

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
	)	Case No. 3:08CV709
v.	)	
	)	
JEAN CUNNINGHAM, et al.,	)	
	)	
Defendants.	)	
	)	
_____	)	

**UNITED STATES’ DISCOVERY PLAN IN RESPONSE TO THE COURT’S  
SEPTEMBER 13, 2010 ORDER**

The United States respectfully submits its Discovery Plan pursuant to the Court’s September 13, 2010 Order (“September Order”). The United States seeks, pursuant to the September Order, to resume previously-stayed discovery to 1) determine facts related to the cause of Defendants’ on-going failure to ensure that local jurisdictions in the Commonwealth of Virginia mail absentee ballots to military and overseas voters consistent with federal law requirements, and 2) develop a functional future compliance plan.

**PROPOSED PLAN**

The United States proposes to serve upon Defendants written discovery, including interrogatories and document requests, by October 25, 2010. The United States proposes that the Defendants respond to this discovery by November 30, 2010. Further, the United States would reserve the right to seek depositions should the need for them become apparent. The United proposes that discovery would end by January 30, 2011. If the United States determines that

depositions will not be required to determine the cause of the late mailings referenced above, it will conclude discovery in advance of the January 30, 2011 deadline, and so inform the Court.

The United States has consulted with counsel for the Defendants, who concurs with this proposed plan. Consistent with the Court's September Order, the parties will seek to confer with the Honorable Dennis Dohnal as to the creation of an appropriate, functional future compliance plan.

Respectfully submitted,

THOMAS E. PEREZ  
ASSISTANT ATTORNEY GENERAL  
NEIL H. MACBRIDE  
UNITED STATES ATTORNEY

/s/

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 4th day of October 2010, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following counsel of record:

Robert A. Dybing  
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Attorney for the Defendant

By:

/s/ \_\_\_\_\_  
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