

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CHARLES HARKLESS, <i>et al.</i> ,	:	
	:	CASE NO. 1:06CV2284
Plaintiffs,	:	
	:	JUDGE PATRICIA GAUGHAN
v.	:	
	:	MAGISTRATE JUDGE
J. KENNETH BLACKWELL, <i>et al.</i> ,	:	VECCHIARELLI
	:	
Defendants.	:	

**DEFENDANT BARBARA RILEY'S
MOTION TO DISMISS PLAINTIFFS' COMPLAINT**

Now comes Defendant, Barbara Riley, in her official capacity as Director of the Ohio Department of Job and Family Services and respectfully moves this Court to dismiss Plaintiffs' Complaint pursuant to Civ.R. 12(b)(1) and 12(b)(6). The reasons for this motion are set forth more fully in the attached memorandum.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

A. Background Regarding the National Voter Registration Act in Ohio

In 1993 Congress enacted the National Voter Registration Act (“NVRA”), which governs voter registration for federal elections. See 42 U.S.C. § 1973gg-2 to § 1973gg-9. The NVRA provides, in relevant part, that each State must designate all offices in the State that provide public assistance as mandatory voter registration agencies (VRA’s). Each State must also designate as VRA’s all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities. See 42 U.S.C. § 1973gg-5(a)(2)(A)&(B).

In addition to the services they normally provide, these public assistance/disability service offices, designated as mandatory VRA’s, must: (1) distribute voter registration applications to applicants; (2) offer applicants assistance in completing the forms unless the applicants refuse such assistance; and (3) accept completed forms for transmittal to the appropriate State election official. See 42 U.S.C. § 1973gg-5(a)(4)(A).

These voter registration applications must be distributed with each application for public assistance and/or disability services and with each recertification, renewal, or change-of-address form relating to such service or assistance unless the applicant, in writing, declines to register to vote. See 42 U.S.C. § 1973gg-5(a)(6)(A).

Each State is to designate a State officer or employee as the chief State election official to be responsible for coordination of State responsibilities under the NVRA. See

42 U.S.C. § 1973gg-8. Ohio has designated the Secretary of State as the chief election official of the State. See Ohio Revised Code 3501.04.

The Ohio Department of Job and Family Services (“ODJFS”) is designated as a VRA. See Ohio Revised Code 3501.01(X). The 88 county departments of job and family services agencies (“County Departments”) are also designated by statute as VRA’s. See Ohio Revised Code 329.051.

Ohio Revised Code 329.051 states the following:

The county department of job and family services shall make voter registration applications as prescribed by the secretary of state under section 3503.10 of the Revised Code available to persons who are applying for, receiving assistance from, or participating in any of the following: (A) the disability financial assistance program established under Chapter 5115. of the Revised Code; (B) the disability medical assistance program established under Chapter 5115. of the Revised Code; (C) the medical assistance program established under Chapter 5111. of the Revised Code (aka Medicaid); and the Ohio works first program established under Chapter 5107. of the Revised Code (aka Temporary Assistance to Needy Families “TANF”).

Ohio statutes track the registration requirements for VRA’s established in the NVRA. Those statutes require VRA’s to furnish voter registration forms to applicants, offer assistance with completion of forms, and accept completed forms for transmittal to the county board of elections in which the agency is located. See Ohio Revised Code 3503.10(B), (D), & (E)(2).

However, Ohio law specifically limits the role that the Ohio Department of Job and Family Services, its departments, its divisions and its programs can assume in administering aspects of the voter registration program. ODJFS is prohibited from undertaking any administrative actions regarding the voter registration program unless the NVRA, Ohio Revised Code 3503.10, or the Ohio Secretary of State explicitly provides for it. See Ohio Revised Code 3503.10(L).

Neither the NVRA, the Ohio Secretary of State, nor Ohio Revised Code 3503.10 provides that a state agency such as ODJFS must ensure NVRA compliance by a County Department. Thus, ODJFS is prevented by Ohio Revised Code 3503.10(L) from ensuring that the County Departments comply with the NVRA.

The role of a County Department as a voter registration agency is more fully detailed in the Ohio Administrative Code. According to Ohio Admin. Code 5101:1-2-15(C), each County Department must provide voter registration forms to applicants/participants in the Ohio Works First program, the Disability Financial Assistance program, the Prevention, Retention and Contingency program, and the Food Stamps program. Each County Department must also assist these applicants/participants in completing the forms, and accept the completed forms for transmittal to the appropriate local county board of elections. See also Ohio Admin. Code 5101:1-2-01(B)(3), (D)(1), & (K)(2). Also, the County Department must provide a voter registration form and notice of rights to a person at the time of a Medicaid application. See Ohio Admin. Code 5101:1-38-01.2(A) & (B)(2)(j).

Thus, people who want to apply for or participate in public assistance programs in Ohio are served locally by the applicable county departments of job and family services. These County Departments are statutorily established as “designated agencies” in the state of Ohio for purposes of the NVRA. Based on Ohio Revised Code 3503.10(L), ODJFS can not administer County Department voter registration matters.

B. The Plaintiffs

Plaintiff ACORN is a non-profit organization incorporated in Louisiana with six Ohio chapters and more than 5,600 members in its chapters. (Complaint ¶ 7.) ACORN is

devoted to organizing low- and moderate-income individuals. (Complaint ¶ 38.) Many of its members allegedly receive public assistance. *Id.* ACORN believes that a community is strengthened when more people vote. *Id.* ACORN has allegedly spent hundreds of thousands of dollars each year on voter registration activities in Ohio. (Complaint ¶ 39.)

According to the Complaint, Plaintiff Carrie Harkless receives public assistance such as Ohio Works First, Medicaid, and Food Stamps. She has lived all of her life in Lorain, Ohio. Less than one year ago she moved to a new address in Lorain, but she is still registered to vote at her previous address. (Complaint ¶¶ 41-43.) She has made numerous visits to unnamed DJFS offices since 2004. In July and August 2006, she visited the DJFS office at 42485 North Ridge Road, Elyria, Ohio. (Complaint ¶ 44.) This office is the Lorain County Department of Job and Family Services. See <http://www.lcdjfs.com>. During her visits she was allegedly not offered the opportunity to register to vote or to change her voter registration address or told that she could get a change of voter registration address application. (Complaint ¶ 44.)

According to the Complaint, Plaintiff Tameca Mardis has lived in Cleveland, Ohio, her entire life. She is not registered to vote. She currently receives Food Stamps, Medicaid and Ohio Works First. (Complaint ¶¶ 46-49.) Plaintiff Mardis has allegedly made many visits to unnamed DJFS offices, including her most recent visit to the DJFS office claimed to be located at 2502 West 25th Street, Cleveland, Ohio, in March 2006. This office is actually located at 2012 W. 25th Street, Cleveland, Ohio, and is a neighborhood family service center of the Cuyahoga County Department of Human Services. See <http://cfs.cuyahogacounty.us/report/toc.htm> and

<http://employment.cuyahogacounty.us/services.htm>.¹ Ms. Mardis alleges that she has never been offered an opportunity to register to vote or been told that she could get a voter application form and register to vote there.

Plaintiffs Harkless and Mardis have alleged that they have not been provided voter registration materials at the public assistance agencies they have visited. On May 12, 2006, counsel for Plaintiff ACORN sent a letter to Defendant Secretary of State Blackwell to provide written notice of an alleged violation of the NVRA. (Complaint ¶ 33.) After notice of a violation of the NVRA is received by the state's chief election officer, time is provided so the violation may be corrected. If the violation is not corrected within a certain time period, the aggrieved person may then bring a civil action for declaratory or injunctive relief, according to 42 U.S.C. § 1973gg-9(b).

C. Plaintiffs' Allegations Against Director Riley

Plaintiffs allege that Director Riley violated the NVRA because of her alleged failure to provide the voter information and registration opportunities and assistance required by 42 U.S.C. § 1973gg-5. (Complaint ¶ 54.)

This claim is predicated on vague, conclusory allegations against Director Riley. The Plaintiffs allege that: 1) Director Riley, who administers most of the public assistance programs in Ohio covered by the NVRA, has failed to ensure implementation of programs and procedures to make voter registration available in "agency offices" (Complaint ¶ 3); 2) there is widespread ongoing noncompliance with the requirements of the NVRA at "the state's DJFS offices" (Complaint ¶ 23); 3) Defendants have failed to monitor NVRA compliance by, or enforce the NVRA in, "DJFS offices" (Complaint ¶

¹ According to R.C. 329.011, a county department of human services should be deemed to be a county department of job and family services.

26); and 4) proof of Defendants' failure to comply with the NVRA is evidenced by low overall registration rates "at DJFS offices." (Complaint ¶ 31.) Based on the Complaint as a whole, it is evident that Plaintiffs are referring to County Departments rather than to ODJFS when they refer to "agency offices" or "DJFS offices." See, *e.g.*, Complaint, ¶¶ 5, 6, 15, 26-31, 36, 44, and 51.

Plaintiff ACORN does not allege that Director Riley or any ODJFS staff ever denied voter registration applications to any of ACORN's members in Ohio. Rather, it claims that its members who are registered to vote have an interest in other members of their community being registered to vote. (Complaint ¶ 38.)

Plaintiffs' specific allegations of NVRA violations relate to specific Ohio county departments of job and family services. The Plaintiffs essentially allege that: 1) in specific County Department offices, voter registration applications were not available (Complaint ¶¶27- 28); 2) in certain County Department offices, not a single voter was registered in the 2002-2004 reporting period (Complaint ¶¶ 29-30); 3) Plaintiff Harkless visited unnamed offices and recently visited the County office at 42485 North Ridge Road, Elyria, Ohio (aka Lorain County Job and Family Services) for public assistance benefits and has never been offered the opportunity or given an application to register to vote or to change her voter registration address (Complaint ¶ 44); and 4) Plaintiff Mardis visited unnamed offices and recently visited a County office in 2502 West 25th Street, Cleveland, Ohio (this is actually a neighborhood family center of Cuyahoga County Department of Human Services which is located at 2012 W. 25th Street, Cleveland, Ohio) for public assistance benefits and she was not offered the opportunity or given an application to register to vote. (Complaint ¶ 51.)

Plaintiffs' Complaint is not clear as to what noncompliant conduct it alleges against Director Riley. It appears that the Plaintiffs are trying to hold Director Riley vicariously liable for the conduct of various county departments of job and family services.

II. STANDARD OF REVIEW

Review of a motion to dismiss for lack of subject matter jurisdiction under Fed.R.Civ.P. 12(b)(1) requires a court to "accept as true all material factual allegations in the complaint." *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974). Allegations in the complaint should be construed in favor of the pleader. *Scheuer*, 416 U.S. at 237. A court, however, is "not bound to accept as true a legal conclusion couched as a factual allegation." *Papasan v. Allain*, 478 U.S. 265, 286 (1986). When the question to be considered is one involving the jurisdiction of federal courts, "jurisdiction must be shown affirmatively, and that showing is not made by drawing from the pleadings inferences favorable to the party asserting it." *Norton v. Larney*, 266 U.S. 511, 515 (1925), *accord*, *Walls v. Waste Resource Corp*, 761 F.2d 311, 317 (6th Cir. 1985). The plaintiff bears the burden of proving that subject matter jurisdiction exists. *Walls*, 761 F.2d at 317, *citing*, *McNutt v. General Motors Acceptance Corp.*, 298 U.S. 178, 189 (1936).

Review of a complaint for failure to state a claim under Fed.R.Civ.P. 12(b)(6) requires the Court to construe the complaint liberally in plaintiff's favor and accept all factual allegations and permissible inferences as true. See *Sistrunk v. City of Strongsville*, 99 F.3d 194, 197 (6th Cir. 1996). Despite this instruction to construe the complaint liberally in a plaintiff's favor, a complaint must contain "either direct or inferential allegations respecting all the material elements" and those allegations must amount to

more than “bare assertions of legal conclusions.” *Scheid v. Fanny Farmer Candy Shops, Inc.*, 859 F.2d 434, 436 (6th Cir. 1988) (quoting *Car Carriers, Inc. v. Ford Motor Co.*, 745 F.2d 1101, 1106 (7th Cir. 1984)). Ultimately, because a Fed.R.Civ.P. 12(b)(6) motion tests the sufficiency of the complaint, the Court’s review amounts to a determination of whether it is possible for the plaintiff to prove any set of facts in support of his claims that would entitle him to relief. See *Miller v. Currie*, 50 F.3d 373, 377 (6th Cir. 1995).

III. LAW AND ARGUMENT

A. Plaintiff ACORN Lacks Standing, and Plaintiffs Harkless and Mardis Failed to Provide the Required Notice Prior to Suit.

To bring a claim in federal court, the plaintiff has the burden of showing it has standing to bring the claim pursuant to Article III of the U.S. Constitution. See *Valley Forge Christian College v. Americans United for Separation of Church and State*, 454 U.S. 464, 471 (1982). As an aspect of justiciability, the standing question is whether the plaintiff has alleged such a personal stake in the outcome of the controversy as to warrant his/her invocation of federal-court jurisdiction and to justify exercise of the court’s remedial powers on his/her behalf. *Warth v. Seldin*, 422 U.S. 490, 498-499 (1975).

To demonstrate standing *on its own behalf*, an organization must show that it has itself suffered an injury; it must be seeking to vindicate a right or immunity that the organization itself enjoys. See *id.* at 511. In order to demonstrate *associational* standing (that is, standing to sue on behalf of its members), a plaintiff organization must show that: 1) its members would otherwise have standing to sue in their own right; 2) the interests it seeks to protect are germane to the organization’s purpose; and 3) neither the claim asserted nor the relief requested requires the participation of the individual

members in the lawsuit. *Hunt v. Washington State Apple Advertising Comm'n*, 432 U.S. 333 (1977).

Plaintiff ACORN is a non-profit organization incorporated in Louisiana with six Ohio chapters and more than 5,600 members in its chapters. (Complaint ¶ 7.) Neither Plaintiff Harkless nor Plaintiff Mardis are alleged to be members of ACORN. According to the Complaint, ACORN is devoted to organizing “low- and moderate-income families [who work] together for social justice and stronger communities.” (Complaint ¶ 7.) Many of their members allegedly receive public assistance. (Complaint ¶ 38.) ACORN believes that increasing the number of people who vote strengthens a community. (Complaint ¶ 38.) ACORN has allegedly spent hundreds of thousands of dollars each year on voter registration activities in Ohio. (Complaint ¶ 39.)

ACORN lacks standing to sue on its own behalf, because it is not seeking to vindicate a right or immunity that ACORN enjoys. See *Warth* at 511. ACORN has not even attempted to identify such a right or immunity, unless it attempted to do so by alleging that it has spent time and resources to make voter registration available to low-income citizens. (See Complaint ¶ 4.) But ACORN enjoys no legal right *itself* to public-assistance agencies’ compliance with the NVRA. Furthermore, ACORN has no legal right to spend less money than it does on its organizing activities.

Finally, assuming *arguendo* that ACORN would have sustained a legal injury by conducting more voter-registration activities—or spending more resources on them—than it would have absent the alleged noncompliance, ACORN does not allege that its voter-registration activities resulted in a drain on its resources—*i.e.*, that ACORN would not have conducted its activities absent the alleged noncompliance. See *Assoc’n of*

Community Orgs. For Reform Now v. Fowler, 178 F.3d 350, 360 (5th Cir. 1999) (holding that ACORN's voter-registration activities that likely would have been conducted anyway and/or were conducted along with ACORN's normal activities was insufficient to confer standing on ACORN to sue on its own behalf for alleged NVRA violations).

As the Sixth Circuit has held, an organization's mere interest in a problem is not enough to confer standing. See *Greater Cincinnati Coalition for the Homeless v. City of Cincinnati*, 56 F.3d 710, 716 (6th Cir. 1995) (citation omitted). It must instead show that its "ability to further its goals has been 'perceptively impaired' so as to "constitute far more than simply a setback to the organization's abstract social interests." See *id.* (quoting *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 (1982)). ACORN's interest in having more people vote, as a believed means of strengthening communities, is just the type of "abstract social interest" that cannot confer standing. See *Nat'l Taxpayers Union v. United States*, 314 U.S. App. D.C. 377, 68 F.3d 1428, 1433 (D.C. Cir. 1995) (interest in people's access to medical care, their ability to obtain products at lowest possible prices, or in seeing the law obeyed or a social goal furthered does not confer standing on an organization) (citations omitted). Instead, an organization "must allege that discrete programmatic concerns are being directly and adversely affected." See *id.* (quoting *American Legal Foundation v. FCC*, 257 U.S. App. D.C. 189, 808 F.2d 84, 91 (D.C. Cir. 1987)). In sum, ACORN fails the test for standing to sue on its own behalf.

ACORN also fails the test for associational standing here. First, ACORN nowhere in the Complaint clearly asserts what its purpose is, making it impossible to ascertain whether the interests at stake in this case are "germane" to that purpose. See *Hunt* at 343. But if ACORN's description of itself as being "devoted to organizing low- and moderate-

income families” in paragraph 38 of the Complaint can be said to constitute ACORN’s claim of what its purpose is, its standing still cannot be established. The ability to obtain voter registration assistance and materials at offices providing public assistance is not germane to the purpose of organizing low- and moderate-income families. Nothing about the alleged noncompliance by County Departments interferes with ACORN’s ability to conduct its activities.

ACORN’s allegation is merely that it has conducted voter-registration activities that would have been unnecessary absent the County Departments’ alleged noncompliance with the NVRA. This is insufficient to confer standing under *Great Cincinnati Coalition, supra*. Furthermore, even if the Court were to grant the remedy requested and establish a plan so that County Departments provide more training and offer more voter registration materials to public assistance applicants, ACORN does not explain how its ability to organize low- and moderate-income people would be improved. See *Walden* at 508 and Complaint, p. 16 Prayer for Relief i-iv.

Second, and perhaps more striking, ACORN has not shown that even one of its members could sue on his or her own behalf. See *Hunt* at 343. Neither of the individually-named Plaintiffs is alleged to be a member of ACORN. Nor has ACORN alleged that any member was harmed by the alleged noncompliance by County Departments. ACORN asserts only that its members “have an interest in other members of their community being registered to vote.” See Complaint ¶ 38. But any NVRA noncompliance resulting in *others* not being registered concerns only the rights of those others, not the legal rights of the ACORN members themselves. “A ‘plaintiff generally must assert his own legal rights and interests, and cannot rest his claim to relief on the

legal rights or interests of third parties.” See *Greater Cincinnati Coalition* at 718 (quoting *Warth* at 499). ACORN has not pointed to any recognized legal right to have others be registered to vote.

Thus, because ACORN has not itself suffered an injury, ACORN cannot sue on its own behalf. And because the interests at stake here are not germane to ACORN’s purposes (to the extent that ACORN has even alleged what its purposes are) and/or because ACORN has not alleged an injury to any of its members such that one or more members would have individual standing to sue, ACORN lacks associational standing. ACORN is not—and does not represent—an “aggrieved party” pursuant to the NVRA, and its claims must be dismissed.

A private right of action under NVRA is available only to an aggrieved party who has given notice to the state’s chief election officer of a violation of the NVRA and allowed him/her an opportunity to correct that violation. See 42 U.S.C. § 1973gg-9. Since ACORN is not an aggrieved party, then ACORN’s letter to Secretary of State Blackwell does not serve as legally sufficient notice required prior to filing a civil action under NVRA. Neither Plaintiff Harkless nor Plaintiff Mardis provided notice of an NVRA violation. See Complaint ¶¶ 32-25. Thus, their claims should also be dismissed

B. ODJFS’ Director Riley Cannot Be Held Liable For County Departments’ Alleged Violations of the NVRA.

It appears that the Plaintiffs are seeking an order requiring Director Riley to enforce the NVRA and the corresponding state laws against the County Departments.

The NVRA provides a right of enforcement to only two categories of plaintiffs: the United States government and “a person who is aggrieved by a violation of [the NVRA]. See 42 U.S.C. § 1973gg-9(a) & (b). Director Riley, who is sued in her official

capacity, is neither the U.S. government nor an aggrieved person under the NVRA. The decision of Congress to make the United States government shoulder the burden of enforcing the NVRA is both reasonable and within Congress' power to make. The federal government gives no money to Ohio to comply with the NVRA, even though the NVRA relates to *federal* elections and not state elections. See 42 U.S.C. § 1973gg-2(a) and *United States v. Missouri*, 2006 U.S. Dist. LEXIS 32499 (W.D. Mo. May 23, 2006).

Ohio's statutory scheme to implement the NVRA, discussed in section I.A. above, does not give any authority to the director of the Ohio Department of Job and Family Services to enforce these statutes against the County Departments.

The only basis for finding that [the state] is responsible for the conduct of the [local authorities] rests on the theory that Congress intended the states to adopt statutes that both incorporated the terms of the NVRA and provided for direct enforcement of those state statutes by state officials. The Court, however, does not believe that Congress intended the NVRA to alter the longstanding division of authority between county and statewide officials. It would be radical for this Court to find such an intent absent clear direction, which is not present here. The NVRA in fact suggests otherwise, because the NVRA gives enforcement responsibilities to the federal government, so there is a mechanism for enforcement even if the states do not choose to make their statewide officials responsible for enforcement.

United States v. Missouri at 20-21.

In Ohio, ODJFS and all of the county departments of job and family services are statutorily designated as mandatory voter registration agencies. See Ohio Revised Code 3501.01(X) and 329.051. Furthermore, Ohio Revised Code 3503.10(L) prevents ODJFS from administering NVRA voter registration provisions in local County Department offices.

Thus, this case is distinguishable from *United States v. New York*, 255 F.Supp. 2d 73, 79 (E.D. N.Y. 2003), which found that a state agency could not delegate its NVRA

responsibilities to local district offices of that agency. In that case, the court interpreted New York statutes, which did *not* confer mandatory voter registration agency status on local offices and did *not* restrict the state agency's ability to oversee local agencies regarding voter registration. *United States v. New York* is not applicable here (and at any rate is not binding authority for this Court).

In Ohio, the state legislature has enacted legislation establishing that the Ohio Department of Job and Family Services and all of the county departments of job and family services are mandatory voting registration entities. See Ohio Revised Code 3501.01(X) and Ohio Revised Code 329.051. In Ohio, the director of a county department of job and family services has complete charge of that agency. See Ohio Revised Code 329.02. That director is appointed by the board of county commissioners. See Ohio Revised Code 329.01. The employees of the county department of job and family services are in a classified service. The director of that county agency establishes the qualifications of persons to be employed and the classifications and rates of compensation of county department employees, and ODJFS is required to cooperate with the county director in doing so. See Ohio Revised Code 329.022.

To the extent Plaintiffs' claims against Director Riley are based upon their contention that Director Riley has violated the NVRA because she has not adequately enforced the NVRA against the County Departments, the Court should grant Director Riley's motion to dismiss for failure to state a claim because Director Riley is not responsible for enforcing the NVRA against the County Departments.

To the extent Plaintiffs' claims against Director Riley are based upon the contention that Director Riley has violated the NVRA because of actions by the Ohio

Department of Job and Family Services, the Court should also grant Director Riley's motion to dismiss for failure to state a claim. The Complaint does not allege any specific NVRA violation by ODJFS or any ODJFS staff. The Complaint makes only conclusory allegations against Director Riley that are not sufficient to withstand a motion to dismiss for failure to state a claim. See *Scheid v. Fanny Farmer Candy Shops, Inc.*, 859 F.2d 434, 436 (6th Cir. 1988).

IV. CONCLUSION

For those reasons stated above, Defendant Director Riley's Motion to Dismiss should be granted.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2006, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following: Counsel for Plaintiffs, Diane Taylor Kollis, FRIEDMAN, DOMIANO & SMITH CO., 1370 Ontario Street, Sixth Floor, Cleveland, Ohio 44113.

I hereby certify that on October 16, 2006 I have mailed by U.S. Postal Service a copy of the aforementioned to the following counsels for Plaintiffs: (1) Neil Steiner, Robert Topp, Eliot Gardner, and William Gibson, DECHERT LLP, 30 Rockefeller Plaza, New York, New York 10112; (2) Lisa Danetz and Brenda Wright, NATIONAL VOTING RIGHTS INSITUTE, 27 School Street, Boston, Massachusetts 02108; (3) Jon M. Greenbaum and Benjamin Blustein, LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW, 1401 New York Avenue, Suite 400, Washington, D.C. 20005, and (4) Brian Mellor, PROJECT VOTE, 1486 Dorchester Avenue, Dorchester, Massachusetts 02122. A copy of the aforementioned will be hand-delivered to Richard Coglianesse, Constitutional Services, Ohio Attorney General's Office, 30 East Broad Street, Level 17, Columbus, Ohio 43215, Counsel for Defendant, Secretary of State J. Kenneth Blackwell on October 16, 2006.

s/Anne Light Hoke
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