Florida Bar No. 67998  
jennifer.richardson@jacksonlewis.com  
501 Riverside Avenue, Ste. 902  
Jacksonville, FL 32202  
(904) 638-2668

Monique D. Hayes  
Florida Bar No. 843571  
moniqueh@goldmclaw.com  
199 E. Flagler Street, No. 405  
Miami, Florida 33132  
(305) 204-6666

*President of the Florida Association for  
Women Lawyers*

*President of the Willkie D. Ferguson, Jr.  
Bar Association*

Charise Morgan  
Florida Bar No. 102316  
attycmorgan@gmail.com  
1031 Ives Dairy Rd Ste 228  
Miami, FL 33179  
(478)390-8372

*President of the Caribbean Bar  
Association*

Gregory Samuel Redmon  
Florida Bar No. 17755  
gsredmon@seniorcounselaw.com  
2318 Park Street  
Jacksonville, FL 32204  
(904) 619-8890

*President of the Daniel Webster  
Perkins Bar Association, Inc.*

LaShawnda K. Jackson  
Florida Bar No. 0594482  
ljackson@rumberger.com  
300 South Orange Avenue, Suite 1400  
Orlando, FL 32801  
(407) 872-7300

*President, Virgil Hawkins Florida  
Chapter National Bar Association*

Valeria Obi  
Florida Bar. No. 106554  
gebaannouncements@gmail.com  
P.O. Box 956  
Tampa, FL 33601  
(813) 337-0609

*President, George Edgecomb Bar  
Association*

Melba V. Pearson  
Florida Bar. No. 581038  
mpearson@aclu.org  
4343 West Flagler Street, Suite 400  
Miami, FL 33134  
(786) 363-2721

*President of the Gwen S. Cherry Black  
Women Lawyers Association*

Sandy Boisrond  
Florida Bar No. 118100  
contact@thespectrumlaw.com  
P.O. Box 640131  
Miami, FL 33164  
(888) 959-8264

*Vice President of the Haitian Lawyers  
Association*

Carmen Miller  
Florida Bar No. 30064  
carmenmillerlegal@gmail.com  
P.O. Box 514  
Largo, FL 33779  
(727) 314-3029

*President, Fred G. Minnis Sr. Bar  
Association*

**TABLE OF CONTENTS**

TABLE OF CONTENTS .....1

TABLE OF CITATIONS .....2

STATEMENT OF IDENTITY AND INTEREST OF AMICUS .....3

SUMMARY OF THE ARGUMENT .....7

ARGUMENT .....8

    I.    THE DEADLINE FOR RECEIPT OF APPLICATIONS  
          SHOULD BE EXTENDED. ....8

        A.    A diverse applicant pool is of critical importance.....8

        B.    The current applicant pool is not representative of the diversity  
              of Florida citizens or The Florida Bar.....9

        C.    Extension of the deadline is likely to result in a more diverse set  
              of applicants for the JNC and the Governor’s consideration.....11

CONCLUSION .....12

CERTIFICATE OF SERVICE .....13

CERTIFICATE OF COMPLIANCE.....15

**TABLE OF CITATIONS**

**SECONDARY SOURCES**

Board Issue Paper – Women in the Law/Gender Bias, available at  
<https://www.floridabar.org/news/resources/issue-04/> (last revised Feb 13,  
2017).....10

Julia Dawson, Richard Kersley and Stefano Natella, *The CS Gender 3000: Women  
in Senior Management* (Zurich: Credit Suisse Research Institute, 2014),  
[http://publications.credit-suisse.com/tasks/render/file/index.cfm?fileid=8128F3C0-  
99BC-22E6-838E2A5B1E4366DF](http://publications.credit-suisse.com/tasks/render/file/index.cfm?fileid=8128F3C0-99BC-22E6-838E2A5B1E4366DF) .....8

Aaron A. Dhir, *Challenging Boardroom Homogeneity: Corporate Law,  
Governance, and Diversity* (New York: Cambridge University Press, 2015).....9

## **STATEMENT OF IDENTITY AND INTEREST OF AMICUS**

The Florida Association for Women Lawyers (“FAWL”) is a non-partisan statewide voluntary bar association that advocates for the equality of women in the legal profession, the judiciary, and the community at large. FAWL has approximately 3,000 members, composed of male and female attorneys, judges, and law students who share a common dedication to the mission. FAWL is composed of twenty-four attorney chapters and eleven law school chapters throughout the State.

FAWL has a priority of maintaining or increasing the number of women on the Court, as the only two women justices currently serving are being replaced due to mandatory retirement. FAWL historically has maintained a Judicial Nominating Commission Oversight Committee to ensure the judicial nominating process is non-partisan, inclusive, and fair. FAWL assists members with practical advice to reach their professional goals. FAWL has developed a Membership Advancement and Promotion Committee (“MAP Committee”) to directly support members seeking positions of leadership in The Florida Bar and the judicial branch. Through MAP, FAWL provides letters of informed support for members who have the endorsement of their chapters for non-partisan offices. FAWL has provided letters, for current applicants to the three vacancies created by the mandatory retirement of the three justices on the Court upon request.

FAWL’s mission is focused on the advancement of women, and it actively recognizes the equal importance of racial, ethnic, and socio-economic diversity in Florida’s judiciary. FAWL maintains ex officio board members from the Virgil Hawkins Chapter of the National Bar Association and the Diversity and Inclusion Committee of The Florida Bar on a consistent basis. FAWL cautiously guards against taking partisan positions and views this issue as one of fairness—not politics.

FAWL is joined in its partial support of the Emergency Supplemental Petition by the following voluntary bar associations:

The Wilkie D. Ferguson, Jr. Bar Association (the “Ferguson Bar”) is a non-partisan voluntary bar association based in Miami-Dade County Florida. The Ferguson Bar was founded in 1977 and is the oldest and largest voluntary bar association in Miami-Dade County dedicated to the interests of the Black community. Ferguson Bar membership includes attorneys and judges, both male and female, with ethnicities and cultural backgrounds reflecting the entire community. The Ferguson Bar is committed to the ideals of equal access, equal opportunity, and equal justice in the justice system. The Ferguson Bar recognizes that diversity is an essential component of a fair and impartial judiciary. Accordingly, the Ferguson Bar joins FAWL in this Amicus brief.

The Caribbean Bar Association is a voluntary bar organization whose mission is to inform, educate and empower all members of the Caribbean-American

community in South and Central Florida, and provide support of legal initiatives affecting Caribbean countries. The Caribbean Bar Association is heavily involved in civic engagement and regularly collaborates with local civic groups and organizations on educational events and activities.

Founded in 1983, the mission of the Gwen S. Cherry Black Women Lawyers Association is to address the legal, social, and economic concerns of women lawyers, the Black community, and the community-at-large.

The Daniel Webster Perkins Bar Association, Inc. was named after the great pioneer, D.W. Perkins, who was one of the first African-Americans to practice law in Duval County. Its mission and purpose continues to be that of a change agent to improve the plight of the African-American Community and to combat the effects of racial and social injustices.

The Haitian Lawyers Association (HLA) is a non-profit membership organization whose mission is to promote excellence, professionalism, equality and diversity in the legal profession and among our members and to facilitate the administration of justice while striving to protect and promote the general welfare of the Haitian-American community and other residents in the South Florida area.

The mission of the Virgil Hawkins Florida Chapter National Bar Association (hereinafter referred to as the "Association") is ensuring access to the justice system; increasing economic parity for the less-fortunate and disadvantaged of our society;

and educating the community, particularly the Black community, on the need for empowerment and self-determination. In so doing, regardless of race, sex, or creed, the objective of the Association is to promote the administration of justice, preserve the independence of the judiciary, uphold the honor and integrity of the legal profession, encourage economic empowerment for all American citizens, protect the civil and political rights of the citizens of the United States of America as guaranteed by the Constitutions of the United States and the State of Florida, and promote legislation and initiatives to further this mission.

Named after the first black full-time lawyer in Pinellas County, Florida, the Fred G. Minnis, Sr. Bar Association was founded in 2000 and is the only predominately African-American voluntary bar association in Pinellas. Following Fred G. Minnis, Sr.'s pioneering efforts in the legal profession, the Minnis Bar Association was founded to promote and provide a support system for talented minority lawyers in Pinellas County and to promote justice and education in the surrounding communities. The mission of Minnis is to protect the civil rights of the historically disadvantaged in the community; to improve the administration of justice; to strengthen the honor and integrity of the legal profession; to mentor minority lawyers; and to promote scholarship of minority and disadvantaged youth.

Founded in 1982, in memory of the late Honorable George E. Edgecomb, the George Edgecomb Bar Association is dedicated to the promotion and recognition of



African Americans within the legal profession and the judiciary. The purpose is to promote and recognize the contributions of African Americans within the legal profession and judiciary.

### **SUMMARY OF THE ARGUMENT**

The deadline for receipt of applications to the Judicial Nominating Commission (“JNC”) for the Supreme Court of Florida should be extended to increase the opportunity for a diverse applicant pool. The deadline should be extended to support an orderly and thorough process, free from an unnecessarily rushed and arbitrary timeline, and to allow applicants who would otherwise not have applied, to be considered, in light of the Court’s interim ruling. FAWL and the

undersigned amici are united in support of a diverse judiciary that is reflective of the diversity of the citizens of Florida and The Florida Bar. The undersigned associations have additional members who will apply if the deadline for receipt of applications is extended.

The Parties have capably briefed the legal arguments relevant to this issue. FAWL and the undersigned amici endeavor to assist the Court by providing insight on the perception of the process by the public and the importance of diversity on this State's highest court. The need for increasing the diversity of the applicant pool is by no means any comment on the qualifications of the current applicants. FAWL and the undersigned amici seek to add to the Court's consideration of the goal of increasing diversity and fairness in the nomination process.

## **ARGUMENT**

### **I. THE DEADLINE FOR RECEIPT OF APPLICATIONS SHOULD BE EXTENDED.**

FAWL supports the Petitioners' argument that the deadline for the receipt of applications should be extended to encourage a more diverse pool of qualified applicants before the serious business of appointing the next three justices of this Court should commence.

**A. A diverse applicant pool is of critical importance.**

In the Court's 170 plus year history, only three women have ever served: Justices Rosemary Barkett, Barbara J. Pariente and Peggy A. Quince. Likewise, only four African Americans have ever served: Justices Joseph W. Hatchett, Leander J. Shaw, Jr., James E.C. Perry, and Peggy A. Quince. In the past twenty years, seven justices have been appointed—all of them men. This historic opportunity should not be rushed or artificially limited by an arbitrary deadline, which the Court's interim order has rendered unnecessary.

The business community recognizes that diverse boards make better decisions and the same principles likely apply to the Court. Credit Suisse reports that companies with women in a third of leadership roles saw average returns increase to more than twenty-five percent.<sup>1</sup> Other scholars have determined that the underrepresentation of women on boards may have unintentionally negative impact on decision-making. Aaron A. Dhir concluded through his survey work that gender balance on boards leads to a broader basis for decision-making, increased diligence, and better preparation, allowing for greater probing and asking more questions—

---

<sup>1</sup> Julia Dawson, Richard Kersley and Stefano Natella, *The CS Gender 3000: Women in Senior Management* (Zurich: Credit Suisse Research Institute, 2014), <http://publications.credit-suisse.com/tasks/render/file/index.cfm?fileid=8128F3C0-99BC-22E6-838E2A5B1E4366DF>.

which in turn, reduces risk.<sup>2</sup> One would assume the same holds true for groups with diverse racial backgrounds. The current Supreme Court JNC has been improved to achieve gender balance, where five out of nine Commissioners are women, but the Supreme Court itself has never held such balance.

The Governor has acknowledged the importance of a diverse applicant pool by reaching out to voluntary bar associations, such as FAWL and the undersigned organizations during the application process, but acknowledgement was insufficient to produce results when there were so many uncertainties in the process at the time of the October 8th deadline.

**B. The current applicant pool is not representative of the diversity of Florida citizens or The Florida Bar.**

Without speaking to the other qualifications of the current applicant pool, it is clearly not representative of the gender or racial compositions of the citizens of Florida or The Florida Bar. As summarized by Petitioners, the current applications, which are available at <https://www.floridabar.org/directories/jnc/florida-supreme-court-jnc/>, reveal that of the fifty-nine applicants, only eleven women applied. Furthermore, only six applicants identify as black and only six identify as Hispanic. According to the Census Bureau's most recent estimates (July 2017), women make

---

<sup>2</sup> Aaron A. Dhir, *Challenging Boardroom Homogeneity: Corporate Law, Governance, and Diversity* (New York: Cambridge University Press, 2015).

up 51.1 percent of Florida's population, and the percentages of black and Hispanic Floridians are 16.9 percent and 25.5 percent, respectively. <https://www.census.gov/quickfacts/fl>.

Because applicants must be members in good standing of The Florida Bar, those demographics are also of note. In particular, although women account for almost 38 percent of The Florida Bar membership (members in good standing, February 2017), only 25 percent of appellate judges and justices are women.<sup>3</sup> Likewise, minorities are significantly underrepresented as judges in Florida in proportion to their numbers in the general population, making up only 17.5 percent of the 980 judges in the state; 6.4 percent are black, 10.6 percent are Hispanic and 0.4 percent are Asian. (As of February 2017).

**C. Extension of the deadline will result in a more diverse set of applicants for the JNC and the Governor's consideration.**

FAWL specifically made an effort to educate the Bar and the public about the October 8th deadline, realizing the possibility that the application period would not be reopened. Understandably, interested applicants hesitated to prioritize applying under the abbreviated deadline imposed prior to the interim order for a position with such an unknown and unpredictable chance for success. In particular, seasoned

---

<sup>3</sup> Board Issue Paper – Women in the Law/Gender Bias, available at <https://www.floridabar.org/news/resources/issue-04/> (last revised Feb 13, 2017).

practitioners hesitated to drop their high level client work on short notice to submit an extensive application without knowing who the decision maker would be. Of all the women who applied—only two are practitioners.

FAWL and the other voluntary bars who have signed onto FAWL’s amicus brief join Petitioners in the belief that “extending the deadline would not only encourage more qualified candidates to apply overall, but could lead to more women and minorities applying in particular.” FAWL and the undersigned associations are aware of highly qualified women and minorities who will apply if the deadline is extended, in light of the interim order. The undersigned do not foresee any prejudice to current applicants, the JNC, or the appointing Governor if the deadline is extended. The consequences of these appointments will likely have a decades long impact on the diversity of Florida’s highest court, and the process should be comprehensive and thorough to reach the best possible results.

**CONCLUSION**

For the foregoing reasons, this Court should order the Judicial Nominating Commission for the Supreme Court of Florida to extend the deadline to accept new applications until at least the end of November, 2018.

Respectfully submitted,

/s/ Jennifer Shoaf Richardson  
Jennifer Shoaf Richardson  
Florida Bar No. 67998  
Jennifer.richardson@jacksonlewis.com

/s/ Monique D. Hayes  
Monique D. Hayes  
Florida Bar No. 843571  
moniqueh@goldmclaw.com

501 Riverside Avenue, Ste. 902  
Jacksonville, FL 32202  
(904) 638-2668

*President of the Florida Association for  
Women Lawyers*

/s/Charise Morgan

Charise Morgan  
Florida Bar No. 102316  
attycmorgan@gmail.com  
1031 Ives Dairy Rd Ste 228  
Miami, FL 33179  
(478)390-8372

*President of the Caribbean Bar  
Association*

/s/Gregory Samuel Redmon

Gregory Samuel Redmon  
Florida Bar No. 17755  
gsredmon@seniorcounselaw.com  
2318 Park Street  
Jacksonville, FL 32204  
(904) 619-8890

*President of the Daniel Webster  
Perkins Bar Association, Inc.*

/s/LaShawnda K. Jackson

LaShawnda K. Jackson  
Florida Bar No. 0594482  
ljackson@rumberger.com  
300 South Orange Avenue, Suite 1400  
Orlando, FL 32801  
(407) 872-7300

*President, Virgil Hawkins Florida  
Chapter National Bar Association*

199 E. Flagler Street, No. 405  
Miami, Florida 33132  
(305) 204-6666

*President of the Willkie D. Ferguson, Jr.  
Bar Association*

/s/Melba V. Pearson

Melba V. Pearson  
Florida Bar. No. 581038  
mpearson@aclu.org  
4343 West Flagler Street, Suite 400  
Miami, FL 33134  
(786) 363-2721

*President of the Gwen S. Cherry Black  
Women Lawyers Association*

/s/Sandy Boisrond

Sandy Boisrond  
Florida Bar No. 118100  
contact@thespectrumlaw.com  
P.O. Box 640131  
Miami, FL 33164  
(888) 959-8264

*Vice President of the Haitian Lawyers  
Association*

/s/Carmen Miller

Carmen Miller  
Florida Bar No. 30064  
carmenmillerlegal@gmail.com  
P.O. Box 514  
Largo, FL 33779  
(727) 314-3029

*President, Fred G. Minnis Sr. Bar  
Association*

/s/Valeria Obi  
Valeria Obi  
Florida Bar. No. 106554  
gebaannouncements@gmail.com  
P.O. Box 956  
Tampa, FL 33601  
(813) 337-0609

*President, George Edgecomb Bar  
Association*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to the following counsel by email on November 1, 2018:

*Counsel for Respondent, Gov. Rick Scott*

Daniel E. Nordby  
Meredith L. Sasso  
John MacIver  
Alexis Lambert  
EXECUTIVE OFFICE  
OF THE GOVERNOR  
The Capitol, PL-05  
Tallahassee, Florida 32399-0001  
Daniel.Nordby@eog.myflorida.com  
Meredith.Sasso@eog.myflorida.com  
John.MacIver@eog.myflorida.com  
Alexis.Lambert@eog.myflorida.com

*Counsel for Respondent, Jason L. Unger*

George T. Levesque  
GRAYROBINSON, P.A.  
301 South Bronough Street  
Suite 600  
Tallahassee, Florida 32301  
George.levesque@gray-robinson.com



Mari-jo.lewis-wilkinson@gray-robinson.com  
Teresa.barreiro@gray-robinson.com

*Counsel for Respondent, Florida Supreme Court Judicial Nominating Commission*

Raoul G. Cantero  
WHITE & CASE LLP  
Southeast Financial Center  
200 South Biscayne Boulevard  
Suite 4900  
Miami, Florida 33131-2352  
Raoul.cantero@whitecase.com

*Counsel for Petitioners*

John S. Mills  
Thomas D. Hall  
Courtney Brewer  
Jonathan Martin  
The Bowen House  
325 North Calhoun Street  
Tallahassee, Florida 32301  
jmills@mills-appeals.com  
thall@mills-appeals.com  
cbrewer@mills-appeals.com  
jmartin@mills-appeals.com  
service@mills-appeals.com

/s/ Jennifer Shoaf Richardson  
Attorney

### **CERTIFICATE OF COMPLIANCE**

I HEREBY CERTIFY that the foregoing brief is in Times New Roman 14-point font and complies with the font requirements of Florida Rule of Appellate Procedure 9.210(a)(2).

/s/ Jennifer Shoaf Richardson

Attorney