UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

FLORIDA RISING TOGETHER, INC.,

Plaintiff,

v. Case No.: 6:24-cv-1682-WWB-NWH

CORD BYRD, CHRISTINA WHITE, JOE SCOTT, GLEN GILZEAN, JERRY HOLLAND, REPUBLICAN NATIONAL COMMITTEE and REPUBLICAN PARTY OF FLORIDA,

Defendants.
_____/

ORDER

THIS CAUSE is before the Court on Defendants Supervisors of Elections' ("**Supervisors**") Motion to Dismiss (Doc. 67), Defendant Secretary of State Cord Byrd's ("**Secretary**") Motion to Dismiss (Doc. 70), Plaintiff's Opposition (Doc. 77),[1] and Plaintiff's Request for Oral Argument (Doc. 78). For the reasons stated below, Defendants' Motions will be granted.

I. BACKGROUND

Plaintiff Florida Rising Together, Inc. ("**Florida Rising**"), a non-profit organization with a "mission [is] to increase voting and political power of marginalized people and excluded constituencies," brings this action against the Secretary of State and four of

[1] Plaintiff's Opposition does not comply with the Local Rules and this Court's Order (Doc. 73) permitting Plaintiff to file a response not to exceed forty pages. (*See* Doc. 73). Pursuant to Local Rule 3.01, page limitations are inclusive of all parts. Yet, Plaintiff's Opposition exceeds fifty pages. In the interest of judicial economy, the Court will consider the filing. However, the parties are warned that further noncompliance will result in filings being stricken.

Florida's sixty-seven Supervisors of Elections: Christina White, Joe Scott, Glen Gilzean, and Jerry Holland. (Doc. 1, ¶¶ 16, 21, 23–26). Plaintiff's claims arise out of allegedly disenfranchising administrative policies used by the Florida Department of State, Florida Attorney General, and Supervisors of Elections. (*Id.* ¶ 1).

The Help America Vote Act ("**HAVA**") requires the chief state election official and motor vehicle authority to match voter registration information with information in the motor vehicle authority's database "to the extent required . . . to verify the accuracy of the information provided on applications for voter registration." 52 U.S.C. § 21083(a)(5)(B)(i).[2] To effectuate HAVA, the Florida Legislature enacted section 97.053, Florida Statutes. Thereunder, voter registration applications are only accepted after the Department of State verifies the applicant's identity with the database of the Florida Department of Highway Safety and Motor Vehicles ("**DHSMV**") or the Social Security Administration ("**SSA**"). § 97.053(6), Fla. Stat. Specifically, the applicants undergo a matching verification ("**Matching Protocol**") of their driver license number, the last four digits of their social security number, or if they have neither, a unique identifying number is assigned to them.[3] *Id.*

Applications in which the identifying information does not exactly match records maintained by DHSMV or SSA are deemed unverified and are flagged for additional scrutiny. *Id.* The applicant is notified and given an opportunity to provide its supervisor

[2] Section 21083 was formerly codified as 42 U.S.C. § 15483. *Frank v. Walker*, 768 F.3d 744, 745 (7th Cir. 2014).

[3] The Matching Protocol applies to all application methods except those submitted electronically through the DHSMV. Fla. Admin. Code r. 1S-2.039(5); *see also id.* (7)(a)–(h).

of elections with the necessary information. *Id.* If information is not provided or still cannot be verified, the applicant is provided a provisional ballot. *Id.* The ballot will be counted if the number is verified by the end of the canvassing period or by 5:00 p.m. of the second day following the election. *Id.* Pursuant to this statutory protocol, Florida Administrative Code Rule 1S-2.039 ("**Administrative Policy**") was implemented and outlines the same procedures set forth in section 97.053(6) with greater detail.

Florida Rising challenges the constitutionality of the Matching Protocol as implemented through the Administrative Policy. (*See id.* ¶ 1 ("This action seeks declaratory and injunctive relief to stop an administrative policy[.]"); *see also* Doc. 77 at 16). Florida Rising alleges that the Matching Protocol is error-prone and disenfranchises eligible Florida citizens—particularly minorities—from voting. (Doc. 1, ¶¶ 31–74).

Specifically, Florida Rising alleges that some of its members, who are eligible voter registration applicants, have been or will be impacted by the Matching Protocol and will not be registered as active voters for upcoming elections. (*Id.* ¶ 18). According to the organization, Florida Rising has had to divert resources from its traditional voting efforts to launch an outreach program addressing the effects of the Matching Protocol. (*Id.* ¶¶ 19–20). Accordingly, Florida Rising asserts claims for violation of the First and Fourteenth Amendments pursuant to 42 U.S.C. § 1983 (Count I), Section 8 of the National Voter Registration Act, 52 U.S.C. § 20507(b)(1) (Count II), and Section 2 of the Voting Rights Act, 52 U.S.C. §§ 10301 et seq. (Count III). (*Id.* ¶¶ 83–106).

II. LEGAL STANDARD

"A pleading that states a claim for relief must contain . . . a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). Pursuant to Federal Rule of Civil Procedure 12(b)(6), a party may move to

dismiss a complaint for "failure to state a claim upon which relief can be granted." In determining whether to dismiss under Rule 12(b)(6), a court accepts the factual allegations in the complaint as true and construes them in a light most favorable to the non-moving party. *See United Techs. Corp. v. Mazer*, 556 F.3d 1260, 1269 (11th Cir. 2009). Nonetheless, "the tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions," and "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Furthermore, "[t]o survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Id.* (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.*

III. DISCUSSION

As an initial matter, the Court denies Florida Rising's Request for Oral Argument (Doc. 78) because the record is sufficiently briefed for the Court to make a determination as to dismissal. *See Wilson v. JP Morgan Chase Bank, N.A.*, No. 2:11-CV-00135, 2012 WL 603595, at *1 (N.D. Ga. Feb. 24, 2012). In their Motions, Defendants seek dismissal pursuant to Federal Rules of Civil Procedure 12(b)(1), 12(b)(6), and 12(b)(7). Defendants argue that the Complaint should be dismissed for failure to join the remaining sixty-three Supervisors of Elections to the action, and for a lack of standing. Additionally, the Supervisors argue that the Complaint constitutes a shotgun pleading because each claim lumps all Defendants together without distinction.

Beginning with the shotgun pleading matter, generally, "[t]he failure to identify claims with sufficient clarity to enable the defendant to frame a responsive pleading constitutes a 'shotgun pleading.'" *Beckwith v. BellSouth Telecomms. Inc.*, 146 F. App'x 368, 371 (11th Cir. 2005) (citing *Byrne v. Nezhat*, 261 F.3d 1075, 1029–30 (11th Cir. 2001)). "Shotgun pleadings wreak havoc on the judicial system" and "divert already stretched judicial resources into disputes that are not structurally prepared to use those resources efficiently." *Wagner v. First Horizon Pharm. Corp.*, 464 F.3d 1273, 1279 (11th Cir. 2006) (quotation omitted). As such, "[w]hen presented with a shotgun complaint, the district court should order repleading *sua sponte*." *Ferrell v. Durbin*, 311 F. App'x 253, 259 n.8 (11th Cir. 2009); *see also Johnson Enters. of Jacksonville, Inc. v. FPL Grp., Inc.*, 162 F.3d 1290, 1333 (11th Cir. 1998) (noting that shotgun pleadings drain judicial resources, and the district should act *sua sponte* to define the issues at the earliest possible stage).

The Eleventh Circuit has defined four types of shotgun pleadings. "The most common type—by a long shot—is a complaint containing multiple counts where each count adopts the allegations of all preceding counts, causing each successive count to carry all that came before and the last count to be a combination of the entire complaint." *Weiland v. Palm Beach Cnty. Sheriff's Off.*, 792 F.3d 1313, 1321 (11th Cir. 2015). The second most common type "is a complaint that . . . is guilty of the venial sin of being replete with conclusory, vague, and immaterial facts not obviously connected to any particular cause of action." *Id.* at 1322. "The third type of shotgun pleading is one that commits the sin of not separating into a different count each cause of action or claim for relief." *Id.* at 1322–23. "Fourth, and finally, there is the relatively rare sin of asserting

multiple claims against multiple defendants without specifying which of the defendants are responsible for which acts or omissions, or which of the defendants the claim is brought against." *Id.* at 1323.

In the Complaint (Doc. 1), Florida Rising alleges its three claims against all Defendants without specifying which Defendant is responsible for which acts or omissions—the fourth category of shotgun pleadings. (*See* Doc. 1, ¶¶ 83–106). Accordingly, the Court will dismiss the Complaint as a shotgun pleading. *See Lyles v. Sch. Dist. of Osceola Cnty.*, No. 6:22-cv-687, 2023 WL 8437717, at *1 (M.D. Fla. Feb. 2, 2023).

Defendants also argue that the Complaint should be dismissed for a failure to join the remaining sixty-three Supervisors of Elections as indispensable parties under Rule 12(b)(7), which incorporates Federal Rule of Civil Procedure 19. Rule 19(a) provides that "[a] person is a required party—or a necessary party—when . . . 'in that person's absence, the court cannot accord complete relief among existing parties.'" *Santiago v. Honeywell Int'l, Inc.*, 768 F. App'x 1000, 1004 (11th Cir. 2019) (quoting Fed. R. Civ. P. 19(a)(1)).

Florida Rising seeks statewide relief. (*See* Doc. 1, ¶ 74 ("Florida's 'exact match' protocol adversely impacts large numbers of otherwise eligible voter registration applicants statewide, with a disparate and discriminatory impact on Black citizens and other citizens of color.")). Indeed, the challenged protocol is a state mandate, which obligates all Florida Supervisors of Elections to execute portions of the Matching Protocol. *See* Fla. Admin. Code r. 1S-2.039(5)(a)(2.)–(3.), (5.), (5)(b)(1.). Thus, the sixty-three non-party Supervisors' rights and interests are at issue in this case. Florida Rising offers no distinction for initiating the instant action against only the four Supervisors that are parties

to this action. (*See generally* Doc. 1). Therefore, to afford Florida Rising the statewide relief it seeks, the remaining sixty-three Supervisors must be party to the action, which will not deprive this Court of subject-matter jurisdiction. *Cf. Friedman v. Snipes*, 345 F. Supp. 2d 1356, 1381–82 (S.D. Fla. 2004).

Lastly, the Court briefly speaks to the matter of standing, specifically traceability and redressability. The Secretary argues that Florida Rising did not establish either because "HAVA demands the Department conduct § 97.053(6)'s verification process." (Doc. 70 at 10). Courts have held that "[w]hen multiple laws cause the same harm, that injury may not be traceable or redressable when only one of those laws is challenged. Traceability requires causation, so [o]ne law alone does not cause the injury if the other law validly outlaws all the same activity." *Leal v. Becerra*, No. 21-10302, 2022 WL 2981427, at *2 (5th Cir. July 27, 2022) (quotation omitted); *see also Tex. State LULAC v. Elfant*, 52 F.4th 248, 255–56 (5th Cir. 2022) ("If Plaintiffs' injury arose from various election laws in [the state] and elsewhere, . . . enjoining [the statute] would not likely redress the drain on their resources." (citation omitted)). Thus, whether HAVA mandates the conduct that Florida Rising challenges—flagging or rejecting voter registration applications for a failure to match—is a pivotal question on which the parties provided limited briefing. This principle similarly applies to Florida's statutory source for the Matching Protocol, section 97.053. Florida Rising states that it "is not seeking to 'invalidate' Fla. Stat. § 97.053(6); it is seeking to enjoin the Protocol." (Doc. 77 at 16). If Florida Rising challenges only the Administrative Policy and not section 97.053, traceability and redressability may also be deficient on these grounds. *See Doe v. Va. Dep't of State Police*, 713 F.3d 745, 756 (4th Cir. 2013) ("A plaintiff faces a related

obstacle to establishing traceability and redressability when there exists an unchallenged, independent rule, policy, or decision that would prevent relief even if the court were to render a favorable decision."). At the very least, Florida Rising's failure to meaningfully allege or argue a factual or legal distinction between the requirements of HAVA, section 97.053, and the Administrative Policy, raises serious standing concerns. Nonetheless, because the Complaint will be dismissed on other grounds, the Court need not address standing at this juncture. To the extent Florida Rising elects to amend its pleading, it is reminded that it has the burden of establishing each element of standing to pursue relief before this Court. *See Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561 (1992).

IV. CONCLUSION

For the reasons set forth herein, it is **ORDERED** and **ADJUDGED** as follows:

1. Secretary of State Cord Byrd's Unopposed Motion for Leave to Enlarge Page Limits (Doc. 65) is **DENIED as moot**.
2. Supervisors of Elections' Motion to Dismiss (Doc. 67) is **GRANTED in part** as set forth in this Order and **DENIED without prejudice** in all other respects.
3. Secretary of State Cord Byrd's Motion to Dismiss (Doc. 70) is **GRANTED in part** as set forth in this Order and **DENIED without prejudice** in all other respects.
4. Plaintiff's Request for Oral Argument (Doc. 78) is **DENIED**.
5. The Complaint (Doc. 1) is **DISMISSED without prejudice**. Plaintiff may file an amended complaint on or before **October 6, 2025**. Failure to timely file

an amended pleading in compliance with this Order may result in dismissal without further notice.

DONE AND ORDERED in Orlando, Florida on September 16, 2025.

WENDY W. BERGER
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record