WASHINGTON ASSOCIATION OF
CHURCHES, as an organization and
representative of its members; WASHINGTON
ASSOCIATION OF COMMUNITY
ORGANIZATIONS FOR REFORM NOW
(ACORN), as an organization and representative
of its members; ORGANIZATION OF
CHINESE-AMERICANS OF GREATER
SEATTLE, as an organization and representative
of its members; CHINESE INFORMATION &
SERVICE CENTER, as an organization and
representative of its clients; FILIPINO
AMERICAN POLITICAL ACTION GROUP OF
WASHINGTON, as an organization and
representative of its members; KOREAN
AMERICAN VOTERS ALLIANCE, as an
organization and representative of its members;
SERVICE EMPLOYEES INTERNATIONAL
UNION (SEIU) – LOCAL 775, as an
organization and representative of its members;
and WASHINGTON CITIZEN ACTION, as an
organization and representative of its members,

Plaintiffs,

vs.

SAM REED, in his official capacity as Secretary
of State for the State of Washington,

Defendant.
Pursuant to 28 U.S.C. § 1746, I, Conny McCormack, hereby declare as follows:

1. Since 1995, I have been the Registrar-Recorder and County Clerk for Los Angeles County, California, the most populous county in the United States. I am responsible for administering federal, state, and local elections in the county, which now has more than four million registered voters and comprises approximately 5,000 precincts encompassing 88 cities. I submit this declaration in support of Plaintiffs' Motion for a Preliminary Injunction. This declaration is based on personal knowledge, except where otherwise noted.

1. BACKGROUND

2. For 24 years, I have administered elections in some of the most populous counties in the country. From 1981-1987, I was the elections administrator for Dallas County, Texas; from 1987-1994, I was the registrar of voters for San Diego County, California; and from 1995 on, I have been the Registrar-Recorder/County Clerk for Los Angeles County, California.

3. In my capacity as the Registrar-Recorder/County Clerk, I maintain election records, property records, business records, and birth, death, and marriage records in several sophisticated database systems. In the United States, only the Social Security Administration and the Pentagon maintain more records than the 200 million records on file in my office. Consequently, I have extensive experience confronting various problems associated with large database systems.

4. Currently, there are 3.8 million voters included on the list of active registered voters in Los Angeles County; there are another 1.5 million voters designated as inactive.

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At least ten significant language minority populations – English, Chinese, Japanese, Korean, Spanish, Tagalog, Vietnamese, Armenian, Cambodian, and Russian – are included in this tally.

5. I am currently the President of the California Association of Clerks and Election Officials. In both 2001 and 2005, I was a member of the Election Center’s Task Force on Election Reform.

II. OVERVIEW OF NEW REGISTRATION PRACTICES IN CALIFORNIA

6. On January 1, 2006, pursuant to the Help America Vote Act of 2002 ("HAVA"), California implemented a new system for attempting to "match" the information on voter registration applications against information maintained by the California Department of Motor Vehicles ("DMV") or the Social Security Administration.

7. Under this new system, information on a voter registration form is typed into a local computer and submitted to California’s electronic verification system ("CalValidator"). CalValidator will automatically seek a "match" between this entered information and information maintained by the DMV or Social Security Administration. If CalValidator cannot find a "matching" record, CalValidator will return the record as unverified, with an indication that no match was found.

8. My office has produced a year-to-date audit of all voter registration forms submitted between January 1 and April 7, 2006. During this time, the CalValidator system used the following "match" protocols: (1) to determine whether registration information "matched" information maintained by the DMV, the system checked to see if each character of the driver’s license number and the first three characters of the last name were exactly the same in both records; (2) to determine whether registration information "matched"
information maintained by the Social Security Administration, the system checked to see if
each character of the first name, each character of the last name, each character of the year
of birth, each character of the month of birth, and each character of the last four digits of the
applicant's Social Security number were exactly the same in both records.

9. My year-to-date audit of voter registration forms submitted between January
1 through April 7, 2006, showed that an enormous number of voter registration applications
— including many from persons who are eligible and currently registered voters — were
returned by the statewide registration system as unverified, with an indication that no
matching record was found.

III. IMPLEMENTATION OF THE CALVALIDATOR SYSTEM AND ITS
IMPACT ON ELIGIBLE APPLICANTS

10. California has maintained a statewide voter registration database, called
CalVoter, since 1996. However, until this year, that system was not regularly updated by all
counties, and was not used as the official list of registered voters. Pursuant to HAVA, on
January 1, 2006, CalVoter became the official list of voters in the state. CalValidator, a
component of the CalVoter system, was also put into use on January 1, 2006 as the official
system for verifying information on applications for voter registration.

11. Until January 1, 2006, Los Angeles County found cause to reject, on average,
less than 1% of the voter registration applications received.

12. Between January 1 and April 7, 2006, according to an audit my office
conducted of voter registration applications submitted to date, 28,369 of 64,673 voter
registration applications received in Los Angeles County were returned by CalValidator as
unverified. This amounts to approximately 44% of all voter registration applications

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received in Los Angeles County. These returned applications can be separated into three primary categories:

- 11,753 of these 64,673 applications were returned by CalValidator as unverified because CalValidator could not “match” the information provided. Thus, approximately 18% of all voter registration applications received in Los Angeles County were returned because of a failed “match.”

- 4,837 of 64,673 applications were returned by CalValidator as unverified because of a system error, including a system “time out” or other system “down time.” Thus, approximately 7.5% of all voter registration applications received in Los Angeles County were returned solely because of a computer system error.

- 10,945 of 64,673 voter registration applications received in Los Angeles County were returned by CalValidator as unverified because the applicant did not supply a driver’s license number or non-driver’s identification number on the voter registration form. These applications – approximately 17% of all voter registration applications received in Los Angeles County – were returned solely because of an immaterial omission on the registration form.¹

13. Between January 1 and April 7, 2006, thousands of applications by residents of Los Angeles County whose eligibility was not in question were returned by CalValidator as unverified. My staff and I have reviewed and analyzed many of these applications in an

¹ Revised regulations promulgated by the California Secretary of State and approved by the California Office of Administrative Law on April 24, 2006, now provide that if a valid number can be found in the CalValidator System for such applications, election officials may submit the application with the found number to CalVoter as verified.
attempt to determine the cause of, and to correct, the failed matches. A few representative examples include:

- Applicants with last names of De Leon, De La Torre, and Yi Fen. Although the names were properly entered by Los Angeles County staff as they appeared on the voter registration form – with a space in the last name field – the applicants were represented in the DMV database without a space in the last name field. Therefore, the information uploaded to CalVoter did not “match” the information available at the DMV. The applicants were eligible and accurately completed all required fields on the voter registration form.

- An applicant with the last name Moses. The applicant entered both middle and last names in the area marked “last name” on the voter registration form. Los Angeles County staff accurately entered the information on the form. Although the applicant’s name was exactly the same as the name listed in the DMV database, because middle and last names were both entered in one field, the information uploaded to CalVoter did not “match” the information available at the DMV. The applicant was eligible and provided all necessary information on the voter registration form.

- An applicant with the last name Johnson. The applicant accurately entered name and address on the voter registration form, but mistakenly transposed two digits of the California driver’s license number. Therefore, the information uploaded to CalVoter did not “match” the information available at the DMV. The applicant was eligible to vote. Similar situations occur when similar data entry errors are made by elections staff.
14. The office of the Los Angeles County Registrar-Recorder/County Clerk attempts to contact all applicants with applications returned by CalValidator, in order to resolve errors in the registration process. As of April 7, 2006, we had placed at least 10,364 individual phone calls and mailed at least 15,981 letters to citizens with applications returned this year by CalValidator. We have not been able to contact every voter successfully. For example, in 3,559 calls, we received an answering machine or no answer; in 1,337 calls, the number dialed was incorrect or invalid (which might have been the result of a typographical error in data entry). In addition, even for those applicants with whom we have managed to establish contact, we have not been able to resolve all registration errors successfully; indeed, 453 eligible applicants, perhaps fearing identity theft, refused to provide identifying information over the phone. As a result, despite our efforts to resolve all match failures, we have not been able to successfully match information of many eligible applicants in the CalValidator system.

15. Moreover, although my office received thousands of applications between January 1 and April 7, 2006, and although thousands of these applications were returned by CalValidator as unverified, these applications represent only a small fraction of the applications that I expect to receive through the entire voter registration cycle. In previous cycles, voter registration activity in the first few months of an election year has been relatively slow, compared to the volume of voter registration activity later in the year. In my experience, voter registration activity increases dramatically in the months before a major election, as statewide elections draw closer and the deadline for voter registration approaches.

16. This year’s applications seem to fit the general pattern of voter registration activity: relatively limited voter registration activity early in the year, increasing dramatically as statewide elections approach. Los Angeles County received 64,673 applications between January 1 and April 7, 2006 — an average of 667 applications per day.

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During heavy election periods we routinely receive between 11,000 and 25,000 voter
registration forms each day, with individual days spiking as high as 62,332 forms.

17. My office’s resources have been strained by the attempt to respond to the
thousands of applications returned by CalValidator from January through April 7 of this
year. We have between 40 and 68 staff members following up on applications found invalid
by CalValidator, at least 24 of whom are dedicated full-time to the endeavor. Most of these
staff members were diverted from other positions to assist in responding to applications
returned by CalValidator. I have also had to pay overtime for some of these staff members
because of this additional work. Moreover, I have been forced to hire 14 “temp” employees
thus far to work full-time on responding to applications returned by CalValidator.

18. I expect that even at this staffing level, we will be overwhelmed later in the
year. I reasonably expect the number of applications returned by CalValidator to grow
dramatically as the statewide primary and general elections approach. If we receive
applications at a rate similar to that in previous years, and if the rate of applications
requiring individual follow-up does not drop to pre-2006 levels – approximately 1% of
forms received – it is extremely likely that, at any reasonable staffing level, the office of the
Los Angeles County Registrar-Recorder/County Clerk will be unable to contact many voters
with applications returned by CalValidator in time to resolve errors in the process.

19. Given my 24 years of experience in election administration, the volume and
timing of voter registration forms received in offices that I have supervised, and the error
rate in “matching” protocols that I have observed, I expect that in any jurisdiction with a
sizable number of applications, if a successful “match” is a precondition to registration,
eligible voters will – through no fault of their own – be prevented from timely registering to
to vote.

20. HAVA’s requirement to either capture or assign a unique identifying number
for each voter is a provision that facilitates the smooth administration of elections. It is a
valuable means of eliminating duplicate registrations, and enables election administrators to
maintain a more accurate voter registration list. However, it is my understanding that the

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process of capturing a unique identifying number for each voter was not intended by HAVA to impact a voter's eligibility, and I believe that it should not be misused as a barrier to the franchise. In my experience, computer system flaws and staff errors have resulted in the failure to match the information of eligible voters to other state databases. Voters should not be penalized as a result of such errors.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this Declaration was executed on May 24, 2006 in Newark, California.

[Signature]

CONNIE MCCORMACK
CERTIFICATE OF SERVICE

I hereby certify that on May 24, 2006, I electronically filed this Declaration of Conny McCormack with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

N/A

and I hereby certify that I have sent for service via hand delivered by legal messenger to be served on May 25, 2006 this document to the following non CM/ECF participants:

Sam Reed, Secretary of State, State of Washington
Legislative Building
Olympia, WA 98504-0220

Rob McKenna, Attorney General for the State of Washington
Office of the Attorney General
1125 Washington Street SE
Olympia, WA 98504-0100

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED this 24th day of May, 2006 at Seattle, Washington.

/S/ Sarah A. Dunne /S/ Sarah A. Dunne
Sarah A. Dunne, WSBA #34869

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