

**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**

**WITNESSES AND DOCUMENTS
RELIED UPON BY DEFENDANTS**

COME NOW THE Defendants in the above-styled action and, pursuant to this Court's order of August 25, 2006, show that the following are Defendants may call, and (b) the documents (including depositions, affidavits and their exhibits and supporting materials) Defendants may use.

A. May Call "Live" Witnesses

Per the Court's instructions at the scheduling conference, Defendants will rely upon affidavits and deposition testimony to the extent possible. The following live testimony may be presented by Defendants:

Kathy Rogers: Defendants are mindful that Ms. Rogers has provided an affidavit and has been deposed in this action and will try to limit any replication of

that testimony.

Ms. Rogers is the Director of the Elections Division of the Office of the Secretary of State. Defendants anticipate she will briefly testify as to her background and expertise in elections, and establish a basis for her knowledge of Georgia election law and practice. Ms. Rogers will testify as to this law and practice in Georgia, including: (1) the application of Ga. Comp. R. & Regs. r. 183-1-6-.03; (2) the enactment, reasons for, and implementation of subpart (3)(o)(2) of that rule; (3) the litigation in *Charles Wesley Educational Foundation, Inc. v. Cox*, civil action no. 1:04-CV-1780-WCO in the United States District Court for the Northern District of Georgia; (4) the litigation in *Schwier v. Cox*, civil action no. 1:00-CV-2820-JEC in the United States District Court for the Northern District of Georgia; (5) the need for voter identification numbers and other confidential information when registering voters; (6) the use of social security numbers as a voter identification number in Georgia currently and historically; (7) the expectation of privacy in such numbers and contacts from citizens to the Secretary of State's Office regarding this; (8) the use of future identification numbers; (9) the absence of restrictions on private individuals (including the Plaintiffs) conducting "private voter registration drives"; (10) the function of the State Election Board ("SEB") in relation to the Secretary of State; (11) prosecution of administrative

action against individuals for alleged violations of the SEB's rules (including the rule in question in this case); and (12) any topic raised in her deposition, affidavit or cross examination on behalf of the Plaintiffs in this action.

Edward DuBose: Mr. DuBose is the President of Plaintiff the Georgia State Conference of NAACP Branches and has provided an affidavit in this action.

Defendants were not able to depose him due to limitations on the number of pre-hearing depositions they could take. Mr. DuBose may be called to for the purpose of cross examination to testify as to (1) the contents of his affidavit; (2) each of the subjects previously identified to Plaintiffs in the 30(b)(6) Notice of Deposition (issued prior to the Court's scheduling order) to the Georgia State Conference of NAACP Branches; and (3) any subject addressed on direct examination of him by the Plaintiffs.

Cross Examination of Plaintiffs' Witnesses: Defendants reserve the right to cross examine any witness called by Plaintiffs.

B. Deposition and Affidavit Testimony

Defendants rely upon all depositions and affidavits filed in this case. These include the following:

- 30(b)(6) deposition of the Association Of Community Organizations For Reform Now, Inc.;

- 30(b)(6) deposition of the Georgia Coalition For The People's Agenda, Inc.;
- 30(b)(6) deposition of the State Election Board;
- Affidavit of Kathy Rogers; and
- Each affidavit or declaration filed by Plaintiffs' with Plaintiffs' Motion for Preliminary Injunction.

C. Documentary Evidence

Defendants rely upon the following documentary evidence:

- All exhibits used at the deposition of kathy Rogers (previously filed by Defendants with the Court);
- the consent order of the district court in *Schwier v. Cox*, civil action no. 1:00-CV-2820-JEC in the United States District Court for the Northern District of Georgia; and
- the consent order of the district court in *Charles Wesley Educational Foundation, Inc. v. Cox*, civil action no. 1:04-CV-1780-WCO in the United States District Court for the Northern District of Georgia.

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SIGNATURE CERTIFICATION

I certify that the originally executed document contains the signatures of all filers indicated herein and therefore represents consent for filing of this document.

/s/Stefan Ritter
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CERTIFICATE OF SERVICE

I do hereby certify that I have this day served the within and foregoing **WITNESSES AND DOCUMENTS RELIED UPON BY DEFENDANTS** with the Clerk of Court using the CM/ECF system, which will send notification of filing to the following CM/ECF participant:

Bradley E. Heard
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This 11th day of September, 2006.

/s/Stefan Ritter
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