**IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT,
IN AND FOR FLAGLER COUNTY, FLORIDA**

MICHAEL NORRIS, Mayor of
the City of Palm Coast,
Plaintiff,
vs.

CASE NO: 2025 CA 000269

CITY OF PALM COAST,
THE SUPERVISOR
OF ELECTIONS of FLAGLER COUNTY,
and CHARLES GAMBARO,
City Council Member District 4 of
The City of Palm Coast,
Defendants.
_____/

EMERGENCY VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, AND FOR WRIT OF QUO WARRANTO

Plaintiff, MICHAEL NORRIS, pursuant to Fla. R. Civ. P. 1.630 and article V, section 5(b) of the Florida Constitution, sues Defendants, CITY OF PALM COAST, and THE SUPERVISOR OF ELECTIONS FLAGLER COUNTY, and CHARLES GAMBARO, City Council Member District 4, of the City of Palm Coast, and states:

INTRODUCTION

1. If a Palm Coast City Council member vacates their seat during the first two years on their term, Article IV § 7(e) of the Palm Coast City Charter requires the City Council to either: 1) appoint a person to the seat within 90 days, or 2) delay the appointment. When an appointment is made, the appointed Council Member serves until the next "regularly scheduled election." On August 23, 2024, Councilmember Cathy Heighter vacated Seat 4, and the City Council appointed Charles Gambaro on October 1, 2024. Therefore, Gambaro's term ended on November 5, 2024, the date of the next "regularly scheduled election." The City, however, chose to disregard the Charter, refused to hold

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an election, and has unlawfully allowed Gambaro to falsely claim title to the Seat passed November 5, 2024, and continuously since.

Mayor MICHAEL NORRIS, the Mayor of the City of Palm Coast ("Plaintiff"), brings this action for declaratory and injunctive relief, and for a writ of quo warranto, in order to secure a judgment vacating Seat 4 in accordance with Florida law, and to compel the City of Palm Coast to abide by the City Charter by declaring and conducting an election for Seat 4.

This case, because it involves an election challenge, is entitled to priority status and expedited consideration under Rule 2.215(g), Fla. R. Gen. Prac. and Jud. Admin.

JURISDICTION AND VENUE

2. This is a lawsuit for injunctive relief over which this Court has jurisdiction under Fla. Stat. § 26.012.

3. This is a lawsuit for declaratory judgment over which this Court has jurisdiction under Fla. Stat. § 86.

4. Venue is proper in Flagler County under Fla. Stat. § 47.011 because it is where the cause of action accrued.

PARTIES

5. Plaintiff Michael Norris is a resident, voter, and Mayor of the City of Palm Coast in Flagler County, Florida.

6. The City of Palm Coast is a proper defendant because its Council violated the Charter by failing to hold an election for the Council Seat 4 at the "next regularly scheduled election." The Flagler County Supervisor of Elections is properly joined because Plaintiff seeks an order compelling a special election for Seat 4.

Charles Gambaro Jr. is a necessary party because he continues to falsely occupy Seat 4 without legal authority.

FACTS

7. Article IV § 7(e) of the City Charter provides that:

> Filling of vacancies.
> 1. If, for any reason other than recall or assuming the office of Mayor, a vacancy occurs in the office of any Council seat within the first two years of a term, the office shall be filled by appointment within 90 days following the occurrence of such vacancy by majority vote of the remaining Council members. If said vacancy occurs within six (6) months of the next regularly scheduled election, the remaining Council members may delay the appointment. Such appointments shall last until the next regularly scheduled election, at which time the seat shall be declared open and an election held for the remaining two years of the original term, thus continuing the original staggering of district seats.
>
> (emphasis added)

8. Councilwoman Cathy Heighter, the member for Council Seat 4, resigned August 23, 2024, creating a vacancy within the first two years of her term.

9. The next regularly scheduled city election and statewide election was on November 5, 2024, at the which time the elections for Mayor, Seat 1, and Seat 3 took place.

10. The City of Palm Coast, in violation of the City Charter, chose not to hold an election for Seat 4.

11. On October 1, 2024, the Council appointed Defendant Gambaro to the vacant seat.

12. Although Gambaro's tenure, in accordance with the City Charter, ended November 5, 2024, election, the City failed to declare the seat open, and failed to request that the Supervisor of Elections place Council Seat 4 on the November 5, 2024, ballot.

13. The Supervisor, having received no qualifying documents or notification from the City, did not list Seat 4 on the November 5, 2024, ballot.

14. As a result, Defendant Gambaro continues to "serve" past the date authorized by the Charter, and electors—including Plaintiff—were denied their right to vote for the seat.

15. Plaintiff has a clear legal right, as a city charter officer, voter, and taxpayer, to the enforcement of the Charter and the City's laws.

COUNT 1 - DECLARATORY RELIEF
(Against City of Palm Coast)

16. Plaintiff realleges paragraphs 1—15.

17. Declaratory relief is appropriate because the matter before the court deals with a present, ascertained state of facts and present controversy as to a state of facts.

18. The rights and privileges of Plaintiff are dependent upon the facts and law applicable to the above-alleged violations of Article IV § 7(e) of the Charter of Palm Coast.

19. An actual, present controversy exists as to whether Defendants violated Article IV § 7(e) of the Charter and Florida election law by (a) failing to call for Seat 4 for the November 5, 2024, election and (b) allowing Gambaro to continue in office without legal authority thereafter.

20. Florida courts have held that an appointment made in contravention of a City Charter is "null and void and of no effect," and the unlawfully seated individual may be enjoined from exercising the office. *See Porter v. Kraft*, 116 So. 2d 257, 258 (Fla. 2d DCA 1959).

21. Plaintiff is a citizen, taxpayer, and Mayor of the City of Palm Coast, and is a person who has an actual, present, adverse, and antagonistic interest in this subject matter, and all antagonistic and adverse interests are before this Court.

22. Accordingly, Plaintiff seeks a declaration that:

a. The City's failure to call for an election for Seat 4 on the November 5, 2024 ballot violated Article IV § 7(e) of the Charter, among other Charter provisions, and the Florida Election Code;

b. Seat 4 is vacated.

c. An immediate special election is legally required to fill the remainder of the unexpired term.

COUNT 2 - INJUNCTIVE RELIEF
(Against City of Palm Coast, and Flagler Supervisor of Elections)

23. Plaintiff realleges paragraphs 1—22.

24. To obtain a preliminary injunction, Plaintiff must prove: (1) a substantial likelihood of success on the merits, (2) a lack of an adequate remedy at law, (3) the likelihood of irreparable harm absent the entry of an injunction, and (4) that injunctive relief will serve the public interest. *Sch. Bd. of Hernando Cty. v. Rhea*, 213 So.3d 1032, 1040 (Fla. 1st DCA 2017).

25. Plaintiff has a substantial likelihood of success on the merits because the City Charter is clear that an election was required to be called on November 5, 2024, and that Seat 4 is legally vacant.

26. Plaintiff lacks any other remedy at law: this action is the only remedy available for Plaintiff to force the City of Palm Coast and the Flagler County Supervisor of Elections to follow their own Charter. No other remedy exists to protect Plaintiff's rights. The test

for the unavailability of an adequate remedy at law is whether the "irreparable injury is an injury that cannot be cured by money damages." *Lutsky v. Schoenwetter*, 172 So. 3d 534, 534 (Fla. 3d DCA 2015).

27. Plaintiff demonstrates the likelihood of irreparable harm absent the entry of an injunction because a charter or constitutional violation constitutes irreparable harm per se under Florida law. *See Fla. Dep't of Health v. Florigrown, LLC*, 320 So. 3d 195, 200 (Fla 1st DCA 2019), quashed on other grounds by 317 So. 3d 1101 (Fla. 2021) (recognizing that "a continuing constitutional violation, in and of itself, constitutes irreparable harm.").

28. The injunctive relief sought here will serve the public interest, because the public has an interest in seeing its own Charter abided by, and for elections to be held under the Charter.

29. Accordingly, Plaintiff seeks both a temporary and permanent injunction against the City of Palm Coast and Flagler Supervisor of Elections.

COUNT 3 - PETITION FOR WRIT OF QUO WARRANTO
(Against Gambaro)

30. Plaintiff realleges paragraphs 1—29.

31. Florida's Constitution gives this Court the authority to issue writs of quo warranto, see art. V, § 3(b). It is the remedy to test the right of an incumbent to hold public office. *See Bloomfield v. City of St. Petersburg Beach*, 82 So. 2d 364 (Fla. 1955).

32. Accordingly, Plaintiff demands a judgment of ouster against Defendant Charles Gambaro as a Councilmember occupying Seat 4 on the Palm Coast City Council without lawful authority.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests an emergency case management conference to set expedited deadlines, and requests that this Court enter as judgement:

(a) a declaration that Seat 4 is vacant;

(b) a declaration that the City violated the City Charter by refusing to schedule an election for Seat 4 on November 5, 2024;

(c) an order granting a mandatory injunction against the City of Palm Coast, and Supervisor of Elections of Flagler County, directing them to schedule an election for Seat 4 at the nearest reasonable date;

(d) ouster against Defendant Charles Gambaro as a Councilmember occupying Seat 4 on the Palm Coast City Council;

(e) grant this case expedited consideration and priority status in accordance with Rule 2.215(g), Fla. R. Gen. Prac. and Jud. Admin., because it involves an election challenge;

(f) award Plaintiff costs pursuant to § 86.081, Florida Statutes;

(g) any other relief as this Court deems necessary and just.

VERIFICATION

I, MICHAEL NORRIS, declare under penalty of perjury pursuant to the laws of Florida that the foregoing is true and correct.

By: *s/ MICHAEL NORRIS*

DATED: May 5, 2025.

Respectfully submitted,

/s/ Anthony F. Sabatini
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