

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ASSOCIATION OF COMMUNITY
ORGANIZATIONS FOR REFORM NOW, *et al.*,

Plaintiffs,

v.

CATHY COX, *et al.*

Defendants.

CIVIL ACTION NO.
1:06-CV-1891-JTC

**PLAINTIFFS' PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

Pursuant to the Court's Order of August 28, 2006, Plaintiffs submit their proposed findings of fact and conclusions of law with respect to the preliminary injunction motion and hearing as follows:

PROPOSED FINDINGS OF FACT

A. PARTIES

1. Plaintiff Association of Community Organizations for Reform Now ("ACORN") is the nation's largest organization of low- and moderate-income families, working together for social justice and stronger communities. Since its founding in 1970, ACORN has grown to more than 175,000 member families,

organized in 850 chapters in 75 cities in the United States and other countries.

(R2-Ex.1, Affidavit of Brian Kettenring [hereinafter “Kettenring Aff.”] ¶¶ 2-3.)

2. Plaintiff Dana Williams is the Chairperson of Georgia ACORN.

(R2-Ex. 2, Affidavit of Dana Williams [hereinafter “Williams Aff.”] ¶ 1.)

3. Plaintiff Project Vote provides funding, professional training, management, evaluation, and technical services to ACORN for its voter engagement and voter participation activities in low- and moderate-income communities. (R23-Ex. 4, Deposition of Dana Williams [hereinafter “Williams Dep.”] at 15.)

4. Plaintiff Georgia Coalition for the People’s Agenda (“GCPA” or “People’s Agenda”) is a coalition of civil rights, human rights, and peace and justice advocacy groups formed to improve the quality of governance in Georgia, help create a more informed and active electorate, and have more responsive and accountable elected officials. (R2-Ex. 3, Declaration of Helen Butler [hereinafter “Butler Decl.”] ¶ 2.) The primary goal of the People’s Agenda is to increase civic participation and voting in traditionally disadvantaged and politically underrepresented communities. (R23-Ex. 5, Deposition of Helen Butler [hereinafter “Butler Dep.”] at 10-11.)

5. Plaintiff Georgia State Conference of NAACP Branches is the statewide affiliate group of the National Association for the Advancement of Colored People, the nation's oldest civil rights organization, founded in 1909. The mission of the NAACP is to ensure political, educational, social, and economic equality for all persons and to eliminate racial hatred and discrimination. (R1, Compl. ¶ 6.; R2-Ex. 4, Declaration of Edward DuBose [hereinafter "DuBose Decl."] ¶ 2.)

6. Defendant Cathy Cox is Georgia's elected Secretary of State and the chief election official of the state responsible for carrying out Georgia's responsibilities under the National Voter Registration Act of 1993, 42 U.S.C. § 1973gg *et seq.* (Compl. ¶ 8; O.C.G.A. § 21-2-210.) By virtue of her office, Secretary Cox also serves as Chairperson of the Georgia State Election Board ("SEB"). O.C.G.A. § 21-2-30(d). Defendants Claud L. ("Tex") McIver, J. Randolph Evans, David J. Worley, and Jeffrey K. Israel are the other current members of the SEB. (Compl. ¶ 9.)

B. PLAINTIFFS' ACTIVITIES

7. Among their many charitable and educational activities, Plaintiffs actively participate in voter registration, education, get-out-the-vote ("GOTV") and civic participation programs in Georgia, particularly focusing their efforts in

minority, youth, economically disadvantaged, and other traditionally underrepresented communities. (Williams Aff. ¶ 2; Butler Decl. ¶ 3; DuBose Decl. ¶ 3; Butler Dep. at 10-11.) During the 2004 election season, for example, Plaintiffs assisted tens of thousands of Georgia's citizens with registering to vote. (Kettenring Aff. ¶¶ 7, 10; Butler Decl. ¶ 4; DuBose Decl. ¶ 4; Williams Dep. at 39.)

8. Under Plaintiffs' ordinary voter registration procedures, Plaintiffs train their registration workers how to determine voter eligibility, how to fill out voter registration cards, and how to comply with all federal and state rules for registering voters. (R2-Ex. 5, Affidavit of Stephanie L. Moore [hereinafter "Moore Aff."] ¶ 3; Butler Decl. ¶ 5; DuBose Decl. ¶ 5; Butler Dep. at 14-16, 38-40.) These registration workers typically seek individuals who are eligible to vote but have not yet registered to do so, or who need to update their registration with a change of name or address. (*Id.*) When a registration worker encounters an eligible voter, he or she discusses Plaintiffs' philosophy that all eligible individuals should register to vote and then should actually vote on Election Day. (*Id.*) The registration worker may also attempt to enlighten or persuade the prospective voter about the importance of certain legislative or socio-political priorities, such as those involving criminal justice, civil and human rights, and

youth and women's rights. (Butler Dep. at 8-11.) The registration worker encourages the individual to register and, if necessary, helps the individual fill out a registration form. (Moore Aff. ¶ 3; Butler Decl. ¶ 5; DuBose Decl. ¶ 5; Butler Dep. at 14-16, 38-40.)

9. After an applicant completes the voter registration form, Plaintiffs' voter registration workers ordinarily perform a quick preliminary onsite review or "perusal" of the application in the applicant's presence, to determine whether it has been fully and accurately completed, with all required boxes checked and all required blanks neatly filled in with the correct information. (Butler Dep. at 29, 44; Butler Decl. ¶ 8; DuBose Decl. ¶ 8.) However, depending on the size of the drive and the number of registration workers available onsite, Plaintiffs' workers may not be able to conduct a thorough review of the applications at the voter registration site. (Butler Dep. at 29, 44.)

10. In addition to providing assistance to registrants at the voter registration site, Plaintiffs also use additional quality control and monitoring measures to ensure that all eligible individuals whom they assist with registration are added to the voter rolls in a timely manner, as required by law. For example, after the conclusion of a drive, Plaintiffs typically take the completed applications back to their offices and review them again, to ensure that they are complete and

legible, so that they will not encounter any avoidable delays at the county registrar's office. (Moore Aff. ¶¶ 4-6; Butler Dep. at 37-38, 42-43.) To the extent that there are errors or omissions on the forms, Plaintiffs endeavor to contact the affected registrants to get the issue corrected prior to the time that the form is submitted to the relevant election authority. (*Id.*)

11. As part of their goal of maximizing voter participation by eligible citizens, Plaintiffs also use the information collected from voter registration applicants to monitor whether election officials are timely processing the voter registration applications that Plaintiffs submit and adding eligible applicants to the voter rolls, as required by law. (Butler Decl. ¶ 8; DuBose Decl. ¶ 8; Moore Aff. ¶¶ 4-6; Butler Dep. at 37-38, 42-43.)

12. Another important objective of some of the Plaintiffs' quality control and monitoring process is to review the performance of their registration workers, to ensure that they are not submitting fraudulent or erroneous applications, and to assist election officials by identifying any questionable or incomplete applications. (Moore Aff. ¶¶ 4, 7.) Indeed, in 2004, after conducting a similar type of quality control review, another private voter registration group not a party to this action was instrumental in identifying to Georgia's election officials a batch of voter registration applications collected by that group's workers that appeared to be

fraudulent or otherwise problematic. (R25, Deposition of Kathy A. Rogers [hereinafter “Rogers Dep.”] at 65-70.)

13. In addition to conducting voter registration drives, Plaintiffs also engage in other civic education, civic participation, and GOTV activities, such as sponsoring candidate forums and town hall meetings, providing transportation to the polls, and conducting telephone campaigns to remind voters of an upcoming election. (Butler Dep. at 11, 43-44; Williams Dep. at 34, 47; DuBose Decl. ¶¶ 3-4.)

14. To facilitate these post-registration drive activities and their internal quality control and monitoring functions, Plaintiffs prefer to maintain copies of the completed voter registration applications that they collect, so that they will have complete and accurate contact information for each of the persons whom they have assisted with voter registration. (Butler Decl. ¶ 6; DuBose Decl. ¶¶ 6-7; Moore Aff. ¶¶ 4, 8; Butler Dep. at 37-38, 42-43, 46-47.) Plaintiffs also occasionally use the contact information derived from the copies of voter registration forms to solicit new members. (DuBose Decl. ¶ 6; Moore Aff. ¶ 9.)

15. Although Plaintiffs could conceivably collect some of the relevant contact information from voter registration applicants by using sign-in sheets or manually copying information from the voter registration applications onto a separate list, these alternate methods are comparatively more inefficient and

unreliable, and they make the process more time consuming and inconvenient for Plaintiffs' voter registrants and Plaintiffs' registration workers. (Butler Decl. ¶ 6; DuBose Decl. ¶¶ 6-7; Butler Dep. at 37-38, 46-47.)

C. GEORGIA'S PREVIOUS RESTRICTIONS ON VOTER REGISTRATION BY PRIVATE ENTITIES

16. In June 2004, the Charles H. Wesley Education Foundation, Inc. ("Wesley Foundation") and others brought suit against Secretary Cox and other state election officials to challenge the State of Georgia's noncompliance with the NVRA and other federal laws respecting the rights of private entities to engage in organized voter registration activity within the state. *See Charles H. Wesley Education Foundation, Inc. v. Cox*, Civil Action No. 1:04-CV-1780-WCO (N.D. Ga. Filed Jun. 18, 2004).

17. Prior to the *Wesley Foundation* litigation, Georgia prohibited private, non-deputized entities from collecting and submitting completed voter registration applications. Georgia also prohibited private entities from organizing voter registration drives unless they obtained permission from a county board of registrars' office and had a deputy registrar present at the drive to collect applications. *See Charles H. Wesley Educ. Found. v. Cox*, 324 F. Supp. 2d 1358, 1366 (N.D. Ga. 2004) ("*Wesley Foundation I*").

18. This Court and the Eleventh Circuit ruled that those restrictions on private entities' collection and submission of voter registration applications violated the NVRA. Specifically, those courts found: (i) that private entities have a federally protected right to engage in organized voter registration activity, including but not limited to the right to collect completed voter registration applications and submit them to election officials in Georgia; (ii) that election officials must accept and timely process all such applications regardless of the manner in which they are delivered or by whom they are delivered, and (iii) that Georgia's limitations and restrictions on private entities' rights to collect and submit completed voter registration applications unreasonably interfered with those private entities' rights under the NVRA. *Wesley Foundation I*, 324 F. Supp. 2d at 1366-68, *aff'd*, 408 F.3d 1349 (11th Cir. 2005) ("*Wesley Foundation II*"), *and consent decree and final judgment entered*, No. 1:04-CV-1780-WCO (N.D. Ga. March 2, 2006) ("*Wesley Foundation III*").

D. DEFENDANTS' COPYING AND SEALING RULES

19. In response to the injunction issued in the *Wesley Foundation* case, which allowed private, non-deputized entities to organize voter registration drives and to collect and submit voter registration applications in Georgia, the State Election Board adopted a new rule (the "Regulation") that required any completed

voter registration application submitted to a person other than a registrar or deputy registrar to be sealed prior to being handed to that person (the “sealing requirement”) and prohibited the copying of completed voter registration applications by anyone other than a registrar or deputy registrar (the “copying ban”). (Rogers Dep. at 15-18 & Exs. 2-3.) The Regulation was first adopted as an emergency rule on September 9, 2004, and then as a permanent rule on September 14, 2005. (*Id.*) The permanent Regulation became effective on January 17, 2006, after being precleared by the U.S. Department of Justice pursuant to the Voting Rights Act of 1965. (Rogers Dep. at 27; Ga. Comp. R. & Regs. r. 183-1-6-.03(3)(o)(2).)

20. The SEB asserts that it had a compelling state interest in protecting the privacy of confidential information (i.e., applicants’ full Social Security numbers) contained on voter registration forms and in preventing the use of such information by private voter registration groups for “nefarious” purposes, such as voter registration fraud and identity theft, and that the Regulation was narrowly tailored to advance those asserted compelling state interests. (Rogers Dep. at 46-48, 75-76, 83-85.) The agency’s administrative record does not reflect any other compelling interests asserted by Defendants.

21. Pursuant to Georgia law, only the voter registration applicant's full Social Security number and location of registration are deemed to be confidential; all other data contained on the voter registration application is open to public inspection, and the entire statewide voter registration list may be purchased by anyone at any time, for any non-commercial use, upon payment of the appropriate fee to the Secretary of State. O.C.G.A. § 21-2-225(b)-(c).

22. Pursuant to federal law, all voter registration records (except for records related to a person's decision to decline to register to vote and records related to the identity of a state voter registration agency where a person registered) are required to be maintained for at least two years and to be made available for public inspection and copying. 42 U.S.C. § 1973gg-6(i).

23. Georgia is prohibited by federal law from requiring the full Social Security number on its voter registration applications as a prerequisite to registering to vote. *Schwier v. Cox*, 412 F. Supp. 2d 1266 (N.D. Ga. 2005), *aff'd*, 439 F.3d 1285 (11th Cir. 2006). However, Georgia will continue to request that applicants supply their full Social Security numbers voluntarily until January 2007, when the state makes the required changes to its voter registration forms and implements a voter registration system that complies with the Help America Vote Act, which requires applicants to supply their state driver's license number, if they

have one, or, if they do not, then the last four digits of their Social Security number or some other unique identifying number supplied by the state. (Rogers Dep. at 49; 42 U.S.C. § 15483(a)(5)(i)(II) and (c).)

24. The location where a person registered to vote is not contained on the federal or Georgia mail-in voter registration forms used by Plaintiffs and other private entities in connection with privately organized voter registration drives. (Rogers Dep. at 76-78 & Exs. 12-13.)

25. Defendants did not conduct any formal or informal studies or hold any evidentiary hearings to substantiate any of their concerns related to voter registration fraud or identity theft. (Rogers Dep. at 54-55.) Nor did Defendants attempt to discern whether applications collected or submitted by private entities are any more or less accurate, free from fraud, or susceptible to identity theft than applications collected and submitted by deputy registrars. (Rogers Dep. at 64-65.)

26. Defendants have not received a report of even one alleged instance of identity theft or other misuse of Social Security numbers arising out of the collection and submission of voter registration applications by private entities. (Rogers Dep. at 86-87.)

27. Defendants have, on occasion, received calls from citizens expressing their general concerns about the potential disclosure or misuse of their personal information contained on mail-in registration applications and absentee ballot requests — making no reference to whether such material is collected by third parties or deputy registrars, or whether it is simply deposited by the citizens themselves into the United States mail. (Rogers Dep. at 46-48.)

28. The alleged voter registration fraud involving the use of bogus Social Security numbers, addresses, and names on several thousand voter registration applications in Georgia during the 2004 election cycle was not related to the issue of copying and sealing of voter registration applications by third parties; instead, Defendants believe this alleged fraud was more likely motivated by the payment of third-party voter registration workers on the basis of the number of forms collected and submitted, rather than for the time worked by such workers, which is a violation of existing Georgia criminal statutes. (Rogers Dep. at 65, 72-73, 97; O.C.G.A. § 21-2-602.)

29. All of the public comments received by the State Election Board argued against the adoption of the Regulation; there is no record of any public comments submitted in favor of the Regulation. (Rogers Dep. at 24-28.)

30. There is no record of the State Election Board having considered other more narrowly tailored means to advance its asserted compelling state interests in protecting against voter registration fraud and identity theft, such as: eliminating the requirement for a full Social Security number on the voter registration application; gauging how or whether enforcement of existing criminal laws related to voter registration fraud or identity theft sufficiently addressed the concern so as to obviate the need for further regulation; requiring first-time registrants by mail to appear in person the first time they vote, as permitted by the NVRA; implementing training programs for third-party voter registration groups; or creating public service announcements, similar to those the Secretary of State had previously done with respect to investment scams, to enhance citizens' awareness of privacy and confidentiality issues as they relate to voter registration. (Rogers Dep. at 101-05.)

31. No citizen is required to associate with or accept voter registration assistance from Plaintiffs or any other private entity, nor is any citizen required to leave his or her completed voter registration application in the hands of a private voter registration organizer in order to register to vote. A citizen may instead choose to register in person before an authorized state official, or she may simply download a voter registration form from the internet and mail it into the

appropriate election office herself. (Rogers Dep. at 95-96.) A citizen who leaves his completed voter registration application with another private entity is making a free and voluntary choice to do so. (*Id.*)

E. HARM TO PLAINTIFFS ARISING OUT OF THE REGULATION

32. The Regulation interferes with Plaintiffs' ability to speak and associate freely and fully with others, in the manner Plaintiffs deem most appropriate and effective, concerning the value of voting, voter registration, and civic participation, as well as the importance of any of Plaintiffs' other social, political, and/or legislative priorities. (Butler Decl. ¶¶ 9-11; DuBose Decl. ¶¶ 9-11; Butler Dep. at 8-11, 28-29, 37-38, 44-47; Williams Dep. at 45; Kettering Decl. ¶ 11; Moore Aff. ¶¶ 10-11.)

33. The sealing requirement interferes with Plaintiffs' ability to collect and submit voter registration forms, as permitted by the NVRA, because it hinders Plaintiffs' ability to review the applicant's residential address information, to determine to which state or county election office the applicant's form should be sent. (DuBose Decl. ¶ 9; Butler Decl. ¶ 9.)

34. Plaintiffs' ability to monitor election officials' compliance with their responsibilities under the NVRA (i.e., timely adding eligible voters to the rolls) is impaired by the copying ban, since Plaintiffs are unable to retain the best evidence

of how an application was filled out and the date such application was completed and submitted. (DuBose Decl. ¶ 9; Butler Decl. ¶ 9.)

35. The Regulation has impaired, and will continue to impair, Plaintiffs' ability to conduct effective get-out-the-vote drives, and to maintain ongoing contact with the people whom they encounter during their voter registration drives, because the Regulation makes it infinitely more difficult and inefficient for Plaintiffs to obtain basic contact information for the registrants. (Butler Decl. ¶ 6; DuBose Decl. ¶¶ 6-7; Butler Dep. at 37-38, 46-47.)

36. The Regulation will interfere with some Plaintiffs' ability to obtain essential funding for their voter registration programs, which will reduce Plaintiffs' ability to engage in such activity. (R2-Ex. 7, Declaration of Margaret E. Gage ¶¶ 1-10; R2-Ex. 6, Declaration of Michael Kieschnick ¶¶ 1-11; Moore Aff. ¶ 11.)

37. Any violation of the Regulation could subject Plaintiffs and other private entities to civil and criminal sanctions. For example, the State Election Board may publicly reprimand and/or impose up to a \$5,000 fine for each violation of the Regulation. *See* O.C.G.A. § 21-2-33.1(a). To the extent that Georgia courts construe a violation of the Regulation to be a violation of the Georgia Election Code, Plaintiffs and other private entities could also be subject to

the imposition of criminal fines of between \$100 and \$1,000 and/or to imprisonment for up to a year. *See* O.C.G.A. §§ 21-2-598 to 21-2-599.

PROPOSED CONCLUSIONS OF LAW

1. All Plaintiffs have standing to sue under Article III of the Constitution, since they allege concrete and particularized injuries to their legally protected interests under the NVRA and the First Amendment, which are fairly traceable to the challenged actions of Defendants, and which are able to be redressed by this Court. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992); *Wesley Foundation I*, 324 F. Supp. 2d at 1363-65, *aff'd*, *Wesley Foundation II*, 408 F.3d 1353-54.

2. The written notice of an NVRA violation pursuant to Section 11(b) of the NVRA, given by the Charles H. Wesley Education Foundation, Inc. (on behalf of itself and all other persons similarly aggrieved) to the Georgia Secretary of State on September 14, 2005 (*see* Rogers Dep. Ex. 5), satisfied the statutory prerequisite for *ante litem* notice for all NVRA violations asserted by Plaintiffs herein. *ACORN v. Miller*, 129 F.3d 833, 838 (6th Cir. 1997).

3. The Regulation challenged in this case is preempted by the NVRA, because it interferes with Plaintiffs' federally protected and legally enforceable interest in and right to collect and submit completed voter registration

applications, as part of their organized voter registration programs, in a manner allowed by the NVRA. Specifically, the Regulation is inconsistent with the mandates of the NVRA because it imposes severe and unreasonable restrictions on Plaintiffs' right to collect and submit completed voter registration applications by requiring that such applications be sealed before being collected by Plaintiffs and by prohibiting copying of applications by Plaintiffs. *Wesley Foundation II*, 408 F.3d at 1354; *Wesley Foundation I*, 324 F. Supp. 2d at 1368.

4. The Regulation is preempted by the NVRA because the sealing requirement and copying ban interfere with the Plaintiffs' federally protected right to monitor election officials' "implementation of programs and activities designed to ensure the accuracy and currency of official lists of eligible voters." 42 U.S.C. § 1973gg-6(i)(1); *see also* Proposed Finding of Fact No. 34, *supra*.

5. The Regulation is unconstitutional under the First Amendment because it interferes with Plaintiffs' rights to engage in core political speech and to associate with others for purposes of advancing their cause of increasing voter registration and overall civic participation and awareness in traditionally disadvantaged and underrepresented communities. *Meyer v. Grant*, 486 U.S. 414 (1988); *Buckley v. American Constitutional Law Foundation*, 525 U.S. 182 (1999); *League of Women Voters v. Cobb*, No. 06-21265-CIV-SEITZ, 2006 U.S.

Dist. LEXIS 61070 (S.D. Fla. Aug. 28, 2006). The Regulation imposes a severe burden on Plaintiffs' constitutional rights and is not narrowly tailored to advance any compelling state interest. *Burdick v. Takushi*, 504 U.S. 428, 433-34 (1992); *Anderson v. Celebreeze*, 460 U.S. 780, 788-90 (1983).

- a. Defendants have not met their burden of establishing that their asserted interests in protecting against voter registration fraud and identity theft in connection with third-party collection and submission of voter registration applications represent "real, rather than conjectural problems." *Buckley*, 525 U.S. at 210 (Thomas, J., concurring) (citing *Turner Broad. Sys. v. FCC*, 512 U.S. 622, 664, 666 (1994)). There is not a record of even one such instance of voter registration fraud or identity theft in Georgia arising out of third-party copying or non-sealing of voter registration applications.
- b. Even assuming that Defendants had established a real, not conjectural, compelling interest in the area of preventing fraud and identity theft, Defendants' Regulation is "plainly . . . not narrowly tailored. It burdens all circulators, whether they are responsible for committing fraud or not." *Buckley*, 525 U.S. at 210 (Thomas, J., concurring). Defendants did not meet their legal obligation to

consider more narrowly tailored ways to address their stated concerns. *Dunn v. Blumstein*, 405 U.S. 330, 343, 353-54 (1972).

- c. Citizens are perfectly capable of protecting themselves from any potential voter registration fraud or unwanted intrusions into their personal privacy by private entities such as Plaintiffs, without the necessity of the Regulation. *Cf. Watchtower Bible & Tract Soc. v. Village of Stratton*, 536 U.S. 150, 168 (2002) (town's restrictions on door-to-door canvassers unnecessary because homeowners' "unquestioned right to refuse to engage in conversation with unwelcome visitors" provided adequate self-help remedy to homeowners without intruding upon canvassers' First Amendment rights); *see also* Proposed Finding of Fact No. 31, *supra*.

6. For the reasons noted above, the Regulation would also be unconstitutional even under a more intermediate level of scrutiny under the *Burdick/Anderson* framework. *See Burdick*, 504 U.S. at 433-34; *Anderson*, 460 U.S. at 788-89. The "character and magnitude of the asserted injury" (i.e., voter registration fraud and identity theft arising out of third-party copying and non-sealing of completed voter registration applications) has not been shown by Defendants to be a "real, rather than conjectural, problem" in Georgia, given that

Defendants have cited no instances of such activity occurring in the state.

Buckley, 525 U.S. at 210. By contrast, the type of core political speech and associational rights that Plaintiffs seek to vindicate under the First Amendment are “at [their] zenith,” and the state’s burden of justifying restrictions on such rights are typically “well-nigh insurmountable.” *Meyer*, 486 U.S. at 425. Defendants have not put forth any sufficiently “precise interests” that justify the burdens (severe or otherwise) imposed by the Regulation, nor have they demonstrated that any interests that they have articulated “make it necessary to burden the Plaintiffs’ rights” in the manner that the Regulation does. *Anderson*, 460 U.S. at 789.

Indeed, the record reflects that Defendants considered *no* other alternatives to the copying ban and sealing requirement. Accordingly, the Regulation is not reasonable under *Anderson* and *Burdick*.

7. Because Plaintiffs have proven a substantial likelihood of success on the merits of their claims; demonstrated that they will suffer irreparable harm as a result of Defendants’ deprivations of Plaintiffs’ federal rights; shown that the balance of harms weighs strongly in favor of a grant of preliminary injunctive relief; and established that a grant of preliminary injunctive relief would be in the public interest, a grant of preliminary injunctive relief is appropriate in this case.

Siegel v. LaPore, 234 F.3d 1163, 1176 (11th Cir. 2000) (en banc); *Wesley Foundation II*, 408 F.3d at 1354.

Dated this 11th day of September, 2006.

s/ Bradley E. Heard, Esq.

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** Pro Hac Vice Applications Pending*

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 5.1

The undersigned hereby certifies that the foregoing document has been prepared in accordance with the font type and margin requirements of Local Rule 5.1 of the Northern District of Georgia, using a font type of Times New Roman and a point size of 14.

s/ Bradley E. Heard, Esq.
Georgia Bar No. 342209

CERTIFICATE OF SERVICE

This will certify that I have this day electronically filed the within and foregoing **Plaintiffs' Proposed Findings of Fact and Conclusions of Law** with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing to the following attorneys of record:

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Dated this 11th day of September, 2006.

s/ Bradley E. Heard, Esq.
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