

Show Cause why this Court should not issue a preliminary injunction in this case against Defendants Eaton, Hunsaker and the Montana Republican Party (the “Republican Defendants”) from further wrongful interference with Montana’s upcoming general election and its voting public, by issuing en masse challenges to Montana citizens’ right to vote and otherwise conspiring to disenfranchise voters, in violation of federal law; and ordering that their existing challenges be withdrawn; and against Defendant Brad Johnson, Montana Secretary of State, to compel and direct that he, and anyone acting in concert with him or as an agent and/or employee and/or servant of him, comply with federal law in responding to the Republican Defendants’ wrongful conduct, and that he, and anyone acting in concert with him or as an agent and/or employee and/or servant of him, be further restrained from taking any actions against Montana voters based upon that same wrongful conduct, and that he be restrained from certifying the rolls of electors for the November 4, 2008 general election until such time as the Republican Defendants’ wrongful challenges have been declared void as having been made in violation of federal law.

In the interest of justice, that this honorable Court waive the requirement of a bond under F.R.Civ. P. 65(c).

NECESSITY OF EX PARTE TEMPORARY RESTRAINING ORDER

Pursuant to F.R.Civ. P. 65(b)(1)(B), the undersigned certifies that he has attempted to contact the Defendants regarding this motion. Counsel was unable to locate an after-hours number for Defendant Brad Johnson, however, did take the step of contacting the chief civil counsel for the Montana Department of Justice to advise of the planned suit and this Motion and has forwarded to him a copy of the pleadings in this case at his office. Counsel was not able to locate an after hours number to contact the Montana Republican Party, or the individual

defendants, late Sunday evening. A copy of the pleadings were sent to the headquarters of the Montana Republican Party first thing this morning, where the individual defendants Eaton and Hunsaker are believed to work.

Further notice the Defendants prior to the issuance of a temporary restraining order should not be required due to the exigencies of the situation presented. As set forth in Plaintiffs' Complaint for Declaratory and Injunctive Relief, in the affidavits presented as exhibits to Plaintiffs' Brief in Support of this Motion and in public announcements from the State and local government concerning voting, state and county elections officials, including officials in Missoula County, intend to take action on the challenges at issue in this case today. In the case of Missoula County, where the individual Plaintiffs reside, absent a TRO from this Court, approximately 3,700 letters will be sent to Missoula County Voters at **noon today, Monday October 6, 2008**, informing those voters of the challenges, regardless of their wrongful status, and accomplishing the Republican Defendants' goal of burdening and suppressing voters. Moreover, in *The Missoulian* on Saturday October 4, 2008, Defendant Eaton stated that the Montana Republican Party plans to file *additional* en masse challenges in more counties this week, in direct contravention of federal law. Br. In Supp., Ex. A. Compounding the exigencies of this case, regular registration for Montana voters closes **today, Monday, October 6, 2008**. So-called "early voting" at courthouses throughout Montana also begins **today, Monday, October 6, 2008**. The timing of these challenges by the Republican Defendants, selected precisely to cause chaos in the Montana voting timeline, has necessitated this fast-paced filing and, regrettably, requires immediate action by this honorable Court to protect Montana voters.

Respectfully, for those reasons, and as supported by the evidence presented in Plaintiffs' Complaint and Brief in Support of this Motion, a Temporary Restraining Order and Order to Show Cause should issue immediately:

1. Prohibiting and enjoining Defendant Brad Johnson as the Montana Secretary of State and the chief election official in the State of Montana, and anyone acting in concert with him and/or as his agent, employee or servant, from taking action against any voter affected by the en masse elector challenges filed by Defendants Jacob Eaton and Max Hunsaker in various Montana counties, including, Missoula, Lewis & Clark, Dear Lodge, Silver Bow, Glacier, Hill, and Roosevelt counties;

2. Prohibiting and enjoining the Defendant Republicans and anyone acting in concert with them and/or their agents, attorneys, employees or servants, from further challenges to any registered Montana voter's right to vote in the national election on November 4, 2008 by use of challenges based solely upon information contained in the NCOA records; and ordering that the existing challenges be withdrawn.

3. Enjoining Defendant Johnson from certifying the statewide roll of electors for the November 4, 2008 general election until such time as this Court renders a declaratory judgment as to Republican Defendants' wrongful challenges made in violation of federal law;

4. Setting a hearing before this Court as soon as possible, and directing all Defendants to appear and show cause why the preliminary injunction requested herein should not be issued to prevent further acts in violation of federal law and to ensure compliance therewith going forward;

5. After a hearing, that this Court enter a preliminary injunction enjoining the Defendants, their officers, agents, employees, attorneys and all persons who act in concert and in participation with Defendants, as set forth above;

6. Waiving any bond or security in the interest of justice; and

7. For such other and further relief as the Court may deem just and proper.

RESPECTFULLY SUBMITTED THIS 6th day of October, 2008.

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