

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA**

Case No. 1:24-cv-21983-JB

CUBANOS PA'LANTE, *et al.*,

*Plaintiffs,*

v.

FLORIDA HOUSE OF  
REPRESENTATIVES, *et al.*,

*Defendants.*

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**PLAINTIFFS' REPLY IN SUPPORT OF  
EXPEDITED MOTION TO CALL WITNESS OUT OF TURN**

Plaintiffs submit this reply to address a few of the arguments in Defendants' Response to Plaintiffs' Expedited Motion to Call Witness Out of Turn (ECF No. 161).

First, Defendants argue Plaintiffs should have developed Rep. Driskell's testimony at her deposition to designate in lieu of live trial testimony. But for obvious reasons, "live testimony at trial . . . is preferred to deposition testimony." *Lazaro Fernandez, DDS v. 3M Co.*, No. 1:16-cv-21490, 2016 WL 11787457, at \*3 (S.D. Fla. Aug. 26, 2016); *see also Loinaz v. EG&G, Inc.*, 910 F.2d 1, 8 (1st Cir. 1990) ("The Federal Rules of Civil Procedure that allow the use of deposition testimony in place of live testimony have not changed the long established principle that testimony by deposition is less desirable than oral testimony and should ordinarily be used as a substitute only if the witness is not available to testify in person." (quotation omitted)). And since the deposition, the case has been trimmed—four fewer challenged districts, streamlined expert testimony, and one fewer expert witness entirely<sup>1</sup>—meaning the time needed for Plaintiffs' case in chief is now shorter than previously anticipated.

Second, Defendants suggest that Plaintiffs could have raised the potential for Rep. Driskell to be called out of turn sooner, but it was only after the Court's summary-judgment ruling that the triable claims and the parties' witness lists came into focus such that Plaintiffs now anticipate the real possibility they may need to call Rep. Driskell out of turn. Of course, Plaintiffs' motion came well before the Court's deadline. ECF No. 98 at 2.

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<sup>1</sup> After the deposition, Defendants agreed to excise a portion of an expert report in exchange for Plaintiffs' not presenting one of their experts at all.

Third, Defendants complain that Plaintiffs’ request may mean Mr. Poreda testifies three times. But that would only be necessary if Defendants engage in their own “inefficient” and “disjointed” trial presentation. *See* Response at 2. Defendants can easily avoid that outcome by fully examining Mr. Poreda during Plaintiffs’ case—which Plaintiffs consent to—or waiting to call him in the defense case after Rep. Driskell. In any event, Mr. Poreda testifying three times is hardly much more inefficient, disjointed, or prejudicial to Mr. Poreda than calling him twice, which Defendants already plan to do.

Finally, Defendants assert there is no reason Rep. Driskell cannot testify remotely or in person on January 12. Defendants ignore that Rep. Driskell cannot testify at all that day because of her own duties, as Rep. Driskell herself has told Plaintiffs. Plaintiffs cannot compel her to do so. Defendants’ opinion on what they *think* Rep. Driskell’s schedule *should* be does not change these facts.

Plaintiffs respectfully request the Court grant the Motion.

Respectfully submitted December 8, 2025,

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