

No. 23-12472

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

GRACE, INC., ET AL.,

Plaintiffs-Appellees,

v.

CITY OF MIAMI,

Defendant-Appellant.

On Appeal from the United States District Court
for the Southern District of Florida, No. 1:22-cv-24066 (Moore, J.)

**PLAINTIFFS-APPELLEES' UNOPPOSED MOTION
TO STAY FURTHER APPELLATE PROCEEDINGS**

Nicholas L.V. Warren
ACLU FOUNDATION OF FLORIDA
1809 Art Museum Drive, Ste. 203
Jacksonville, FL 32207
(786) 363-1769
nwarren@aclufl.org

Christopher J. Merken
DECHERT LLP
Cira Centre, 2929 Arch Street,
Philadelphia, PA 19104
(215) 994-4000
christopher.merken@dechert.com

Daniel B. Tilley
Caroline A. McNamara
ACLU FOUNDATION OF FLORIDA
4343 West Flagler Street, Ste. 400
Miami, FL 33134
(786) 363-2714
dtilley@aclufl.org
cmcnamara@aclufl.org

Attorneys for Plaintiffs-Appellees

AMENDED CERTIFICATE OF INTERESTED PERSONS

Under Federal Rule of Appellate Procedure 26.1 and this Court's Local Rule 26.1, Plaintiffs-Appellees certify that the following amended list (with additions underlined) have an interest in the outcome of this appeal:

1. Abott, Carolyn, *Testifying Expert for Plaintiffs-Appellees*
2. ACLU Foundation of Florida, Inc., *Counsel for Plaintiffs-Appellees*
3. Alford, John, *Testifying Expert for Defendant-Appellant*
4. Bardos, Andy, *Counsel for Defendant-Appellant*
5. Carollo, Joe, *Defendant-Appellant*
6. City of Miami, *Defendant-Appellant*
7. Cody, Steven, *Defendant-Appellant's expert*
8. Contreras, Alexandra, *Plaintiff-Appellee*
9. Cooper, Clarice, *Plaintiff-Appellee*
10. Covo, Sabina, Former Defendant-Appellant
11. De Grandy, Miguel, *Testifying Expert for Defendant-Appellant*
12. Dechert LLP, *Counsel for Plaintiffs-Appellees*
13. Díaz de la Portilla, Alex, Former Defendant-Appellant
14. Engage Miami, Inc., *Plaintiff-Appellee*
15. Gabela, Miguel, Defendant-Appellant
16. GrayRobinson, P.A., *Counsel for Defendant-Appellant*

17.Grove Rights and Community Equity, Inc. (GRACE), *Plaintiff-Appellee*

18.Greco, John A., *Counsel for Defendant-Appellant*

19.Johnson, Christopher N., *Counsel for Defendant-Appellant*

20.Johnson, Jared, *Plaintiff-Appellee*

21.Jones, Kevin R., *Counsel for Defendant-Appellant*

22.King, Christine, *Defendant-Appellant*

23.Kirsch, Jocelyn, *Counsel for Plaintiffs-Appellees*

24.Levesque, George T., *Counsel for Defendant-Appellant*

25.Louis, Lauren F., *United States Magistrate Judge, Southern District of
Florida*

26.McCartan, Cory, *Testifying Expert for Plaintiffs-Appellees*

27.McNamara, Caroline A., *Counsel for Plaintiffs-Appellees*

28.McNulty, Kerri L., *Counsel for Defendant-Appellant*

29.Méndez, Victoria, *Counsel for Defendant-Appellant*

30.Merken, Christopher J., *Counsel for Plaintiffs-Appellees*

31.Miami-Dade Branch of the NAACP, *Plaintiff-Appellee*

32.Moore, K. Michael, *United States District Judge, Southern District of
Florida*

33.Moy, Bryant J., *Testifying Expert for Plaintiffs-Appellees*

34.NAACP Florida State Conference, *State Affiliate of Plaintiffs-Appellees*

35. Quintana, Marlene, *Counsel for Defendant-Appellant*

36. Pardo, Damian, *Defendant-Appellant*

37. Reyes, Manolo, *Defendant-Appellant*

38. National Association for the Advancement of Colored People (NAACP),
National Affiliate of Plaintiffs-Appellees

39. South Dade Branch of the NAACP, *Plaintiff-Appellee*

40. Steiner, Neil A., *Counsel for Plaintiffs-Appellees*

41. Suarez, Francis X., *Defendant-Appellant*

42. Tilley, Daniel T., *Counsel for Plaintiffs-Appellees*

43. Unger, Jason L., *Counsel for Defendant-Appellant*

44. Valdes, Yanelis, *Plaintiff-Appellee*

45. Warren, Nicholas L.V., *Counsel for Plaintiffs-Appellees*

46. Wysong, George, *Counsel for Defendant-Appellant*

CORPORATE DISCLOSURE STATEMENT

Plaintiffs-Appellees certify that GRACE, Inc.; Engage Miami, Inc.; South Dade Branch of the NAACP; and Miami-Dade Branch of the NAACP each has no parent corporation, and no publicly held corporation owns 10% or more of any of those entities' stock. The remaining Plaintiffs-Appellees are individual persons.

Plaintiffs-Appellees further certify that no publicly traded company or corporation has an interest in the outcome of this case or appeal.

**PLAINTIFFS-APPELLEES' UNOPPOSED MOTION
TO EXTEND STAY OF APPEAL**

Plaintiffs-Appellees (“Plaintiffs”) move to extend the stay of further appellate proceedings beyond May 1, 2024 to remain stayed until August 1, 2024, for the reasons enumerated below. Defendant-Appellant consents to this motion for extension and does not oppose the relief requested herein.

1. On November 29, 2023, this Court issued a stay of further appellate proceedings until entry of final judgment in the district court or until May 1, 2024, whichever comes first. Doc. 45.

2. On January 29 and 30, 2024, the district court held a two-day bench trial. Trial Doc. 168 & 169.

3. On April 10, 2024, the district court entered findings of fact and conclusions of law, ruling in favor of Plaintiffs-Appellees and issuing a permanent injunction against Defendant-Appellant. Trial Doc. 185.

4. On April 15, 2024, the district court entered an order pursuant to its permanent injunction, setting deadlines for the remedial stage of the case. Trial Doc. 186.

5. On April 17, 2024, the parties filed a joint motion for stay and continuance because the parties are working together in good faith to finalize a resolution of this case, but the parties require more time to finalize the details and bring the matter for consideration to the City Commission at the Commission’s May

9, 2024 meeting. Trial Doc. 187.

6. On April 18, 2024, the district court granted the parties' joint motion. The district court ordered further proceedings to be "stayed and continued until after the May 9, 2024 Commission meeting" with a joint status report due "on or before May 13, 2024." Trial Doc. 188.

7. The parties remain on track to resolve this case by mutual agreement during the month of May 2024. Such agreement would be submitted to the district court for entry of final judgment.

8. Once submitted to the district court for entry of final judgment, the parties will not control the timeline for obtaining final judgment from the district court.

9. As Plaintiffs-Appellees argued in their earlier motion to stay further appellate proceedings, Doc. 41, a preliminary injunction is dissolved by the entry of a final judgment, mooting any appeal of the preliminary injunction. *Harper ex rel. Harper v. Poway Unified Sch. Dist.*, 549 U.S. 1262 (2007); *SEC v. First Fin. Grp. of Tex.*, 645 F.2d 429, 433 (5th Cir. Unit A May 20, 1981) ("Once an order of permanent injunction is entered . . . , the order of preliminary injunction is merged with it, and appeal is proper only from the order of permanent injunction."); *Fundicao Tupy S.A. v. United States*, 841 F.2d 1101, 1103 (Fed. Cir. 1988) (quoting 7 J. Moore, J. Lucas, K. Sinclair, Jr., *MOORE'S FED. PRAC.* ¶ 65.07 at 65-114 to 65-115 (2d ed. 1987));

Interlocutory Injunction Appeals—In General, 16 FED. PRAC. & PROC. JURIS. § 3921 (3d ed.) (“[A]n appeal actually taken from an interlocutory injunction ruling can be mooted by grant or denial of a permanent injunction.”). It is Plaintiffs-Appellees’ position that the instant appeal will be mooted when the district court enters a final judgment.

10. Continuing the existing appellate stay until August 1, 2024 will prejudice no party. Rather it will enable the parties to focus time and resources on finalizing an agreed resolution. Such resolution is substantially likely to result in the district court entering a final judgment before August 1, 2024, which would terminate this appeal of the preliminary injunction.

WHEREFORE, Plaintiffs-Appellees respectfully request the Court stay further appellate proceedings until August 1, 2024.

CERTIFICATE OF COMPLIANCE

The undersigned certifies that this motion compliance with the type-volume requirements of Rule 27(d)(1)(E). This motion contains 587 words.

Respectfully submitted April 30, 2024,

/s/ Nicholas L.V. Warren

Nicholas L.V. Warren
ACLU FOUNDATION OF FLORIDA

Daniel B. Tilley
Caroline A. McNamara

1809 Art Museum Drive, Ste. 203
Jacksonville, FL 32207
(786) 363-1769
nwarren@aclufl.org

Christopher J. Merken
DECHERT LLP
Cira Centre, 2929 Arch Street,
Philadelphia, PA 19104
(215) 994-4000
christopher.merken@dechert.com

ACLU FOUNDATION OF FLORIDA
4343 West Flagler Street, Ste. 400
Miami, FL 33134
(786) 363-2714
dtilley@aclufl.org
cmcnamara@aclufl.org

Counsel for Plaintiffs-Appellees