

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT
CIVIL APPEAL STATEMENT

Please TYPE. Attach additional pages if necessary.

11th Circuit Docket Number: _____

Caption: City of Miami, Defendant-Appellant, V. GRACE, INC.; ENGAGE MIAMI, INC.; SOUTH DADE BRANCH OF THE NAACP; MIAMI-DADE BRANCH OF THE NAACP; CLARICE COOPER; YANELIS VALDES; JARED JOHNSON; AND ALEXANDER CONTRERAS, Plaintiff-Appellee	District and Division: <u>Southern District of Florida (Miami)</u> Name of Judge: <u>K. Michael Moore</u> Nature of Suit: <u>440 Civil Rights: Other</u> <hr/> Date Complaint Filed: <u>December 15, 2022</u> District Court Docket Number: _____ Date Notice of Appeal Filed: <u>May 10, 2024</u> <input type="checkbox"/> Cross Appeal <input type="checkbox"/> Class Action Has this matter previously been before this court? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, provide (a) Caption: <u>City of Miami v. Grace, Inc., et al.</u> (b) Citation: <u>23-11854; 23-12472</u> (c) Docket Number: _____
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	Attorney Name	Mailing Address	Telephone, Fax, Email
For Appellant: <input type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant <input type="checkbox"/> Other (Specify)	GRAY ROBINSON, P.A. Christopher N. Johnson Marlene Quintana Jason Unger George T. Levesque Andy Bardos	333 SE 2nd Avenue, S-3200 Miami, FL 33131 301 S. Bronough Street, S-600 Tallahassee, FL 32301	christopher.johnson@gray-robinson.com marlene.quintana@gray-robinson.com jason.unger@gray-robinson.com george.levesque@gray-robinson.com andy.bardos@gray-robinson.com
For Appellee: <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (Specify)	Daniel B. Tilley Caroline A. McNamara Nicholas L.V. Warren Christopher J. Merken Jocelyn Kirsch Neil A. Steiner	4343 W. Flagler Street, S-400 Miami, FL 33134 336 E. College Ave., S-203 2929 Arch Street Philadelphia, PA 19104 Three Bryant Park 1095 Avenue of the Americas New York, NY 10036	dtilley@aclufl.org cmcnamara@aclufl.org nwarren@aclufl.org christopher.merken@dechert.com jocelyn.kirsch@dechert.com neil.steiner@dechert.com

Please CIRCLE/CHECK/COMPLETE the items below and on page 2 that apply.

Jurisdiction	Nature of Judgment	Type of Order	Relief
<input checked="" type="checkbox"/> Federal Question <input type="checkbox"/> Diversity <input type="checkbox"/> US Plaintiff <input type="checkbox"/> US Defendant	<input type="checkbox"/> Final Judgment, 28 USC 1291 <input checked="" type="checkbox"/> Interlocutory Order, 28 USC 1292(a)(1) <input type="checkbox"/> Interlocutory Order Certified, 28 USC 1292(b) <input type="checkbox"/> Interlocutory Order, Qualified Immunity <input type="checkbox"/> Final Agency Action (Review) <input type="checkbox"/> 54(b)	<input type="checkbox"/> Dismissal/Jurisdiction <input type="checkbox"/> Default Judgment <input type="checkbox"/> Summary Judgment <input type="checkbox"/> Judgment/Bench Trial <input type="checkbox"/> Judgment/Jury Verdict <input type="checkbox"/> Judgment/Directed Verdict/NOV <input checked="" type="checkbox"/> Injunction <input type="checkbox"/> Other _____	Amount Sought by Plaintiff: \$ _____ Amount Sought by Defendant: \$ _____ Awarded: \$ _____ to _____ Injunctions: <input type="checkbox"/> TRO <input checked="" type="checkbox"/> Preliminary <input checked="" type="checkbox"/> Permanent <input checked="" type="checkbox"/> Granted <input type="checkbox"/> Denied

Based on your present knowledge:

- (1) Does this appeal involve a question of First Impression? Yes No
 What is the issue you claim is one of First Impression? Whether a governmental entity may be required to draw a Voting Rights Act protected District, but still have to set the Voting Age Population for the protected class at less than 50%.
- (2) Will the determination of this appeal turn on the interpretation or application of a particular case or statute? Yes No

If Yes, provide

- (a) Case Name/Statute Negron v. City of Miami Beach
- (b) Citation 113 F.3d 1563
- (c) Docket Number if unreported _____

- (3) Is there any case now pending or about to be brought before this court or any other court or administrative agency that
 - (a) Arises from substantially the same case or controversy as this appeal? Yes No
 - (b) Involves an issue that is substantially the same, similar, or related to an issue in this appeal? Yes No

If Yes, provide

- (a) Case Name City of Miami v. Grace, Inc., et al.
- (b) Citation 23-12472
- (c) Docket Number if unreported _____
- (d) Court or Agency U.S. Court of Appeal for the Eleventh Circuit

- (4) Will this appeal involve a conflict of law
 - (a) Within the Eleventh Circuit? Yes No
 - (b) Among circuits? Yes No

If Yes, explain briefly:

- (5) Issues proposed to be raised on appeal, including jurisdictional challenges:
 - Whether a governmental entity may be required to draw a Voting Rights Act protected District, but still have to set the Voting Age Population for the protected class at less than 50%.
 - Whether 50.3% Voting Age Population is sufficiently narrowly tailored to meet the strict scrutiny standard articulated in Bethune-Hill v. Va. State Bd. of Elections (Bethune-Hill), 580 U.S. 178, 195-96 (2017) standard.
 - Whether Negron v. City of Miami Beach, 114 F.3d 1563, 1569 (11th Cir. 1997) requires a governmental entity to set the population of Voting Rights Act protected District using Citizen Voting Age Population.
 - Whether the District Court failed to consider Plaintiffs' alternative maps, which did not produce significantly greater racial balance.
 - Whether the District Court failed to account for the functional analysis performed by the City's consultant's both prior to and subsequent to enacting the redistricting plans at issue.
 - Whether the District Court erred by not finding that significant numbers of voters were not placed in any district because of their race.
 - Whether there was evidence supporting the District Court's finding that the original districts were racially gerrymandered at inception.
 - Whether the District Court erred in not finding that districting choices were based upon core retention.

I CERTIFY THAT I SERVED THIS CIVIL APPEAL STATEMENT ON THE CLERK OF THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT AND SERVED A COPY ON EACH PARTY OR THEIR COUNSEL OF RECORD, THIS 29 DAY OF May, 2024.

Christopher N. Johnson

NAME OF COUNSEL (Print)


SIGNATURE OF COUNSEL