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March 30, 2007

**VIA HAND DELIVERY TO MR. HEARD, FACSIMILE AND UNITED STATES MAIL
TO MR. MELLOR, AND EMAIL**

Mr. Bradley Erik Heard
The Heard Law Offices LLC
3695-F Cascade Road, S.W., Suite 1371
Atlanta, GA 30331-2105

Mr. Brian W. Mellor
1486 Dorchester Avenue
Dorchester, MA 02122

RE: *ACORN et al. v. Cox et al.*, civil action no. 1:06-cv-1891-JTC

Dear Mr. Heard and Mr. Mellor:

I write to address your client's discovery responses, of which service copies were received by me yesterday, March 29, 2007 (and emailed on March 27). I admit I am extraordinarily disappointed. Despite our express agreement that you would hand deliver to me all documents and any written response by March 27 – which is over forty (40) days after the responses were due, giving you and your clients a response time of over seventy (70) days -- you have produced no documents. None. Your "written responses" consist of a series of vituperative, repetitive objections, coupled occasionally with the assertion that no documents supposedly exist.

I have tried to be both extremely patient and professional regarding your client's responses. I allowed an extension to provide written responses and the documents even though you and your clients initially made no response *at all* within the original due date. But that agreement was premised on your assertion that you and your clients were gathering the responsive documents. I was express that the documents and any written response must be *hand delivered* by the deadline. You indicated no objections even though you had the requests then for over thirty (30) days and had ample time to make any objections known. Your failure to produce any documents now and written responses by hand, as agreed, is a direct breach of our agreement.

And there should have been no objections to start with. On behalf of my clients I served a narrow set of document requests and drew each one of them narrowly to the issues in this case, issues which only arise because you and your clients put them forward. To resolve any lingering

dispute and to obtain full and fair responses, as you and your clients are obligated to provide by law, let me step through the requests and responses.

Voter Registration Forms and Registration Logs

The voter registration forms and registration logs kept by your clients are central to the issues in the case and plainly relevant. They relate to the merits of the case, since your clients claim they are not only entitled to copy the completed forms but long have been doing so, and they claim they cannot keep registration logs even though they do. They relate, too, to your clients' supposed security procedures and their subsequent alteration of the forms, which you presented testimony about at the preliminary injunction hearing. They relate to possible permission by the registrants of the forms' copying, something Defendants have asserted is lacking. They relate to potential failure to file the forms by your clients with the appropriate governmental authority, as well as showing the proper governmental response to receipt of the forms, which your clients have disclaimed. They, of course, allow me to potentially impeach your clients' preliminary injunction and final hearing testimony. And they relate to standing and the jurisdiction of the Court, since your clients' claims to standing are based on collecting such forms as well as engaging in voter registration in Georgia (a claim I believe for good reason, as you know, to be false for some of your clients).

Nonetheless, on behalf of your clients you objected to producing these forms as supposedly irrelevant, and you claim production will not even lead to discoverable evidence. Although the requests were carefully broken down by date, location and client and tailored to the issues in the case, you make the canned objection that the individual requests are "overly broad" and "unduly burdensome." You also claim that responding will subject your clients to "harassment, intimidation, and oppression." And you claim, amazingly, that producing these relevant documents "has the effect of invading, intruding into, and chilling the First Amendment associational and privacy interests of Plaintiff[s] and [their] constituents."

These objections are frivolous. There is no merit to the relevance or non-discoverable evidence objection, as above. Asking for documents is not harassment, and you and your clients brought these issues into the case. In any regard, the requests are made for the purpose of discovery and I can conceive of no "harassment" that could come out of producing documents unless you feel that questioning the merits of your case (which I do) is "harassment." Your client's First Amendment rights are not somehow infringed by producing documents. The law requires that relevant documents be produced.

I request, therefore, that no later than noon on Tuesday, April 2, you notify me in writing of withdrawal of the objections asserted to requests for production 1, 2 and 3 to Project Vote, 1, 2, and 3 to ACORN, 1, 2, and 3 to the Georgia NAACP, and 1, 2, and 3 to GCPA and that you produce the responsive documents immediately and in no regard later than the close of business Friday, April 6, which is an additional week and one half extension from when you said you would produce them in your prior extension.

Documents Concerning Security and Confidentiality of Registration Information, Voter Fraud Prevention, and Registration Volunteer Training

Project Vote claims in a series of boilerplate objections, that Defendants' several requests for documents concerning security and confidentiality of registration information, voter fraud prevention, and training of volunteers are "vague, overly broad, and subject to varying interpretations." To the contrary, the requests are specific and narrow in the documents requested, which is why there are six separate requests for these documents, depending on what is sought. Each of these requests is addressed to specific documents, clearly stating the documents sought, and narrowly limited by date. The objections are groundless. Indeed, that they are groundless is evident that similar requests for training materials from ACORN, GCPA, and Georgia NAACP did not receive objections, although they produced nothing.

I request, therefore, that no later than noon on Tuesday, April 2, you notify me in writing of withdrawal of the objections to requests for production 6, 7, 8, 9, 10, and 11 to Project Vote and that you produce the responsive documents to these requests, as well as the documents responsive to request 14 to ACORN, request 11 to GCPA, and request 11 to Georgia NAACP, no later than the close of business Friday, April 6.

I note, in this regard, that in the responses you do refer me to "Project Vote's Voter Registration and Quality Control Manual," a document written by one of Plaintiffs' counsel (Brian Mellor) and ACORN's "training manual," whatever that is. You produce neither, saying I already have them. You do not produce or reference anything else. I wish to make clear that I am interested in, and my clients are entitled to, *all* documents that are responsive to these requests. That includes ACORN's "training manual" (which I do not have) and all other documents concerning security and confidentiality of registration information, voter fraud prevention, and training of volunteers, including drafts, that have been requested. Since you've produced Mr. Mellor's work I would like all of his drafts and transmittals of it (since to what extent ACORN's employees or volunteers know about and follow this manual is in question) and all associated documents that are responsive to the requests.

Documents Regarding ACORN's, GCPA's, and Georgia NAACP's Georgia Voter Registration Activities in 2004, 2005, and 2006

Although ACORN's, GCPA's, and Georgia NAACP's Georgia Voter Registration Activities are central issues in this case – they relate to standing, alleged injury, and alleged impact from the regulatory subpart in question – you have refused to produce any documents regarding these activities. Instead you claim that the requests for these documents are irrelevant, will not lead to discoverable information, are overly broad, vague, harassing, and violate the First Amendment. The information sought is relevant, and the objections asserted are meritless on their face.

Thus, I again request that no later than noon on Tuesday, April 2, you notify me in writing of withdrawal of the objections asserted to requests for production 12 to ACORN, 11 to the Georgia

NAACP, and 11 to GCPA and that you produce the responsive documents immediately and in no regard later than the close of business Friday, April 6.

Handouts, Flyers and Advertisements for Voter Registration Drives

Like the other requests addressed above, on behalf of your clients you offer the same canned objections as to relevancy, discoverable information, breadth, vagueness, harassment, and the First Amendment to the requests for handouts, flyers and advertisements of your client's voter registration activities in Georgia in 2004, 2005, and 2006. Again, I think it is obvious that your clients' activities in this regard are central issues in this case – you allege them in the complaint, they relate to their collection and use of voter registration forms, and they relate to standing.

Thus, once again I request that no later than noon on Tuesday, April 2, you notify me in writing of withdrawal the objections asserted to requests for production 8 to ACORN, 8 to the Georgia NAACP, and 8 to GCPA and that you produce the responsive documents immediately and in no regard later than the close of business Friday, April 6.

Complaints as to Voter Registration Conduct Against Your Clients

At the preliminary injunction hearing, as well as in your pleadings and clients' affidavits and testimony, you repeatedly referred to the supposed careful and appropriate conduct of your clients in handling completed voter registration applications. I believe, to the contrary, that this is untrue, and, indeed, that a substantial body of evidence may exist regarding your clients' misdeeds. In any regard, my clients are entitled to question your clients' assertions in this regard.

Your clients' responses offer the same canned objections as to relevancy, discoverable information, breadth, vagueness, harassment, and the First Amendment to the requests for this information. As to ACORN you also state, gratuitously, "Plaintiff states that it has no documentation of 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." The request asked for "[c]opies of all complaints . . . related to voter registration activities anywhere in the United States . . ." I am sure you are aware of the numerous complaints – both civil and criminal – that have been filed against ACORN regarding its voter registration activities in many places in the United States. I imagine ACORN (as well as some or all of the other Plaintiffs) has received complaints from private citizens as well and people it has sought or claimed to register. I am asking for you to immediately provide copies of *all* complaints, including citizen complaints to ACORN, as well as those to the other Plaintiffs. None of the numerous limitations you attempted to tack on to the request to ACORN were in the request.

Thus, I request that no later than noon on Tuesday, April 2, you notify me in writing of withdrawal of the objections asserted to requests for production 15 to ACORN, 12 to Project

Vote, and 12 to GCPA, and that you produce all the responsive documents immediately and in no regard later than the close of business Friday, April 6.

Correspondence

In a number of requests broken down to narrowly to focus on specific correspondence between specific people, the request was made for specific and relevant letters and email and their attachments. The responses were two fold in nature. Again the same canned and improper objections were made as to relevancy, discoverable information, breadth, vagueness, harassment, and the First Amendment. The correspondence sought is relevant and subject to discovery. The responses also claimed, each and every time that there was no such correspondence. I am startled at this assertion. I am given to believe by the response, for example, that ACORNs voter registration directors never correspond with anyone, that the grants alleged to be applied for and received in the Complaint never had any correspondence. Such a belief is hard to swallow, and will certainly be the subject of deposition testimony with associated attorney's fees due to the misleading discovery responses.

In any regard, I request that no later than noon on Tuesday, April 2, you notify me in writing of withdrawal of the objections asserted to requests for production 5, 6, 7, 9, 10, and 11 to ACORN; 5, 6, and 7 to Project Vote; 5, 6, and 7 to Georgia NAACP; and 5, 6, and 7 to GCPA. In addition, if you do not wish me to rely on your statements that there is no such correspondence to any of these requests, produce all the responsive documents immediately and in no regard later than the close of business Friday, April 6.

Grant and Financial Assistance Documentation

Your complaint and other pleadings address Project vote's involvement in making grants to groups that engage in voter registration activities, and in monitoring the recipient of its grants. That is how, supposedly, Project Vote's Voter Registration and Quality Control Manual, which you refer to in your responses, has any relevance. For reasons, of which I think you are aware, I am doubtful of any such grants in Georgia as to voting activities, and I asked for the grant documentation. You have provided nothing. If you do not wish me to rely on your implication that there are no such grants by your refusal to provide any of these documents – and I will be exploring this in depositions, please immediately provide me the documents sought by requests for production 4 to ACORN; 4 to Project Vote; 4 to Georgia NAACP; and 4 to GCPA immediately and in no regard later than the close of business Friday, April 6.

Need for Depositions

I will also wish to take the depositions of a number of witnesses in this case. These include (at the moment) the depositions of Brian Kettenring, Stephanie Moore, Nyana Miller, Brian Mellor, Edward DuBose, Helen Butler, Dana Williams, Michael Keischnick, and Margaret E. Gage. I would like to take them in April, and I will be as flexible as I can with scheduling. I realize that Mr. Keischnick and Ms. Gage are not your clients; however, given that you have submitted

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affidavits from them, I though you might prefer to contact them and arrange times rather than me simply noticing their depositions. As to Mr. Mellor I will try to be brief, but he has made himself a witness in this case by authoring Project Vote's Voter Registration and Quality Control Manual, which appears to be your primary document (as it is in fact the only specific document your responses refer to, I guess that makes it pretty important – I have some questions about it). I am currently unavailable until April 12, and then I am available every day in April except April 18.

I appreciate your immediate attention to the above.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stefan Ritter', written over the word 'Sincerely,'.

STEFAN RITTER

Senior Assistant Attorney General

cc: Shawn LaGrua
Elizabeth Westfall