

# Exhibit A

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION

THE NATIONAL ASSOCIATION FOR THE	)	
ADVANCEMENT OF COLORED PEOPLE	)	
(NAACP), INC., through its Missouri State	)	
Conference of Branches; MISSOURI	)	COMPLAINT FOR DECLARATORY
CITIZEN EDUCATION FUND;	)	AND INJUNCTIVE RELIEF
GRASSROOTS ORGANIZING; THE	)	
WHOLE PERSON; DISABLED CITIZENS	)	
ALLIANCE FOR INDEPENDENCE;	)	Case No. 06-4200
SOUTHWEST CENTER FOR	)	
INDEPENDENT LIVING; the following	)	
qualified and registered voter under Missouri	)	
law:	)	
EMMA MARIA FRENCHER	)	
BETHANY DEAN	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
ROBIN CARNAHAN, in her official capacity	)	
as Secretary of State of Missouri; MATT	)	
BLUNT, in his official capacity as Governor of	)	
Missouri; TRISH VINCENT, in her official	)	
capacity as the Director of the Missouri	)	
Department of Revenue; and WENDY	)	
NOREN, in her official capacity as Clerk of	)	
Boone County, Missouri	)	
	)	
Defendants.	)	

**I. PRELIMINARY STATEMENT**

This is an action to have the government-issued photo identification requirement for voters contained at Section 115.427 of the Missouri Revised Statutes, as amended in 2006, (the "Act") declared unconstitutional both facially and as applied, and to enjoin the further enforcement of the government-issued photo identification requirement on the grounds that: it imposes an unauthorized, unnecessary and undue burden on the fundamental right to vote in

violation of the Fourteenth Amendment to the U.S. Constitution; it is a poll tax in contravention of the Twenty-Fourth Amendment to the United States Constitution; it violates the Civil Rights Act of 1964, 42 U.S.C. § 1971(a)(2)(A) and (a)(2)(B); and it violates Section 2 of the Voting Rights Act of 1965, 42.U.S.C. § 1973(a).

## I. PARTIES

### A. Plaintiffs

1. Plaintiff **National Association for the Advancement of Colored People (NAACP), Inc.**, through its Missouri State Conference of Branches, is the nation's oldest civil rights organization. It was formed in 1909 by a multiracial group of activists, and is a non-profit, non-partisan organization. The NAACP has nationwide membership including eligible voters and offices in Missouri. The NAACP has advocated for the advancement and protection of voting rights for minorities and has, throughout its history, fought for access to the ballot, for its members and others. It has also fought to ensure that racial minorities, low income, and economic disadvantaged persons have access to the ballot box and the equal opportunity to participate in the political process.

2. Plaintiff **Missouri Citizens Education Fund (MCEF)** is a non-profit, non-partisan organization that conducts research on critical public policy issues facing the state, and provides training in citizenship skills to increase public participation in the political process. In 2004, MCEF conducted the largest non-partisan voter registration drive in Missouri, registering over 57,000 voters. MCEF is committed to ensuring that currently under-represented constituencies of eligible Missouri voters have full and fair access to the ballot.

3. Plaintiff **Grass Roots Organizing (GRO)** is a non-profit social justice organization incorporated in 2000, whose membership includes eligible voters throughout the state of Missouri. GRO organizes primarily within communities of low-income persons and

persons of color in rural Missouri, who are affected by laws, policies or practices that make it more difficult to exercise their constitutional rights, including the right to vote. GRO takes on difficult social and economic issues facing families, including issues related to voting rights, pursuant to GRO's organizational mission of creating a grassroots voice to win economic and democratic justice and human rights for all Missourians.

4. Plaintiff **The Whole Person**, a Center for Independent Living, is a non-profit, non-partisan organization, founded in 1979 to provide civil rights advocacy for and with people with disabilities in Jackson, Cass, Clay and Platte counties in Missouri. The majority of The Whole Person's staff and board of directors are people with disabilities. Historically, people with disabilities have been denied the basic civil rights of access to jobs, housing, and public accommodations, as well as the right to cast a private, independent ballot. As part of its advocacy, The Whole Person carries out a coordinated effort to register all people to vote, to educate them on their voting options and to remove barriers to voting.

5. Plaintiff **Disabled Citizens Alliance for Independence (DCAI)** is a not-for-profit organization committed to serving the needs of people with disabilities in Crawford, Dent, Iron, Reynolds, and Washington counties in Missouri. Established on October 1, 1980, DCAI was the first totally rural center to be funded by the United States Department of Education. Its mission is that every person, regardless of age or disability, realize total self-determination in all areas of his/her life, both at home and in the community. DCAI advocates on the philosophy that every citizen has the right and shall have the opportunity to be an independent, productive person fully integrated into every aspect and activity of our society, including his or her constitutional right to vote. Important aspects of its advocacy include registering individuals to vote, removing inaccessible voting booth barriers and providing transportation to voting precincts.

6. Plaintiff **Southwest Center for Independent Living (SCIL)** is a private, not-for-profit agency which was established in 1985 to provide services, advocacy, and resources for people with any disability in Southwest Missouri including Christian, Dallas, Green, Lawrence, Polk, Stone, Taney and Webster counties. The majority of SCIL's board of directors and staff are people with disabilities. SCIL works to promote a barrier-free environment for all people with disabilities through public education and advocacy for social change, including voter education, registering voters, and working to remove barriers to voting.

7. Plaintiff **Emma Maria Frencher** is a registered, eligible Missouri voter who resides in Kansas City, Missouri. She is of mixed race, including African-American. She has lawfully voted in person in Missouri in several past elections, including the 2000 and 2004 presidential elections. She does not possess unexpired Missouri state identification sufficient to vote in future elections, nor can she obtain one, because she does not possess and is unable to obtain her birth certificate. She was born in the state of Michigan, does not possess sufficient information to obtain her birth certificate from that state, and the fee to obtain the birth certificate is unduly burdensome upon her. Nor does she possess other photo identification acceptable under the Act. She will be unable to cast a regular ballot in the November 2006 general election if Mo. Rev. Stat. § 115.427 is not enjoined.

8. Plaintiff **Bethany Dean** is a registered, eligible Missouri voter who resides in Columbia, Missouri. She lawfully voted in Missouri in person in the 2004 election. She does not possess an unexpired Missouri state identification. She was born in California, and does not possess her birth certificate or social security card. Nor does she possess other photo identification acceptable under the Act. She will be unable to cast a regular ballot in the November 2006 general election if Mo. Rev. Stat. § 115.427 is not enjoined.

9. On information and belief, the above-named plaintiffs and one or more members or constituents of Plaintiffs NAACP, MCEF, GO, TWP, DCAI, and SCIL have been and are aggrieved by the actions of the Defendants complained of herein.

**B. Defendants**

10. **Robin Carnahan** is sued in her official capacity as the Secretary of State of Missouri. The Secretary of State is Missouri's chief election official and as such is responsible for compliance with the National Voter Registration Act, and the Help America Vote Act. Mo. Rev. Stat. §§ 28.035, 115.136. The Secretary of State has various specific duties. These include, but are not limited to, her duty to:

- Administer all statewide elections for both candidates and issues;
- Prepare statewide ballots for primary, general and certain special elections and send certified copies of those ballots to local election officials;
- Certify statewide ballot measures that are proposed by the General Assembly or through the initiative petition process;
- Chair the State Board of Canvassers which canvasses, certifies, and publishes election results;
- Assist the 116 local election authorities interpret and administer state election laws;
- Promulgate rules governing elections and electronic voting systems;
- Publish the Missouri election laws for use by county clerks and election boards.
- Produce various election materials including instructions for poll workers, calendars of annual election deadlines, a web site, training videos, and a manual for election authorities;
- Maintain a centralized voter registration database, for use by the local election authorities in Missouri; and
- Design the envelopes and forms necessary to carry out provisional balloting in Missouri.

MO. REV. STAT. §§ 115.103, 115.413, 115.430, 115.511; Missouri Secretary of State, "About the Elections Division," <<http://www.sos.mo.gov/elections/about.asp>> (last viewed Aug. 23, 2006).

11. **Matt Blunt** is sued in his official capacity as the Governor of Missouri. As Governor, he has the constitutional duty, pursuant to Art. 4, Sec. 2 of the Missouri Constitution, to "take care that the laws are distributed and faithfully executed...." This duty extends to the enforcement of the Act which he signed into law on June 14, 2006.

12. **Trish Vincent** is sued in her official capacity as the Director of the Department of Revenue. Pursuant to the Act, which amended the identification requirements for voting, her duties include offering no-fee identification cards to those who require them, and developing a plan for the deployment of mobile vans to offer such no-fee identification cards where voters need them.

13. **Wendy Noren** is sued in her official capacity as the Clerk of Boone County. As Clerk of Boone County, she is the responsible for conducting and administering all elections in Boone County.

### III. JURISDICTION AND VENUE

14. This case arises under the Constitution and laws of the United States. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331, 1343(a)(3) and (4), and 42 U.S.C. §§ 1971(d) and 1973j(f). This suit is authorized by 42 U.S.C. § 1983. This Court has jurisdiction to grant both declaratory and injunctive relief under 28 U.S.C. §§ 2201 and 2202.

15. Venue in this district and division is proper under 28 U.S.C. § 1391(b) because defendants Carnahan, Blunt, Vincent, and Noren all reside and may be found in this district, and a substantial part of the events giving rise to the claim occurred in this district.

#### IV. FACTUAL ALLEGATIONS

##### A. The New Government-Issued Photo Identification Requirement for Voters

16. In May 2006, both houses of the Missouri General Assembly passed the Missouri Voter Protection Act, which revises several provisions of Missouri election law. Governor Matt Blunt signed the Act into law on June 14, 2006. One of these provisions amends Missouri law to require voters to supply one of the following forms of “acceptable” government-issued photo identification, as specified by Mo. Rev. Stat. § 115.427(1):

- (1) A nonexpired Missouri driver license showing the name and a photograph or digital image of the individual;
- (2) A nonexpired or nonexpiring Missouri nondriver license showing the name and a photographic or digital image of the individual;
- (3) A document that satisfied all of the following requirements:
  - a. The document contains the name of the individual to whom the document was issued, and the name substantially conforms to the most recent signature in the individual’s voter registration record;
  - b. The document shows a photographic or digital image of the individual;
  - c. The document includes an expiration date, and the document is not expired, or if expired, expired not before the date of the most recent general election; and
  - d. The document was issued by the United States or the state of Missouri; or
- (4) Any identification containing a photographic or digital image of the individual which is issued by the Missouri National Guard, the United States armed forces, or the United States Department of Veteran Affairs to a member or former member of the Missouri National Guard or the United States armed forces that does not have an expiration date.

17. To comply with this new photographic identification requirement, Secretary Carnahan estimated that her office requires \$3.5 million. However, despite this estimate, the legislature did not appropriate money for the implementation of this requirement, and defendant Carnahan has stated that her office does not have sufficient funds available to implement the requirements of the Act.

18. Voters who do not have the required government-issued photo identification cannot vote a regular ballot at their respective precincts.

19. For any election held after November 1, 2008, the government-issued photo identification requirement will apply, and any voter without this identification will only be able to cast a provisional ballot. The provisional ballot will only be counted if the voter returns to the polling place during the specified polling hours with the required photographic identification. *See Mo. Rev. Stat. § 115.427(5).*

20. After November 1, 2008, only three groups of Missouri voters without a government-issued photo identification can have their provisional ballot counted in elections involving federal or state offices/issues without showing one of the requisite forms of identification. In order to invoke this provision, the voter must sign an affidavit stating that the voter is the person on the registration list that he or she claims to be, that the voter does not have an “acceptable form” of identification, and that the voter:

- a. Has a “physical or mental disability or handicap” but is otherwise competent to vote;
- b. Holds sincerely a “religious belief against” the forms of photographic identification required by the Act; or
- c. Was born on or before January 1, 1941.

Even then, such provisional ballots will be counted only if “the election authority verifies the identity of the individual by comparing that individual’s signature to the current signature on file with the election authority and determines that the individual was otherwise eligible to cast a ballot at the polling place where the ballot was cast.” Mo. Rev. Stat. §§ 115.427(3). There appear to be no rules in place in Missouri to regulate the standards for matching voters’ signatures.

21. There presently is no guarantee that provisional ballots will be available in all elections. See [www.dor.mo.gov/mvdl/drivers/voterid.htm](http://www.dor.mo.gov/mvdl/drivers/voterid.htm).

22. Eligible voters who are prevented from casting a regular ballot in Missouri will more likely than not find themselves disfranchised. Even if they are afforded the opportunity to cast a provisional ballot, fewer than half of all provisional ballots are counted in Missouri. Indeed, it appears that the likelihood of whether a voter has their provisional ballot counted varies widely throughout the state of Missouri.

23. While the Act provides that the State will issue identification cards through a “mobile processing system” that will target convalescent, nursing, and boarding homes, as well as “other public places accessible to and frequented by disabled and elderly persons,” Mo. Rev. Stat. § 115.427(7), news reports indicate that since the law was signed, the state's mobile units have issued only 44 identification cards.

<http://www.columbiatribune.com/2006/Aug/20060827News026.asp>. Moreover, state officials have stated that they will not provide the mobile processing system in low-income areas.

**B. The Photographic Identification Requirements are a Severe Restriction on the Voting Rights of Missourians**

24. The number of Missouri voters without photographic identification, by Defendant Carnahan’s own estimates, demonstrates the severity of the impact that the photographic identification requirement, if implemented, would have. Secretary Carnahan has estimated that

240,000 eligible voters do not have photographic identification required by the Act. *Thousands May Lack Proper ID, Carnahan Says*. Columbia Daily Tribune, August 19, 2006. Even Governor Blunt estimates that 170,000 voters will be disenfranchised by the law. *Id.* The curtailed debate on the photographic identification requirement sharply limited the window in which any of these thousands of soon-to-be disenfranchised voters could have offered evidence to persuade the legislature against adopting the requirement. *See Missouri Legislature Passes Voter ID Requirement*, St. Louis Post-Dispatch, May 12, 2006, available at <http://www.stltoday.com>.

25. There is normally a cost of \$11 to obtain a nondriver license. The fee is waived for individuals who sign an affidavit stating that they need the license for voting purposes and have no other form of identification that satisfies the government-issued photo identification requirement. As detailed below, however, in order to obtain the license, an individual is required to provide documents, several of which require a fee, and/or cannot be reasonably obtained.

26. Indeed, as of late July, only 629 people had obtained one of the free cards since the photo identification requirement went into effect. Jo Mannies, *Missouri May Face Voter Identity Crisis in Fall*, St. Louis Post-Dispatch, available at <http://www.stltoday.com>.

27. To obtain a nondriver license, an individual will have to provide proof of lawful presence, proof of identity, and proof of residence. *See Missouri Department of Revenue, Documents Required to Apply for or Renew a Missouri Driver License, Nondriver License, or Instruction Permit*, <http://www.dor.mo.gov/mvdl/drivers/idrequirements.pdf>.

28. Proof of lawful presence requires that the individual provide one of the following: a certified birth certificate, a United States Passport, a Certificate of Citizenship, a Certificate of Naturalization, or a Certificate of Birth Abroad. *Id.* Most Missourians would not be eligible to

have the latter three documents and would have to provide either a certified birth certificate or a United States passport.

29. A birth certificate costs \$15 in Missouri. State of Missouri Dep't of Health and Senior Services, Obtaining Certified Copies of Vital Records, <http://www.dhss.mo.gov/BirthAndDeathRecords/applications.html>. Missouri residents born out-of-state will be charged fees to obtain birth certificates from the state of their birth. Obtaining out-of-state documentation often takes several weeks, if not months, depending on the state.

30. In addition, some older residents were born before their state required birth certificates. Those born in 1930 or earlier who are unable to obtain a government-issued birth certificate may provide a certified "No Record Statement" from the person's state of birth plus two supporting documents such as "military records, child's birth certificate (hospital records are not acceptable), baptismal record, insurance policy, social security numident [sic], school records, and employment records." The documents need to have "sufficient information to establish place and date of birth." Missouri Department of Revenue, "Show Me Proof: Changes In ID Requirements," <http://www.dor.mo.gov/mvdl/drivers/idrequirements.htm>. Other eligible voters in Missouri were birthed by midwives, and therefore do not have a birth certificate, or lack the information necessary (such as complete identifying information for both parents) to obtain a birth certificate. Finally, some, particularly those born in Louisiana now residing in Missouri, now find that the records of their birth have been destroyed in catastrophes, such as Hurricane Katrina, and are unrecoverable.

31. It costs \$97 to obtain a passport. U.S. Dep't of State, Passport Fees, [http://travel.state.gov/passport/get/fees/fees\\_837.html](http://travel.state.gov/passport/get/fees/fees_837.html). Obtaining a U.S. passport requires an in-person appearance at a passport acceptance facility. See U.S. Dep't of State, Passports, [http://travel.state.gov/passport/passport\\_1738.html](http://travel.state.gov/passport/passport_1738.html). Once at a facility, voters will have to present

one of the following: a previous U.S. passport, a certified birth certificate, a Consular Report of Birth Abroad or Certification of Birth, a Naturalization Certificate, and a Certificate of Citizenship. *See* U.S. Dep't of State, How to Apply in Person for a Passport, [http://travel.state.gov/passport/get/first/first\\_830.html](http://travel.state.gov/passport/get/first/first_830.html).

32. If the document used to establish proof of lawful presence contains a different name than an individual's current name, the individual must provide proof of a name change by submitting one of the following documents with the individual's current name: a U.S. Passport, Social Security Card/Medicare card, Certified Marriage License, Certified Divorce Decree, Certified Court Order, or certified Adoption Papers or Amended Birth Certificate. Women who change their names after marriage are a group most likely affected by this proof of a name change requirement, and many lack the documentation necessary to confirm their identity.

33. Establishing proof of identity requires an individual to present a Social Security number, or if the individual does not have a social security number, a letter from the Social Security Administration indicating the status of the applicant's Social Security number. *See* Missouri Department of Revenue, Documents Required to Apply for or Renew a Missouri Driver License, Nondriver License, or Instruction Permit, <http://www.dor.mo.gov/mvdl/drivers/idrequirements.pdf>. Voters who would then have to apply for a Social Security number would be asked to present a copy of a birth certificate, as well as a driver's license, a state-issued nondriver license, or a U.S. passport to the Social Security Administration. *See* Social Security Administration, New Rules for Getting a Social Security Number and Card (March 2006), <http://www.ssa.gov/pubs/I0120.html>.

34. Establishing proof of residency requires that the individual provide one of the following documents

- a. Most recent utility bill, voter registration card, bank statement, government check, pay check, or property tax receipt;
- b. Housing rental agreement or mortgage documents; or
- c. An official letter or document from a state or local governmental agency; letter from the postmaster; or other government document issued in the last thirty days.

Complying with these requirements could require a voter to incur a variety of costs based on the method of proof chosen. The State-issued photographic identifications may appear facially to be costless, but even obtaining their prerequisites—let alone the IDs themselves—is a daunting burden for Missouri’s voters.

35. In addition to time, fees, and expenses, related to obtaining the documents needed to show proof of lawful presence, proof of identity, and proof of residency, there is the additional burden of obtaining the nondriver license. Voters without photographic identification must travel to and from the Department of Revenue (DOR), which will create transportation costs for all voters. Some counties in Missouri only have one DOR in each county. According to recent census data, 181,064 Missouri households—8.3% of total number of Missouri households—do not have any motor vehicles available. *See* U.S. Census Bureau, Census 2000 Summary File 3, <http://factfinder.census.gov>. These households will have increased difficulty finding transportation and traveling to the necessary DORs. Furthermore, some Missouri voters will be required to miss significant portions of their workdays to obtain their ID because many of the DOR offices close for an hour for lunch or are not open on the weekends, and because all DOR offices are closed to the public after 5:00 p.m. *See generally* Missouri Dep’t of Revenue, Dep’t of Revenue Office Location Map, <http://www.dor.mo.gov/mvdl/offloc/>.

36. The burdens of complying with the specified government-issued photo identification requirement will fall most heavily on those: (1) who are poor because of the costs of obtaining the required identification; (2) have limited or no access to automobile transportation; (3) have moved from out-of-state and do not have the required identification; and (4) have changed their names and do not have certain documents in their current names; (5) who cannot obtain a birth certificate or other documentation because they lack necessary information or because those documents have been destroyed; and (6) those who cannot take the time off from work during the period of time the DOR offices are open.

37. Among the identifiable groups that will be disproportionately affected are: (1) African American and Latino voters who, on average, have lower incomes and less access to automobiles than other voters; (2) students, who are more mobile and often have drivers licenses from other jurisdictions; (3) women who have changed their names one or more times as a result of marriage or divorce and may not have residential documents in their present name; (4) the disabled who may be physically unable to obtain the required documentation; (5) older voters, who may have been born before birth certificates were issued, may not drive, may live in circumstances (such as with other family members or in supportive care facilities) where they do not have residential documents in their name, may be unable or disinclined to travel outside the U.S. and thus have no passport, or may be disabled; and (6) the working poor whose jobs do not permit them the time to obtain their identifications when the DOR is open.

38. Given the number of people who lack the required government-issued photo identification and the myriad obstacles faced in obtaining the required identification, the government-issued photo identification places a severe burden on the right to vote. This severe burden on the right to vote begins in November 2006, when federal elections are being held.

1. **There Is No Necessary or Reasonable Factual Basis for the Government-Issued Photo Identification Requirement**

39. The Governor and members of the Missouri General Assembly have indicated that the government-issued voter identification requirement was enacted to prevent election fraud. Notwithstanding the government-issued photo identification requirement, Missouri has a comprehensive legislative scheme preventing in person election-related fraud, which has been updated several times in recent years. Supporters of the identification requirement allege that requiring identification at the polls is designed to prevent one type of election-related fraud – where an individual impersonates a registered voter. This type of election-related fraud has not been a significant problem in Missouri (indeed, there appears not to have been any measurable voter impersonation fraud in recent years), and there is no indication that the previous voter identification requirement, which was amended substantially in 2002, has not been effective. As a result, the government-issued photo identification requirement is not reasonable, let alone necessary.

40. Before the government-issued photo identification requirement was enacted, Missouri already had a number of protections against election-related fraud, including identification requirements at the time a citizen registered to vote and at the time of voting. Voter registrants have been, and continue to be, required to present “a copy of a birth certificate, a Native American tribal document, other proof of United States citizenship, a valid Missouri driver’s license or other form of personal identification at the time of registration.” MO. REV. STAT. § 115.135. The registrant has also been required to sign a statement stating the following in all capital letters:

“I UNDERSTAND THAT IF I REGISTER TO VOTE KNOWING THAT I AM NOT LEGALLY ENTITLED TO REGISTER, I AM COMMITTING A CLASS ONE ELECTION OFFENSE AND MAY BE PUNISHED BY IMPRISONMENT OF NOT

MORE THAN FIVE YEARS OR BY A FINE OF BETWEEN TWO THOUSAND FIVE HUNDRED DOLLARS AND TEN THOUSAND DOLLARS OR BY BOTH SUCH IMPRISONMENT AND FINE. MO. REV. STAT. § 115.155.

41. Before 2006, voters were also required to provide one of the following types of identification at the polls: “(1) Identification issued by the state of Missouri, an agency of the state, or a local election authority of the state; (2) Identification issued by the United States government or agency thereof; (3) Identification issued by an institution of higher education, including a university, college, vocational and technical school, located within the state of Missouri; (4) A copy of a current utility bill, bank statement, government check, paycheck or other government document that contains the name and address of the voter; (5) Driver's license or state identification card issued by another state; or (6) Other identification approved by the secretary of state under rules promulgated pursuant to subsection 3 of this section [and] other identification approved by federal law.” MO. REV. STAT. § 115.427.1. The only voters who did not have to provide identification were those known by the two supervisory election judges where those judges signed an affidavit stating that they know the voter. *Id.*

42. Additionally, Missouri has enacted a comprehensive scheme that criminalizes fifty-eight different types of election offenses that are divided into four classes. MO. REV. STAT. § 115.631, 115.633, 115.635, 115.637. These offenses include a person knowingly illegally registering to vote or voting or procuring another person to do the same, all of which are punishable by up to five years of imprisonment and/or a ten thousand dollar fine. Mo. Rev. Stat. §115.631.

43. Many of these laws have been added or amended in the last several years in response to reports of election-related fraud, particularly after the November 2000 election. There has been no indication that the legislative response since 2000 had been inadequate in

preventing election-related fraud – particularly with respect to voter impersonation – and that requiring government-issued photo identification would prevent election-related fraud that had occurred under the previous voter identification provision. Indeed, Governor Blunt, while he was Secretary of State in 2004, “declared Missouri’s elections free of ‘fraud and chaos.’” *Missouri Legislature Passes Voter ID Requirement*, St. Louis Post-Dispatch, May 12, 2006, available at <http://www.stltoday.com>.

44. Absentee ballots are excluded from the new voter identification requirement, thus creating a two-tiered system for voting where some voters – those that vote in person – must navigate more substantial bureaucratic barriers to cast their ballots than those who vote by absentee. This two-tiered system is particularly suspect when even most supporters of voter identification requirements acknowledge that voter impersonation fraud – to the degree it exists at all – occurs almost exclusively amongst absentee ballots.

## V. CLAIMS FOR RELIEF

### Claim One

#### Undue Burden on the Fundamental Right to Vote in Violation of Equal Protection Clause of the Fourteenth Amendment to the United States Constitution

45. Paragraphs 1 through 44 are incorporated by reference.

46. In analyzing claims under the fundamental right to vote under the Fourteenth amendment, the Supreme Court has held that:

A court considering a challenge to a state election law must weigh “the character and magnitude of the asserted injury to the rights protected by the [Constitution] that the plaintiff seeks to vindicate” against “the precise interests put forward by the State as justifications for the burden imposed by the rule,” taking into consideration “the extent to which those interests make it necessary to burden the plaintiff’s rights.”

*Burdick v. Takushi*, 504 U.S. 428, 434 (1992) (quoting *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983) and *Tashjian v. Republican Party of Connecticut*, 479 U.S. 208, 213-14 (1986)).

Severe restrictions on the right to vote can be only justified if they are necessary to achieve a compelling state interest; less onerous restrictions must be reasonable and non-discriminatory. As described above, the specified government-issued photo identification requirement poses a severe, unreasonable, and discriminatory burden on eligible voters.

47. Even if assuring that only qualified persons may vote is considered a compelling state interest, the inquiry hardly ends there. The purported state interest cannot be analyzed in a vacuum.

48. The specified government-issued photo identification requirement is allegedly designed to prevent impersonation at the polls. The General Assembly had no evidence before it demonstrating that impersonation at the polls has been a significant problem. Indeed, the pre-existing identification requirements and other civil and criminal provisions concerning election fraud have proven to be effective, less restrictive alternatives that obviate any need for a government-issued identification requirement. *Dunn v. Blumstein*, 405 U.S. 330 (1972); *Harper v. Virginia Board of Elections*, 383 U.S. 663 (1972). Finally, the method most likely to be used to commit voter fraud – absentee ballots – is exempted from the identification requirement. Thus the law provides those who would commit such fraud, if they exist at all, a road map to effectively commit such fraud.

### Claim Two

#### Unconstitutional Poll Tax on the Right to Vote In Violation of Both the Fourteenth and the Twenty-Fourth Amendments

49. The allegations of paragraphs 1 through 48 are incorporated by reference.

50. Section 1 of the Twenty-fourth Amendment provides that:

The right of citizens of the United States to vote in any primary or general election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or

abridged by the United States or any State by reason of failure to pay a poll tax or other tax.

By virtue of its prohibition of *abridgment* as well as denial of the right to vote, “the Twenty-fourth nullifies sophisticated as well as simple-minded modes of impairing the right to vote.” *Harman v. Fossenius*, 380 U.S. 528, 540-41 (1965).

51. The repugnant results of the poll tax that prompted passage of the Twenty-fourth Amendment exist in the government-issued photo identification requirement: “disenfranchisement of the poor occasioned by failure to pay the tax,” as well as disenfranchisement of “a substantial number of voters who did not plan [] far [enough] ahead.” *Id.* at 539-40.

52. Conditioning the right to vote on the production of the specified government-issued photo identification that requires some voters to pay for the identification or pay for the underlying necessary documents, or to pay for transportation, or to forego wages to obtain that identification is a poll tax that violates the Twenty-fourth Amendment.

### Claim Three

#### Violation of the Civil Rights Act of 1964, 42 U.S.C. §§ 1971(a)(2)(A)

53. The allegations of paragraphs 1 through 52 are incorporated by reference.

54. The photographic identification requirement of the Missouri Voter Protection Act, as set forth in MO. REV. STAT. § 115.427 and the implementing regulations, violates the Civil Rights Act of 1964, 42 U.S.C. § 1971(a)(2)(A), which provides that:

No person acting under color of law shall ... in determining whether any individual is qualified under State law or laws to vote in any election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to vote...

55. The photographic identification requirement violates 42 U.S.C. § 1971(a)(2)(A) because different standards with respect to identification requirements are applied to individuals within the same county who are born on or before January 1, 1941, or who are mentally or physically disabled, as compared to those who do not fit either description. Voters who meet the requirement for an exemption are able to cast provisional ballots that may be counted whereas other voters are not eligible to even cast a ballot that might be counted after November 1, 2008. Additionally, different standards are applied to those eligible voters who vote absentee, as compared to those who vote in person at the polls.

56. Because Mo. Rev. Stat. § 115.427 allows only some validly registered voters who lack the specified government-issued photo identification to cast ballots that may count but not other voters, Mo. Rev. Stat. § 115.427 violates 42 U.S.C. § 1971(a)(2)(A).

#### **Claim Four**

##### **Violation of the Civil Rights Act of 1964, 42 U.S.C. §§ 1971(a)(2)(B)**

57. The allegations of paragraphs 1 through 56 are incorporated by reference.

58. The polling place photographic identification requirement of the Act violates the Civil Rights Act of 1964, 42 U.S.C. § 1971(a)(2)(B), which provides that:

No person acting under color of law shall ... deny the right of an individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election;...

59. The government-issued photo identification requirement contained in Mo. Rev. Stat. § 115.427 violates 42 U.S.C. § 1971(a)(2)(B) because the requirement denies citizens who are lawfully registered and fully qualified the right to vote in person at a polling place based solely on whether they have identifying documents deemed acceptable, regardless of whether their identity may be established by other legitimate means.

Claim Five

Violation of Section 2 of the Voting Rights Act

60. The allegations of paragraphs 1 through 59 are incorporated by reference.

61. Section 2 of the Voting Rights Act of 1965, 42 U.S.C. § 1973(a), provides:

No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgment of the right of any citizen of the United States to vote on account of race or color.

62. African-American and Latino citizens of Missouri, as a group, have lower family and personal incomes than citizens of Missouri who are white and are therefore less likely, as a group, to have Missouri driver licenses or the documents required to obtain driver or nondriver licenses than are white citizens.

63. African-American and Latino citizens of Missouri, as a group, have lower family and personal incomes than citizens of Missouri who are white and are less likely, as a group, to have bank or credit union statements, utility bills in their name, vehicle registration and insurance cards, or other government-issued photographic identification deemed “acceptable” to establish eligibility to vote by mail or at the polls.

64. The Act’s photographic identification requirement is a qualification or prerequisite to voting that has resulted and will continue to result in the denial or abridgment of the right to vote to individual plaintiffs and others on account of race or color in violation of Section 2 of the Voting Rights Act, 42 U.S.C. § 1973(a). The specified government-issued photo identification requirement, under the totality of circumstances, results in the political process not being equally open to participation by African-American or Latino citizens in that such citizens have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. *Id.* § 1973(b).

**Irreparable Harm/Inadequate Remedy at Law**

65. Elections under which the government-issued photo identification requirement will be in place begin with the Congressional and statewide elections that are scheduled for November 7, 2006.

66. The plaintiffs and members of the organizational plaintiffs who do not have one of the forms of government-issued photo identification required by Mo. Rev. Stat. § 115.427 to establish eligibility to vote will be irreparably harmed if they are forced, between now and the next election either (a) to obtain new identification, (b) vote a provisional ballot that may not be counted; or (c) to forfeit their rights as Missouri citizens qualified to register and vote in the next and subsequent elections or referenda in their respective voting districts or political subdivisions for which they cannot be adequately compensated in an action at law for money damages. Additionally, the organizational plaintiffs with members who lack the government-issued photo identification required by Mo. Rev. Stat. § 115.427 are required to shift limited resources away from existing programs and apply such resources to helping members comply with the Act's identification requirements.

WHEREFORE, Plaintiffs respectfully pray that:

- (a) the Court enter a declaratory judgment pursuant to 28 U.S.C. § 2201 declaring Mo. Rev. Stat. §§ 115.427, as amended by the Missouri Voter Protection Act, unconstitutional, unlawful, null and void;
- (b) the Court enter a preliminary and permanent injunction pursuant to Fed. R. Civ. P. 65 restraining and enjoining defendant and all those acting in concert with them from enforcing or applying MO. REV. STAT. §§ 115.427, as amended in 2006, to deny plaintiffs or any other qualified Missouri resident the right to vote, obtain a ballot, cast a ballot, and have their ballots counted in any primary, general, special, run off or referenda

election in Missouri because of their inability to provide government-issued photo identification as required by MO. REV. STAT. §§ 115.427, as amended in 2006;

- (c) Plaintiffs recover their reasonable attorney's fees and costs, as provided for in 42 U.S.C. §§ 19731(e), 1988; and
- (d) Plaintiffs have such other and further relief as may be just and equitable.

Respectfully submitted this 6th day of September, 2006.

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