IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF FLORIDA, Plaintiff, v. UNITED STATES OF AMERICA and ERIC H. HOLDER, JR., in his official capacity as Attorney General, Defendants, and NATIONAL COUNCIL OF LA RAZA, and LEAGUE OF WOMEN VOTERS OF FLORIDA, Proposed Defendant-Intervenors.	No. 1:11-cv-1428-CKK-MG-ESH

REPLY OF PROPOSED DEFENDANT-INTERVENORS NATIONAL COUNCIL OF LA RAZA AND LEAGUE OF WOMEN VOTERS OF FLORIDA IN SUPPORT OF THEIR MOTION TO INTERVENE

In their responses to the Motion to Intervene submitted by the National Council of La Raza ("NCLR") and the League of Women Voters of Florida ("the League") (together the "Proposed Defendant-Intervenors") (Dkt. No. 16), neither the State of Florida nor the United States opposes permissive intervention under Rule 24(b)(1) of the Federal Rules of Civil Procedure. (Dkt. Nos. 26 & 29.) Accordingly, at least in this regard, the Court is presented with an unopposed motion to intervene by the Proposed Defendant-Intervenors.

As to intervention as of right under Rule 24(a)(2), the United States and Florida disagree with the present motion. They fail, however, to recognize that organizations like NCLR and the League – which function on the ground in the Florida counties covered by Section 5 of the

Voting Rights Act – are uniquely well suited to present the interests of those adversely affected by the voting law changes at issue in this case. In addition, Florida expresses concern that the admission of various intervenors could result in cumulative briefing and unduly delay these proceedings.[1] Accordingly, Florida urges that all proposed defendant-intervenors be severely limited as to the scope of their participation in this case. Each of these positions is without merit.

As discussed in detail below, there is no basis to deny intervention – either by right or by permission – and there is no basis or precedent for arbitrarily limiting the participation of intervenors at the outset of this case. As in any litigation, this Court has ample tools at its disposal to manage the litigation effectively and efficiently, with the full participation of three groups of intervenors. If any party, including the intervenors, were to engage in cumulative briefing, unduly burdensome discovery, or other tactics that delay this matter – which the Proposed Defendant-Intervenors have no intention of doing – Florida may move to curtail those activities at that point and the Court may then act on the basis of a record, rather than the entirely speculative concerns set out in Florida's Opposition. NCLR and the League respectfully request that the Court reject the arguments made by Florida and the United States, and grant intervention, without artificial and unnecessary limits.

[1] Florida's stated concern regarding the pace of this litigation rings somewhat hollow given that Florida waited three weeks between filing its Complaint and serving the Complaint on the Department of Justice. (*See* Dkt. Nos. 1, 7 & 8.) Moreover, Florida allowed more than a month and a half to pass between submitting its preclearance application to the Department of Justice and its subsequent withdrawal of that application and the filing of this suit.

Argument

I. Intervention As of Right Is Warranted.

Under Rule 24(a)(2), the Court "must permit anyone to intervene" so long as the applicant: (1) has timely submitted the application to intervene; (2) has an interest in the transaction that is the subject of the action; (3) is so situated that the disposition of the matter may, as a practical matter, impair or impede its ability to protect that interest; and (4) may not be adequately represented by the existing parties. *See Humane Soc'y of the United States v. Clark*, 109 F.R.D. 518, 520 (D.D.C. 1985). In evaluating these criteria, the courts in this Circuit have been flexible to ensure the participation of "as many apparently concerned persons as is compatible with efficiency and due process." *Nuesse v. Camp*, 385 F.2d 694, 700 (D.C. Cir. 1967); *see also Am. Horse Prot. Ass'n v. Veneman*, 200 F.R.D. 153, 157 (D.D.C. 2001) (emphasizing that the standard for intervention under Rule 24 is "liberal and forgiving"); *Wilderness Soc'y v. Babbitt*, 104 F. Supp. 2d 10, 12, 18 (D.D.C. 2000) (noting this Circuit's "liberal approach to intervention").

The principal argument advanced against allowing NCLR and the League to intervene "as of right" involves whether their interests will be adequately represented by the United States. Without disputing the United States' strong interests in this matter, this argument ignores the fact that both NCLR and the League have unique and intensely local experiences, viewpoints, and concerns – none of which can be fully represented by the United States. NCLR is the largest national Hispanic civil rights and advocacy organization in the United States. Through its project, Democracia, NCLR has been engaged in large-scale voter registration programs aimed at the Florida's Hispanic voters, and has registered over 200,000 individuals in Florida, including several thousand in Hillsborough County, one of Florida's covered Section 5 counties. (Dkt. No. 16-3 at 4-5.) It is essential to the adequate representation of NCLR's interests, therefore, that it

be permitted to intervene in this case and provide its insight with regard to fact discovery, legal arguments, and evidentiary presentations at trial concerning the preclearance of the proposed Florida election law changes. The League, similarly, operating through its many local chapters staffed and operated by Florida residents and voters, has been intensely involved in registering voters to vote in the State of Florida for more than 70 years. The League represents over 2,500 dues-paying members in Florida, including hundreds of members in the Florida's five Section 5 covered counties. (Dkt. No. 16-3 at 6-7.)

Accordingly, the unique perspectives of NCLR and the League cannot be fully replicated or represented by the United States in this case. Moreover, NCLR's and the League's perspectives regarding the application of Section 5 to the voting changes at issue may differ in some respects from that of the United States. *See Georgia v. Ashcroft*, 195 F. Supp. 2d 25, 32-33 (D.D.C. 2002), *affirmed in relevant part*, 539 U.S. 461, 476-77 (2003) (District Court did not abuse its discretion in granting motion to intervene because intervenors' analysis identified "interests that are not adequately represented by the existing parties"). These circumstances make intervention of right appropriate, particularly in light of the law of this Circuit, which provides that the threshold to establish this element is low and "not onerous." *Dimond v. Dist. of Columbia*, 792 F.2d 179, 193 (D.C. Cir. 1986) (citing *Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n.10 (1972) (describing the test as one that is "minimal")); *see also Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 736, 737 n.9 (D.C. Cir. 2003) (noting that courts in the D.C. Circuit have "often concluded that governmental entities do not adequately represent the interests of aspiring intervenors" and citing numerous examples).

Florida's argument that NCLR and the League lack standing with regard to some of Florida's proposed election law changes also should be rejected. Florida claims that NCLR and

the League may assert standing only as to Section 4, the portion of the proposed Florida law containing voter registration provisions, because each organization alleges "only the organization's activity as a third party voter registration organization." (Dkt. No. 29 at 6.) Florida's assertion ignores the fact, as stated in NCLR's and the League's memorandum in support of their motion to intervene, that both organizations engage in outreach, information, and support activities related specifically to early voting and change-of-address voting problems. (Dkt. No. 16-3 at 5, 7.) These efforts will be inhibited and harmed by Sections 26 and 39 of the Florida law, which relate to change of address and early voting.

NCLR and the League have interests that are clearly affected by this litigation, both as third party voter registration organizations and on behalf of the League's members. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992); *Hunt v. Wash. State Apple Adver. Comm'n*, 432 U.S. 333, 343 (1977) (organization has standing to sue on behalf of its members when "(a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.").

As each element of Rule 24(a)(2) is satisfied, the Court should grant NCLR and the League intervention as of right.

II. There Is No Basis to Deny Permissive Intervention.

The Courts in this Circuit have "routinely allowed intervention by persons situated similarly" to the Proposed Defendant-Intervenors. *County Council of Sumter County v. United States*, 555 F. Supp. 694, 696-97 (D.D.C. 1983). Both the United States and Florida agree with this point, and neither party opposes permissive intervention. (Dkt. No. 26 at 4; Dkt. No. 29 at 2 n.2.) Indeed, the Proposed Defendant-Intervenors and the United States have cited numerous previous instances in which this Court allowed intervention in Section 5 declaratory judgment

actions.[2] Conversely, Florida does not cite a single instance where this Court denied permissive intervention in a Section 5 preclearance case. Given this overwhelming authority favoring it, the Court should grant, at least, permissive intervention in this case.[3]

III. In Granting Intervention, the Court Should Refuse to Impose Unprecedented and Unnecessary Limitations on the Proposed Defendant-Intervenors.

Conceding that NCLR and the League should be permitted to intervene, Florida seeks to achieve via the back-door what it cannot by the front. Florida asks the Court to limit, in advance, NCLR's and the League's ability to participate meaningfully in this case. There is no precedent for such restrictions and Florida's claim in this regard should be rejected. Indeed, any concerns about duplicative or excessive discovery can be managed by the Court in the same manner as in any multi-party litigation.

Florida cites no authority for the proposition that intervenors in a Section 5 declaratory judgment action, who submit a timely application for intervention, can and should be burdened with arbitrary limitations on discovery and other litigation activities at the outset of the litigation. Florida relies solely on *County Council of Sumter County v. United States*, 555 F. Supp. 694 (D.D.C. 1983), but that reliance is misplaced. There, the movants sought to intervene following

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[2] For example, as NCLR and the League noted in their initial memorandum, this Court recently granted permissive intervention in another pending Section 5 declaratory judgment action to six different groups of individuals and organizations. (Dkt. No. 16-3 at 8, *citing Texas v. United States*, No. 1:11-cv-1303 (D.D.C. Aug. 16, 2011 [Dkt. No. 11], and Sept. 8, 2011 [Dkt. No. 32])).

[3] The Court should reject Florida's alternative suggestion that "participation [by the Proposed Defendant-Intervenors] as *amicus curiae* would be the most appropriate course." (Dkt. No. 29 at 7.) Such "participation" is wholly inadequate, as it would not allow NCLR and the League to participate in discovery or trial. This is particularly critical in this case, where the statutory question before the Court includes Florida's purpose in passing its proposed election law changes and the effect that those changes would have on minority individuals in the affected counties. It is telling that Florida does not cite to any Section 5 case where this Court has denied intervention and relegated such movants to *amicus curiae* status.

"the close of discovery and on the eve of argument on motions for summary judgment." *Id*. at 696. Given this, the applicants affirmed that they were not seeking to reopen discovery and would not attempt to call any witnesses, other than those called by others, "except by leave of court if special circumstances" arose. *Id*. Contrary to Florida's suggestion that allowing NCLR's and the League's full participation in this litigation will cause delay or excess burden on the parties, this Court specifically noted in *Sumter County* that "we are confident that we can effectively limit [intervenors'] cross-examination and other potentially time consuming activities in the same way that we intend to control the presentations of the parties themselves." *Id*. at 697. Thus, contrary to Florida's portrayal, *Sumter County* counsels that preemptive limits upon NCLR's and the League's participation in this litigation are unnecessary and unjustified.

Moreover, this Court has recently denied the very type of limitations requested by Florida. In *Laroque v. Holder*, D.D.C. No. 10-cv-0561 (JDB),[4] the plaintiff argued that "[p]ermitting Applicants to participate with party status in this litigation threatens to sidetrack the litigation by introducing time-consuming and needless fact discovery – including discovery of the intervenors and their purported interests in this matter – as well as a multiplication of legal issues." *Laroque*, Dkt. No. 20 at 1. The plaintiff, therefore, requested that the intervention applicants be relegated to *amicus curiae* status or, alternatively, that "if this Court grants Applicants' motion to intervene, Plaintiffs submit that it should exercise its discretion and limit Applicants' participation to legal briefing on the merits of the constitutionality of Section 5, without the right to engage in any fact discovery or to submit a brief on non-merits issues (such as their duplicative motion to dismiss on justiciability grounds)." *Id.* The Court in *Laroque* denied this request, granted the movants' applications to intervene, and ordered all parties,

[4] Copies of the referenced *Laroque* filings (the plaintiff's papers opposing intervention and the Court's Order granting intervention) are attached as Exhibits 1a and 1b, respectively.

including the intervenors, simply to "confer and jointly submit a proposed briefing schedule to govern further proceedings in this case." *Laroque,* Dkt. No. 24 at 2. *Laroque* aptly demonstrates that – rather than imposing unnecessary and Draconian limitations on intervenors before any problems arise, as Florida has requested – the Court should use traditional and typical case management tools to ensure the efficient and orderly resolution of this case.

Conclusion

Accordingly, the Court should permit the National Council of La Raza and the League of Women Voters of Florida to intervene in this action, by right or at least permissively, and reject Florida's attempt to restrict and limit their participation in the case.

Dated: September 23, 2011

Respectfully submitted,

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Exhibit 1a

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STEPHEN LAROQUE, ANTHONY CUOMO, JOHN NIX, KLAY NORTHRUP, LEE RAYNOR, and KINSTON CITIZENS FOR NON-PARTISAN VOTING,	)	
Plaintiffs,	)	
v.	)	Civ. No.: 1:10-CV-00561-JDB
ERIC H. HOLDER, JR. ATTORNEY GENERAL OF THE UNITED STATES	)	
Defendant.	)	

PLAINTIFFS' MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO MOTION TO INTERVENE AS DEFENDANTS BY JOSEPH M. TYSON, W.J. BEST, SR., A. OFFORD CARMICHAEL, JR., GEORGE GRAHAM, JULIAN PRIDGEN, WILLIAM A. COOKE, AND THE NORTH CAROLINA STATE CONFERENCE OF BRANCHES OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

INTRODUCTION

Joseph M. Tyson, W.J. Best, Sr., A. Offord Carmichael, Jr., George Graham, Julian Pridgen, William A. Cooke, and North Carolina State Conference of Branches of the National Association for the Advancement of Colored People (collectively, "Applicants") seek to intervene in this action, in order to defend the constitutionality of Section 5 of the Voting Rights Act. Applicants are residents and registered voters in Kinston, North Carolina, along with the North Carolina Conference of Branches of the NAACP, a non-profit organization. Applicants seek to intervene as of right pursuant to Federal Rule of Civil Procedure 24(a), or in the alternative, to intervene permissively under Rule 24(b). As explained below, Applicants do not meet the criteria for either intervention as of right or permissive intervention.

Permitting Applicants to participate with party status in this litigation threatens to sidetrack the litigation by introducing time-consuming and needless fact discovery—including discovery of the intervenors and their purported interests in this matter—as well as a multiplication of legal issues. For this reason, Plaintiffs submit that Applicants' motion to intervene should be denied and their participation limited to serving as *amicus curiae.* In the alternative, if this Court grants Applicants' motion to intervene, Plaintiffs submit that it should exercise its discretion and limit Applicants' participation to legal briefing on the merits of the constitutionality of Section 5, without the right to engage in any fact discovery or to submit a brief on non-merits issues (such as their duplicative motion to dismiss on justiciability grounds).

ARGUMENT

As the Attorney General himself acknowledges, *see* Attorney General's Response at 4, the Applicants have failed to establish that the Attorney General would inadequately represent their interests in defending Section 5 here. Moreover, permitting additional parties will simply inject extraneous and duplicative matters into the case, thus unnecessarily and unduly prejudicing the original parties and delaying resolution of their rights.

I. APPLICANTS DO NOT MEET THE REQUIREMENTS OF RULE 24(A)(2)

Applicants claim they can intervene as of right under Federal Rule of Civil Procedure 24(a)(2). Qualification for intervention as of right depends on the following four elements:

> (1) the timeliness of the motion; (2) whether the applicant claims an interest relating to the property or transaction which is the subject of the action; (3) whether the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest; and (4) whether the applicant's interest is adequately represented by existing parties.

Fund for Animals, Inc. v. Norton, 322 F.3d 728, 731 (D.C. Cir. 2003); *Jones v. Prince George's County*, 348 F.3d 1014, 1017 (D.C. Cir. 2003). "It is well settled that a prospective intervenor has the burden of establishing [each of those] four requirements in order to obtain intervention as of right." *Schultz v. Connery*, 863 F.2d 551, 555 (7th Cir. 1988); *see also Roeder v. Islamic Republic of Iran*, 333 F.3d 228, 233 (D.C. Cir. 2003).

Assuming *arguendo* that Applicants even possess a legally protectable interest in this case, they cannot demonstrate that the Attorney General does not adequately represent that interest. The Attorney General is presumed to adequately represent Applicants' asserted interest in defending the constitutionality of Section 5. In particular, although a movant's burden of showing that representation is inadequate is normally minimal, *see Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n.10 (1972), that is not the case "where the government is the named party," for in such cases, "representation is presumed adequate, and the movant must demonstrate the existence of 'special circumstances'" in order to intervene. *Sweet Home Chapter v. Lujan*, 1991 WL 277331, *2 (D.D.C. 1991) (holding that the very rare cases in which a member of the public is allowed to intervene in an action in which the United States, or some other governmental agency, represents the pubic interest are cases in which a very strong showing of inadequate representation has been made.).

Generally, under the *parens patriae* doctrine, when the government is a party to a suit involving a matter of sovereign interest, it is presumed to represent the interest of all its citizens. *Environmental Defense Fund v. Higginson*, 631 F.2d 738, 740 (D.C. Cir. 1979). More specifically, the D.C. Circuit has said that, when the Department of Justice defends a suit under Section 5 of the Voting Rights Act, it is

"acting on behalf of those whose rights are affected." *Donnell v. U.S.*, 682 F.2d 240, 246-47 (D.C. Cir. 1982) ("Congress assigned to the Attorney General the primary role in vindicating the public interest under the Act. We should be reluctant indeed to permit intervention . . . in the absence of a plausible claim that the Attorney General is not adequately performing his statutory function, and that intervention is needed to enable the court properly to perform its declaratory function or in some other way to protect the public interest.") (quoting *Apache County v. United States*, 256 F. Supp. 903 (D.D.C. 1966) (three-judge court)). In order to overcome this presumption, Applicants must establish some particularized interest that is not "subsumed within the shared interest of citizens" represented by the Attorney General. *Dimond v. District of Columbia*, 792 F.2d 179, 193 (D.C. Cir. 1986) (permitting intervention by an insurance company in litigation over a no-fault insurance statute where the insurance company's financial interests conflicted with the interests of the District of Columbia).

Moreover, the Attorney General's initial filing in the case makes clear that he is committed to vigorously defending the constitutionality of Section 5. And even though a "partial congruence of interests" may not guarantee adequacy of representation, *see Fund for Animals*, 322 F.3d at 737, here there is complete congruence. Indeed, Applicants attached a proposed Motion to Dismiss with their Motion to Intervene that has the same primary legal arguments as the Attorney General's earlier-filed Motion to Dismiss.

Not only do Applicants fail to establish any sort of divergence in their interests with the Attorney General, the Attorney General is the very governmental agency that Applicants argue is best situated to protect their voting rights through the Section 5 preclearance process. *Cf. Little Rock Sch. Dist. V. N. Little Rock Sch. Dist.*, 378 F2d 774, 780-81 (8th Cir. 2004) (denying intervention by voters where "the state directly represented the [group's] asserted interest by seeking to proceed with the election pursued by the citizens under state law and by specifically adopting the positions advanced by the [group]"). In this case, Applicants and the Attorney General share the same goal—defending the constitutionality of Section 5. And flagging potential disagreements with "the litigation strategy or objectives of the party

representing its interests" is not sufficient to establish an adversity of interests or inadequate representation. *See id.* at 780.

Here, Applicants have offered nothing but vague speculation about possible divergence of interests. Applicants suggest that they "*may* not be adequately represented by the Defendant in light of the nature of the complaint in this action," because the Attorney General is "bound by institutional constraints that are likely to direct its strategy in litigation, including the arguments proffered or the type of evidence presented." Motion at 5. But there are no "institutional constraints"—and Applicants identify none—that render the Attorney General a less-than-effective defender of Section 5's constitutionality. The Attorney General is, of course, obligated to defend the constitutionality of federal statutes. *See The Attorney General's Duty to Defend and Enforce Constitutionally Objectionable Legislation*, 4A Op. Off. Legal Counsel 55, 55 (1980). Indeed, if the Attorney General were to decide not to defend Section 5, he would be required to notify Congress. 28 U.S.C. § 530D (a)(1)(B)(ii).

Accordingly, Applicants' motion for intervention as of right should be denied. If this Court nevertheless determines that intervention as of right is appropriate, then Applicants' participation should be limited to legal briefing addressing only the merits of the constitutionality of Section 5, without the right to engage in any fact discovery or to file their duplicative motion to dismiss on justiciability grounds (or otherwise challenge the justiciability of this action). Plaintiffs submit that this limitation would best serve to avoid undue delay or prejudice to the adjudication of the original parties' rights in this litigation. The Advisory Committee Note to the 1966 Amendment of Rule 24(a) provides for such limitations: "An intervention of right under the amended rule may be subject to appropriate conditions or restrictions responsive among other things to the requirements of efficient conduct of the proceedings." *See also Beauregard, Inc. v. Sword Services, LLC*, 107 F.3d 351 (5th Cir. 1997) ("it is now a firmly established principle that reasonable conditions may be imposed even upon one who intervenes as of right.").

II. PERMISSIVE INTERVENTION SHOULD BE DENIED

Applicants also request permissive intervention under Rule 24(b). Permissive intervention requires the applicant to establish timeliness and that the "applicant's claim or defense and the main

action have a question of law or fact in common." Fed. R. Civ. P. 24(b). A party seeking permissive intervention has the burden to establish the "threshold requirements of (1) an independent ground for subject matter jurisdiction; (2) a timely motion; and, (3) a claim or defense that has a question of law or fact in common with the main action." *Sierra Club v. Van Antwerp*, 523 F. Supp. 2d 5, 10 (D.D.C. 2007) (citing Fed. R. Civ. P. 24(b)(1), and *E.E.O.C. v. Nat'l Children's Center, Inc.*, 146 F.3d 1042, 1046 (D.C. Cir. 1998)). Permissive intervention is discretionary, and the court "must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights." Fed. R. Civ. P. 24(b)(3).

Here, since Applicants cannot identify any deficiencies in the Attorney General's representation, they are simply proposing to duplicate, in somewhat different words, the Attorney General's efforts to defend the constitutionality of Section 5. This can only increase Plaintiffs' burdens and delay proceedings, without further illuminating the issues presented. The delay or prejudice standard of Rule 24(b)(3) protects against just this type of duplicative and cumulative effort. "The 'delay or prejudice' standard presumably captures all the possible drawbacks of piling on parties; the concomitant issue proliferation and confusion will result in delay as parties and court expend resources trying to overcome the centrifugal forces springing from intervention, and prejudice will take the form not only of extra cost but also of an increased risk of error." *Massachussetts Sch. of Law v. United States*, 118 F.3d 776, 782 (D.C. Cir. 1997) (affirming the district court's denial of a law school's motion to intervene in a government antitrust suit against the ABA).

Applicants broadly claim they will "avoid delays or unnecessary duplication of effort in areas satisfactorily addressed and represented by the existing Defendant, to the extent possible." Motion at 2. But their proposed Motion to Dismiss belies that claim; it largely parrots Defendant's similar motion, and thus will necessitate a duplicative response by Plaintiffs if this Court allows Applicants to file it. More generally, if Applicants take the *same* approach as the Attorney General, this is, inherently, "unnecessary duplication." Conversely, if they take some (unidentified) slightly *different* approach, this will cause "delays" and impose demonstrable burdens on the Plaintiffs. If, as seems clear, Applicants simply want

to file a brief they think is *better* than the Attorney General's on the relevant issues, they can easily do so as an *amicus*.

Accordingly, Applicants' motion for permissive intervention should be denied. In the alternative, if this Court determines that permissive intervention is appropriate, then it should exercise its discretion to limit Applicants' participation in a manner that will ensure timely prosecution of the litigation as well as limited duplication of the efforts of the parties and the Court. When granting a motion for permissive intervention, a court can impose "almost any condition, including the limitation of discovery." *Columbus-America Discovery Group v. Atlantic Mutual Ins. Co.*, 974 F.2d 450, 469 (4th Cir. 1992). *See also Beauregard, Inc. v. Sword Services, LLC*, 107 F.3d 351 (5th Cir. 1997) ("It is undisputed that virtually any condition may be attached to a grant of permissive intervention."). Plaintiffs submit that limiting Applicants to legal briefing on the merits of the constitutionality of Section 5, in the manner discussed above, would best serve to avoid any unduly delay or prejudice to the adjudication of the original parties' rights in this litigation.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Court deny Applicants' Motion to Intervene, or, in the alternative, limit Applicants' participation to legal briefing on the merits of the constitutionality of Section 5.

July 26, 2010

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on July 26, 2010, I served a true and correct copy of the foregoing via this Court's ECF system, to the following individuals:

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Exhibit 1b

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STEPHEN LAROQUE, et al.

Plaintiffs,

v.

ERIC H. HOLDER, Jr., in his official capacity as Attorney General of the United States,

Defendant.

Civil Action No. 10-0561 (JDB)

ORDER

Before the Court is a motion to intervene by Joseph M. Tyson, W.J. Best, Sr., A. Offord Carmichael, Jr., George Graham, Julian Pridgen, William A. Cooke, and the North Carolina Conference of Branches of the National Association for the Advancement of Colored People. Movants seek either intervention as of right, see Fed. R. Civ. P. 24(a), or permissive intervention, see Fed. R. Civ. P. 24(b)(1). Plaintiffs oppose intervention, and defendants do not oppose permissive intervention. Upon consideration of the motion, the parties' several memoranda, and the entire record herein, it is hereby

ORDERED that [13] Joseph M. Tyson, et al.'s motion to intervene as defendant is **GRANTED** pursuant to Federal Rule of Civil Procedure 24(b)(1); it is further

ORDERED that Joseph M. Tyson, et al.'s proposed motion to dismiss shall be deemed filed as of this date; and it is further

ORDERED that, by not later than September 3, 2010, plaintiff, defendant, and

defendant-intervenors shall confer and jointly submit a proposed briefing schedule to govern further proceedings in this case. To the extent the parties disagree on a proposed briefing schedule, they should so indicate. Along with this joint proposed briefing schedule, defendants and defendant-intervenors shall submit a report discussing what steps they will take to avoid duplication of effort and to reduce redundant filings.

SO ORDERED.

/s/
JOHN D. BATES
United States District Judge

Dated: August 25, 2010