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IN THE SUPREME COURT OF FLORIDA

Case No. 2026-_____

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ALEJANDRO PEÑUELA,

Petitioner,

vs.

RON DeSANTIS,
as Governor of Florida,

Respondent.

VERIFIED, TIME-SENSITIVE, NON-ROUTINE
PETITION FOR WRIT OF MANDAMUS

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I. NATURE OF THE CASE AND RELIEF SOUGHT

This is an action seeking a writ of mandamus to remedy Respondent Governor DeSantis's violation of section 100.111(2) of the Florida Statutes. The Governor has refused to perform his statutory duty to call a special election to fill a vacancy in Florida Senate District 39, as the law requires. The vacancy arose over 80 days ago, when the incumbent senator resigned to run for lieutenant governor. The Governor's failure—inaction longer than any of his predecessors in known history—leaves the district's half a million constituents without representation and deprives them of a voice in the Capitol during the 2027 legislative session and interim committee weeks that begin in thirteen days.

Petitioner Alejandro Peñuelas, a resident and elector of District 39, seeks a writ of mandamus to compel the Governor to perform his clear legal duty to call a special election so that he and his neighbors once again have the constitutionally mandated representation to which they are entitled.

II. STATEMENT OF FACTS

A. Florida's History of Prompt Special Elections

Since January 1, 1999, there have been 87 vacancies in

congressional and legislative offices in Florida filled by special election. For the 65 vacancies arising between 1999 and 2020, it took, on average, 7.6 days for the governor to call a special election after the vacancy arose. In over 25 instances, the governor took fewer than five days to call the election. Until recently, the norm was calling special elections quickly so that no Floridian lost representation longer than necessary.

B. The Governor's Recent Failures to Timely Call Special Elections

But lately, Governor DeSantis has more often chosen to deviate from Florida's longstanding practice of timely special elections, in violation of his mandatory statutory duty. Indeed, this is *the tenth vacancy* over which voters have had to go to court to force the Governor to call an election—a disturbing pattern that both undermines our republican form of government and wastes judicial resources.

After Congressman Alcee Hastings died in April 2021, Governor DeSantis failed to call a special election for 30 days—longer than any Florida governor had ever taken to call a special election in at least the prior 22 years, and possibly ever in Florida history. Twenty-three

days after Congressman Hastings died, a would-be candidate filed suit, seeking to compel the Governor to call an election and fulfill his duty under Article I, Section 2 of the U.S. Constitution and section 100.111(2).[1] A week later, the Governor called a special election, but set it for January 11, 2022—more than nine months after Congressman Hastings' death.[2]

In July 2021, three legislators resigned to run in the congressional special election. Governor DeSantis broke the 30-day personal—and perhaps all-time—record he had just set, waiting over 90 days to call special elections to fill these vacant seats. The Governor did not call special elections until he was forced to—after residents of the districts petitioned for mandamus relief.[3] Following months of inaction, the Governor called elections within days of the court ordering him to show cause why the writ should not issue.[4]

In 2023, Governor DeSantis waited 38 days to call a special

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[1] Compl., *Dowling v. DeSantis*, No. 9:21-cv-80796 (S.D. Fla. Apr. 29, 2021).

[2] Exec. Order 21-103 (May 6, 2021).

[3] Compl., *Staples v. DeSantis*, No. 2021 CA 1781 (Fla. 2nd Jud. Cir. Oct. 15, 2021).

[4] Order to Show Cause, *Staples* (Oct. 19, 2021); Exec. Order 21-224 (Oct. 27, 2021).

election for a State House seat in Miami-Dade County. Yet again, the Governor did not call the election until he was forced to—after a court ordered him to show cause why mandamus should not issue in a lawsuit brought by a district resident.[5]

In 2025, the same thing happened yet again for four different legislative vacancies. Governor DeSantis waited over 50 days to call elections for a Brevard County Senate district and a Panhandle House district, only doing so after voters sued.[6] Later in the year, voters filed separate lawsuits over a Tampa-area Senate seat and a Palm Beach-area House seat. In both cases, Governor DeSantis only called an election after judicial action—73 and 67 days after the vacancies arose.[7]

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[5] Order to Show Cause, *Zamora v. DeSantis*, No. 2023 CA 1857 (Fla. 2nd Jud. Cir. July 17, 2023); Exec. Order 23-141 (July 19, 2023).

[6] Compl., *Laimont v. DeSantis*, No. 2025 CA 33 (Fla. 2nd Jud. Cir. Jan. 9, 2025); Exec. Orders 25-14, 25-15 (Jan. 21, 2025).

[7] Order to Show Cause, *Lippe v. DeSantis*, No. 2025 CA 1856 (Fla. 2nd Jud. Cir. Oct. 1, 2025); Petition, *McClease v. DeSantis*, No. 2025 CA 10326 (Fla. 15th Jud. Cir. Oct. 7, 2025); Exec. Orders 25-209, 25-210 (Oct. 24, 2025).

C. The Instant Vacancy and the Governor's Failure to Call an Election

On August 25, 2026, Bryan Ávila resigned from the Florida Senate, effective immediately, to run for lieutenant governor.[8] To the best of Petitioner's knowledge, the Governor has failed to call an election to fill the vacancy. The Legislature convenes in organizational session today; interim committee weeks begin on November 30, 2026. The 2027 regular session begins on March 2, 2027.[9]

Unless the Governor sets a special election very soon, Petitioner and other district residents will go without representation for the entirety of the interim committee weeks and regular session.

III. JURISDICTION

This Court has original jurisdiction to issue writs of mandamus to the Governor (who is a state officer) pursuant to Article V, Section 3(b)(8) of the Florida Constitution and Florida Rules of Appellate

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[8] Letter from Bryan Ávila to Ron DeSantis Re: Resignation from the Florida Senate (Aug. 25, 2026), available at https://x.com/JimRosicaFL/status/2092255478508113940.

[9] Memorandum from Tracy C. Cantella, Secretary of the Senate, to All Senators, *2026–2027 Interim Committee Meeting Schedule* (Aug. 3, 2026), https://www.flsenate.gov/PublishedContent/Offices/President/2026-2027_Interim_Committee_Meeting_Schedule_.pdf.

Procedure 9.030(a)(3) and 9.100. *Thompson v. DeSantis*, 301 So. 3d 180, 184 (Fla. 2020) ("It is undisputed that article V, section 3(b)(8) gives this Court discretionary jurisdiction to issue writs of mandamus and quo warranto to state officers.").

The Governor has a clear and indisputable legal duty under section 100.111(2) to fix the dates of the special election for the instant vacancy, and thus is subject to this Court's mandamus jurisdiction. *See Mayfield v. Sec'y, Fla. Dep't of State*, 402 So. 3d 1002, 1005 (Fla. 2025) ("[T]he petitioner must have a clear legal right to the requested relief, the respondent must have an indisputable legal duty to perform the requested action, and the petitioner must have no other adequate remedy available." (quoting *Pleus v. Crist*, 14 So. 3d 941, 945 (Fla. 2009))).

This Court's authority to issue writs of mandamus is discretionary and concurrent with other state courts. However, this case warrants an expedited review and decision by this Court since Petitioner and District 39's half a million other voters and residents will be prejudiced—and indeed irreparably harmed—if Governor DeSantis continues to flout his clear duty. The fact that the Governor has failed to act here for a full twelve weeks, and that he has

repeatedly ignored this same duty over the past six years, further counsels in favor of this Court's intervention to ensure this troubling practice ceases.

IV. ARGUMENT

Article III, Section 1 of the Florida Constitution mandates that "[t]he legislative power of the state shall be vested in a legislature of the State of Florida, consisting of a senate composed of one senator elected from each senatorial district and a house of representatives composed of one member elected from each representative district." Each resident of the state has the right to be represented by one senator and one representative. These legislators are their voice in the halls of the Capitol.

When a vacancy arises in legislative office, the people have the right to fill that vacancy in a special election. Fla. Stat. § 100.101(2). The reason is obvious: no Floridian should be deprived of representation because of the death, resignation, or removal of their representatives.

But left to his own devices, the Governor would deprive the residents of Senate District 39 of their constitutionally protected voice in the Capitol—as he has done so many times before, for other

districts. The Governor has failed to perform his statutorily proscribed ministerial duty to fix the date of a special election for the district, where Petitioner resides. The vacancy in District 39 arose 84 days ago. No other governor in living memory has waited this long to schedule a special election. And every time *this* Governor has waited as long, it has taken a mandamus action to force him to call an election.

The Governor's failure to call this election violates section 100.111(2). Mandamus is the appropriate remedy to address this violation. *Young v. Lamar*, 115 So. 3d 1132, 1133–34 (Fla. 1st DCA 2013) (finding mandamus "an appropriate remedy to correct" a violation of the law); *Valdes v. Galco Constr.*, 883 So. 2d 359, 361 (Fla. 1st DCA 2004) (granting mandamus to compel officer to issue an order "within a reasonable time, not to exceed 30 days"); *Kramp v. Fagan*, 568 So. 2d 479, 480 (Fla. 1st DCA 1990) (granting mandamus and directing lower court judge to dispose of a neglected motion within fifteen days).

To show entitlement to a writ of mandamus,

> a petitioner must show that he has a clear legal right to the performance of a clear legal duty by a public officer and that he has no other legal

> remedies available to him. When a petitioner files a petition for mandamus, the court has the initial task of assessing the legal sufficiency of the allegations . . . . [I]f the petition is facially sufficient, the court must issue an alternative writ, *i.e.*, an order directed to the respondent to show cause why the requested relief should not be granted.

S.J. v. Thomas, 233 So. 3d 490, 495 (Fla. 1st DCA 2017) (cleaned up).

As demonstrated below, Petitioner has established all the above requirements, and the Court should order the Governor to show cause why this Court should not grant the requested relief.

A. The Governor has an indisputable, ministerial duty to fix a special election when there is a vacancy in legislative office.

The statutory commands are clear: "A special election or special primary election shall be held . . . [i]f a vacancy occurs in the office of state senator or member of the state house of representatives." Fla. Stat. § 100.101. "Whenever there is a vacancy for which a special election is required pursuant to s. 100.101, the Governor, after consultation with the Secretary of State, shall fix the dates of a special primary election and a special election." *Id.* § 100.111(2).

The Governor's duty to fix a special election after a vacancy arises is ministerial and nondiscretionary. *See Town of Manalapan v.*

Rechler, 674 So. 2d 789, 790 (Fla. 4th DCA 1996) ("A duty or act is defined as ministerial when there is no room for the exercise of discretion, and the performance being required is directed by law."). A plain reading of the language of section 100.111(2) demonstrates the ministerial nature of this duty. The statute provides, "the Governor . . . *shall* fix the dates of a special primary election and a special election" (emphasis added). "Shall" is not discretionary. Rather, its plain meaning indicates the Legislature has bestowed upon the Governor a ministerial obligation.

Florida Caucus of Black State Legislators, Inc. v. Crosby, 877 So. 2d 861 (Fla. 1st DCA 2004), is particularly instructive here. In that case, petitioners sought a writ of mandamus compelling the secretary of the Department of Corrections to comply with a statute mandating the agency do the following when a felony offender was about to be discharged from state supervision:

> [A]n authorized agent of the department *shall* obtain from the Governor the necessary application and other forms required for the restoration of civil rights. The authorized agent *shall* assist the offender in completing these forms and *shall* ensure that the application and all necessary material are forwarded to the Governor before the offender is discharged from supervision.

877 So. 2d at 862 (quoting § 944.293, Fla. Stat. (2002)) (emphasis added). Writing for a unanimous panel, then-Judge Polston reasoned that, "[b]ecause the legislature chose to use the word 'shall' throughout section 944.293, the Department's obligations are not discretionary." *Id.* at 863. The court ruled that the writ should issue, requiring the Department of Corrections to comply with their mandatory, ministerial duties under the statute. *Id.* at 863. The same reasoning applies to the Governor's duty to fix a special election under section 100.111(2).[10]

Because the language in section 100.111(2) is nondiscretionary, the Governor is bound to follow its command. Accordingly, the Governor has an indisputable duty to fix a special election date for the legislative vacancy. And given the constitutional imperative that no Floridian lack representation longer than necessary, the Governor has a duty to fix the election for the earliest date possible.

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[10] Significantly, the *Crosby* court stressed that the existence of a disagreement over the existence or scope of the statutory duty—or even ambiguity in the statute—does not foreclose mandamus relief. 877 So. 2d at 863 ("While we agree with the trial court that the Department's statutory obligations are ambiguous, . . . it is appropriate for us to interpret an ambiguous statute and then determine it to be sufficiently 'clear' for the purpose of mandamus.").

B. Petitioner has a clear legal right to compel the Governor to perform his duty.

Petitioner is a resident and voter of the district in which the Governor has failed to call a special election. In the absence of a special election called very soon, Petitioner will go without the representation to which he is entitled during the upcoming committee weeks—during which legislators hear and vote on bills—and the regular session afterward. Petitioner's voice, and the voices of his neighbors, will go unheard in the Capitol. His vote will be denied, twice over. In the first instance, the Governor's failure to call a special election deprives Petitioner the right to vote on his senator. In the second instance, the Governor's inexplicable inaction denies Petitioner a vote in committees and on the floor of the Senate.

Given the Governor's clear legal duty, "Petitioner, as a citizen and taxpayer, has a clear legal right to request that the Governor carry out that duty." *Pleus*, 14 So. 3d at 945.

C. Petitioner has no adequate remedy at law.

Petitioner has no other adequate remedy at law. Florida courts have recognized mandamus as an appropriate remedy to resolve violations of the law and matters where the executive branch has

failed to perform a ministerial duty imposed by law. *Young*, 115 So. 3d at 1133–34 ("[T]he Commission . . . was required, at a very minimum, to process the petitioner's complaint in accordance with the dictates of Florida Administrative Code Rule 34-5.002. Mandamus is an appropriate remedy to correct this error."). As such, mandamus is the appropriate remedy to address the Governor's failure to fix a special election to fill the instant vacancy.

V. CONCLUSION

For the foregoing reasons, the Court should issue a writ of mandamus compelling the Governor to fix a special election for this vacancy, with an election occurring as soon as possible.

Respectfully submitted November 17, 2026,

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VERIFICATION

Under penalties of perjury, I declare that I have read the foregoing Verified, Time-Sensitive, Non-Routine Petition for Writ of Mandamus and that the facts stated in it are true, except as to matters therein stated to be true on information or belief, which are true to the best of my knowledge and belief.

Executed November 17, 2026 in Doral, Florida.

Alejandro Peñuela

Alejandro Peñuela

CERTIFICATE OF SERVICE

I certify that on November 17, 2026, this document has been furnished to Respondent Governor Ron DeSantis by email to David Axelman, General Counsel, Executive Office of the Governor, david.axelman@eog.myflorida.com, and will be furnished by delivery to the Executive Office of the Governor, The Capitol, Tallahassee, FL 32399.

/s/ Nicholas L.V. Warren
Nicholas L.V. Warren

Counsel for Petitioner

CERTIFICATE OF COMPLIANCE

I certify that this document contains 2,545 words and complies with the applicable word-count and font requirements of Fla. R. App. P. 9.100(g) and 9.045(b).

/s/ Nicholas L.V. Warren
Nicholas L.V. Warren

Counsel for Petitioner