

IN THE CIRCUIT COURT  
OF THE 17th JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA  
GENERAL CIVIL

case # 2008-\_\_\_\_\_

ELLEN H. BRODSKY  
Plaintiff

v.

BRENDA SNIPES, Supervisor of  
Elections  
BROWARD COUNTY CANVASSING  
BOARD  
Defendants

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VERIFIED COMPLAINT for RELIEF

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Tanner Andrews  
Fla. Bar #21426  
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*Counsel for Ellen H. Brodsky*

Plaintiff, **Ellen H. Brodsky**, sues Defendants **Brenda Snipes** and **Broward County Canvassing Board** (collectively, “Defendants”), and for her complaint alleges:

### **Nature of the Action**

1. This is a complaint for mandatory, declaratory, injunctive, and other relief.
2. This action is brought to enforce the public’s right of access to records under Fla. Stat. § 119.07 and to meetings under Fla. Stat. § 286.011.
3. Plaintiff seeks mandatory relief to require Defendant Snipes, as Supervisor of Elections, to produce public records of the Canvassing Board.
4. Plaintiff seeks declaratory relief for a Sunshine violation, and injunctive relief to prevent Defendants from acting on that Sunshine violation.

### **Parties**

5. Plaintiff Ellen H. Brodsky (“Ms. Brodsky”) is a citizen of Broward County, Florida.
6. Defendant Brenda Snipes (“Snipes”) is the Supervisor of Elections for Broward County. In that capacity she represents the County.
7. Defendant Broward County Canvassing Board (“Canvassing Board”) is a creature of Fla. Stat. § 102.141 and a part of the government of Broward County, Florida.
8. The Broward County Canvassing Board is subject to the requirements of Fla. Stat. § 286.011 and Fla. Stat. § 119.07. Entities subject to those requirements are often termed “Sunshine” entities.
9. Snipes, as Supervisor of Elections, has custody of records of the Broward County Canvassing Board.

10. Snipes, as Supervisor of Elections, is subject to the requirements of Fla. Stat. § 119.07.

### **Jurisdiction and Venue**

11. This Court has jurisdiction to grant relief pursuant to Fla. Stat. § 119.07 in that the plaintiff seeks mandatory relief.

12. This Court has jurisdiction to grant relief pursuant to Fla. Stat. § 286.011(2) in that the plaintiff seeks injunctive relief.

13. This Court has jurisdiction to grant relief pursuant to Fla. Stat. § 26.012 in that this action is not cognizable by the County Court.

14. This court has jurisdiction to grant relief pursuant to Fla. Stat. § 86.011 in that plaintiff seeks a declaration of her right of access to public meetings of the Canvassing Board.

15. Venue is proper in Broward County, Florida, pursuant to Fla. Stat. § 47.011, in that the parties are natural persons who are citizens of Florida resident in Broward County, officials of Broward County, or agencies of the State of Florida situate entirely within Broward County.

16. Venue is proper in Broward County, Florida, pursuant to Fla. Stat. § 47.011, in that the acts giving rise to the causes of action took place within that county.

17. Venue is proper in Broward County, Florida, pursuant to Fla. Stat. § 47.011, in that all of the defendants reside in that county.

### **Factual Background**

18. The Canvassing Board met on 31-Aug-2008.
19. Plaintiff attempted to attend the 31-Aug-2008 meeting of the Canvassing Board, but was blocked from entering the building by Allen Campbell (“Campbell”). On information and belief, Campbell a reserve officer of the Broward County Sheriff’s Department.
20. On information and belief, Campbell acted at the direction of Snipes.
21. In addition, Fred Bellis prevented Plaintiff from entering the meeting of 31-Aug-2008, saying that Snipes did not want Plaintiff in the building. Bellis is Operations Manager for the Supervisor of Elections.
22. The Canvassing Board conducted their meeting of 31-Aug-2008 despite the exclusion of Plaintiff. A newspaper account of the meeting, from the *Sun-Sentinel* oof 01-Sep-2008, pg 1B, is attached as appendix ‘A’. On information and belief, the Canvassing Board hand-counted ballots at its 31-Aug-2008 meeting.
23. At its 31-Aug-2008 meeting, the Canvassing Board concluded that Bernard Isaac Bober (“Bober”) and Mardi Anne Levey (“Levey”) will go to a run-off and that Pedro E. Dijols (“Dijols”) is eliminated by a margin of 72 votes.
24. On information and belief, the Canvassing Board took other actions at its 31-Aug-2008 meeting. These other actions are unknown to Plaintiff because she was neither permitted access to the meeting nor to the minutes thereof.
25. On 12-Sep-2008, the Canvassing Board reviewed and approved the minutes of its 31-Aug-2008 meeting (the “Minutes”).

26. Snipes maintains records of the Canvassing Board.
27. On 15-Sep-2008, at about 1138, Plaintiff served a request for the Minutes upon Snipes. A copy of the request is attached hereto as appendix 'B'.
28. No portion of the Minutes is exempt from public inspection and copying.
29. On 15-Sep-2008, at about 1630, Plaintiff appeared at Snipes' office to receive the requested Minutes.
30. At that time, Snipes refused to produce the Minutes. Snipes also refused to produce a written claim of exemption for the Minutes. Neither would Snipes state when the minutes would be produced. At that time, Snipes stated that it was her policy to delay access to public records.
31. The delay is unreasonable, in that (a) it is for an indefinite amount of time, but never less than days; (b) she refuses to specify when records may be available; and (c) the time is longer than the amount of time required to retrieve and redact the records. Such delay acts as a denial of access, contrary to the form of Fla. Stat. § 119.07.

### **Other Background**

32. Fla. Stat. § 119.11(1) provides that, when an action is brought seeking access to records, the court must set an immediate hearing, giving the case priority over other cases.
33. Fla. Stat. § 119.11(2) provides that, when a court orders an agency to produce records, the agency must comply within 48 hours.

34. Fla. Stat. § 119.12 provides that, when a civil action is brought to enforce the provisions of Ch. 119, the court shall award fees and costs to the citizen bringing suit.

35. Fla. Stat. § 286.011(4) provides that, when a civil action is brought to enforce the provisions of § 286.011, the court shall award fees and costs to the citizen bringing suit.

36. A public meeting is a meeting at which the public is permitted to be present and to be heard.

37. All citizens have standing to enforce the right of public access to meetings and records.

### **Count 1: Past Records**

38. Plaintiff realleges paragraphs 1..37.

39. Fla. Stat. § 286.011(2) provides that minutes of each agency shall be promptly recorded, and shall be open for public inspection.

40. The Minutes are a public record.

41. Snipes has custody of the Minutes.

42. On 15-Sep-2008, Snipes refused to produce the Minutes for inspection and copying.

### **Wherefore, Plaintiff demands**

- (a) the Court require Snipes to produce the minutes of the 31-Aug-2008 meeting of the Canvassing Board;
- (b) fees and costs; and
- (c) such other relief as may be just.

### **Count 2: Future Records**

43. Plaintiff realleges paragraphs 1..37.

44. Snipes has a policy of denying access to public records, and has consistently followed this policy in the past.

45. If not enjoined, Snipes will continue to deny access to public records in her custody.

46. Denial of access to public records causes irreparable harm for which money damages are not adequate compensation.

**Wherefore**, Plaintiff demands

- (a) an injunction forbidding Snipes to impose any delay in access to public records beyond that necessary to retrieve and redact;
- (b) fees and costs; and
- (c) such other relief as may be just.

### **Count 3: Past Meeting**

47. Plaintiff realleges paragraphs 1..37.

48. Fla. Stat. § 286.011(1) provides that no act of a Sunshine entity is binding except when such act is taken at a public meeting.

49. A meeting from which the public is excluded, or at which the public is not permitted to be heard, is not a public meeting.

50. The public, in the person of Plaintiff, was excluded from the 31-Aug-2008 meeting of the Canvassing Board.

51. By barring the public, in the person of Plaintiff, from its 31-Aug-2008 meeting, Canvassing Board asserted that it was not subject to the requirements of Fla. Stat. § 286.011.

52. Because it met and acted outside of public meeting, acts of Canvassing Board at the 31-Aug-2008 are null and void from the beginning. Plaintiff is entitled to a declaration to that effect.

53. Snipes has either started printing or intends to print ballots based on the Canvassing Board's decision of 31-Aug-2008 that Levey defeated Dijols. Those ballots will be used in the 04-Nov-2008 general election.

54. Snipes and Canvassing Board intend to count the ballots containing the names of Bober and Levey produced in reliance upon the Canvassing Board's 31-Aug-2008 decision.

55. Because the decision of the Canvassing Board is null and void, action based upon it will cause injury to Plaintiff for which money damages cannot adequately compensate her.

**Wherefore, Plaintiff demands**

(a) a declation that the 31-Aug-2008 acts of Canvassing Board advancing Bober and Levey to a run-off are null and void from the beginning;

(b) a declaration that such other acts as may ultimately be revealed in the minutes of the 31-Aug-2008 meeting of Canvassing Board are also null and void from the beginning;

(c) preliminary and permanent injunctions barring Snipes or the Canvassing Board from counting the ballots in the race between Bober and Levey, which ballots were produced based on the 31-Aug-2008 decision of Canvassing Board;

- (d) fees and costs; and
- (e) such other relief as may be just.

#### **Count 4: Future Meetings**

56. Plaintiff has sought to attend meetings of the Canvassing Board, and intends to attend future meetings.

57. Plaintiff is a member of the public. As such, she is entitled to attend meetings of the Canvassing Board and to be heard on such issues as may come before it for decision.

58. The Canvassing Board has instructed or permitted its servants to bar Plaintiff from its meetings.

59. Denial of access to meetings of the Canvassing Board causes injury to Plaintiff for which money damages would be inadequate.

**Wherefore,** Plaintiff demands

- (a) an injunction requiring Canvassing Board to permit the public to attend its meetings and to be heard;
- (b) fees and costs; and
- (c) such other relief as may be just.

**Verification**

I, Ellen H. Brodsky, have read the foregoing complaint and examined any appendices referenced therein. The facts stated in the complaint are true. The appendices are true and fair copies of the recited instruments.

\_\_\_\_\_  
(Ellen H. Brodsky)

\_\_\_\_\_  
(date signed)

State of Florida,            )  
                                          )  
County of Volusia.        )

Before me, the undersigned notary, on \_\_\_\_\_, personally appeared Ellen H. Brodsky, who  is to me well known or  produced \_\_\_\_\_ as identification, and who, being duly sworn, stated under penalty of perjury that the facts alleged in the foregoing complaint and any appendices thereto are true and correct.

\_\_\_\_\_  
(notary sign)

\_\_\_\_\_  
(date notarized)

\_\_\_\_\_  
(notary name)

Respectfully submitted,

\_\_\_\_\_  
Tanner Andrews  
Fla. Bar #21426  
Counsel for Ellen H. Brodsky  
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A

news article

Traffic is down on one lane of the flyover ramp from westbound I-595 to southbound I-75 during work. Backups on the stretch as far east as Flamingo Road while crews inspect and repair steel tendons that hold segments of the ramp to

**By Michael Turnbell**  
STAFF WRITER

Drivers at the western end of Interstate 595 see nothing but brake lights and a wall of barricades as they approach the ramp for southbound Interstate 75.

But for what? It doesn't appear any work is being done.

Ah, but there is. Drivers just can't see it.

The problem isn't on the surface. It's inside the blocks of concrete that make up the ramp.

Crews are inspecting steel tendons that hold segments of the

ramp together like beads on a string.

In 2000, engineers found indications of corroded cables, leaks or cracks on 41 bridges from the Panhandle to the Keys, including the ramps at the I-595/I-75/Sawgrass Expressway interchange.

Experts said during construction, grout had not properly covered the anchors that hold the tendons. Small cracks can open and let water and salt seep into the anchors, leading to corrosion.

» RAMP PAGE 8



LQU TOMAN, S

A small radar unit is used to check the condition of the steel cable under the ramp from I-595 to I-75.

## Decision 2008

### Candidate barred from observing recount

At least one person was disappointed she didn't get to see Broward County elections officials finish hand-counting 95,855 ballots in a judicial race Sunday in Lauderhill.

Ellen H. Brodsky, an unaffiliated candidate challenging incumbent Brenda Snipes for supervisor of elections in the Nov. 4 general election, said she arrived about 2 p.m., driver's license in hand, to be an election observer.

Exactly what happened next is disputed. Brodsky says she was disenfranchised; elections staffers say she was

disruptive. They agree on this: Brodsky was banned from the building, unable to see Mardi Anne Levey win a runoff spot for Group 3, Broward Circuit Court.

"I've been sitting in the parking lot all afternoon," Brodsky said during a cell phone call to the *Sun Sentinel* from outside the elections warehouse.

After the manual recount, Levey nudged past Pedro E. Dijols, her competitor for the judicial post, by a final tally of 72 votes to snag second place. The top vote-getter on Tuesday was Bernard Isaac Bober.

Akilah Johnson

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SUN-SENTINEL

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\*Some models advertised, discontinued, floor sample, scratch and dent items. This offer cannot be combined with any other offer. \*\*Interest accrues from date of purchase if not paid in full. The annual percentage rate varies based on 14.73% plus prime rate. Credit approval required. Minimum Finance charge = \$12. Offer is subject to credit approval by GE Money. We reserve the right to limit quantities. Prices good through Thursday 09/04/08

□

app.

B

records request

September 15, 2008

Ellen H. Brodsky  
2004 Granada Drive  
Coconut Creek, Florida  
954-973-2819

Broward County Supervisor of Elections

115 South Andrews Ave Room 102

Fort Lauderdale, Florida 33301

Phone: 954-357-7050, Fax 954-357-7070

Attn: Dr. Brenda Snipes, Supervisor of Elections & Records Custodian

Dear Sir:

Pursuant to the provisions of §119.07, Florida Statutes, the undersigned or his agent shall appear on the date and time of September 15, 2008 at the Office of the Supervisor of Elections, Broward County, 115 South Andrews Ave Room 102, at 4:30 PM or such other location, within the proper jurisdiction, as may be designated by the record custodian.

At that time and place, hand pickup shall be made of those records identified as

**Minutes of the Canvassing Board Meeting of August 31, 2008**

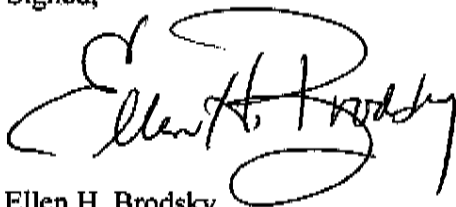
**Redaction:** Case law generally permits a record custodian the time reasonably necessary to perform any redaction that he deems necessary. If advance notice is given, the redaction should be done prior to the time of inspection. Redaction in itself constitutes a claim for exemption of that portion of the record(s) redacted.

**Penalties for failure to comply:** It is a misdemeanor of the first degree for any person to willfully and knowingly violate any of the provisions of §119.07, F.S., punishable as provided in §775.082, F.S, and §775.083, F.S.

**Exemption from inspection:** If you contend that the above identified records, or any of them, are exempt from inspection and copying, you are required hereby to state in writing, and with particularity, the statutory authority for the exemption and the reason or reasons for your conclusion that the record or records are so exempted.

I certify that a copy hereof was served upon the records custodian identified above, by Fax 954-357-7070, on this 15<sup>th</sup> day of September, 2008 .

Signed,



Ellen H. Brodsky

TRANSMISSION VERIFICATION REPORT

TIME : 09/15/2008 11:38  
NAME : WCC RECREATION  
FAX : 9549682510  
TEL : 9549682510  
SER.# : BROL5J377621

DATE, TIME	09/15 11:38
FAX NO./NAME	99543577070
DURATION	00:00:14
PAGE(S)	01
RESULT	OK
MODE	STANDARD ECM