

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

FLORIDA STATE CONFERENCE OF THE
NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE
(NAACP), as an organization and representative of
its members, *et al.*,

Civil No. _____

Plaintiffs,

vs.

KURT S. BROWNING, in his official capacity as
Secretary of State for the State of Florida,

Defendant.

PLAINTIFFS' FIRST SET OF INTERROGATORIES

PLEASE TAKE NOTICE THAT, pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Plaintiffs hereby propound the following Interrogatories to Defendant to be answered fully, in writing and under oath, through a representative or agent who has knowledge of the facts, and in accordance with the definitions and instructions set forth below, by October 17, 2007, or within such other time as the Court may direct.

DEFINITIONS

- A. The singular form of a word shall include the plural, and the plural shall include the singular.
- B. The use of the present tense includes the past tense and vice versa.



C. "AAMVA" refers to the American Association of Motor Vehicle Administrators.

D. "All" shall be construed to include "any" and "each," "any" shall be construed to include "all" and "each," and "each" shall be construed to include "all" and "any," in each case as is necessary to bring within the scope of these requests documents that might otherwise be construed as outside their scope.

E. "And" and "or" shall be construed conjunctively or disjunctively, in each case as is necessary to bring within the scope of these requests documents that might otherwise be construed as outside their scope.

F. The term "Applicant" refers to a person who has submitted or caused to be submitted an Application to a State or county office or officer that accepts registration forms and for whom there is a Registration Record.

G. The term "Application" refers to a voter registration form submitted by an Applicant.

H. "Bureau" or "BVRS" refers to the Bureau of Voter Registration Services within the Division of Elections of the Florida Department of State.

I. The term "communication" means any occurrence whereby data, expressions, facts, opinions, thought or other information of any kind is transmitted in any form, including without limitation any conversation, correspondence, discussion, e-mail, meeting, memorandum, message, note or posting or any other display on the Internet or World Wide Web.

J. "Complaint" refers to the complaint filed by Plaintiffs in this action, and any amendment(s) thereto.

K. The term “concerning” means referring or relating to and includes without limitation analyzing, commenting on, comprising, connected with, constituting, containing, contradicting, describing, embodying, establishing, evidencing, memorializing, mentioning, pertaining to, recording, regarding, reflecting, responding to, setting forth, showing, or supporting, directly or indirectly.

L. The terms “correspondence” or “corresponding” refer to communications made between you and/or county supervisors and/or Applicants.

M. “County supervisor” refers to any of Florida’s 67 county supervisors of elections or other election officials in the State’s 67 counties, and any of their employees, agents, or representatives.

N. “DHSMV” means the Florida Department of Highway Safety & Motor Vehicles.

O. “DHSMV Database” refers to the database maintained by the Florida Department of Highway Safety & Motor Vehicles, which contains information related to individuals with State driver’s licenses and is used in the matching or verifying process.

P. The term “document” is used herein in the broadest sense permissible under Rule 34 of the Federal Rules of Civil Procedure, and includes, but is not limited to, any written, recorded or tangible graphic matter, or any other means of preserving data, expression, facts, opinions, thought, images, or other information of any kind, including without limitation all non-identical copies, drafts, out takes, subsequent versions, worksheets and proofs, however created or recorded, including without limitation audio tapes, annotations, calendars, correspondence, data or information of any kind recorded on compact discs, digital video diskettes, or any other type or form of diskettes for use

with computers or other electronic devices, or any hard drive, diary entries, electronic recordings of any kind, e-mail, memoranda, notes, photographs, reports, telephone slips and logs, video cartridges and videotapes, and sites, databases, or other means of information storage or retrieval on the Internet or the World Wide Web.

Q. “Driver’s license” means a Florida driver’s license or a Florida identification card.

R. “FVRS” means the Florida Voter Registration System, Florida’s uniform, official, centralized, interactive computerized statewide voter registration list.

S. “Identify” means:

- (i) with respect to an individual, to produce documents containing that person’s home and business address and phone and fax numbers;
- (ii) with respect to any entity other than a natural person, to produce documents containing its full name, present or last known address, form of organization (*e.g.*, general partnership, corporation), and state of incorporation or other organization;
- (iii) with respect to a test, study, analysis, audit or evaluation, to produce documents concerning its circumstances, purposes and results, methods and protocols used, or concerning each person or entity with knowledge concerning the test, study, analysis, audit or evaluation; and
- (iv) with respect to an event, to produce documents containing the date, location, and participants in those events.

T. The term “including” means including without limitation.

U. The terms “verify” or “verifying” refers to the process prescribed by Fla. Stat. § 97.053(6), by which the you seek to verify the authenticity of the driver’s license number or the Social Security digits provided by an Applicant, and is used interchangeably herein with the terms “match” or “matching”.

V. The term “person” means any natural person or business, legal, or governmental entity or association. References to any person or entity shall include that person or entity and its officers, directors, employees, partners, agents, representatives, corporate parents, predecessors, successors, subsidiaries, and affiliates.

W. “Registration Record” refers to the electronic record containing data from an Application concerning an Applicant’s identity that you will use to attempt to verify an Applicant’s driver’s license number or Social Security digits, or to determine that the Applicant has no such number, pursuant to Fla. Stat. § 97.053(6).

X. “Social Security digits” refers to the last four digits of the social security number provided by an Applicant.

Y. “SSA Database” refers to the United States Social Security Administration’s database containing information related to individuals with Social Security numbers and used in the verification or matching process pursuant to Fla. Stat. § 97.053(6).

Z. “State” refers to the State of Florida.

AA. “Unmatched Applicant” means an Applicant with a driver’s license number or Social Security digits on the Application, whose driver’s license number or Social Security digits on the Application have not been verified or matched pursuant to Fla. Stat. § 97.053(6).

BB. “You” and “your” refer to Kurt Browning, Secretary of State of the State of Florida, and any of your employees, agents, or representatives, whether or not employed directly by the Office of the Secretary of State, including employees, agents, or representatives of the DHSMV, and employees, agents, or representatives of AAMVA.

INSTRUCTIONS

A. Each Interrogatory shall be answered separately and fully in writing and under oath, unless it is objected to, in which event the reasons for the objection shall be stated with specificity.

B. Defendant shall be under a continuing obligation to supplement his answers to the Interrogatories set forth below to the extent provided in Rule 26(e)(1) of the Federal Rules of Civil Procedure.

C. Each Interrogatory calls not only for Defendant's knowledge, but also all information that is available to Defendant by reasonable inquiry and due diligence, including inquiry of Defendant's employees, agents, representatives, and attorneys.

D. No Interrogatory shall be read as limiting any other interrogatory.

E. If, in responding to these Interrogatories, you claim any ambiguity in interpreting an Interrogatory, or a definition or instruction applicable thereto, such claim shall not be utilized by you as a basis for refusing to respond, but instead you shall set forth as part of your response the language deemed to be ambiguous and the interpretation that you used in responding to the Interrogatory.

F. If you refuse to respond to any of these Interrogatories or any portion of these Interrogatories on the ground that it seeks information privileged against discovery, or information you deem to be neither relevant nor likely to lead to relevant evidence, or that you deem it otherwise improper as to either form or substance, you shall respond to so much of the Interrogatories as you believe to be proper and shall state with specificity the basis for your objection or the privilege claimed.

INTERROGATORIES

1. State with specificity the process you use to verify the authenticity of the driver's license number on an Application pursuant to Fla. Stat. § 07.053(6), including the criteria used in any automated process to determine whether a Registration Record matches information maintained in the DHSMV Database sufficient to verify the authenticity of such number, and the criteria used in any other process to determine whether a Registration Record matches information maintained in the DHSMV Database sufficient to verify or match the authenticity of such number.

2. State with specificity the process you use to verify the authenticity of the Social Security digits on an Application pursuant to Fla. Stat. § 07.053(6), including the criteria used in any automated process to determine whether a Registration Record matches information maintained in the SSA Database or DHSMV Database sufficient to verify the authenticity of such number, and the criteria used in any other process to determine whether a Registration Record matches information maintained in the SSA Database or DHSMV Database sufficient to verify or match the authenticity of such number.

3. State with specificity the process you use to determine the nonexistence of a driver's license number, Florida identification number, or Social Security digits, of an Applicant pursuant to Fla. Stat. § 97.053(6).

4. State with specificity the number of Applicants, by race and by county, who submitted Applications since January 1, 2006, including the number of such Applicants, by race and by county, who: (a) were Unmatched Applicants at any point, however briefly; (b) submitted an Application before October 11, 2006; (c) submitted an

Application before October 11, 2006 and became active registered voters before November 9, 2006; (d) submitted an Application before October 11, 2006, and were Unmatched Applicants at any point, however briefly; (e) submitted an Application before October 11, 2006, were Unmatched Applicants at any point, however briefly, and did not become active registered voters before November 9, 2006; and (f) are presently Unmatched Applicants.

5. State the policies, procedures, and standards you have established for notifying Unmatched Applicants that their Applications are incomplete and that they must provide evidence sufficient to verify the authenticity of the number provided on their Applications to election officials.

6. State the policies, procedures, and standards you have established regarding the inclusion of Unmatched Applicants on the poll list, precinct register, or electronic database accessible to poll workers on the day of an election, and if different, the policies, procedures, and standards you have established regarding the inclusion of Unmatched Applicants on the list of individuals who may receive absentee voting materials.

7. State the policies, procedures, and standards you have established to teach poll workers what information they are to provide to Unmatched Applicants who present themselves at the polls to vote, including but not limited to the instructions given to poll workers about what they should tell Unmatched Applicants concerning the incomplete status of their registration applications, how they may vote a provisional ballot, and what steps they need to take to complete their registration and have their provisional ballot counted.

8. State with specificity the evidence or documentation deemed sufficient for an Unmatched Applicant to verify the driver's license number or Social Security digits provided on his or her Application, such that the voter will be registered as an active voter and, if different, such that a provisional ballot cast by such a voter will be counted.

9. State any conditions under which an Unmatched Applicant may, on election day, vote (a) a regular ballot, or (b) a provisional ballot that will be counted.

10. Identify by name, position, office, and address all persons with knowledge about verifying or matching information in Registration Records with information maintained in the DHSMV Database or SSA Database; corresponding with Unmatched Applicants regarding the registration status of Applicants; verifying the authenticity or nonexistence of driver's license numbers, Florida identification card numbers and/or Social Security digits provided in registration applications; determining whether provisional ballots are to be counted; or establishing the policies and procedures concerning the implementation or enforcement of Fla. Stat. § 97.053.

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Defendant.

PLAINTIFFS' FIRST REQUEST FOR THE PRODUCTION OF DOCUMENT

PLEASE TAKE NOTICE THAT, pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Plaintiffs hereby request that Defendant produce the documents requested herein by October 17, 2007, or within such other time as the Court may direct, in accordance with the Definitions and Instructions set forth herein. Copies of the requested documents shall be produced at the offices of Greenberg Traurig, LLP, 101 East College Avenue, Tallahassee, Florida 32301, or at any other such place as may be agreed to by counsel.

DEFINITIONS

A. The singular form of a word shall include the plural, and the plural shall include the singular.



B. The use of the present tense includes the past tense and vice versa.

C. "AAMVA" refers to the American Association of Motor Vehicle Administrators.

D. "All" shall be construed to include "any" and "each," "any" shall be construed to include "all" and "each," and "each" shall be construed to include "all" and "any," in each case as is necessary to bring within the scope of these requests documents that might otherwise be construed as outside their scope.

E. "And" and "or" shall be construed conjunctively or disjunctively, in each case as is necessary to bring within the scope of these requests documents that might otherwise be construed as outside their scope.

F. The term "Applicant" refers to a person who has submitted or caused to be submitted an Application to a State or county office or officer that accepts registration forms and for whom there is a Registration Record.

G. The term "Application" refers to a voter registration form submitted by an Applicant.

H. "Bureau" or "BVRS" refers to the Bureau of Voter Registration Services within the Division of Elections of the Florida Department of State.

I. The term "communication" means any occurrence whereby data, expression, facts, opinions, thought or other information of any kind is transmitted in any form, including without limitation any conversation, correspondence, discussion, e-mail, meeting, memorandum, message, note or posting or any other display on the Internet or World Wide Web.

J. “Complaint” refers to the complaint filed by Plaintiffs in this action, and any amendment(s) thereto.

K. The term “concerning” means referring or relating to and includes without limitation analyzing, commenting on, comprising, connected with, constituting, containing, contradicting, describing, embodying, establishing, evidencing, memorializing, mentioning, pertaining to, recording, regarding, reflecting, responding to, setting forth, showing, or supporting, directly or indirectly.

L. The terms “correspondence” or “corresponding” refers to communications made between you and/or county supervisors and/or Applicants.

M. “County supervisor” refers to any of Florida’s 67 county supervisors of elections or other election officials in the State’s 67 counties, and any of their employees, agents, or representatives.

N. “DHSMV” means the Florida Department of Highway Safety & Motor Vehicles.

O. “DHSMV Database” refers to the database maintained by the Florida Department of Highway Safety & Motor Vehicles, which contains information related to individuals with State driver’s licenses and is used in the matching or verifying process.

P. The term “document” is used herein in the broadest sense permissible under Rule 34 of the Federal Rules of Civil Procedure, and includes, but is not limited to, any written, recorded or tangible graphic matter, or any other means of preserving data, expression, facts, opinions, thought, images, or other information of any kind, including without limitation all non-identical copies, drafts, out takes, subsequent versions, worksheets and proofs, however created or recorded, including without limitation audio

tapes, annotations, calendars, correspondence, data or information of any kind recorded on compact discs, digital video diskettes, or any other type or form of diskettes for use with computers or other electronic devices, or any hard drive, diary entries, electronic recordings of any kind, e-mail, memoranda, notes, photographs, reports, telephone slips and logs, video cartridges and videotapes, and sites, databases, or other means of information storage or retrieval on the Internet or the World Wide Web.

Q. “Driver’s license” means a Florida driver’s license or a Florida identification card.

R. “FVRS” means the Florida Voter Registration System, Florida’s uniform, official, centralized, interactive computerized statewide voter registration list.

S. “Identify” means:

- (i) with respect to an individual, to produce documents containing that person’s home and business address and phone and fax numbers;
- (ii) with respect to any entity other than a natural person, to produce documents containing its full name, present or last known address, form of organization (*e.g.*, general partnership, corporation), and state of incorporation or other organization;
- (iii) with respect to a test, study, analysis, audit or evaluation, to produce documents concerning its circumstances, purposes and results, methods and protocols used, or concerning each person or entity with knowledge concerning the test, study, analysis, audit or evaluation; and
- (iv) with respect to an event, to produce documents containing the date, location, and participants in those events.

T. The term “including” means including without limitation.

U. The terms “verify” or “verifying” refers to the process prescribed by Fla. Stat. § 97.053(6), by which the You seek to verify the authenticity of the driver’s license

number or the Social Security digits provided by an Applicant, and is used interchangeably herein with the terms “match” or “matching”.

V. The term “person” means any natural person or business, legal, or governmental entity or association. References to any person or entity shall include that person or entity and its officers, directors, employees, partners, agents, representatives, corporate parents, predecessors, successors, subsidiaries, and affiliates.

W. “Registration Record” refers to the electronic record containing data from an Application concerning an Applicant’s identity that you will use to attempt to verify an Applicant’s driver’s license number or Social Security digits, or to determine that the Applicant has no such number, pursuant to Fla. Stat. § 97.053(6).

X. “Social Security digits” refers to the last four digits of the social security number provided by an Applicant.

Y. “SSA Database” refers to the United States Social Security Administration’s database containing information related to individuals with Social Security numbers and used in the verification or matching process pursuant to Fla. Stat. § 97.053(6).

Z. “State” refers to the State of Florida.

AA. “Unmatched Applicant” means an Applicant with a driver’s license number or Social Security digits on the Application, whose driver’s license number or Social Security digits on the Application have not been verified.

BB. “You” and “your” refers to Kurt Browning, Secretary of State of the State of Florida, and any of your employees, agents, or representatives, whether or not

employed directly by the Office of the Secretary of State, including employees, agents, or representatives of the DHSMV, and employees, agents, or representatives of AAMVA.

INSTRUCTIONS

A. If any request herein for a document cannot be complied with in full, it shall be complied with to the extent possible, with an explanation as to why full compliance is not possible.

B. The requests for documents herein are continuing in nature. If at any time documents are obtained in addition to those that have previously been produced to Plaintiffs, prompt supplementation of such responses to these requests is required.

C. These requests apply to all documents in your possession, custody or control, regardless of the location of such documents, and include documents within the possession, custody or control of your employees, agents or representatives, wherever located.

D. Each document is to be produced (along with all drafts thereof) in its entirety, without abbreviation, expurgation, or redaction. In the event that a copy of a document, the production of which is requested, is not identical to any other copy thereof, by reason of any alterations, marginal notes, comments, or material contained therein or attached thereto, or otherwise, all such non-identical copies shall be produced separately.

E. The documents requested herein shall be produced as they are kept in the usual course of business, or shall be organized and labeled to correspond to each document request herein. All documents that are physically attached to each other when located for production shall be left so attached. Documents that are segregated or separated from other documents, whether by use of binders, files, subfiles, or by dividers,

tabs, or any other method, shall be left so segregated or separated. All labels or other forms of identification contained, placed, attached, or appended on or to any binders, files, subfiles, dividers, or tabs shall be produced.

F. A request for documents shall be deemed to include a request for any or all transmittal sheets, cover letters, exhibits, enclosures, or attachments to the documents, in addition to the document itself, without abbreviation or expurgation.

G. No request shall be read as limiting any other request.

H. If, in responding to these requests, you claim any ambiguity in interpreting a request, or a definition or instruction applicable thereto, such claim shall not be utilized by you as a basis for refusing to respond, but instead you shall set forth as part of your response the language deemed to be ambiguous and the interpretation that you used in responding to the request.

I. If any document requested herein that was formerly in your possession, custody or control has been destroyed, discarded, or otherwise lost, the document shall be identified by stating: (a) the nature of the document, the number of pages (if applicable), its subject matter and its contents, including but not limited to any attachments or appendices; (b) the author or creator of the document and all persons to whom it was sent, including but not limited to cover copies or blind copies (if applicable); (c) the date on which the document was prepared or transmitted; (d) the date on which the document was lost, discarded, or destroyed; (e) the person who authorized and carried out the destruction; and (f) the name of any custodian of any existing copies of the document; (g) the manner in which You can modify, change or correct information regarding Applicants submitted to by county supervisors or other officials.

J. In the event that any responsive material is maintained in electronic format, such material shall be produced in a reasonably usable and electronically searchable form, consistent with the requirements of Rule 34(b)(ii) of the Federal Rules of Civil Procedure.

K. If any document responsive to these requests or any part thereof is withheld under a claim of attorney-client privilege, attorney work product immunity, or any other claim of privilege or immunity, provide a list of all such documents, identifying, with respect to each document: (a) the type of document; (b) the general subject matter of the document; (c) the date of creation of the document; (d) the creator/author of the document; (e) each recipient of the document; (f) the present custodian of the document; (g) the number of pages, attachments, and appendices in the document (if applicable); and (h) the specific privilege or immunity claimed.

L. If no documents exist that are responsive to a particular paragraph of these requests, so state in writing.

REQUESTS

1. Documents sufficient to show policies and procedures (including all initiatives, instructions, guidelines, forms, agreements or standards) relating to Fla. Stat. § 97.053(6). This request includes, but is not limited to, documents sufficient to show all policies and procedures (including all initiatives, instructions, guidelines, forms, agreements or standards) relating to:

- (a) The verification, modification or correction of the driver's license number or Social Security digits (collectively, the "Identifying Number") on an application; or the determination that an Applicant does not have such an Identifying Number;
- (b) The interpretation and implementation of Sections 303(a) or 303(b) of the Help America Vote Act of 2002, 42 U.S.C. §§ 15483(a), (b);

- (c) Correspondence with Applicants concerning Applications that have not been verified or matched, and the further processing of Unmatched Applicants in light of information received as a result of the correspondence;
- (d) Pollworker instructions concerning an Unmatched Applicant, including the most recent draft of any pending update to such instructions;
- (e) Provisional ballots cast by an Unmatched Applicant;
- (f) The review of Applications conducted by the BVRS;
- (g) The review of information from Registration Records by the DHSMV or the SSA; and
- (h) The format, entry, receipt, submission or transfer of information, whether electronic or otherwise, from an Application to the FVRS or to any county voter registration system.

2. Documents identifying difficulties or failures in verifying or matching information in Registration Records pursuant to Fla. Stat. § 97.053(6), between January 1, 2006 and the present.

3. Documents relating to the validity of provisional ballots cast by Unmatched Applicants pursuant to Fla. Stat. § 97.053(6) in any elections held in 2006 or 2007, including:

- (a) The Applications of such Unmatched Applicants, or accurate digital images of such Applications;
- (b) The Registration Records of such Unmatched Applicants;
- (c) The provisional ballots cast by such Unmatched Applicants;
- (d) Whether or not each such provisional ballot was counted; and
- (e) The reason each such ballot was counted or not counted.

4. Documents demonstrating any notice to an Unmatched Applicant provided at your direction or pursuant to guidelines you have issued, including notice provided when:

- (a) His or her Application is deemed incomplete because the driver's license number or Social Security digits on the Application have not been verified;

- (b) He or she arrives at the polls and attempts to vote a regular ballot; or
- (c) He or she votes a provisional ballot.

5. Documents sufficient to identify the number of Registration

Records with respect to which:

- (a) You determined that an Identifying Number does not exist;
- (b) Correspondence was sent to an Unmatched Applicant in order to resolve any unsuccessful attempt to verify or match information;
- (c) Affirmative evidence indicates that such correspondence (i) was received, or (ii) was not received by the intended recipient; and
- (d) No affirmative evidence indicates whether or not such correspondence was received by the intended recipient.

6. Documents used to answer any Interrogatory propounded by

Plaintiffs including, but not limited to, Plaintiffs' First Set of Interrogatories.

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TAL 451433007v1 9/17/2007

UNITED STATES DISTRICT COURT
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FLORIDA STATE CONFERENCE OF THE
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of its members, *et al.*,

Civil No. _____

Plaintiffs,

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Secretary of State for the State of Florida,

Defendant.

**[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR
EXPEDITED DISCOVERY AND ENTRY OF SCHEDULING ORDER**

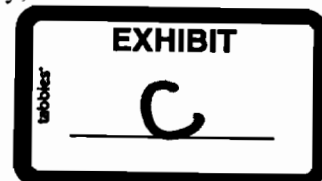
THIS CAUSE comes before the Court is Plaintiffs' *Motion for Expedited Discovery and Entry of Scheduling Order*, filed September 17, 2007. The Court, upon the papers filed by the parties and argument of counsel, is fully advised of the premises and determines that there is good cause for granting Plaintiffs' Motion.

Accordingly, it is

ORDERED AND ADJUDGED that the Plaintiffs' Motion is **GRANTED**, and

IT IS FURTHER ORDERED THAT this case shall proceed according to the following schedule:

A. Discovery: No later than **October 1, 2007**, the Plaintiffs and Defendant (collectively, the "Parties") shall serve document requests, interrogatories and requests for admissions (collectively the "Discovery Requests"), if any. Objections, if any, to the



production of any documents shall be served no later than **October 8, 2007**. No later than **October 17, 2007**, the Parties shall complete their production of documents and serve written responses and objections, if any, to the Discovery Requests. All depositions, which shall be scheduled to begin no earlier than October 9, 2007, shall be completed no later than **October 26, 2007**; except that Plaintiffs shall complete depositions of any affiants/declarants for whom Defendant submits an affidavit or declaration in opposition to the Plaintiffs' Motion for Preliminary Injunction no later than **November 16, 2007**.

B. Motion for Preliminary Injunction: Defendant shall serve and file any opposition to Plaintiffs' Motion for Preliminary Injunction, including supporting affidavits and documentary evidence, by **November 9, 2007**. Plaintiffs shall serve and file their Reply in support of their Motion for Preliminary Injunction, including any additional supporting affidavits and documentary evidence gained through discovery, by **November 21, 2007**.

A hearing on Plaintiffs' Motion for Preliminary Injunction shall be heard on **November 29** and, if necessary **November 30, 2007**. In the event the parties will seek to introduce in-person testimony at the hearing, the parties will each disclose the identity of the witnesses and subject matter of the testimony they intend to introduce no later than **5 days** prior to the hearing.

DONE AND ORDERED in Chambers at Tallahassee, Florida, this ____ day of _____, 2007.

UNITED STATES DISTRICT JUDGE

Copies to Counsel of Record.

TAL 451432605v2 9/17/2007