UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA

LEAGUE OF WOMEN VOTERS OF FLORIDA, FLORIDA PUBLIC INTEREST RESEARCH GROUP EDUCATION FUND, and ROCK THE VOTE,

Plaintiffs,

v.

KURT S. BROWNING, in his official capacity as Secretary of State for the State of Florida, PAMELA J. BONDI, in her official capacity as Attorney General for the State of Florida, and GISELA SALAS, in her official capacity as Director of the Division of Elections within the Department of State for the State of Florida,

Defendants.

Civil No. 4:11-cv-00628-RH-WCS

MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs move pursuant to Fed. R. Civ. P. 65 for a preliminary injunction enjoining Defendants from enforcing the provisions of Fla. Stat. §§ 97.021(37) and 97.0575 regulating the voter registration activities of "third-party voter registration organizations," and Fla. Admin. Code Ann. R. 1S-2.042 and any other rules promulgated by the State of Florida implementing these provisions (collectively, the "Law").

In order to resolve this motion as expeditiously as possible, and sufficiently in advance of Florida's voter registration "book-closing" deadlines—July 16, 2012 for the primary election, and October 8, 2012 for the general election—after which no one may register to vote in the upcoming 2012 elections, Plaintiffs further request that the Court set a hearing on their preliminary injunction motion for March 1, 2012, or as soon thereafter as the Court is available to hold such a hearing.

As detailed in the Memorandum of Law and the affidavits accompanying this motion, the Law (i) severely burdens and chills Plaintiffs' free speech and association rights, in violation of the First and Fourteenth Amendments to the United States Constitution; (ii) is also void under the Due Process Clause of the Fourteenth Amendment because its terms risk arbitrary and discriminatory enforcement and fail to adequately warn Plaintiffs of the conduct they prohibit or the liability that they impose on violators; and (iii) conflicts with the text, structure, and central purpose of the National Voter Registration Act of 1993, 42 U.S.C. § 1973gg *et seq.* (the "NVRA"), and thus violates and is preempted by the NVRA.[1]

The Law's pre-registration and disclosure requirements, extensive mandatory and ongoing tracking and electronic reporting obligations, strict 48-hour return deadline for completed registration forms, and vague but ominous penalties for even the slightest unintentional act of noncompliance have rendered third-party voter registration in Florida a complex and risky activity. Accordingly, the Law has all but compelled two of the Plaintiffs (League of Women Voters of Florida and Rock the Vote) to make the difficult decision to cease voter registration assistance in Florida, an activity essential to their organizational missions and inherently intertwined with conversations regarding the importance of civic engagement. And while the remaining Plaintiff (Florida Public Interest Research Group Education Fund) currently intends to engage in voter registration activities during the 2012 election cycle, it, too, has been severely burdened by the Law and will necessarily spend less money, time, and resources on voter registration and more

[1] In the First Amended Complaint, filed December 16, 2011, Plaintiffs have also alleged a claim against Defendants under Section 2 of the Voting Rights Act of 1965, 42 U.S.C. § 1973(a) (Count IV). Plaintiffs do not now move for preliminary injunctive relief on that claim. Plaintiffs move here only under their claims under the Constitution (Counts I-II) and the NVRA (Count III).

on compliance with the onerous requirements of Florida's new Law. Simply put, every day that the Law continues to be enforced, Plaintiffs' constitutional and statutory rights will be chilled, and countless Floridians that Plaintiffs would have assisted but for the Law will be unable to vote.

A preliminary injunction under Fed. R. Civ. P. 65 is appropriate here because, as demonstrated in the accompanying Memorandum of Law, (i) Plaintiffs have a substantial likelihood of success on the merits of their claims; (ii) Plaintiffs will suffer irreparable injury under the Constitution and the NVRA unless the injunction issues; (iii) the threatened injury to Plaintiffs outweighs whatever damage the proposed injunction may cause Defendants; and (iv) if issued, the injunction would not be adverse to the public interest. *See Forsyth Cnty.* v. *U.S. Army Corps of Eng'rs*, 633 F.3d 1032, 1039 (11th Cir. 2011).

The complete grounds and legal authority in support of this motion are addressed in the accompanying Memorandum of Law and affidavits. A proposed order granting Plaintiffs' motion is attached hereto.

WHEREFORE, and for all the reasons detailed in the accompanying Memorandum of Law, Plaintiffs seek an order preliminarily enjoining Defendants and their successors in office, as well as their employees, agents, and representatives, from enforcing the Law.

In order to resolve this motion as expeditiously as possible, Plaintiffs further request that the Court set a hearing on their preliminary injunction motion for March 1, 2012, or as soon thereafter as the Court is available to hold such a hearing.

N.D. FLA. LOC. R. 7.1 CERTIFICATION

Pursuant to N.D. Fla. Loc. R. 7.1(B), undersigned counsel states that Plaintiffs' counsel has conferred with Defendants' counsel in a good faith effort to resolve by agreement the issues raised in this Motion for Preliminary Injunction, but have been unable to do so.

Dated: December 19, 2011

COFFEY BURLINGTON

/s/ Kendall Coffey
Kendall Coffey
Florida Bar No. 259861
Abigail Parent
Florida Bar No. 72284
2699 South Bayshore Drive, Penthouse
Miami, Florida 33133-5408
Tel. 305-858-2900
Fax 305-858-5261

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
Robert A. Atkins*
William J. Taylor, Jr.*
1285 Avenue of the Americas
New York, New York 10019-6064
Tel. 212-373-3000
Fax 212-757-3990

Alex Young K. Oh*
Zachary A. Dietert*
2001 K Street, NW
Washington, DC 20006-1047
Tel. 202-223-7300
Fax 202-223-7420

BRENNAN CENTER FOR JUSTICE AT NEW YORK UNIVERSITY SCHOOL OF LAW
Wendy R. Weiser*
Diana Kasdan*
Lee Rowland*
Mimi Murray Digby Marziani*
161 Avenue of the Americas, 12th Floor
New York, New York 10013-1205
Tel. 646-292-8310
Fax 212-463-7308

AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF FLORIDA, INC.
Randall C. Marshall
Florida Bar No. 181765
Julie Ebenstein
Florida Bar No. 91033
4500 Biscayne Boulevard, Suite 340
Miami, Florida 33137-3227
Tel. 786-363-2700
Fax 786-363-1108

Counsel for Plaintiffs

**Pro Hac Vice* application to be filed

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that copies of the foregoing *Motion for Preliminary Injunction* and Exhibit A thereto were served via HAND DELIVERY this 19th day of December, 2011 upon the following:

Kurt S. Browning
Secretary of State of Florida
500 S. Bronough Street
Tallahassee, Florida 32399

Pamela J. Bondi
Attorney General of Florida
107 West Gaines Street
Tallahassee, Florida 32399

Gisela Salas
Director of Florida Division of Elections
500 S. Bronough Street
Tallahassee, Florida 32399

COFFEY BURLINGTON

/s/ Kendall Coffey
Kendall Coffey
Florida Bar No. 259861
2699 South Bayshore Drive, Penthouse
Miami, Florida 33133-5408
Tel. 305-858-2900
Fax 305-858-5261