

**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' LIST OF WITNESSES
AND DOCUMENTARY EVIDENCE**

Pursuant to the Court's Order of August 28, 2006, Plaintiffs submit their list of witnesses and documentary evidence as follows:

WITNESSES

The following witnesses may be called to testify on behalf of Plaintiffs, although it is anticipated that most of these witness' testimony can be introduced by way of previously stipulated documentary evidence (e.g., depositions and declarations):

1. **NYANA MILLER**: Ms. Miller is an Election Administration Coordinator for Project Vote. She is expected to testify about Project Vote's comprehensive voter registration, quality control, and monitoring procedures; its

relationship with ACORN's organized voter registration programs; its need for photocopies of voter registration applications to conduct effective voter registration, education, and get-out-the-vote programs; its funding requirements; its plans for organizing voter registration drives in Georgia in 2006; and the harm caused to Project Vote and ACORN by Defendants' sealing and copying restrictions.

2. **HELEN BUTLER**: Ms. Butler is Executive Director for the Georgia Coalition for the People's Agenda. She may be called to testify as to the mission and goals of the People's Agenda; its voter registration, education, and get-out-the-vote activities in Georgia; its need for photocopies of voter registration applications for various purposes; the harm caused to the People's Agenda by Defendants' sealing and copying restrictions; and the issues discussed in her declaration and deposition in this case.

3. **EDWARD DUBOSE**: Mr. DuBose is the President of the Georgia State Conference of NAACP Branches. He may be called to testify as to the mission and goals of the NAACP; its voter registration, education, and get-out-the-vote activities in Georgia; its need for photocopies of voter registration applications for various purposes; the harm caused to the NAACP by Defendants'

sealing and copying restrictions; and the issues discussed in his declaration in this case.

4. **DANA WILLIAMS**: Mr. Williams is the Chairman of Georgia ACORN. He may be called to testify as to the mission and goals of ACORN; its voter registration, education, and get-out-the-vote activities in Georgia; its need for photocopies of voter registration applications for various purposes; the harm caused to ACORN by Defendants' sealing and copying restrictions; and the issues discussed in his declaration and deposition in this case.

5. **KATHY A. ROGERS**: Ms. Rogers is the Director of the Elections Division of the Office of Georgia Secretary of State Cathy Cox. She may be called as a hostile witness to discuss the facts and circumstances surrounding Defendants' adoption of the challenged Regulation in this case; the rulemaking proceedings related thereto; the SEB's deliberations as to the purported state interests advanced by the Regulation and the crafting of restrictions designed to address any such interests; and the issues discussed in her declaration and deposition in this case.

6. **WITNESSES LISTED OR CALLED BY DEFENDANTS**:
Plaintiffs reserve the right to call any witnesses called or listed by Defendants.

DOCUMENTARY EVIDENCE

The parties have stipulated to the admissibility of the following documentary evidence in this matter:

1. **Affidavit of Brian Kettenring** (attached as Exhibit 1 to [2] Plaintiffs' Brief in Support of Motion for Preliminary injunction).
2. **Affidavit of Dana Williams** (attached as Exhibit 2 to [2] Plaintiffs' Brief in Support of Motion for Preliminary injunction).
3. **Declaration of Helen Butler** (attached as Exhibit 3 to [2] Plaintiffs' Brief in Support of Motion for Preliminary injunction).
4. **Declaration of Edward DuBose** (attached as Exhibit 4 to [2] Plaintiffs' Brief in Support of Motion for Preliminary injunction).
5. **Affidavit of Stephanie L. Moore** (attached as Exhibit 5 to [2] Plaintiffs' Brief in Support of Motion for Preliminary injunction).
6. **Declaration of Michael Kiechnick** (attached as Exhibit 6 to [2] Plaintiffs' Brief in Support of Motion for Preliminary injunction).
7. **Declaration of Margaret E. Gage** (attached as Exhibit 7 to [2] Plaintiffs' Brief in Support of Motion for Preliminary injunction).

8. **Affidavit of Kathy A. Rogers** (unsworn and non-notarized document attached as an exhibit to [23] Defendants' Corrected Response Brief in Opposition to Plaintiffs' Motion for Preliminary Injunction);

9. **Rule 30(b)(6) Deposition of ACORN by Dana Williams** (unofficial copy attached as an exhibit to [23] Defendants' Corrected Response Brief in Opposition to Plaintiffs' Motion for Preliminary Injunction);

10. **Rule 30(b)(6) Deposition of the Georgia Coalition for the People's Agenda by Helen Butler** (unofficial copy attached as an exhibit to [23] Defendants' Corrected Response Brief in Opposition to Plaintiffs' Motion for Preliminary Injunction);

11. **Rule 30(b)(6) Deposition of the State Election Board by Kathy A. Rogers** (unofficial copy filed separately at [25]), along with the following exhibits attached thereto:

- a. **Exhibit 1:** Notice of Rule 30(b)(6) Deposition
- b. **Exhibit 2:** DOJ Preclearance Submission Dated September 13, 2004 (related to SEB's September 9, 2004, enactment of emergency Regulation related to copying and sealing)

- c. **Exhibit 3:** Excerpts from DOJ Preclearance Submission Dated December 7, 2005 (related to SEB's September 14, 2005, enactment of permanent copying and sealing Regulation), including:
 - i. Text of Letter to DOJ
 - ii. Copy of Regulation
 - iii. Minutes of September 14, 2005 SEB Meeting and July 27, 2005 SEB Meeting
 - iv. Written Public Comment Dated September 14, 2005 from Service Employees International Union (urging rejection of Regulation)
 - v. Written Public Comment Dated September 12, 2005 from Advancement Project and Project Vote (urging rejection of Regulation)
- d. **Exhibit 4:** Minutes of September 9, 2004, SEB Special Conference Call Meeting
- e. **Exhibit 5:** Written Notice of NVRA Violation Dated September 14, 2005
- f. **Exhibit 6:** Letter Dated September 23, 2005, from K. Rogers to J. Sullivan (responding to SEIU public comments)

- g. **Exhibit 7:** March 3, 2006 Petition for Rulemaking (urging amendment of Regulation)
- h. **Exhibit 8:** Summary of May 24, 2006, SEB Meeting (adopting proposed amendments to Regulation)
- i. **Exhibit 9:** Synopsis of Proposed Amendments to Regulation (related to SEB's March 8, 2006, adoption in part and rejection in part of March 3, 2006 rulemaking petition)
- j. **Exhibit 10:** Letter Dated March 8, 2006, from B. Heard to S. Ritter (requesting written explanation of SEB's partial denial of March 3, 2006, rulemaking petition)
- k. **Exhibit 11:** SEB Rule 183-1-6-.03 (as amended eff. Jun. 19, 2006; not precleared by DOJ)
- l. **Exhibit 12:** State of Georgia Mail-In Application for Voter Registration
- m. **Exhibit 13:** Federal Mail-In Application for Voter Registration
- n. **Exhibit 14:** Excerpt from 2003-2004 EAC Biennial Report on the Impact of the NVRA on the Administration of Elections for Federal Office

The parties have not stipulated to the admissibility of the following documentary evidence in this matter, which Plaintiff may introduce:

12. Project Vote Voter Registration Quality Control Manual

13. DEFENDANT'S DOCUMENTARY EVIDENCE: Plaintiffs reserve the right to offer any exhibits listed or offered by Defendants.

Dated this 11th day of September, 2006.

s/ Bradley E. Heard, Esq.

Georgia Bar No. 342209

Counsel for All Plaintiffs

MOLDEN HOLLEY FERGUSON

THOMPSON & HEARD, LLC

34 Peachtree Street, NW, Suite 1700

Atlanta, GA 30303-2337

Tel.: 404-324-4500

Fax: 404-324-4501

Email: bheard@moldenholley.com

Brian W. Mellor*

Massachusetts Bar No. 543072

Counsel for ACORN, Project Vote, and Dana Williams

1486 Dorchester Avenue

Dorchester MA 02122

Tel.: 617-282-3666

Fax: 617-436-4878

Email: electioncounsel1@projectvote.org

Elizabeth S. Westfall*
D.C. Bar No. 458792
Estelle H. Rogers*
D.C. Bar No. 219410
Counsel for ACORN, Project Vote, and Dana Williams

ADVANCEMENT PROJECT
1730 M Street, NW, Suite 910
Washington, DC 20036
Tel.: 202-728-9557
Fax: 202-728-9558
Email: ewestfall@advancementproject.org
erogers@advancementproject.org

** 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' List of Witnesses and Documentary Evidence** 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:

Stefan E. Ritter, Esq.
Senior Assistant Attorney General
Department of Law, State of Georgia
40 Capital Sq SW
Atlanta, GA 30303
Email: Stefan.Ritter@law.state.ga.us

Dated this 11th day of September, 2006.

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