

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
Case No.: 1:06cv21265- SEITZ-MCALILEY

LEAGUE OF WOMEN VOTERS OF FLORIDA, PEOPLE  
ACTING FOR COMMUNITY TOGETHER, *et al.*,

Plaintiffs,

v.

SUE M. COBB, individually and in her official capacity as  
Secretary of State for the State of Florida, and DAWN  
ROBERTS, individually and in her official capacity as  
Director of the Division of Elections,

Defendants.

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**DEFENDANTS' PROPOSED FINDINGS OF FACT**

Defendants, Sue M. Cobb and Dawn Roberts, submit these proposed findings of fact relating to the Plaintiffs' Motion for a Preliminary Injunction:

**The Voter Registration Process and Plaintiffs' Voter Registration Activities**

1. The process by which an applicant is registered to vote is a complicated process. There are a number of steps that must occur between the time a voter registration application is collected and an applicant receives a voter information card from the supervisor of elections. (TS1 45:5-20; 48:24-25). For example, the Supervisors must ensure that voter information cards are produced and distributed. They must create the voter roll and submit it to the various precincts. (TS1 103:1-7). They must also train their volunteers. (TS1 105:3-4). In some counties, there can be as many as 1,000 different precincts. (TS1 104:24-25; 105:1-2).

2. The registration of applicants by the supervisors of elections or Secretary of State requires meticulous attention, including but not limited to, reviewing applications for completeness, requesting follow-up information from the applicants to complete the applications, entering data into the voter registrations system, and issuing voter information cards. (Defendants' Exh. 2 ¶ 8(c)). The late submission of voter registration forms in large numbers adds to the burdens of administration. (TS2:163:24—164:16; 129:2-4).

3. The purpose of having a book-closing date is to allow supervisors of elections time to complete the processing of voter registration applications and handle other administrative tasks before each election. (TS1 103:8-15).

4. The collection and submission of voter registration applications does not communicate a political message. (TS2 20:1).

#### **Effect of Challenged Legislation on Plaintiffs**

5. Notwithstanding the challenged legislation, some League of Women Voters members continue to collect voter registration applications under the direction and supervision of the supervisors of elections. (TS2 47:18-25; 59:12-22).

6. Notwithstanding the challenged legislation, AFSCME has continued collecting voter registration applications in Jacksonville and Miami. (Plaintiffs' Dec. 7, ¶¶ 3-4, 15; TS1 140:6-23).

7. AFSCME's political speech is limited by federal law because AFSME is a political union. (TS1 133:20-25). AFSCME has substantial reporting requirements. (TS1 51).

8. Like the other union plaintiffs, SEIU Florida Healthcare Union is an active and sophisticated participant in the political process. It regularly reports to the United States Department of Labor and the Internal Revenue Service, and its political communications are subject to federal regulations. (TS2 72:24—73:17). SEIU has substantial reporting requirements. (TS2 72:19-73:23).

9. If the Plaintiffs decided not to collect voter registration applications, they could nonetheless communicate the same messages that they could if they collected applications. (TS1 86:10-18; 88:8-24).

10. The challenged legislation does not have any affect on the way organizations and individuals—including the Plaintiffs—can communicate with others. (TS1 89:2-5).

11. To the extent Plaintiffs deliver a “personal touch” when they collect voter registration applications, they could deliver that “personal touch” notwithstanding the challenged legislation. They could deliver the same “personal touch” whether or not they took possession of a voter registration application. (TS1 90:10-91:16).

12. Even if third-parties were not permitted to distribute or collect voter registration applications, they could still affect registration levels by personally advocating for registration. (TS1 93:1-25).

13. Voter registration drives that purport to register large numbers of voters often fail to increase overall voter registration or voter turnout. Many people who register through these large drives would have registered through another means absent the drive. (Plaintiffs’ Exh. 12, at chapter 2).

14. The Plaintiffs presented no evidence that the challenged law disparately impacts any suspect class.

15. The Plaintiffs presented no evidence that the Defendants had threatened enforcement against them.

16. Organizations—whether registered or not—continue to engage in voter registration activities, including the collection of voter registration applications. (TS1 141:6-23).

17. The legislation in no way regulates the distribution of voter registration materials, nor does it affect anyone’s ability to encourage or assist others in registering to vote, to complete the entire application except for the date and signature, to engage in political advocacy either before or after providing such assistance, to deliver a “personal touch” while assisting applicants in the registration process, or to contact elections officials afterwards to ensure that the applicant was duly registered. Instead, the penalties established by the new law apply only to third-party voter registration organizations that assume responsibility for applications by physically collecting them from applicants, and fail to submit them to elections officials—either timely or at all.

**Negative Impacts of Third-Party  
Voter Registration Organizations on Potential Voters**

18. In the 2004 election cycle, there were substantial problems with third-party voter registration organizations submitting voter registration applications. (Defendants’ Exh. 2, ¶¶ 7-8; Plaintiffs’ Exh. 2).

19. After the 2000 presidential election and in advance of the 2004 presidential election, the practices of third-party voter registration organizations began to attract substantial criticism. The late submission of—and entire failure to submit—voter

registration applications by third-party voter registration organizations gave rise to complaints, administrative burdens, and voter disenfranchisement. (TS2 175:8-176:2; Plaintiffs' Exh. 2; Defendants' Exhs. 1; 2, ¶¶ 7-8).

20. Third-party voter registration organizations delivered large numbers of voter registration applications to the supervisors of elections and the Secretary of State for processing, either shortly before or after book closing, the date before which applications must be received in order to qualify the applicant to vote at the next ensuing election. (Defendants' Exh. 2 ¶ 8).

21. During the 2004 election cycle, third-party groups submitted approximately 800 applications to the Leon County Supervisor of Elections immediately before the book-closing date. (TS1 163:18-25).

22. Three days after the primary book-closing date in 2004, ACORN, a third-party voter registration organization, delivered approximately 2,400 applications to the Supervisor of Elections for Broward County. All of these applications had been completed prior to the book closing date. The individuals who completed those approximately 2,400 applications were unable to vote in the 2004 primary election. (Defendants' Exh. 1).

23. Dr. Snipes, the Supervisor of Elections for Broward County, had informed representatives of ACORN several weeks earlier of the book-closing date and had received assurances that applications collected prior to that date would be timely submitted. (Defendants' Exh. 1).

24. Representatives of ACORN also delivered large numbers of applications to the Department of State after the book-closing date. On two separate occasions after

the book-closing date for the 2004 general election, sets of approximately 500 applications were delivered by ACORN to the Department of State. (TS2 148:5-23). The individuals who completed those approximately 1,000 applications were unable to vote in the 2004 general election.

25. Supervisors of Elections in Miami-Dade, Broward, Duval, Palm Beach, and Orange Counties also experienced receiving applications after book-closing date from organizations including ACORN. (TS2 149:10-150:16).

26. In addition to ACORN, the NAACP and Women's Voices-Women Vote submitted applications to the Department of State after the book closing date in 2004. (TS2 165, 13-16). The NAACP mailed approximately 500 and Women's Voices-Women Vote approximately 1,000 voter registration applications postmarked after the book-closing date for the 2004 general election. (TS2 170, 3-20).

27. Political parties have had fewer problems submitting voter registration applications and submitting them timely. (TS2 148-151). Political parties are more accountable to electoral reprisal than are third-party voter registration organizations. (TS1 71:6).

28. Even when third-party voter registration organizations submitted applications prior to the book-closing date, the delivery of large numbers of applications by third-party voter registration organizations—sometimes in boxes—to the supervisors of elections immediately before book closing gave rise to administrative chaos. The “hoarding” of applications by third-party voter registration organizations until the days immediately preceding book closing had an extremely negative effect on the elections

preparation of Florida's supervisors of elections. (TS2 128:16—129:4; Defendants' Exh. 2 ¶ 8).

29. The submission of large quantities of applications by third-party voter registration organizations presents problems for supervisors of elections. (TS1 163:16-24).

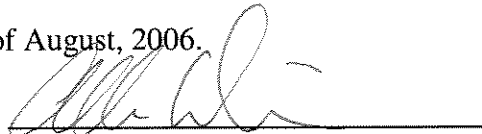
30. Between two and four percent of all voter registration applications received are incorrect. (TS1 148:25-149:2).

31. Many applicants who had submitted applications to third-party voter registration organizations, but whose applications could not be processed in time to allow them to vote, complained to the Division of Elections. Many of these applicants remembered giving their applications to somebody at a shopping mall or grocery store, or in their neighborhoods, but did not recall the identity of the third-party voter registration organization to whom they had entrusted their applications. (TS2 175:10-176:2).

32. The delivery of applications in large numbers shortly before book closing—rather than in a steady and even current—increases the likelihood of mistakes in the processing of those applications. (Defendants' Exh. 2 ¶ 8(b-d)).

33. Third-party voter registration organizations also delivered a large proportion of incomplete applications to elections officials. The necessity of supplying omitted information, especially when applications were submitted shortly before book closing, increased the administrative burdens caused by third-party voter registration organizations. (Plaintiffs' Exh. 2).

Respectfully submitted this 7th day of August, 2006.



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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the foregoing has been served by electronic mail and

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