

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

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

Plaintiffs,

v.

DEBORAH E. SCOTT, et al.,

Defendants.

Case No. 08-4084-CV-C-NKL

**DECLARATION OF
RICHARD J. CAIRNS**

Richard J. Cairns declares under the penalties of perjury pursuant to 28 U.S.C § 1746 as follows:

1. I am associated with the law firm Dewey & LeBoeuf LLP, and as such am one of several counsel of record representing the Plaintiffs in the above-captioned action.
2. I make this declaration for the purpose of admitting documentary evidence in further support of Plaintiffs' Motion for Preliminary Injunction and for the Court's consideration in determining that motion.
3. The documents attached as exhibits to this declaration were either marked as exhibits at depositions taken in expedited pre-hearing discovery, produced by Defendants, printed from the Department of Social Services ("DSS"), Federal Election Commission ("FEC") or Election Assistance Commission websites, or produced by the Missouri Office of the Secretary of State pursuant to Plaintiffs' Sunshine Law request. Defendants Scott and Luck ("DSS" or "FSD") have stipulated to the admissibility of the documents obtained from the Secretary of State ("SoS").
4. A true and correct copy of DSS Income Maintenance Policy 015.026.00 Voter Registration Requirements, IM-72 December 22, 1994 is attached as Exhibit 1.

5. True and correct copies of Sources of Voter Registration Applications by state for the period 1995 –1996 from the Federal Election Commission, “Statistical Highlights of the Federal Election Commission Report to the Congress on the Impact of the National Voter Registration Act, Sources of Voter Registration Applications 1995-1996” printed on July 3, 2008 from the FEC website: <http://www.fec.gov/votregis/nvra2.htm> ; Federal Election Commission, “The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office” 1997-1998 report, Table 2; 1999-2000 report, Table 2; 2001-2002 report, Table 2 produced by Plaintiffs to Defendants; Election Assistance Commission, “The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office,” 2003-2004 report, Table 2; 2005-2006 report, Table 2b, are attached as Exhibit 2.
6. A true and correct copy of Table 26, Food Stamps, Average Monthly Caseload Fiscal Years 1995-1999, printed on July 3, 2008 from FSD, Annual Data Report Fiscal Year 1999, available at <http://www.dss.mo.gov/re/pdf/fsd/fsd1999.pdf> is attached as Exhibit 3.
7. A true and correct copy of Table 24, Food Stamps, Average Monthly Applications, Approvals and Rejections, showing the number of Food Stamps applications received (statewide on p. 56) for fiscal year 2006, printed on July 3, 2008 from FSD, Annual Data Report Fiscal Year 2006, available at <http://www.dss.mo.gov/re/pdf/fsd/fsd2006.pdf> is attached as Exhibit 4.
8. A true and correct copy of Table 26, Food Stamps, Average Monthly Applications, Approvals and Rejections, showing the number of Food Stamps applications received (statewide on p. 60) for fiscal year 2005, printed on July 3, 2008 from FSD, Annual Data Report Fiscal Year 2005, available at <http://www.dss.mo.gov/re/pdf/fsd/fsd2005.pdf> is attached as Exhibit 5.

9. A true and correct copy of the responses of the Local Election Authorities (“LEA”) for Jackson County, Kansas City and St Louis City to the SoS for the U.S. Election Assistance Commission 2006 Election Administration and Voting Survey, is attached as Exhibit 6. These forms were produced by the SoS in response to Plaintiffs’ public records request, see Paragraph 36 and Exhibit 33, below.
10. True and correct copies of printing requisitions and purchase orders from the SoS to the State Printing Center for voter registration forms coded for use in DSS and DHSS offices (Code 2) are attached as Exhibit 7. These forms were produced by the SoS in response to Plaintiffs’ public records request, see Paragraph 36 and Exhibit 33, below.
11. A true and correct copy of Table 26, Food Stamps, Average Monthly Applications, Approvals and Rejections, showing the number of Food Stamps applications received (statewide on p. 60) for fiscal year 2004 is attached as Exhibit 8. This document was produced by DSS in response to Plaintiffs’ Request for Production.
12. A true and correct copy of Table 25, Food Stamp Applications for July 2006 from the DSS Monthly Management Report showing the number of Food Stamp applications received (statewide on p. 155) is attached as Exhibit 9. This document was produced by DSS in response to Plaintiffs’ Request for Production.
13. A true and correct copy of Table 25, Food Stamp Applications for August 2006 from the DSS Monthly Management Report showing the number of Food Stamp applications received (statewide on p. 155) is attached as Exhibit 10. This document was produced by DSS in response to Plaintiffs’ Request for Production.
14. A true and correct copy of Table 25, Food Stamp Applications for September 2006 from the DSS Monthly Management Report showing the number of Food

- Stamp applications received (statewide on p. 155) is attached as Exhibit 11. This document was produced by DSS in response to Plaintiffs' Request for Production.
15. A true and correct copy of Table 25, Food Stamp Applications for October 2006 from the DSS Monthly Management Report showing the number of Food Stamp applications received (statewide on p. 155) is attached as Exhibit 12. This document was produced by DSS in response to Plaintiffs' Request for Production.
 16. A true and correct copy of Table 25, Food Stamp Applications for November 2006 from the DSS Monthly Management Report showing the number of Food Stamp applications received (statewide on p. 155) is attached as Exhibit 13. This document was produced by DSS in response to Plaintiffs' Request for Production.
 17. A true and correct copy of Table 25, Food Stamp Applications for December 2006 from the DSS Monthly Management Report showing the number of Food Stamp applications received (statewide on p. 155) is attached as Exhibit 14. This document was produced by DSS in response to Plaintiffs' Request for Production.
 18. A true and correct copy of Table 25, Food Stamp Applications for January 2007 from the DSS Monthly Management Report showing the number of Food Stamp applications received (statewide on p. 155) is attached as Exhibit 15. This document was produced by DSS in response to Plaintiffs' Request for Production.
 19. A true and correct copy of Table 25, Food Stamp Applications for February 2007 from the DSS Monthly Management Report showing the number of Food Stamp applications received (statewide on p. 155) is attached as Exhibit 16. This document was produced by DSS in response to Plaintiffs' Request for Production.
 20. A true and correct copy of Table 25, Food Stamp Applications for March 2007 from the DSS Monthly Management Report showing the number of Food Stamp applications received (statewide on p. 155) is attached as Exhibit 17. This document was produced by DSS in response to Plaintiffs' Request for Production.

21. A true and correct copy of Table 25, Food Stamp Applications for April 2007 from the DSS Monthly Management Report showing the number of Food Stamp applications received (statewide on p. 155) is attached as Exhibit 18. This document was produced by DSS in response to Plaintiffs' Request for Production.
22. A true and correct copy of Table 25, Food Stamp Applications for May 2007 from the DSS Monthly Management Report showing the number of Food Stamp applications received (statewide on p. 155) is attached as Exhibit 19. This document was produced by DSS in response to Plaintiffs' Request for Production.
23. A true and correct copy of Table 25, Food Stamp Applications for June 2007 from the DSS Monthly Management Report showing the number of Food Stamp applications received (statewide on p. 155) is attached as Exhibit 20. This document was produced by DSS in response to Plaintiffs' Request for Production.
24. A true and correct copy of Table 25, Food Stamp Applications for July 2007 from the DSS Monthly Management Report showing the number of Food Stamp applications received (statewide on p. 155) is attached as Exhibit 21. This document was produced by DSS in response to Plaintiffs' Request for Production.
25. A true and correct copy of Table 25, Food Stamp Applications for August 2007 from the DSS Monthly Management Report showing the number of Food Stamp applications received (statewide on p. 155) is attached as Exhibit 22. This document was produced by DSS in response to Plaintiffs' Request for Production.
26. A true and correct copy of Table 25, Food Stamp Applications for September 2007 from the DSS Monthly Management Report showing the number of Food Stamp applications received (statewide on p. 155) is attached as Exhibit 23. This document was produced by DSS in response to Plaintiffs' Request for Production.
27. A true and correct copy of Table 25, Food Stamp Applications for October 2007 from the DSS Monthly Management Report showing the number of Food Stamp

- applications received (statewide on p. 155) is attached as Exhibit 24. This document was produced by DSS in response to Plaintiffs' Request for Production.
28. A true and correct copy of Table 25, Food Stamp Applications for November 2007 from the DSS Monthly Management Report showing the number of Food Stamp applications received (statewide on p. 155) is attached as Exhibit 25. This document was produced by DSS in response to Plaintiffs' Request for Production.
29. A true and correct copy of Table 25, Food Stamp Applications for December 2007 from the DSS Monthly Management Report showing the number of Food Stamp applications received (statewide on p. 155) is attached as Exhibit 26. This document was produced by DSS in response to Plaintiffs' Request for Production.
30. A true and correct copy of Table 25, Food Stamp Applications for January 2008 from the DSS Monthly Management Report showing the number of Food Stamp applications received (statewide on p. 155) is attached as Exhibit 27. This document was produced by DSS in response to Plaintiffs' Request for Production.
31. A true and correct copy of Table 25, Food Stamp Applications for February 2008 from the DSS Monthly Management Report showing the number of Food Stamp applications received (statewide on p. 155) is attached as Exhibit 28. This document was produced by DSS in response to Plaintiffs' Request for Production.
32. A true and correct copy of Table 25, Food Stamp Applications for March 2008 from the DSS Monthly Management Report showing the number of Food Stamp applications received (statewide on p. 155) is attached as Exhibit 29. This document was produced by DSS in response to Plaintiffs' Request for Production.
33. A true and correct copy of Table 25, Food Stamp Applications for April 2008 from the DSS Monthly Management Report showing the number of Food Stamp applications received (statewide on p. 155) is attached as Exhibit 30. This document was produced by DSS in response to Plaintiffs' Request for Production.

34. A true and correct copy of a summary document of visits to DSS offices and surveys of DSS clients prepared by Nyana Miller in and around May or June 2007 and produced by Plaintiffs in this action is attached as Exhibit 31
35. A true and correct copy of a printout of DSS Income Maintenance Policies:
1120.045.00 Interviews, IM-#27 March 19, 2004; 1120.045.05 Applicant Cannot Stay For Interview, IM#78 August 25, 2004, IM-#27 March 19, 2004;
1120.045.10 Waiver of the Office Interview, IM-#27 March 19, 2004'
1120.045.15 Telephone Interviews, IM-#27 March 19, 2004; 1120.045.20 Home Visit Interviews, IM-#27 March 19, 2004; 1120.045.25 Scheduled Interviews, IM-#27 March 19, 2004; and 1120.045.30 Joint IM and FS Application Interview, IM-#27 March 19, 2004 printed on July 3, 2008 from the DSS website:
http://www.dss.mo.gov/fsd/iman/fstamps/1120-045-00_1120-45-40.html is attached as Exhibit 32.
36. A true and correct copy of a public records request of the Secretary of State for documents relevant to this action and preliminary injunction hearing dated June 16, 2008 is attached as Exhibit 33.
37. True and correct copies of various handout materials as part of FSD Training and Development's Basic Orientation Training ("BOT"), including Food Stamps BOT, which were produced by DSS are attached as Exhibit 35.
38. True and correct copies of three New Employee Orientation Checklists, dated May 16, 2007, September 16, 2007 and November 26, 2007, which were produced by DSS are attached as Exhibit 36.
39. A true and correct copy of a May 2008 DSS or FSD IM Training & Development form produced by DSS is attached as Exhibit 37.
40. A true and correct copy of a DSS/FSD internal e-mail string from October 24, 2007 2:40 pm to October 25, 2007 9:17 a.m. indicating that a local DSS office employee had completed voter registration forms on her desk that are dated back

to October 2006, the previous year, which was produced by DSS is attached as Exhibit 38.

41. A true and correct copy of an Overview of Voter Registration Procedures, marked as Ex. 16 to the deposition of Robert J. Hall, taken on June 10, 2008 (“Hall Depo”), is attached as Exhibit 39. This document was produced by DSS in response to Plaintiffs’ Request for Production.
42. A true and correct copy of a DSS e-mail string January 17-18, 2008 indicating the average monthly number of unduplicated applications for public assistance for calendar year 2007 (Hall Depo, Ex. 5) is attached as Exhibit 40. This document was produced by DSS in response to Plaintiffs’ Request for Production.
43. A true and correct copy of a December 6, 2007 DSS e-mail string indicating that the local Greene county DSS office is out of voter registration forms and that DSS is not to copy voter registration (Hall Depo, Ex. 30) is attached as Exhibit 41. This document was produced by DSS in response to Plaintiffs’ Request for Production.
44. A true and correct copy of a March 6, 2008 DSS e-mail string indicating that the SW Region is in desperate need of voter registration forms and will not be able to register people to vote unless they receive a supply of forms (Hall Depo, Ex. 34) is attached as Exhibit 42. This document was produced by DSS in response to Plaintiffs’ Request for Production.
45. A true and correct copy of a March 14 – April 9, 2007 DSS e-mail string indicating a clarification of voter registration policy, marked as Ex. 45 to the deposition of Rachel Morris, taken on June 10, 2008 (“Morris Depo”), is attached as Exhibit 43. This document was produced by DSS in response to Plaintiffs’ Request for Production.

46. A true and correct copy of a November 3, 2005 email string between DSS and the SoS indicating that the DSS warehouse did not have the revised 2004 voter registration applications in stock (Hall Depo, Ex. 3) is attached as Exhibit 44.
47. A true and correct copy of a September 14, 2007 letter from the SoS to the DSS (Hall Depo, Ex. 25) is attached as Exhibit 45. This document was produced by DSS in response to Plaintiffs' Request for Production.
48. A true and correct copy of a January 15, 22, 2008 email string between DSS and the SoS indicating that the DSS is ordering 117,000 voter registration applications as the amount needed to get the DSS through May 2008 (Hall Depo, Ex. 4) is attached as Exhibit 46. This document was produced by DSS in response to Plaintiffs' Request for Production.
49. A true and correct copy of a February 28, 2008 email string between DSS employees and a reply from the SoS indicating that the SoS never received the 117,000 voter registration applications the DSS ordered (Hall Depo, Ex. 33) is attached as Exhibit 47. This document was produced by DSS in response to Plaintiffs' Request for Production.
50. A true and correct copy of a November 2-3, 2007 email string between DSS and the SoS indicating that the Clay County FSD office needed 500 voter registration cards as soon as possible (Hall Depo, Ex. 29) is attached as Exhibit 48.
51. A true and correct copy of DSS Memorandum IM-37 dated May 20, 2008 (Hall Depo, Ex. 37) is attached as Exhibit 49. This document was produced by DSS in response to Plaintiffs' Request for Production.
52. A true and correct copy of an internal DSS e-mail dated April 6, 2004 containing a 21 county survey entitled "How Counties Are Handling Voter Registration", marked as Ex. 51 to the deposition of Thomas Jakopchek ("Jakopchek Depo.") is attached as Exhibit 50. This document was produced by DSS in response to Plaintiffs' Request for Production.

53. A true and correct copy of a January 2006 DSS email regarding a conference call with ACORN and DEMOS staff re FSD agency procedures for voter registration (Hall Depo., Ex. 8) is attached as Exhibit 51. This document was produced by DSS in response to Plaintiffs' Request for Production.
54. A true and correct copy of a March 29, 2007 letter from SoS to DSS regarding a substantial decrease in DSS voter registration and requesting a meeting with DSS to discuss further training or any questions DSS might have (Hall Depo., Ex. 14) is attached as Exhibit 52. This document was produced by DSS in response to Plaintiffs' Request for Production.
55. A true and correct copy of a June 2007 e-mail string between DSS and the SoS indicating that SoS had mailed an attachment to DSS field offices (Hall Depo., Ex. 18) is attached as Exhibit 53. This document was produced by DSS in response to Plaintiffs' Request for Production.
56. A true and correct copy of a June 11, 2007 cover letter from the SoS to a DSS field office indicating that enclosed is an updated "Implementation Guide for Missouri Public Assistance Agencies" and a PowerPoint presentation for instruction and training (Hall Depo., Ex. 19) is attached as Exhibit 54. This document was produced by DSS in response to Plaintiffs' Request for Production.
57. A true and correct copy of a 1995 Agency Based Voter Registration Guidelines prepared by the Board of Election Commissioners of the City of St Louis, marked as Ex. 48 to the deposition of Patrick Moody taken on June 11, 2008 ("Moody Depo."), and produced by Defendant St Louis City Board of Election Commissioners is attached as Exhibit 55.
58. A true and correct copy of the "National Voter Registration Act—Implementation Guide for Missouri Public Assistance Agencies" prepared by the SoS and dated 02/2007 (see last page) (Hall Depo., Ex. 11) is attached as Exhibit 56. This document was produced by DSS in response to Plaintiffs' Request for Production.

59. A true and correct copy of an October 11, 2007 from DSS to ACORN representatives (Hall Depo., Ex. 28) is attached as Exhibit 57. DSS has already admitted to the authenticity of this document, Answer Of Defendants Luck And Scott to Plaintiffs' Complaint, ¶ 44.
60. A true and correct copy of an October 18, 2008 FSD Request for Interpretation of Policy regarding distribution of voter registration forms in the Food Stamp program and the October 20, 2006 interpretation (Hall Depo., Ex. 13) is attached as Exhibit 58. This document was produced by DSS in response to Plaintiffs' Request for Production
61. A true and correct copy of an October 27, 2006 email (Morris Depo., Ex. 46) approving the policy interpretation referenced in Paragraph 60 above (Exhibit 58 hereto) is attached as Exhibit 59. This document was produced by DSS in response to Plaintiffs' Request for Production
62. A true and correct copy of the St Louis City Board of Election Commissioners' Responses to Plaintiffs' Interrogatories is attached as Exhibit 60.
63. A true and correct copy of the Kansas City Board of Election Commissioners' Responses to Plaintiffs' Interrogatories is attached as Exhibit 61.
64. A true and correct copy of the Jackson County Board of Election Commissioners' Responses to Plaintiffs' Interrogatories is attached as Exhibit 62.
65. True and correct copies of voter registration surveys of DSS offices and clients are attached as Exhibit 63.
66. A true and correct printout of the SoS PowerPoint presentation "National Voter Registration Act – Voter Registration Training for State Agencies" (Hall Depo., Ex. 12) is attached as Exhibit 64.
67. A true and correct copy of FSD e-mail memo #23 dated June 18, 2007 directing all County Offices to use the training materials provided by the SoS when

conducting training activities on the Nation Voter Registration Act (Hall Depo., Ex. 20) is attached as Exhibit 65.

68. A true and correct copy of an internal DSS e-mail string dated April 21, 2006 concerning clarification of policy on voter registrations (Morris Depo., Ex. 40) is attached as Exhibit 66.

69. A true and correct copy of the cover letter containing the SoS's response to Plaintiff's request for public records (see Paragraph 36 and Exhibit 34) is attached as Exhibit 34.

I declare under the penalties of perjury that the foregoing is true and correct.

Executed on July 7, 2008

s/Richard J. Cairns

Richard J. Cairns