

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

GEORGIA STATE CONFERENCE OF THE
NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE,
COALITION FOR THE PEOPLES'
AGENDA, and CRAIG MURPHY,

No. 1:11-cv-1849-CAP

Plaintiffs,

AMENDED COMPLAINT

v.

BRIAN KEMP, in his official capacity as
Secretary of State, and CLYDE L. REESE, III,
in his official capacity as Commissioner of the
Georgia Department of Human Services,

Defendants.

Plaintiffs Georgia State Conference of the National Association for the Advancement of Colored People (“Georgia NAACP”), Coalition for the Peoples’ Agenda (“Peoples’ Agenda”), and Craig Murphy, through their undersigned counsel, for their Complaint against defendants Brian Kemp, in his official capacity as Secretary of State, and Clyde L. Reese, III, in his official capacity as Commissioner of the Georgia Department of Human Services (“DHS”) allege, upon knowledge as to their own conduct and information and belief as to the conduct of others:

Introduction

1. This action seeks declaratory and injunctive relief to redress defendants' past and ongoing violations of their obligations under Section 7 of the National Voter Registration Act of 1993 (the "NVRA"), 42 U.S.C. § 1973gg-5. The NVRA was adopted with widespread bipartisan support as part of an effort to make voter registration more widely available and accessible, thereby increasing the number of properly registered eligible voters for federal elections. 42 U.S.C. § 1973gg(b)(1). The statute also reflects Congress' intent to combat the disproportionate harm to voter participation by various groups, including racial minorities, caused by discriminatory and unfair registration laws and procedures. 42 U.S.C. § 1973gg(a)(3).

2. Section 7 of the NVRA requires that all public assistance offices, in states subject to the NVRA, distribute a voter registration application with each application for public assistance, and each recertification, renewal, or change of address relating to an individual's receipt of public assistance. It further mandates that all public assistance offices in a covered state assist clients in completing a voter registration application (unless a client declines such assistance), provide a form that

asks clients whether they wish to register to vote and includes certain specified information concerning the voter registration process, and accept completed voter registration forms for delivery to the appropriate elections authority. Section 7 of the NVRA reflects Congress's objective to ensure that registration "will be convenient and readily available [for] the poor and persons with disabilities who do not have driver's licenses and will not come into contact with the other principle [sic] place to register under this Act [motor vehicle agencies]." H. R. Rep. No. 103-66, at 15 (1993) (House-Senate Conference Report).

3. Defendant Brian Kemp, Georgia Secretary of State and "chief elections official," is responsible for ensuring Georgia's compliance with the NVRA, including Section 7, and has not fulfilled his responsibilities for ensuring that Georgia provides the voter registration services mandated by the NVRA to its public assistance clients. Defendant Clyde L. Reese, III, Commissioner of DHS, the state agency responsible for administration of public assistance programs in Georgia, also has failed to ensure implementation of policies and procedures to make voter registration available through agency offices, as mandated by Section 7. Indeed, the Secretary has admitted in response to plaintiffs' pre-Complaint notice that

the DHS did not have consistent policies for the implementation of Section 7 at public assistance offices, but has nevertheless steadfastly refused to take appropriate corrective action to remedy past violations and prevent future violations by implementing appropriate registration procedures, and appropriate training, oversight and monitoring of DHS personnel and offices.

4. As a result of these ongoing violations, thousands of Georgia's low-income citizens who apply for and/or receive public assistance, including members of the Georgia NAACP, members of the Peoples' Agenda's constituent organizations, and Craig Murphy, have not been and are not being offered the opportunity to register to vote or to change their voter address upon moving to a new residence. Plaintiffs Georgia NAACP and the Peoples' Agenda have expended and continue to expend substantial time and resources in an effort to make voter registration available to these low-income citizens – which would have been unnecessary had defendants complied with the law. Thousands of eligible voters remain unregistered and effectively disenfranchised as a result of defendants' actions and inaction.

Parties

5. Plaintiff Georgia NAACP is an unincorporated association affiliated with the National Association for the Advancement of Colored People, with its principal place of business located in Atlanta, Georgia. The Georgia NAACP has more than 1,300 members, including members who receive and/or will receive, and/or have applied and/or will apply for, public assistance benefits in Georgia, including the Supplemental Nutrition Assistance Program (“Food Stamps”), Medicaid, and Temporary Assistance for Needy Families (“TANF”). Georgia NAACP encourages voter registration and participation, particularly among minority and low-income citizens, and has committed and continues to commit time and personnel to conducting voter registration drives in the State of Georgia (including, for example, conducting more than 500 voter registration drives in Georgia since 2008). Those voter registration efforts focus on registering voters in low-income neighborhoods, including the registration of individuals who receive or apply for public assistance benefits. Moreover, the voter registration efforts include updating the voter registration address of previously registered voters who have moved. Although Georgia NAACP encourages its members to register to vote, Georgia NAACP has members

who have applied and/or will apply for, and/or receive and/or will receive, public assistance benefits who are not registered to vote or will have moved since registering to vote and will not have updated their voter registration address.

6. Plaintiff Peoples' Agenda is a Georgia not-for-profit corporation with its principal place of business located in Atlanta, Georgia. Peoples' Agenda is a coalition of more than 30 organizations, and those organizations collectively have more than 5,000 individual members. The organizations that form Peoples' Agenda have members who receive and/or will receive, and/or have applied and/or will apply for, public assistance benefits in Georgia, including Food Stamps, Medicaid, and TANF. Peoples' Agenda encourages voter registration and participation, particularly among minority and low-income citizens, and has committed and continues to commit time and resources to conducting voter registration drives in the State of Georgia (including, for example, conducting more than 300 voter registration drives in Georgia since 2008). Those voter registration efforts focus on registering voters in low-income neighborhoods, including the registration of voters who apply for or receive public assistance benefits. Moreover, the voter registration efforts include updating the voter

registration address of previously registered voters who have moved.

Although the organizations that form the Peoples' Agenda encourage their members to register to vote, those organizations have members who apply and/or will apply for, and/or receive and/or will receive, public assistance benefits who are not registered to vote or will have moved since registering to vote and will not have updated their voter registration address.

7. Plaintiff Craig Murphy is a Georgia citizen who resides in the City of Atlanta, Georgia. Mr. Murphy receives Food Stamps, which are administered by DHS. Mr. Murphy meets all of the qualifications to register to vote in Georgia. He has moved since registering to vote and has not changed his voter registration address. Mr. Murphy has not been offered the opportunity to register to vote or change his voter registration address on any of his visits to the DHS in connection with his application for and receipt of Food Stamps.

8. Defendant Brian Kemp is the Secretary of State of Georgia. Defendant Kemp is the chief elections official in the State of Georgia and is responsible for overseeing the elections process. In this capacity, he issues instructions by directives and advisories regarding the proper methods for conducting elections; prescribes the form of registration cards; investigates

election fraud and irregularities; trains election officials; promulgates rules, practices and procedures to implement laws regarding Georgia elections; and compels the observance of Georgia's election laws. Moreover, defendant Kemp "is designated as the chief state election official to coordinate the responsibilities of [the State of Georgia] under the [NVRA]." Ga. Code Ann. § 21-2-210.

9. Defendant Clyde L. Reese, III, is the Commissioner of the Georgia Department of Human Services. DHS administers public assistance programs subject to the requirements of the NVRA, including, but not limited to, Food Stamps, Medicaid and TANF.

Jurisdiction and Venue

10. This case arises under the NVRA, a law of the United States. This Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343(a).

11. This Court has jurisdiction to grant both declaratory and injunctive relief under 28 U.S.C. §§2201 and 2002.

12. This Court has personal jurisdiction over each of the defendants because each is a citizen of the State of Georgia.

13. Venue in this district is proper under 28 U.S.C. 1391(b) because a substantial part of the events giving rise to the claim occurred in this district.

Factual Allegations

National Voter Registration Act of 1993

14. The National Voter Registration Act of 1993, 42 U.S.C. § 1973gg et seq., has as its purpose “establishing procedures that will increase the number of eligible voters who register to vote in elections for Federal office.” 42 U.S.C. § 1973gg(b)(1).

15. In furtherance of that goal, the NVRA mandates that “each state shall designate as voter registration agencies – (A) all offices in the state that provide public assistance.” 42 U.S.C. § 1973gg-5.

16. At each of these voter registration agencies, Section 7 of the NVRA requires that “the following services shall be made available:

- (i) Distribution of mail voter registration application forms
- (ii) Assistance to applicants in completing voter registration application forms, unless the applicant refuses such assistance.
- (iii) Acceptance of completed voter registration application forms for transmittal to the appropriate State election official.”

42 U.S.C. § 1973gg-5(a)(4). These services must be made available “with each application for . . . [public] assistance, and with each recertification, renewal, or change of address form relating to . . . [public] assistance.” 42 U.S.C. § 1973gg-5(a)(6).

17. Section 7 of the NVRA also requires that voter registration agencies distribute with each application for services, and with each recertification, renewal or change of address form a “voter preference form” providing certain specified information regarding the voter registration process and asking whether the client would like to register to vote. The specified information includes, for example, an explanation to the client that the decision to register will not affect the client’s eligibility for public assistance or the amount of benefits available.

18. Section 7’s voter registration requirements (including the requirements regarding distribution of registration forms and voter preference forms, and the provision of assistance in completing a registration form) apply both to public assistance clients whose applications for public assistance, renewals or recertifications, or changes of address are processed entirely or in part through in-person transactions at DHS offices, and to clients whose applications for public assistance, renewals or recertifications,

or changes of address are processed entirely through remote transactions (e.g., telephone, mail, or internet).

19. The NVRA requires that “[e]ach State shall designate a State officer or employee as the chief State election official to be responsible for coordination of State responsibilities” under the NVRA. 42 U.S.C. § 1973gg-8.

20. To ensure state compliance, the NVRA provides a private right of action to “a person aggrieved by a violation” of the NVRA. 42 U.S.C. § 1973gg-9. The NVRA generally requires that, at least 90 days prior to bringing an action to enforce the NVRA, an aggrieved person or organization must provide written notice to the state-designated “chief election official” in order to identify the violation and to provide the state an opportunity to cure the violation prior to the commencement of litigation.

**Georgia’s Failure to Offer
Voter Registration to Public Assistance Clients**

21. The State of Georgia is subject to the requirements of the NVRA. The NVRA applies to all States except a limited few who qualify for one of the limited exclusions contained in the Act. 42 U.S.C. § 1973gg-2. The State of Georgia does not qualify for any of the exclusions.

22. Georgia has designated the Secretary of State – defendant Kemp – as the “chief election official” who coordinates the State’s responsibilities under the NVRA. Ga. Code Ann. § 21-2-210. As such, defendant Kemp is charged with ensuring that registration opportunities are available in the manner prescribed by the NVRA, including registration through offices where persons apply for, recertify, renew, or change their address for public assistance, including Food Stamps, Medicaid or TANF.

23. Georgia has designated each office that provides public assistance as a voter registration agency. Ga. Code Ann. § 21-2-222(b).

24. DHS is a state agency responsible for the administration of public assistance in the State of Georgia, including, but not limited to, the administration of the Food Stamp, Medicaid, and TANF programs. As a result, Georgia DHS local offices are mandatory voter registration agencies under Section 7 of the NVRA. Defendant Reese, as Commissioner of DHS, is a state official responsible for ensuring that the registration opportunities mandated by Section 7 of the NVRA are available through DHS.

25. There is widespread ongoing noncompliance with the requirements of Section 7 with regard to the administration of public assistance programs by the State of Georgia, through its DHS public

assistance offices. Defendants have failed to fulfill the State's obligations under Section 7 of the NVRA by failing to ensure that all clients who apply, recertify, renew, or change an address in connection with public assistance benefits be provided with a voter preference form, a voter application form, and assistance in completing a voter application form.

26. Georgia's own report to the U.S. Election Assistance Commission ("EAC") reveals that Georgia public assistance offices received only 21,762 voter registration applications in 2007-2008 (November 2006 to November 2008). This represents a 79 percent decline since 1995-1996 (November 1994 to November 1996), when Georgia reported 103,942 registrations from public assistance offices. By contrast, following recent reforms in Ohio and Missouri to comply with the NVRA, public assistance agencies in those states have dramatically increased voter registration to an average of more than 15,000 per *month* in Ohio and more than 10,000 per *month* in Missouri.

27. For the year 2010, according to Georgia's own data, voter registrations through DHS offices had fallen to just 4,430. Moreover, Georgia's registration data revealed that 39 of Georgia's 159 counties failed to register a single voter through DHS offices for at least one out of the past

seven years (one county failed to register even a single voter during the entire seven-year span), and 95 counties averaged registering 25 or fewer voters per year through DHS during that seven-year period.

28. On June 30, 2011, the EAC issued its report regarding implementation of the NVRA in 2009-2010 (November 2008 to November 2010). As with prior reports, the 2009-2010 EAC report includes data provided by the State of Georgia regarding the total number of voter registration applications submitted through public assistance agencies in the State during the applicable two-year reporting period. The EAC report shows that Georgia received a total of 279 such applications in 2009-2010.¹

29. Surveys of public assistance clients conducted at DHS offices confirm widespread non-compliance with Section 7 of the NVRA among DHS offices. Specifically, none of the eleven DHS offices visited by investigators in September 2010 included a voter registration form with the

¹ In addition to 279 *total* voter registration applications received from public assistance agencies, the 2009-2010 EAC report also shows that Georgia separately reported 13,443 new registrations, duplicate registrations, and invalid or rejected applications submitted through Georgia public assistance agencies, without reporting that figure as part of its total voter registrations from these agencies. Regardless, both numbers of reported voter registrations from Georgia public assistance agencies are extremely low and continue a progressive decline in the number of voter registrations from previous years.

benefits application, and eight of the eleven offices could not even provide a voter registration application upon request.

30. Moreover, the September 2010 surveys revealed the following: among the DHS clients interviewed after completing NVRA-covered transactions (such interviews were conducted at nine of the DHS offices visited), 44 out of 50 reported that they were not offered voter registration; almost none of the 50 had been provided a voter preference form; and none of the 23 DHS clients who had met with a caseworker during their visit to the DHS office had been offered the opportunity to register to vote by the caseworker.

31. A comparison of federally-collected data regarding the number of persons registering to vote at public assistance offices in Georgia and the number of persons receiving benefits under just one of the public assistance programs subject to the NVRA further confirms that Georgia public assistance agencies are not providing voter registration services as required by the NVRA.

Fiscal Year	Food Stamp Applications² (monthly average)	Agency Voter Registration Applications³ (monthly average)
1997	25,416	4,331
1998	20,868	
1999	18,686	1,715
2000	30,156	
2001	32,455	1,492
2002	37,055	
2003	40,622	2,162
2004	44,169	
2005	44,169	1,489
2006	49,549	
2007	50,460	907
2008	56,284	
2009	67,236	12 ⁴
2010	n/a	

² Monthly average number of initial SNAP applications. United States Department of Agriculture Food Stamp Application Data, FY 1997-2009.

³ Federal Election Commission, *The Impact of the National Voter Registration Act, 1997-1998 (1999)*; Federal Election Commission, *The Impact of the National Voter Registration Act, 1999-2000 (2001)*; Federal Election Commission, *The Impact of the National Voter Registration Act, 2001-2002 (2003)*; U.S. Election Assistance Commission, *The Impact of the National Voter Registration Act, 2003-2004 (2005)*; U.S. Election Assistance Commission, *The Impact of the National Voter Registration Act, 2005-2006 (2007)*; U.S. Election Assistance Commission, *The Impact of the National Voter Registration Act, 2007-2008 (2009)*; U.S. Election Assistance Commission, *The Impact of the National Voter Registration Act, 2009-2010 (2011)*.

⁴ Even if one uses the 13,443 figure identified in footnote 1 *supra*, the monthly average for 2009-2010 still showed a substantial decline, to just 560 voter registration applications per month for that two-year period.

32. Additionally, low and moderate income families change their residence more than wealthier families, and therefore even those low- and moderate-income citizens who are registered to vote have an interest in being able to update their voter registration address, and receiving information and assistance regarding changing their voter registration address, through DHS offices.

33. Defendants either have disregarded or ignored the steady decline in registration of voters through DHS offices and the very low number of persons applying to register to vote through these offices. Indeed, had defendants been following appropriate practices and procedures for implementation and monitoring of Georgia's responsibilities under the NVRA, defendants would have discovered that county DHS offices simply have not been offering voter registration services and would have taken steps to remedy these widespread violations long ago.

34. The failure of DHS to offer voter registration services to all clients who apply, recertify, renew, or change an address in connection with public assistance benefits includes, but is not limited to, the consistent absence in day-to-day transactions with such clients of any "[d]istribution of

. . . voter registration application forms,” as required by Section 7 of the NVRA. 42 U.S.C. § 1973gg-5(a)(4)(A)(i).

35. The failure to provide required voter registration services also includes, but is not limited to, a Georgia statute that specifies that if a client does not check one of the response boxes on the voter preference form in response to the voter registration question that appears on the preference form, this silence constitutes a declination to register to vote. Ga. Code Ann. § 21-2-222(g). This provision violates Section 7 of the NVRA, which specifically provides that a voter registration application must be distributed to each client engaging in a covered transaction “unless the [client], in writing, declines to register to vote,” and further provides that the lack of a client checkmark on the voter preference form constitutes a declination only with regard to the receipt of assistance in completing a registration application.

36. Moreover, it was DHS policy, at least from August 2009 until April of this year, that voter registration was not to be offered to a TANF client during an NVRA-covered transaction if the client, during the course of a previous transaction, informed DHS in writing that he or she did not wish to register to vote at that time. This policy violated the language and

structure of Section 7, including the requirement that designated state agencies “shall” conduct voter registration “with each application for . . . service or assistance, and with each recertification, renewal, or change of address form relating to such service or assistance.” 42 U.S.C. § 1973gg-5(a)(6)(A). A client who declined to register on a particular occasion may wish to register during a subsequent covered transaction, whether because of a change of address or because of a simple change of heart.

37. On January 25, 2011, plaintiff Georgia NAACP sent a letter to defendant Kemp, on behalf of itself, “eligible voters it represents, and others similarly situated” (Jan. 25, 2011 letter, at 1), in order to “provide written notice of the violation to the chief election official of the State,” as required by the NVRA. 42 U.S.C. § 1973gg-9. The letter advised that “[s]ubstantial evidence demonstrates that Georgia is systematically failing to provide the voter registration services at its public assistance offices that are required by the NVRA” (Jan. 25, 2011 letter, at 2), further described the nature and scope of the violation, and identified the evidence demonstrating the violation. The letter stated that in the absence of a plan to remedy Georgia’s failures to implement the NVRA, the Georgia NAACP would have no choice but to commence litigation. A copy of the January 25, 2011 letter is

attached hereto as Exhibit 1. Defendant Reese also was sent a copy of this letter. The violations of the NVRA identified in this letter have not been cured to date and are the basis for this lawsuit.

38. In further correspondence, Vincent Russo of the Secretary of State's Office responded to the January 25 letter, indicating that his office had initiated an internal review of DHS's NVRA compliance and requested additional information to assist its review. The Secretary of State's letter conceded that its ability to "conduct an internal review for NVRA compliance is severely limited," an admission that speaks volumes about the widespread violations and non-compliance by DHS offices throughout the State and, in particular, the Secretary's failure to ensure NVRA compliance, as required by the NVRA.

39. Counsel for the Georgia NAACP provided the additional information requested by the Secretary of State's Office, and offered to meet with state officials to discuss the specific policies and procedures needed to bring Georgia into compliance with the NVRA.

40. The Secretary's counsel responded, acknowledging that DHS "did not have consistent policies for the TANF, Medicaid and Food Stamp

programs,” but not identifying any actions the Secretary intended to take to remedy those violations.

41. Subsequent correspondence from the Secretary of State failed to show that the State of Georgia has rectified its violation of the NVRA. The Secretary of State even failed to accept the Georgia NAACP’s offers to meet to discuss changes necessary to bring Georgia into compliance with the NVRA.

42. The January 25, 2011 letter also serves as notice, pursuant to 42 U.S.C. § 1973gg-9, on behalf of plaintiffs Peoples’ Agenda and Craig Murphy.

43. As a result of defendants’ continuing failure to ensure implementation of Section 7 of the NVRA through Georgia’s public assistance offices, persons applying for and receiving public assistance are not being offered the opportunity to register to vote, in violation of the NVRA.

**Harm to the Georgia NAACP’s
Voter Registration Efforts and Its Members**

44. As a means of building stronger communities, the Georgia NAACP has been a strong advocate for citizens to participate in the electoral

process. The Georgia NAACP regularly has conducted and continues to conduct voter registration drives in the State of Georgia.

45. Due to defendants' ongoing violations of the NVRA, the Georgia NAACP and its members have expended additional resources, including staff and volunteer time, on efforts to assist individuals with voter registration (including updating prior voter registration) who should have been offered voter registration through Georgia's public assistance offices. The Georgia NAACP reasonably anticipates, based on defendants' ongoing violations of the NVRA, that this diversion of resources to registration of individuals who should have been offered registration through public assistance offices will continue. These diverted resources otherwise would have been and would be spent on other activities of the Georgia NAACP, including voter education and election day voter mobilization efforts. These injuries to the Georgia NAACP will continue in the future until defendants' violations of their NVRA obligations are remedied.

46. Georgia NAACP members who have not been and will not be offered the opportunity to register to vote through DHS offices are harmed by defendants' violations of the law, and will continue to be so harmed until defendants are required to comply with Section 7 of the NVRA. This

includes Georgia NAACP members who are not registered to vote and members who are registered to vote but have subsequently changed their residence address and thus have an interest in promptly receiving information and assistance regarding changing their voter registration to match their new address.

47. Georgia NAACP also encourages civic and voter participation by conducting political forums, voter registration drives at high schools, voter education workshops, voter mobilization on election day, and letter writing campaigns, canvassing neighborhoods, and observing and monitoring voting polls. As a result of defendants' NVRA violations, the Georgia NAACP has been required and will continue to be required to divert resources, including staff and volunteer time, away from these other activities.

**Harm to Peoples' Agenda's Voter Registration Efforts and
Members of its Constituent Organizations**

48. The Peoples' Agenda has likewise been a strong advocate for citizen participation in the electoral process, and increasing voter registration has been a central goal uniting its member organizations.

49. The Peoples' Agenda itself regularly has conducted and continues to conduct voter registration drives in Georgia. Due to

defendants' ongoing violations of the NVRA, the Peoples' Agenda and its members have expended additional resources, including staff and volunteer time, on efforts to assist individuals with voter registration (including updating prior voter registration) who should have been offered voter registration through Georgia's public assistance offices. The Peoples' Agenda reasonably anticipates, based on defendants' ongoing violations of the NVRA, that this diversion of resources to voter registration efforts will continue. These diverted resources otherwise would have been and would be spent on other activities of the Peoples' Agenda, including such activities as voter education and election day voter mobilization efforts. These injuries to the Peoples' Agenda will continue in the future until defendants' violations of their NVRA obligations are remedied.

50. Members of the Peoples' Agenda's constituent organizations who have not been and will not be offered the opportunity to register to vote at DHS offices are harmed by defendants' violations of the law, and will continue to be so harmed until defendants are required to comply with Section 7 of the NVRA. This includes members of the Peoples' Agenda's constituent organizations who are not registered to vote, and members who are registered to vote but have subsequently changed their residence address

and thus have an interest in promptly receiving information and assistance regarding changing their voter registration to match their new address.

51. The Peoples' Agenda also encourages civic and voter participation by conducting voter education, voter mobilization and issue advocacy. As a result of defendants' NVRA violations, the Peoples' Agenda has been required and will continue to be required to divert resources, including staff and volunteer time, away from these other activities.

Plaintiff Murphy Is Denied The Opportunity To Register To Vote

52. Plaintiff Craig Murphy is 22 years old and has lived in Georgia for more than five years.

53. Mr. Murphy is eligible to register to vote in Georgia and was previously registered to vote in Henry County, Georgia. Mr. Murphy moved to Atlanta in February 2010, would like to register to vote at his current address and/or change his voter registration address, but has not yet done so.

54. Mr. Murphy made his first visit to the Fulton County Division of Family & Children Services ("DFCS"), which is administered by the Georgia DHS, on or about March 2010, to apply for Food Stamps. During that visit, he was not offered (either orally or in writing) the opportunity to register to vote or to change his voter registration address.

55. Mr. Murphy reapplied for Food Stamps in August 2010 at the Fulton County DFCS office. Again, during that visit, he was not offered (either orally or in writing) the opportunity to register to vote or to change his voter registration address.

56. Shortly after the August visit, Mr. Murphy received a Food Stamp card. Neither the card nor the information accompanying the card referenced voter registration.

57. In February 2011, Mr. Murphy realized that his deadline for recertification was approaching, but that he had not been sent a recertification notice letter. Consequently, on or about February 28, 2011, Mr. Murphy went to the Fulton County DFCS office to fill out a recertification form for Food Stamps. Once again, he was not offered (either orally or in writing) the opportunity to register to vote or to change his voter registration address.

58. On or about March 4, 2011, Mr. Murphy received a termination notice in the mail. On or about March 7, 2011, Mr. Murphy again visited the office to inquire about the termination notice. The Fulton County DFCS acknowledged the termination of benefits had been an error and recertified Mr. Murphy after he again completed the recertification form. At no time

during the March 7, 2011 visit was Mr. Murphy offered (either orally or in writing) the opportunity to register to vote or to change his voter registration address.

59. Despite his numerous visits to the Fulton County DFCS office, Mr. Murphy has never been offered the opportunity to register to vote or to change his voter registration address; nor has the Fulton County DFCS office (or the DHS) ever advised him that he could obtain a voter registration application or a change of address form and register to vote or change his voter registration address at a DFCS office.

60. Had he been advised that he could register to vote or change his voter registration address at a DFCS office or been offered the opportunity to register to vote or change his voter registration address at a DFCS office, Mr. Murphy would have done so.

Claim For Relief
(Violation of Section 7 of the National Voter Registration Act of 1993)

61. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 60 as if fully set forth herein.

62. Because of the failure to provide the voter information and registration opportunities and assistance required by Section 7 of the

National Voter Registration Act of 1993, 42 U.S.C. § 1973gg-5, defendants have violated and continue to violate the NVRA.

63. Plaintiffs have been aggrieved by defendants' past and ongoing violations of the NVRA and have no adequate remedy at law for defendants' violations of their rights. Declaratory and injunctive relief are required to remedy defendants' current and past violations of the NVRA and to secure ongoing compliance with the NVRA.

Prayer For Relief

WHEREFORE, plaintiffs respectfully request that the Court enter an Order:

- (i) Declaring, pursuant to 28 U.S.C. § 2201 and 42 U.S.C. § 1973gg-9(b)(2), that defendants have violated and are continuing to violate Section 7 of the National Voter Registration Act of 1993 , 42 U.S.C. § 1973gg-5, by failing to provide voter registration services as required by the NVRA through agencies that provide public assistance;
- (ii) Permanently enjoining defendants, their agents and successors in office, and all persons working in concert with them, from

implementing practices and procedures that violate Section 7 of the NVRA, 42 U.S.C. § 1973gg-5;

- (iii) Directing defendants, under a court-approved plan with appropriate reporting and monitoring requirements, to take all appropriate measures necessary to remedy the harm caused by their non-compliance with Section 7 of the NVRA, including without limitation, ensuring that individuals affected by defendants' non-compliance with Section 7 of the NVRA are provided immediate opportunities to register to vote or change their voter registration address;
- (iv) Directing defendants, under a court-approved plan, to take all steps necessary to ensure ongoing compliance with the requirements of Section 7 of the NVRA, 42 U.S.C. § 1973gg-5, including, without limitation, procedures for distribution of voter registration applications and voter preference forms, and training and monitoring personnel to ensure that designated agencies are distributing voter registration application forms to each person who applies for public assistance benefits, and each person who recertifies, renews, and changes address for

benefits, inquiring of all such persons, in writing, whether they would like to register to vote or change their voter registration address and providing to them the NVRA-required information concerning the voter registration process, assisting such persons in completing voter registration applications to the same degree that assistance is provided with other public assistance forms, accepting completed voter registration forms, and timely transmitting completed registration forms to the appropriate election authority;

(v) Awarding plaintiffs the costs and disbursements incurred in connection with this action, including, without limitation, their reasonable attorneys' fees and costs pursuant to 42 U.S.C. §§ 1973gg-9(c) and 1988;

(vi) Retaining jurisdiction over this action to ensure that defendants continue to comply with their obligations under the NVRA; and

(vii) Awarding such other equitable and further relief as the Court deems just and proper.

Dated: Atlanta, Georgia
July 13, 2011

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION

By: s/ M. Laughlin McDonald
M. Laughlin McDonald
Georgia Bar No.: 489550
Nancy Abudu
Georgia Bar No.: 001471
Jonathan L. Sherman*
230 Peachtree Street, NW, Suite 1440
Atlanta, GA 30303
Telephone: (404) 523-2721
Fax: (404) 653-0331
lmcdonald@aclu.org
nabudu@aclu.org
jsherman@aclu.org

Of Counsel:
Neil A. Steiner*
Robert W. Topp*
DECHERT LLP
1095 Avenue of the Americas
New York, New York 10036
Telephone: (212) 698-3500
Fax: (212) 698-3599
neil.steiner@dechert.com
robert.topp@dechert.com

Nicole K. Zeitler*
Niyati Shah
PROJECT VOTE
737 ½ 8th Street SE
Washington, DC 20003
Telephone: (202) 546-4173 Ext. 302
Fax: 202-629-3754
nzeitler@projectvote.org
nshah@projectvote.org

Robert A. Kengle
Mark A. Posner
LAWYERS COMMITTEE FOR CIVIL RIGHTS UNDER LAW
1401 New York Avenue, N.W., Suite 400
Washington, DC 20005
Telephone: (202) 662-8389
Fax: (202) 628-2858
bkengle@lawyerscommittee.org
mposner@lawyerscommittee.org

Brenda Wright*
DĒMOS: A NETWORK FOR IDEAS AND ACTION
358 Chestnut Hill Avenue, Suite 303
Brighton, Massachusetts 02135
Telephone: (617) 232-5885
bwright@demos.org

Allegra Chapman*
DĒMOS: A NETWORK FOR IDEAS AND ACTION
220 Fifth Avenue, 5th Floor
New York, New York 10001
Telephone: (212) 419-8772
achapman@demos.org

Kim Keenan*

Anson Asaka*

NATIONAL ASSOCIATION FOR

THE ADVANCEMENT OF COLORED PEOPLE, INC.

NAACP National Office

4805 Mt. Hope Drive

Baltimore, MD 21215

Telephone: (410) 580-5792

Fax: (410) 358-9350

kkeen@naacpnet.org

aasaka@naacpnet.org

*to be admitted pro hac vice