

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

CAIR-FOUNDATION, INC. and
CAIR-FLORIDA, INC.,

Plaintiffs,

Case No. 4:26-cv-315-MW-MJF

v.

RON DESANTIS, *et al.*,

Defendants.

_____ /

DEFENDANTS' RESPONSE TO ORDER TO SHOW CAUSE

As this Court explained in its order to show cause, “the standing inquiry looks to the time the complaint was filed” and is not altered by subsequent regulatory actions. *Comput. & Commc’ns Indus. Assoc. v. Uthmeier*, 826 F. Supp. 3d 1358, 1370 n.6 (N.D. Fla. 2025) (“standing analysis” unaffected by “the State’s new enforcement action”); *Falls v. DeSantis*, No. 4:22-cv-166-MW/MJF, 2023 WL 3568526, at *6 (N.D. Fla. May 19, 2023) (standing cannot be premised on a regulation promulgated “*after* Plaintiffs filed their complaint”). When Plaintiffs filed their complaint on July 1, 2026, there had been no hearing, let alone a vote, on whether to designate them as domestic terrorist organizations under Florida law. *See* Fla. Stat. § 943.03102(2)(c)–(d). Moreover, section 943.03102(5) expressly required the Florida Department of Law Enforcement to “adopt rules to implement” the

statutory scheme. *Id.* § 943.03102(5).

By filing this action before the Governor and Cabinet made a conclusive decision to designate, Plaintiffs put this Court in the position of having to decide their First Amendment and Due Process claims *before* there is a record establishing the basis for the (as-of-then nonexistent) designations, and *before* Plaintiffs could be afforded any procedural protections required by the Constitution. Whether framed as standing or ripeness, the operative complaint does not present a justiciable case or controversy. *See Nat'l Advert. Co. v. City of Miami*, 402 F.3d 1335, 1339–41 (11th Cir. 2005); *Digital Props., Inc. v. City of Plantation*, 121 F.3d 586, 589–91 (11th Cir. 1997); *cf. KindHearts for Charitable Humanitarian Dev., Inc. v. Geithner*, 647 F. Supp. 2d 857, 908–10 (N.D. Ohio 2009) (due process challenge to terrorist designation unripe because government “ha[d] not formally designated” the plaintiff and “w[ould] consider a response” from the plaintiff “before determining whether to designate it”).

Yesterday, however, the Governor and Cabinet voted pursuant to section 943.03102(2)(d) and the regulation promulgated thereunder, *see* Emergency Rule 11RER26-8, 52 Fla. Admin. Reg. 3963, 3967–68 (Sept. 14, 2026), to designate Plaintiffs as domestic terrorist organizations. In light of that factual development, Defendants concede that Plaintiffs’ forthcoming amended complaint would satisfy the injury-in-fact requirement of Article III standing. *See* ECF No. 63 at

1 (authorizing Plaintiffs' amended complaint to be filed on or before October 1).

DATED: September 30, 2026

Respectfully submitted,

JAMES UTHMEIER
Attorney General of Florida

/s/ Charles J. Cooper

CHARLES J. COOPER (No. 248070DC)
JOHN D. RAMER*
NICOLE J. MOSS*
RILEY W. WALTERS*
JESSICA CRAINE*

COOPER & KIRK, PLLC
1523 New Hampshire Ave., N.W.
Washington, D.C. 20036
Tel: (202) 220-9600
ccooper@cooperkirk.com

/s/ David M.S. Dewhirst

DAVID M.S. DEWHIRST (FBN 1076928)
Solicitor General
TYLER E. GUSTAFSON (FBN 1049292)
Assistant Solicitor General

OFFICE OF THE ATTORNEY GENERAL
The Capitol, PL-01
Tallahassee, FL 32399-1050
Tel: (850) 414-3300
david.dewhirst@myfloridalegal.com

*Appeared *Pro Hac Vice*

Counsel for Defendants

CERTIFICATE OF SERVICE

I, Charles J. Cooper, hereby certify that a true and correct copy of the foregoing document was sent via CM/ECF on September 30, 2026, to all counsel of record.

Dated: September 30, 2026

/s/ Charles J. Cooper
Charles J. Cooper
COOPER & KIRK, PLLC
Telephone: (202) 220-9600
ccooper@cooperkirk.com