

CASE NO. 07-15004-CC

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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AMERICAN ASSOCIATION OF PEOPLE WITH DISABILITIES, *et al.*,  
Plaintiffs-Appellees,  
Versus  
JERRY HOLLAND, As Supervisor of Elections in Duval County,  
Defendant-Appellant.

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION, NO. 3:01-cv-01275-J-99 HTS

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Motion of National Federation of the Blind, Advocacy Center for Persons with Disabilities, Inc., Alabama Disabilities Advocacy Program, American Council of the Blind, American Diabetes Association, American Foundation for the Blind, Blinded Veterans Association, Disability Rights Advocates, Disability Rights Education and Defense Fund, Epilepsy Foundation of America, Georgia Advocacy Office, Inc., Independent Living Resources of Greater Birmingham, Inc., Judge David L. Bazelon Center for Mental Health Law, The Legal Aid Society -- Employment Law Center, National Association of the Deaf, National Council on Independent Living, National Disability Rights Network, National Senior Citizens Law Center, National Spinal Cord Injury Association, Paralyzed Veterans of America, Statewide Independent Living Council of Georgia, Inc., and World Institute on Disability for Leave to File a Brief as *Amici Curiae* in Support of Petition for Rehearing and Rehearing *En Banc*

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ATTORNEYS FOR *AMICI CURIAE*

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

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rule 26.1-1 *Amici Curiae* National Federation of the Blind, Advocacy Center for Persons with Disabilities, Inc., Alabama Disabilities Advocacy Program, American Council of the Blind, American Diabetes Association, American Foundation for the Blind, Blinded Veterans Association, Disability Rights Advocates, Disability Rights Education and Defense Fund, Epilepsy Foundation of America, Georgia Advocacy Office, Inc., Independent Living Resources of Greater Birmingham, Inc., Judge David L. Bazelon Center for Mental Health Law, The Legal Aid Society -- Employment Law Center, National Association of the Deaf, National Council on Independent Living, National Disability Rights Network, National Senior Citizens Law Center, National Spinal Cord Injury Association, Paralyzed Veterans of America, Statewide Independent Living Council of Georgia, Inc., and World Institute on Disability submit the following Certificate of Interested Persons:

1. Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure, *Amici* state that they are private 501(c)(3) non-profit organizations, that they are not publicly held corporations or other publicly held entities, and that they have no parent corporations. No publicly held

corporation or other publicly held entity owns ten percent (10%) or more of any *Amicus* organization.

2. The following individuals have an interest in the outcome of this appeal:
  - a. The Honorable Henry L. Adams, United States District Judge for the Middle District of Florida;
  - b. The Honorable Wayne E. Alley, Senior Judge, United States District Court for the Western District of Oklahoma (presiding by special designation on the United States District Court for the Middle District of Florida, Jacksonville Division);
  - c. Arpen, Tracey I., counsel for Appellant;
  - d. Baldrige, J. Douglas, counsel for Appellees;
  - e. Bell, Kenton, Appellee;
  - f. Blanck, Peter, co-counsel for *Amici Curiae*;
  - g. Bowen, Elizabeth H., Appellee;
  - h. Browning, Kurt S., Secretary of State of Florida;
  - i. Bruskin, Robert, counsel for Appellees;
  - j. Craft, Paul, Chief, Florida Bureau of Systems Certification;
  - k. Dickson, James C., on behalf of Appellee American Association of People with Disabilities;

- l. Diebold Election Systems;
- m. Dimitroff, Sashe D., counsel for Appellees;
- n. Duval County Supervisor of Elections' Office;
- o. Election Systems & Software, Inc.;
- p. Florida Division of Elections;
- q. Foley, Danielle R., counsel for Appellees;
- r. Fox & Robertson, P.C., counsel for *Amici Curiae*;
- s. Gardner, Elizabeth Elaine, counsel for Appellees;
- t. Ganzfried, Jerrold J., counsel for Appellees;
- u. Hill, Eve, counsel for *Amici Curiae*;
- v. Hodge, Pamela Ann, visually impaired trial witness;
- w. Holland, Jerry, Appellant;
- x. Howie, Brian, counsel for Appellees;
- y. Howrey LLP, counsel for Appellees;
- z. Keeling, Kevin A., counsel for Appellees;
- aa. Khassian, Heather M., counsel for Appellees;
- bb. Lawrence, Gregory A., counsel for Appellees;
- cc. Mueller, Ernst, counsel for Appellant;
- dd. O'Connor, Daniel W., Appellee;
- ee. Oddo, Danielle R., counsel for Appellees;

- ff. Robertson, Amy, counsel for *Amici Curiae*;
- gg. Rothman, Ari N., counsel for Appellees;
- hh. Sequoia Voting Systems;
- ii. Sigler, R. William, counsel for Appellees;
- jj. Teal, Jason, counsel for Appellant;
- kk. Thomas, Milo Scott, counsel for Appellees;
- ll. Tuck, Amy, Director, Florida Division of Elections;
- mm. Vincent Verrochio E., counsel for Appellees;
- nn. Waas, George L., counsel for the Florida Secretary of State and  
Division of Elections;
- oo. Washington Lawyers' Committee for Civil Rights and Urban  
Affairs;
- pp. Williams, Lois G., counsel for Appellees; and
- qq. Wiseman, Alan M., counsel for Appellees.

Pursuant to Federal Rule of Appellate Procedure 29(b), the National Federation of the Blind, Advocacy Center for Persons with Disabilities, Inc., Alabama Disabilities Advocacy Program, American Council of the Blind, American Diabetes Association, American Foundation for the Blind, Blinded Veterans Association, Disability Rights Advocates, Disability Rights Education and Defense Fund, Epilepsy Foundation of America, Georgia Advocacy Office, Inc., Independent Living Resources of Greater Birmingham, Inc., Judge David L. Bazelon Center for Mental Health Law, The Legal Aid Society -- Employment Law Center, National Association of the Deaf, National Council on Independent Living, National Disability Rights Network, National Senior Citizens Law Center, National Spinal Cord Injury Association, Paralyzed Veterans of America, Statewide Independent Living Council of Georgia, Inc., and World Institute on Disability (collectively *Amici*) respectfully move for leave to file the accompanying brief in support of Appellees' Petition for Rehearing and Rehearing *En Banc*.

*Amici* are all organizations dedicated to advancing and protecting the civil rights of people with disabilities. *Amici* have extensive policy and litigation experience with disability rights law and accessibility regulations. They are recognized for their expertise in the interpretation of civil rights laws affecting individuals with disabilities. *Amici* have an interest in this case because the

panel's decision would unduly narrow the civil rights of people with disabilities under the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*, and make disability rights enforcement more difficult for individuals with disabilities and disability community organizations.

The National Federation of the Blind ("NFB") is a national nonprofit membership organization with over 50,000 members, which is recognized by the public, Congress, executive agencies of government, and the courts as a collective and representative voice of blind Americans and their families. NFB promotes the general welfare of blind people by assisting them in their efforts to integrate themselves into society on terms of equality and independence, and by removing barriers and changing social attitudes, stereotypes and mistaken beliefs about blindness that result in the denial of opportunity to blind people. NFB has affiliates in all 50 states, Washington, D.C., and Puerto Rico, and over 700 local chapters.

The Advocacy Center for Persons with Disabilities, Inc. is Florida's official protection and advocacy system designated by executive order of the governor and provides protection and advocacy for persons with developmental disabilities, mental illness and other disabilities as authorized by Federal law. The mission of The Advocacy Center for Persons with Disabilities, Inc. is "To advance the quality of life, dignity, equality, self-determination, and freedom of choice of persons with

disabilities through collaboration, education, advocacy, as well as legal and legislative strategies.” The Advocacy Center for Persons with Disabilities, Inc. is authorized to serve persons with disabilities throughout the State of Florida who are impacted by the application of the Americans With Disabilities Act and the regulations promulgated pursuant thereto.

The Alabama Disabilities Advocacy Program (ADAP) is the federally designated Protection and Advocacy agency for persons with disabilities in the state of Alabama. Under this charge, ADAP’s mission is to provide high quality legal representation to children and adults with disabilities throughout the state.

The American Council of the Blind (“ACB”) is a nonprofit membership organization with 51 state and regional affiliates and 20 national special interest and professional affiliates. ACB’s membership numbers in the tens of thousands, the vast majority of whom are blind. ACB’s mission is to improve the well-being of all blind and visually impaired people, elevate the social, economic and cultural levels of blind people, improve educational and rehabilitation facilities and opportunities, encourage and assist blind persons to develop their abilities, and conduct public education to promote greater understanding of blindness and the capabilities of blind people.

The American Diabetes Association is a nationwide, nonprofit organization founded in 1940 to advance the interests of the now nearly 24 million Americans

with diabetes. The ADA's mission is to prevent and cure diabetes and to improve the lives of all people affected by diabetes. It is the nation's leading voluntary health organization supporting diabetes research, information and advocacy. One of the Association's principal concerns is the equitable and legal treatment of persons with diabetes in all aspects life, including access to governmental services.

The American Foundation for the Blind ("AFB"), the leading national nonprofit organization to which Helen Keller devoted more than four decades of her extraordinary life, strives to expand possibilities for people with vision loss of all ages. AFB accomplishes its mission by publishing the seminal academic, professional and consumer-oriented texts in the vision loss community, developing and implementing a comprehensive public policy agenda recognizing the needs and rights of people living with vision loss, and promoting technology accessibility through research and evaluation. In coalition with other advocacy organizations representing a wide array of disabilities, AFB has worked tirelessly for enactment of the Americans with Disabilities Act and for its proper implementation through regulation and enforcement.

The Blinded Veterans Association ("BVA") is the only Congressionally Chartered Veterans Service Organization exclusively dedicated to assisting America's blinded veterans and their families.

Disability Rights Advocates (“DRA”) is a non-profit public interest law firm that specializes in high impact civil rights litigation and other advocacy on behalf of persons with disabilities throughout the United States. DRA works to end discrimination in areas such as access to public accommodations, public services, employment, transportation, education, and housing. DRA’s clients, staff and board of directors include people with various types of disabilities. Based in Berkeley, California, DRA strives to protect the civil rights of people with all types of disabilities.

Disability Rights Education and Defense Fund (“DREDF”) is a national nonprofit law and policy center dedicated to protecting and advancing the civil rights of people with disabilities. Founded in 1979 by people with disabilities and parents of children with disabilities, DREDF remains board- and staff-led by members of the disability community. DREDF pursues its mission through education, advocacy and law reform efforts, and is nationally recognized for its expertise in the interpretation of federal disability civil rights laws.

The Epilepsy Foundation of America is the national voluntary agency dedicated solely to the welfare of the almost three million people with epilepsy in the U.S. and their families. The organization works to ensure that people with seizures are able to participate in all life experiences; to improve how people with epilepsy are perceived, accepted and valued in society; and to promote research for

a cure. In addition to programs conducted at the national level, epilepsy clients throughout the United States are served by more than 50 Epilepsy Foundation affiliates around the country.

The Georgia Advocacy Office, Inc. (GAO) is the designated Protection and Advocacy System for people with disabilities in the State of Georgia. GAO's mission is to work with and for vulnerable individuals in Georgia who are labeled as disabled or mentally ill to secure their protection and advocacy. GAO is authorized by federal law to protect and advocate for the legal and human rights of people with disabilities and mental illness, and to investigate incidents of abuse, neglect and death of people with disabilities and mental illness. GAO regularly advocates on behalf of people with disabilities regarding discriminatory practices of state and local government entities that exclude or otherwise deny people with disabilities access to the services, programs and activities. The enforcement of federal statutes and regulations prohibiting discrimination is vital to our work on behalf of people with disabilities and mental illness.

Independent Living Resources of Greater Birmingham, Inc. is a non-profit center for independent living (CIL) based in Birmingham, Alabama. The organization's mission is to "Empower People with Disabilities to Fully Participate in the Community." The organization is cross-disability, consumer controlled, and non-residential. Independent Living Resources of Greater

Birmingham, Inc. was founded in 1980 and advocates for equal access and the rights of people with disabilities, and provides a range of independent living services. Those services include advocacy, independent living skills training, peer support, information and referral, nursing home transition, employment, work incentive planning assistance, and home modification.

The Judge David L. Bazelon Center for Mental Health Law is a national public interest organization founded in 1972 to advocate for the rights of individuals with mental disabilities. The Center has engaged in litigation, policy advocacy, and public education to preserve the civil rights of and promote equal opportunities for individuals with mental disabilities in institutional as well as community settings. It has litigated numerous cases concerning the rights of people with mental illness or mental retardation under Title II of the Americans with Disabilities Act and its implementing regulation.

The Legal Aid Society - Employment Law Center (“The LAS-ELC”) is a public interest legal organization that advocates to improve the working lives of disadvantaged people. Since 1970, The LAS-ELC has represented clients in cases covering a broad range of employment-related issues including discrimination on the basis of race, gender, age, disability, pregnancy, and national origin. The LAS-ELC has represented, and continues to represent, clients faced with

discrimination on the basis of disability, including clients denied equal access to state and local programs, services, and activities.

The National Association of the Deaf (NAD) was established in 1880 by deaf leaders who believed in the right of the American deaf community to use sign language, to congregate on issues important to them, and to have its interests represented at the national level. Since 1976, the NAD Law and Advocacy Center has protected the legal rights of deaf and hard of hearing people through the courts.

The National Council on Independent Living (“NCIL”) is the longest-running national cross-disability, grassroots organization run by and for people with disabilities. Founded in 1982, NCIL represents thousands of organizations and individuals including: Centers for Independent Living (CILs), Statewide Independent Living Councils (SILCs), individuals with disabilities, and other organizations that advocate for the human and civil rights of people with disabilities throughout the United States.

National Disability Rights Network (“NDRN”) is the non-profit membership association of protection and advocacy (“P&A”) agencies that are located in all 50 states, the District of Columbia, Puerto Rico, and the United States Territories. P&A agencies are authorized under various federal statutes to provide legal representation and related advocacy services, and to investigate

abuse and neglect of individuals with disabilities in a variety of settings. The P&A System comprises the nation's largest provider of legally-based advocacy services for persons with disabilities. NDRN supports its members through the provision of training and technical assistance, legal support, and legislative advocacy, and works to create a society in which people with disabilities are afforded equality of opportunity and are able to fully participate by exercising choice and self-determination.

The National Senior Citizens Law Center ("NSCLC") is a non-profit organization that advocates nationwide to promote the independence and well-being of low-income older persons and people with disabilities. For more than 35 years, NSCLC has served these populations through litigation, administrative advocacy, legislative advocacy, and assistance to attorneys. NSCLC's Herbert Semmel Federal Rights Project works to ensure access to the federal courts to enforce safety net and civil rights statutes.

National Spinal Cord Injury Association (NSCIA) is a non-profit, membership organization that has led the way in maximizing the quality of life and opportunities for people with spinal cord injury and disorders since 1948. Our mission is to enable people with spinal cord injury and disease (SCI/D) to achieve their highest level of independence, health, and personal fulfillment - resulting in a higher quality of life.

The Paralyzed Veterans of America (PVA) is a congressionally chartered veterans service organization founded in 1946 with over 20,000 members, all of whom are veterans of the armed forces with spinal cord injury or dysfunction. PVA has developed a unique expertise on a wide variety of issues involving the special needs of its members and uses that expertise to be the leading advocate for civil rights and opportunities which maximize the independence of our members. Virtually all PVA members use wheelchairs for mobility and have a significant interest in the broadest possible implementation and enforcement of the Americans with Disabilities Act of 1990.

The Statewide Independent Living Council of Georgia, Inc. is a private nonprofit corporation whose mission is the equal participation of people with disabilities in their communities. The Council is appointed by the Commissioner of Labor and is composed of leaders with all types of disabilities who represent all parts of the state.

The mission of the World Institute on Disability (WID) in communities and nations worldwide is to eliminate barriers to full social integration and increase employment, economic security and health care for persons with disabilities through the creation of innovative programs and tools, research, public education, training, advocacy campaigns and technical assistance. An internationally recognized public policy center founded in 1983 by leaders of the Independent

Living Movement, WID's program work focuses on issues and problems that directly affect people's ability to live full and independent lives.

A number of the *Amici* have previously appeared before the Supreme Court and this Court as *amici curiae*. See, e.g., *Crawford v. Marion County Election Bd.*, 553 U.S. 181, 212 n.4 (2008) (NSCLC as *amicus*); *Washington v. Harper*, 494 U.S. 210 (1990) (NDRN f/k/a National Association of Protection and Advocacy Systems ("NAPAS") as *amicus*); *McCall v. Chesapeake & Ohio Ry. Co.*, 488 U.S. 879 (1988) (American Diabetes Association as *amicus*); *Bowen v. Am. Hosp. Ass'n*, 476 U.S. 610 (1986) (DREDF as *amicus*); *Access Now, Inc. v. Southwest Airlines, Co.*, 385 F.3d 1324 (11th Cir. 2004) (NFB, ACB, AFB, Bazelon Center, DRA, DREDF, NAD, and NAPAS as *amici*); *Love v. Delta Air Lines*, 310 F.3d 1347 (11th Cir. 2002) (PVA as *amicus*); *Chenoweth v. Hillsborough County*, 250 F.3d 1328 (11th Cir. 2001) (The Epilepsy Foundation of America as *amicus* (*amicus* brief at 2003 WL 24002887)); *Peeples v. Wright Investment Properties, Inc.*, 99-08157 (11th Cir. 1999) (Georgia Advocacy Office, Inc. as *amicus* (*amicus* brief at 1999 WL 33620727)); *L.C. ex rel. Zimring v. Olmstead*, 198 F.3d 1259 (11th Cir. 1999) (Advocacy Center for Persons with Disabilities, Inc. as *amicus*).

The undersigned represents that she spoke with counsel for Appellant who stated that Appellant did not consent to this motion.

## CONCLUSION

*Amici* respectfully request that this Court grant leave to file the attached brief.

Respectfully submitted:

By: \_\_\_\_\_

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ATTORNEYS FOR *AMICI CURIAE*

## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Motion of National Federation of the Blind, Advocacy Center for Persons with Disabilities, Inc., Alabama Disabilities Advocacy Program, American Council of the Blind, American Diabetes Association, American Foundation for the Blind, Blinded Veterans Association, Disability Rights Advocates, Disability Rights Education and Defense Fund, Epilepsy Foundation of America, Georgia Advocacy Office, Inc., Independent Living Resources of Greater Birmingham, Inc., Judge David L. Bazelon Center for Mental Health Law, The Legal Aid Society -- Employment Law Center, National Association of the Deaf, National Council on Independent Living, National Disability Rights Network, National Senior Citizens Law Center, National Spinal Cord Injury Association, Paralyzed Veterans of America, Statewide Independent Living Council of Georgia, Inc., and World Institute on Disability for Leave to File a Brief as Amici Curiae in Support of Petition for Rehearing and Rehearing En Banc were served on June 10, 2010, via Federal Express upon:

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