

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA**

Andrew Spar on behalf of himself and his minor child; Laura Bell on behalf of herself and her minor child; Tamara Haleem on behalf of herself and her minor child; Stephanie Vanos on behalf of herself and her minor children; Earlishia Oates on behalf of herself and her minor child; Suzanne Sapp on behalf of herself and her minor child; Aaryn Frick, on behalf of herself and her minor children; Robert Lyons; and Florida Education Association,

Plaintiffs,

v.

Case No.: 2026 CA 000929

Anastasios “Stasi” Kamoutsas, in his official capacity as the Commissioner of Education for the State of Florida; the Florida Department of Education; Ryan Petty, in his official capacity as Chair of the Florida State Board of Education; MaryLynn Mager, in her capacity as Vice Chair of the Florida State Board of Education; Grazie P. Christie, in her official capacity as member of the Florida State Board of Education; Layla Collins, in her official capacity as member of the Florida State Board of Education; Daniel P. Foganholi, Sr., in his official capacity as member of the Florida State Board of Education; Erika Fritz-Ochs, in her official capacity as member of the Florida State Board of Education; Luis Fuste, in his official capacity as member of the Florida State Board of Education; and the Florida State Board of Education,

Defendants.

REPLY TO PLAINTIFFS’ RESPONSE TO MOTION TO INTERVENE

Parents Tatiana Cox Lopez, Jessica Tillmann, Alyssa Hines, and Julie Schulman (“Parents”) appreciate Plaintiffs’ agreement that they can intervene in this lawsuit. Parents offer this reply to explain why they are entitled to full-party status, *i.e.*, intervention without subordination. In particular, Plaintiffs are mistaken as to the appeal rights of intervenors with subordination and as to the nature

of Parents’ parental-rights defense, which requires full party status because the State Defendants cannot invoke it.

1. First, Plaintiffs state that Parents will have the ability to appeal an adverse ruling without full party intervenor status. Opp. at 2. Parents would support that reading of Rule 1.230, but the First District has unfortunately held otherwise. *Louis Del Favero Orchids, Inc. v. Fla. Dep’t of Health*, 290 So. 3d 165, 169 (Fla. 1st DCA 2020) (subordinate intervenor has no standing to appeal if other parties do not appeal). Plaintiffs’ supportive position does not overcome precedent. Accordingly, for Parents to be assured full appeal rights, the Court will need to afford them intervention without subordination.

2. Second, Plaintiffs erroneously dismiss the significance of Parents’ independent rights under the Fourteenth Amendment. Plaintiffs say that Parents “suggest, without expressly stating” a Fourteenth Amendment defense without explaining why that defense “will not be raised by” the state Defendants, Opp. at 3. But that assertion is flatly contradicted by Parents’ motion. Parents plainly set forth in their motion their intention to argue that Plaintiffs cannot challenge the uniformity, efficiency, or quality of the scholarship programs because “[s]uch reassignment of the children’s rights from their Parents to the Plaintiffs would violate federal law.” Mot. at 14. In other words, Plaintiffs’ claim must fail as a matter of federal law even if it succeeds as a matter of Florida law.

Parents need full party status to make this argument “because the state is not a parent and cannot invoke those rights in defense against the claims.” *Id.*; cf. *Mirabelli v. Bonta*, 146 S. Ct. 797, 802 (2026) (“Under long-established precedent, parents—not the State—have primary authority with respect to ‘the upbringing and education of children.’” (quoting *Pierce v. Soc’y of Sisters*, 268 U.S. 510, 534–35 (1925))). The defense of independent rights that other parties cannot raise is a core reason to afford an intervenor full party status.

3. Finally, Plaintiffs' authorities support full intervention in this case. The First District's decision in *Litvak* does not say that *only* class members can intervene with full party status. Rather, it says that full party status is appropriate where proposed intervenors are "inextricably caught up in litigation meant to decide their rights" and "would not have a forum elsewhere." *Litvak v. Scylla Properties, LLC*, 946 So. 2d 1165, 1174 (Fla. 1st DCA 2006). Here, Parents' rights, which the named Defendants cannot invoke, are directly implicated, and Parents have no alternative forum to raise their argument. And while *Litvak* instructs that the subordination rule "prevents a stranger coming late to litigation from reshaping the case to the stranger's purposes, causing other litigants unjustified expense and delay, instead of initiating his own lawsuit," *id.*, Parents intend to brief their Fourteenth Amendment defense on the schedule sought by the state Defendants, and their Proposed Answer demonstrates no potential to "reshape" the case.

The *Southern Comfort Grill* standard is also met here because Parents' "interest in the litigation is of a direct and immediate character." *Southern Comfort Grill, Inc. v. Hanks Const., LLC*, 162 So. 3d 144 (Fla. 4th DCA 2015). As the Arkansas Supreme Court explained in a constitutional challenge to its school choice program, "the disposition of this action *directly* affects the [Parents'] interest" because of the direct economic impact from any adverse decision. *Lara v. Faulkenberry*, 725 S.W.3d 26, 29 (Ark. 2025). The same analysis applies under Rule 1.230: Parents' interest is direct and immediate because they will suffer the impact of any adverse decision and because they cannot protect their rights without full party status in this litigation.

Practically, it is unclear what litigation conduct Plaintiffs hope to prevent by opposing full party status. They say they are amenable to "participation in this action under terms that enable [Parents] to argue and be heard on issues which apply to them and the ability to appeal an adverse ruling." Opp. at 4. But if limited by subordinate status, Parents may not be able to raise their separate defense or appeal on their own.

WHEREFORE, Parents respectfully request the Court grant their motion to intervene without subordination.

DATED: July 7, 2026

Respectfully submitted,

/s/ Benjamin J. Gibson

Benjamin J. Gibson (Fla. Bar No. 58661)
Daniel E. Nordby (Fla. Bar No. 14588)
Kassandra S. Reardon (Fla. Bar No. 1033220)
SHUTTS & BOWEN LLP
215 South Monroe Street, Suite 804
Tallahassee, Florida 32301
Tel: (850) 241-1717
bgibson@shutts.com
dnordby@shutts.com
kreardon@shutts.com
chill@shutts.com

Thomas M. Fisher*
IN Bar No. 17949-49
Bryan Cleveland*
IN Bar No. 38758-49
EDCHOICE LEGAL ADVOCATES
111 Monument Circle, Suite 2650
Indianapolis, IN 46204
(317)681-0745
tfisher@edchoice.org
bcleveland@edchoice.org

Attorneys for Proposed Intervenor-Defendant

*Applications to appear *pro hac vice* pending.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed and served via the Court's electronic filing system on all counsel of record this 7th day of July, 2026.

/s/ Benjamin J. Gibson
Attorney