

**GRAY ROBINSON**  
ATTORNEYS AT LAW

Of Counsel

TIM.CERIO@GRAY-ROBINSON.COM

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301 SOUTH BRONOUGH STREET  
SUITE 600  
POST OFFICE BOX 11189 (32302-3189)  
TALLAHASSEE, FLORIDA 32301  
TEL 850-577-9090  
FAX 850-577-3311  
gray-robinson.com

BOCA RATON  
FORT LAUDERDALE  
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**VIA EMAIL**

**Kenneth.Detzner@dos.myflorida.com**

Ken Detzner, Secretary  
Florida Department of State  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Re: Rick Scott for Florida

Secretary Detzner:

On behalf of my client, Rick Scott for Florida, I write to confirm that you intend to rely on the second unofficial results for Broward County which were announced by the Broward County Canvassing Board at approximately 2:50 p.m. on Thursday, November 15, 2018. As you are well aware, several races in the State of Florida are within historically close margins. It is critically important that the Election Laws of the State of Florida be the sole guiding principle as you seek to compile the results.

Under Florida law, after a machine recount, if a county's canvassing board is unable to complete the recount by the deadline of November 15, 2018, at 3:00 p.m., the results of that county's machine recount shall be identical to its first unofficial results. Fla. Stat. § 102.141(7)(c). Essentially, that outcome is as if the machine recount never happened in that specific county. A separate provision, without any prescribed remedy, requires the returns from the county to be filed with your office no later than that deadline. While a failure to file by the deadline is a technical violation of Florida law, no mandatory penalty for that violation is required by the statute.

Today, the Broward County Canvassing Board met prior to that statutory deadline, and announced results in various statewide races that were presented as complete. In the U.S. Senate race, the Supervisor of Elections reported through a staff person, Mr. D'Alessandro, that Rick Scott received 210,513 votes, and Bill Nelson received 469,949 votes. During the meeting, which adjourned by 2:50 p.m., the canvassing board concluded its recount, stated as much on the record, and directed a representative from the Supervisor of Elections to upload those results to your office.<sup>1</sup> Once it concluded, television and electronic media reported extensively on those results.

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<sup>1</sup> That exchange, in relevant part, is attached to this letter.

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However, those results were never electronically transmitted to your office. According to several news reports, Mr. D'Alessandro, claimed to have missed the statutory deadline for uploading those results due to his "unfamiliarity with [your office's] web site."<sup>2</sup>

Instead, the Broward County Supervisor of Elections uploaded results to your office that were not the results of the machine recount completed at 2:50 p.m. and directed to be uploaded by the canvassing board, but rather resubmitted the first set of unofficial results from November 10.

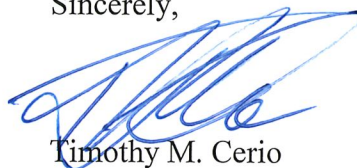
This approach represents a clear failure to comply with Florida law. As witnessed by those at today's canvassing board meeting as well as those watching live through electronic media, the canvassing board concluded its machine recount at 2:50 p.m., and adjourned its meeting at which it approved those results. The canvassing board further directed Supervisor of Elections Brenda Snipes and Mr. D'Alessandro to upload those results to your office. Whether they later failed to recall how to operate your website is irrelevant to the accurate totals from Broward County's machine recount.

Any scenario that would permit a Supervisor of Elections and the canvassing board to complete one phase of a recount process, but revert back to older, outdated results because of an administrative failure to timely submit the tabulated results, would lead to absurd outcomes. For instance, a Supervisor of Elections could complete a recount process, and then refuse to timely upload those results because she preferred the first set. Under Broward County's reading, such an outcome would be permissible under the statute. Moreover, it seems unlikely that staffers working for the Broward County Supervisor of Elections would have any lack of familiarity with your website, since they were able to successfully upload a complete set of election results earlier this week.

With the eyes of the State of Florida and the entire country squarely on your office, it is not the time to rely on creative interpretations of the law to permit the Broward County Supervisor of Elections to pick and choose a preferred outcome. The law is clear: when a canvassing board completes a recount process by the statutory deadline, as it did today in a public meeting in Broward County, those results are valid. Any administrative failure after it finishes is irrelevant to whether or not the canvassing board completed its process.

We look forward to your response.

Sincerely,



Timothy M. Cerio

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<sup>2</sup> "Broward misses machine recount deadline -- by 2 minutes," Fox News Channel, Nov. 15, 2018, <https://www.foxnews.com/politics/broward-misses-machine-recount-deadline-by-2-minutes>.

**ATTACHMENT**  
**BROWARD COUNTY CANVASS BOARD MEETING, NOVEMBER 15, 2018**

JUDGE CARPENTER-TOYE: So this report reflects the machine – the machine –

MR. D'ALESSANDRO: The machine reading.

JUDGE CARPENTER-TOYE: -- recount.

MR. D'ALESSANDRO: Yes.

JUDGE CARPENTER-TOYE: Okay.

MR. D'ALESSANDRO: And with your permission, I'd like to go through to upload to the state.

JUDGE CARPENTER-TOYE: Hold on let's sign the report first.

JUDGE BENSON: Let's sign.

...

JUDGE CARPENTER-TOYE: I want to see the three signatures. Okay. The record should reflect that there are three independent signatures on each of the reports, one is being handed to Ms. DeSantis, the other two are being handed to Mr. D'Alessandro.

JUDGE BENSON: And at this time I would move that the canvassing board direct the supervisor of elections to send the results of all of the votes that have been presented to the canvassing board as part of the machine recount to the division of elections in Tallahassee.

MR. D'ALESSANDRO: I will do that.

JUDGE CARPENTER-TOYE: I second that motion.

JUDGE BENSON: All in favor.

JUDGE CARPENTER-TOYE: Aye.

JUDGE BENSON: Aye.

DR. SNIPES: Aye.

At the conclusion of that meeting, the Supervisor of Elections confirmed that the results would be uploaded to your office:

JUDGE CARPENTER-TOYE: If you have any questions directed to numbers or things, you're going to have to direct those to the Supervisor of Elections Office. The canvassing board merely signs the report and directs that the supervisor to send the numbers up to Tallahassee.

FEMALE SPEAKER: Will the website be updated Dr. Snipes?

DR. SNIPES: Yes, it will be.