

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ASSOCIATION OF COMMUNITY
ORGANIZATIONS FOR REFORM NOW, *et al.*,

Plaintiffs,

v.

CATHY COX, *et al.*

Defendants.

CIVIL ACTION NO.
1:06-CV-1891-JTC

**PLAINTIFF ACORN'S AMENDED OBJECTIONS AND RESPONSES TO
DEFENDANTS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and the orders of this Court, Plaintiff ACORN submits the following amended objections and responses to Defendants' First Request for Production of Documents:

GENERAL OBJECTIONS

The following General Objections apply to every paragraph of Defendants' First Request for Production of Documents:

1. Plaintiff objects to every request that calls for privileged information, including, without limitation, information protected by the attorney-client privilege.

2. Plaintiff objects to every request that calls for information prepared in anticipation of litigation or for trial absent a showing of substantial need by Defendants.

3. Plaintiff objects to every request that calls for the production of any information containing or reflecting the mental impressions, conclusions, opinions and/or legal theories of any attorney for Plaintiff, on the grounds that such information is protected by the attorney work product doctrine.

4. Plaintiff objects to every request that is overly broad, unduly burdensome, harassing, duplicative or which requests documents which are already in the possession of Defendants.

5. Plaintiff objects to every request that calls for information which is neither relevant to the subject matter of the pending Complaint nor reasonably calculated to lead to the discovery of admissible evidence in connection with the pending Complaint.

6. Plaintiff objects to every request, and to every introductory "definition" or "instruction," that seeks to impose obligations beyond those

required by the Federal Rules of Civil Procedure, as reasonably interpreted and supplemented by local court rules.

AMENDED RESPONSES TO REQUESTS FOR PRODUCTION

1. Copies of voter registration applications made or collected by ACORN for persons registering to vote in Georgia after September 2006.

RESPONSE: Plaintiff objects to this Request on the grounds that it is neither relevant to the asserted claims and defenses of any party in the litigation, nor likely to lead to the discovery of admissible evidence in connection therewith. Plaintiff objects to this Request on the grounds that it is overly broad and that compliance with the request would be unduly burdensome to Plaintiff and would outweigh any probative value of the evidence sought to be obtained in connection with said Request. Plaintiff further objects to this Request on the grounds that it is calculated to subject Plaintiff to harassment, intimidation, and oppression, in that it has the effect of invading, intruding into, and chilling the First Amendment associational and privacy interests of Plaintiff and its constituents. *See, e.g., NAACP v. Alabama*, 357 U.S. 449 (1958); *Talley v. California*, 362 U.S. 60 (1960); *Gibson v. Florida Legislative Investigation Committee*, 372 U.S. 539 (1963); *Watchtower Bible & Tract Society v. Village of Stratton*, 536 U.S. 150 (2002). Subject to and without waiver of the foregoing objections and the General

Objections, ACORN states that it did not conduct any voter registration activity in Georgia in 2006 or 2007 and has no documents in response to this request.

2. Copies of voter registration applications made or collected by ACORN for persons registering to vote in Georgia between September 30, 2004 and September 30, 2006.

RESPONSE: Plaintiff objects to this Request on the grounds that it is neither relevant to the asserted claims and defenses of any party in the litigation, nor likely to lead to the discovery of admissible evidence in connection therewith.

Plaintiff further objects to this Request on the grounds that it is overly broad and that compliance with the request would be unduly burdensome to Plaintiff and would outweigh any probative value of the evidence sought to be obtained in connection with said Request. Plaintiff further objects to this Request on the grounds that it is calculated to subject Plaintiff to harassment, intimidation, and oppression, in that it has the effect of invading, intruding into, and chilling the First Amendment associational and privacy interests of Plaintiff and its constituents. *See, e.g., NAACP v. Alabama*, 357 U.S. 449 (1958); *Talley v. California*, 362 U.S. 60 (1960); *Gibson v. Florida Legislative Investigation Committee*, 372 U.S. 539 (1963); *Watchtower Bible & Tract Society v. Village of Stratton*, 536 U.S. 150 (2002).

Subject to and without waiver of the foregoing objections and the General

Objections, ACORN is willing to produce *in camera*, for the Court's inspection, a representative sampling of voter registration applications from this time period to prove their existence and/or to produce copies of a representative sampling of such applications to Defendants, with identifying information redacted.

3. All sign-in sheets, logs, or registers made or used at "voter registration drives" (as that phrase is used in the Complaint) that were conducted by you in 2004, 2005 or 2006.

RESPONSE: Plaintiff objects to this Request on the grounds that it is calculated to subject Plaintiff to harassment, intimidation, and oppression, in that it has the effect of invading, intruding into, and chilling the First Amendment associational and privacy interests of Plaintiff and its constituents. *See, e.g., NAACP v. Alabama*, 357 U.S. 449 (1958); *Talley v. California*, 362 U.S. 60 (1960); *Gibson v. Florida Legislative Investigation Committee*, 372 U.S. 539 (1963); *Watchtower Bible & Tract Society v. Village of Stratton*, 536 U.S. 150 (2002). Subject to and without waiver of the foregoing objections and the General Objections, Plaintiff states that it has no responsive documents in its custody, possession, or control.

4. All grant applications, financial assistance applications, or any other documents related to awards of financial assistance or grants to ACORN for it to

conduct voter registration drives in Georgia at any time during the years 2004, 2005, and or 2006.

RESPONSE: Subject to and without waiver of the foregoing General Objections, Plaintiff states that it has produced all documents responsive to this request.

5. All letters and emails, and all enclosures to those documents, exchanged between employees, volunteers or officers of ACORN and Project Vote and/or Project Vote/Voting for America, Inc. (“Project Vote”) in 2004, 2005, and 2006 which concerned or related to voter registration activities or programs in Georgia.

RESPONSE: Plaintiff objects to this Request on the grounds that it is vague, overly broad, burdensome and subject to varying interpretations. Plaintiff further objects to this Request on the grounds that it is calculated to subject Plaintiff to harassment, intimidation, and oppression, in that it has the effect of invading, intruding into, and chilling the First Amendment associational and privacy interests of Plaintiff and its constituents. *See, e.g., NAACP v. Alabama*, 357 U.S. 449 (1958); *Talley v. California*, 362 U.S. 60 (1960); *Gibson v. Florida Legislative Investigation Committee*, 372 U.S. 539 (1963); *Watchtower Bible & Tract Society v. Village of Stratton*, 536 U.S. 150 (2002). Subject to and without waiver of the

foregoing objections and the General Objections, Plaintiff states that it has produced all documents responsive to this request.

6. All letters and emails, and all enclosures to those documents, exchanged between employees, volunteers or officers of ACORN and Working Assets and/or Working Assets, Inc. and/or Michael Kleschnick in 2004, 2005, and 2006 which concerned or related to voter registration activities or programs in Georgia.

RESPONSE: Plaintiff objects to this Request on the grounds that it is vague, overly broad, and subject to varying interpretations. Plaintiff further objects to this Request on the grounds that it is calculated to subject Plaintiff to harassment, intimidation, and oppression, in that it has the effect of invading, intruding into, and chilling the First Amendment associational and privacy interests of Plaintiff and its constituents. *See, e.g., NAACP v. Alabama*, 357 U.S. 449 (1958); *Talley v. California*, 362 U.S. 60 (1960); *Gibson v. Florida Legislative Investigation Committee*, 372 U.S. 539 (1963); *Watchtower Bible & Tract Society v. Village of Stratton*, 536 U.S. 150 (2002). Plaintiff further objects to this Request on the grounds and to the extent it calls for information protected by the attorney/client privilege or the work product doctrine. Subject to and without waiver of the foregoing

objections and the General Objections, Plaintiff states that it has no non-privileged documents in its custody, possession or control.

7. All letters and emails, and all enclosures to those documents, exchanged between employees, volunteers or officers of ACORN and Proteus Fund and/or Margaret Gage in 2004, 2005, and 2006 which concerned or related to voter registration activities or programs in Georgia.

RESPONSE: Please see the response to Request No. 6, which is restated and incorporated herein by this reference. Subject to and without waiver of the foregoing objections and General Objections, Plaintiff states that it has no such documents in its custody, possession or control.

8. All handouts, flyers, or advertisements for “voter registration drives” (as that phrase is used in the Complaint) held in 2004, 2005 or 2006.

RESPONSE: Subject to and without waiver of the foregoing General Objections, Plaintiff states that it no longer has any such documents in its possession, custody, or control.

9. All letters and emails, and all enclosures to those documents, exchanged between Dana Williams and Brian Kettenring in 2004, 2005 and 2006.

RESPONSE: Plaintiff objects to this Request on the grounds that it is vague, overly broad, burdensome and subject to varying interpretations. Plaintiff further objects to this Request on the grounds that it is calculated to subject Plaintiff to harassment, intimidation, and oppression, in that it has the effect of invading, intruding into, and chilling the First Amendment associational and privacy interests of Plaintiff and its constituents. *See, e.g., NAACP v. Alabama*, 357 U.S. 449 (1958); *Talley v. California*, 362 U.S. 60 (1960); *Gibson v. Florida Legislative Investigation Committee*, 372 U.S. 539 (1963); *Watchtower Bible & Tract Society v. Village of Stratton*, 536 U.S. 150 (2002). Subject to and without waiver of the foregoing objections and General Objections, Plaintiff states that it has no such documents in its custody, possession or control.

10. All letters and emails, and all enclosures to those documents, exchanged between Dana Williams and Stephanie L. Moore in 2004, 2005 and 2006.

RESPONSE: Please see the response to Request No. 9, which is restated and incorporated herein by this reference. Subject to and without waiver of the foregoing objections and General Objections, Plaintiff states that it has no such documents in its custody, possession or control.

11. All letters and emails, and all enclosures to those documents, exchanged between Brian Kettenring and Stephanie L. Moore in 2004, 2005, and 2006 and which concerned, discussed or related to voter registration.

RESPONSE: Please see the response to Request No. 9, which is restated and incorporated herein by this reference. Subject to and without waiver of the foregoing objections and General Objections, Plaintiff states that it has no such documents in its custody, possession or control.

12. All documents (except those that may be pleadings in the present case) related to, discussing, or describing ACORN's voter registration activities in Georgia in 2004, 2005, and 2006.

RESPONSE: Please see the response to Request No. 2 and Request No. 5, which are restated and incorporated herein by this reference. Plaintiff further objects to this Request on the ground that it calls for documents protected by the attorney-client and/or work product privileges. Subject to and without waiver of the foregoing objections and General Objections, ACORN has produced all responsive documents in its custody, possession or control, with the exception of voter registration applications submitted by ACORN in 2004. Plaintiff will produce a representative sampling of those applications, under the conditions

described in its response to Request No. 2.

13. Any contract, letter, or memorandum of representation between ACORN and Brad Heard. To the extent any litigation work product or attorney-client privileged communications exist in such a document, they may be redacted.

RESPONSE: Plaintiff objects to this request to the extent that it calls for documents protected by the attorney-client privilege or the work product doctrine. Plaintiff further objects to this Request on the grounds that it is neither relevant to the asserted claims and defenses of any party in the litigation, nor likely to lead to the discovery of admissible evidence in connection therewith. Subject to and without waiver of the foregoing objections and the General Objections, Plaintiff states and confirms that it has retained Bradley E. Heard, Esq., on a *pro bono* / contingency basis in connection with this voting and civil rights litigation; that it is not responsible for payment of attorneys' fees to Heard in connection with this litigation; and that Heard and his co-counsel shall be entitled to any attorneys' fees awarded or recovered in connection with this litigation.

14. All documents used for or concerning the training of volunteers, employees, or officers of ACORN to conduct "voter registration drives" in

Georgia or to process, transmit, copy, safeguard, or follow-up on voter registration applications.

RESPONSE: Subject to and without waiver of the foregoing General Objections, Plaintiff states that it has produced all documents responsive to this request, namely a copy of its training manual.

15. Copies of all complaints that have been made against or received by Project Vote relating to voter registration activities anywhere in the United States at any time between 2004 to 2006.

RESPONSE: Plaintiff objects to this Request on the grounds that it is vague, overly broad, and subject to varying interpretations. Plaintiff further objects to this Request on the grounds that it is neither relevant to the asserted claims and defenses of any party in the litigation, nor likely to lead to the discovery of admissible evidence in connection therewith. Plaintiff further objects to this Request on the grounds that it is calculated to subject Plaintiff to harassment, intimidation, and oppression, in that it has the effect of invading, intruding into, and chilling the First Amendment associational and privacy interests of Plaintiff and its constituents. *See, e.g., NAACP v. Alabama*, 357 U.S. 449 (1958); *Talley v. California*, 362 U.S. 60 (1960); *Gibson v. Florida Legislative Investigation Committee*, 372 U.S. 539 (1963); *Watchtower Bible & Tract Society v. Village of Stratton*, 536 U.S.

150 (2002). Subject to and without waiver of the foregoing objections and the General Objections, Plaintiff states that it has no criminal or civil complaints filed in any court of record or in any public agency against ACORN at any time between 2004 and 2006, related to its voter registration activities in Georgia.

16. The deposition of Mac Stuart (a former employee of ACORN in Florida) taken in civil litigation between Mac Stuart and ACORN.

RESPONSE: Plaintiff objects to this Request on the grounds that it is neither relevant to the asserted claims and defenses of any party in the litigation, nor likely to lead to the discovery of admissible evidence in connection therewith. Plaintiff further objects to this Request on the grounds that it is calculated to subject Plaintiff to undue burden and expense, in that the transcript is available for purchase or review by Defendants from the court reporter and/or from the Court. The case is captioned *Mac Stuart v. ACORN* Case No. 1:04-CV-22764-Civ-King/O'Sullivan, United States District Court, Southern District of Florida, Miami Division.

17 Any affidavits filed by Mac Stuart (a former employee of ACORN in Florida) in the civil litigation between Mac Stuart and ACORN.

RESPONSE: Plaintiff objects to this Request on the grounds that it is neither relevant to the asserted claims and defenses of any party in the litigation, nor

likely to lead to the discovery of admissible evidence in connection therewith.
Subject to and without waiver of the foregoing objections and the General
Objections, Plaintiff states that it has no such documents in its custody,
possession or control.

This 18^h day of May, 2007.

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Counsel for All Plaintiffs

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**** Admitted Pro Hac Vice***

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 5.1

The undersigned hereby certifies that the foregoing document has been prepared in accordance with the font type and margin requirements of Local Rule 5.1 of the Northern District of Georgia, using a font type of Book Antigua and 13 point.

s/ Brian W. Mellor, Esq.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

<p>ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW, <i>et al.</i>,</p> <p style="text-align:center">Plaintiffs,</p> <p>v.</p> <p>CATHY COX, <i>et al.</i></p> <p style="text-align:center">Defendants.</p>	<p>CIVIL ACTION NO. 1:06-CV-1891-JTC</p>
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CERTIFICATE OF SERVICE OF DISCOVERY

This will certify that I have this day caused to be served a copy of the within and foregoing Plaintiff ACORN's Amended Objections and Responses to Defendants' First Request for Production of Documents upon the following parties by placing the same in the United States Mail, postage prepaid, addressed to:

**Stefan E. Ritter, Esq.
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**Bradley E. Heard, Esq.
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**Elizabeth S. Westfall, Esq.
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1730 M Street, NW, Suite 910
Washington, DC 20036**

This 18th day of May, 2007.

**Respectfully Submitted,
s/ Brian W. Mellor, Esq.**