

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

VIRGINIA STATE CONFERENCE OF NATIONAL
ASSOCIATION FOR THE ADVANCEMENT OF
COLORED PEOPLE BRANCHES, as an organization
and representative of its members; KING SALIM
KHALFANI, WALTER T. KENNEY, and RACHEL
ACHEE,

Plaintiffs,

Case No.: 2:08CV508

v.

TIMOTHY M. KAINE, Governor of the
Commonwealth of Virginia; JEAN CUNNINGHAM,
Chairman, Virginia State Board of Elections;
HAROLD PYON, Vice Chairman, Virginia State
Board of Elections; NANCY RODRIGUES,
Secretary, Virginia State Board of Elections;
GEORGE WILLIAM THOMAS, Chairman, City of
Richmond Electoral Board; CECILIA DABNEY, Vice
Chairman, City of Richmond Electoral Board;
DOROTHY DOCKERY, Secretary, City of Richmond
Electoral Board; J. KIRK SHOWALTER, City of
Richmond General Registrar; JAMES H. HINSHAW,
Chairman, City of Norfolk Electoral Board; TED
MAROULIS, Vice Chairman, City of Norfolk
Electoral Board; W. DONALD BROWN, Secretary,
City of Norfolk Electoral Board; ELISA LONG, City
of Norfolk General Registrar; J.A.G. PARRISH,
Chairman, City of Virginia Beach Electoral Board;
TIM BARROW, Vice Chairman, City of Virginia
Beach Electoral Board; SHIRLEY MULDERRIG,
Secretary, City of Virginia Beach Electoral Board; and
EDITH HARRINGTON, City of Virginia Beach
General Registrar, in their official capacities,

Defendants.

**PLAINTIFFS' MOTION FOR
A DECLARATORY JUDGMENT AND PRELIMINARY INJUNCTION**

Pursuant to the Federal Rules of Civil Procedure and the Local Rules for the Eastern District of Virginia, Plaintiffs VIRGINIA STATE CONFERENCE OF NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE BRANCHES, and others, move this Court to enter declaratory judgment and to grant an injunction against Defendants TIMOTHY M. KAINE, JEAN CUNNINGHAM, HAROLD PYON, NANCY RODRIGUES, GEORGE WILLIAM THOMAS, CECILIA DABNEY, DOROTHY DOCKERY, J. KIRK SHOWALTER, JAMES H. HINSHAW, TED MAROULIS, W. DONALD BROWN, ELISA LONG, J.A.G. PARRISH, TIM BARROW, SHIRLEY MULDERRIG, and EDITH HARRINGTON, in their official capacities, on Plaintiffs' Complaint, filed this day, based on their violations of the Equal Protection and Due Process Clauses of the United States Constitution, Section Two of the Voting Rights Act of 1965, and Article I, Section 11 of the Virginia Constitution.

Defendants are about to execute polling place resource plans that, if allowed, will disenfranchise thousands of Virginia voters on Election Day. These plans mis- and under-allocate polling place resources in Norfolk, Richmond, and Virginia Beach, which, as Defendants know, will cause unacceptably long lines that will discourage or prevent voters from exercising their right to vote. The consequences of Defendants' inexplicable position will be dire and irreparable, if the plans are not modified as Plaintiffs request: It will lead to the disenfranchisement of thousands of voters; it will lead to the particular disenfranchisement of African-American voters; it will undermine the efficient administration of the Presidential election and the public's confidence in that process; and it will throw into question, once again, the accuracy of the outcome of a Presidential election.

WHEREFORE, Plaintiffs, each and every one of them, respectfully request this Court to grant this Motion, enter judgment in Plaintiffs' favor and against Defendants, and issue an order in Plaintiffs' favor, and against Defendants, providing for the following relief:

A. Assume jurisdiction over this action;

B. Declare that the Defendants, jointly and severally, through their allocation of polling place resources for the November 4, 2008 General Election have violated the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the U.S. Constitution;

C. Declare that the Defendants Kaine, Cunningham, Pyon, and Rodrigues and the Richmond and Virginia Beach Defendants, jointly and severally, through their allocation of polling place resources for the November 4, 2008, General Election have violated Section Two of the Voting Rights Act of 1965;

D. Declare that the Defendants Kaine, Cunningham, Pyon, and Rodrigues and the Richmond, Norfolk and Virginia Beach Defendants, jointly and severally, through their allocation of polling place resources for the November 4, 2008 General Election have violated the Virginia Constitution;

E. Require Defendants to

1. Secure an adequate number of machines and allocate those machines in a more equitable manner and in a way that ensures that voters do not have to wait more than 45 minutes to vote, or
2. Re-allocate the existing inventory of machines in a more equitable manner, instruct poll workers to offer voters whose wait to vote by machine is likely to exceed 45 minutes the option of waiting for a machine or voting with a paper ballot, and ensure that each polling site has an

adequate supply of paper ballots to accommodate the expected surge in turnout and each and every voter who opts to vote by paper ballot;

F. Require Defendants to extend voting hours for the November 4, 2008 General Election to 9:00 p.m. so to provide voters with more time to exercise their franchise;

G. Award reasonable attorney fees and costs of suit, pursuant to 42 U.S.C. § 1988(b), 42 U.S.C. § 19731, Fed. R. Civ. P. 54, and any such other statutes and rules as may provide for the recovery of fees and costs brought to vindicate the rights asserted herein; and

H. Grant such other relief, be it legal or equitable, as this Court deems to be in the interest of justice.

Respectfully submitted,
VIRGINIA STATE CONFERENCE OF NATIONAL
ASSOCIATION FOR THE ADVANCEMENT OF
COLORED PEOPLE BRANCHES, as an organization and
representative of its members; KING SALIM KHALFANI,
WALTER T. KENNEY, and RACHEL ACHEE

By _____ /s/
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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of October, I hand delivered to, mailed first class – postage prepaid and I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to the following:

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