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. _____ **Affidavit of Deirdre Macnab Submitted in Support of Plaintiffs' Motion for Preliminary Injunction**

I, Deirdre Macnab, hereby declare as follows:

1. I am a U.S. citizen, a resident of Florida, a registered voter, and I am serving my second term as President of the State Board of Directors of the League of Women Voters of Florida ("LWVF"). I submit this affidavit in support of Plaintiffs' motion for a preliminary injunction to prevent enforcement of the provisions of the newly enacted 2011 Fla. Laws 40 § 40 (codified at Fla. Stat. § 97.0575) ("the Law") that impose onerous new registration, reporting, and submission deadlines on individuals and civic groups engaged in voter registration, and which are preventing LWVF from fully carrying out its mission of fostering civic participation.

2. My experience with LWVF includes four years on the State Board, as well as four years as President of the League of Women Voters of Orange County, one of LWVF's largest local Leagues. My great-great-grandmother was a League of Women Voters member. I believe passionately in the mission of the LWVF, and my role as President is extremely meaningful to

me on a professional and personal level. I also have enjoyed a successful career that has included corporate work, public service, and elected office. I hold an MBA from Columbia University in marketing and finance and a B.A. from New York University in History and Political Science.

3. In my capacity as President of LWVF, I am responsible for leading our State Board of Directors, running State Board meetings, recommending and deliberating about statewide policy positions and strategy, and communicating our policies to our many local chapters, our members, and the public. I am intimately involved in all aspects of our work, including our previously extensive voter registration work, our legislative and policy positions, and the procedures by which we attract, retain, and communicate with our extensive membership. I am the official voice of LWVF in the media and to the public. All of my time is volunteered, and I spend around 60 hours per week performing my duties. Our State Board members volunteer up to 40 hours per week with LWVF, in addition to the hours many of them spend volunteering for local leagues in their home counties.

The League of Women Voters' History, Mission, and Structure

4. The national League of Women Voters was founded by Carrie Chapman Catt in 1920 during the convention of the National American Woman Suffrage Association. The convention was held just six months before the Nineteenth Amendment to the U.S. Constitution was ratified, giving women the right to vote after a 72-year struggle.

5. LWVF was founded in Florida in 1939. LWVF is a nonpartisan, not-for-profit corporation organized under the laws of Florida, and a tax-exempt charity pursuant to sections 501(c)(3) and 501(c)(4) of the Internal Revenue Code. It has approximately 2,800 current dues-

paying members in Florida, and a list of about 9,000 members, supporters, and volunteers, who receive regular communications from LWVF.

6. LWVF has 29 separately incorporated city- and county-based local leagues throughout Florida ("local Leagues").

7. LWVF's mission is to promote political accountability by encouraging the informed and active participation of citizens in government. LWVF also influences public policy through education and advocacy. One of LWVF's primary goals is to promote effective voter participation in government. LWVF accomplishes this goal by: (1) conducting voter registration drives throughout the state; (2) holding educational forums and candidate debates open to the public; (3) publishing a quarterly newsletter and hosting a website; (4) distributing both a non-partisan biannual election guide to candidates for statewide office, and objective information regarding proposed constitutional amendments in Florida; and (5) distributing information on topics including government reform, education, natural resources, social policy, and fiscal policy.

LWVF Organizational Structure and Activities

8. LWVF has one physical office located at 540 Beverly Court, Tallahassee, Florida 32301-2506. Its nonpartisan education, outreach, and voter registration efforts are funded entirely by LWVF's annual 501(c)(3) Education Fund, with a budget of approximately $99,000.

9. LWVF employs only two staff members: a part-time Executive Director and a part-time Office Manager. We also hire a contract lobbyist for legislative advocacy. The Executive Director, alongside volunteer interns and LWVF members, manages the office, handles correspondence and donations (via phone, mail, and email), services local chapters, supports Board of Directors meetings and member meetings, and prepares reports. She also serves as a

control tower between the LWVF state office and local leagues and volunteers. Our office manager assists with all of these tasks and provides administrative support to the Executive Director and the State Board.

10. LWVF maintains a website at www.thefloridavoter.org and, through its Education Fund, maintains another website at www.bereadytovote.org, which houses our groundbreaking collaboration with Microsoft to use smart phone technology to help voters access and confirm their current voter registration status.

11. LWVF policy is set by consensus among its State Board members, all of whom must be current dues-paying members. The State Board sets statewide policy for local leagues, particularly concerning policy positions and voter registration efforts. The State Board also publishes an annual report, available to members and to the public, detailing LWVF's financials, policy, and accomplishments each year.

12. LWVF has 29 local Leagues, which are community-based and depend entirely on member volunteers; none have paid staff. To the extent that volunteers need storage space or a physical location for meeting and planning, local Leagues operate from the homes of volunteers or in free community meeting spaces. Only the St. Petersburg League has a physical office. Each local League must pay dues to both LWVF and the national League of Women Voters. Individual members join their local League and pay a $50 annual membership fee. Out of that $50, the local League will owe $30 to the national organization, and $15 to LWVF, leaving the local League with $5 per new member. Every member of each of the 29 local Leagues is also a member of LWVF.

13. For example, the Tallahassee League, like all local Leagues, has no staff and is composed entirely of volunteers. Its annual income is approximately $5,000, derived mostly from member

dues. It uses these funds to pay its membership fees to LWVF and the national League of Women Voters, and, with what little is left, to print and mail voter information brochures that describe local, state, and national issues. It also publishes a brochure listing the contact information of school board members, state representatives, senators, members of the judiciary, and other government officials. The Tallahassee League has engaged in voter registration in the past, but has not previously allocated specific money toward that activity. Like the state LWVF, it never needed to, because all voter registration work was entirely volunteer-based and cost the organization no money.

14. Many local Leagues do not have access to computers and other technology. This is due in part to their sparse budgets and in part to the fact many members are not familiar with computer or email technology. For example, the Martin County League does not have a website, and its former president did not have an email address. While LWVF's state office has a scanner and a fax machine, local Leagues generally have no centralized or free access to such equipment.

15. Although LWVF maintains a list of members, it is difficult to tell when individuals consider themselves "active" members. Each member must pay dues every year by the date on which he or she joined LWVF. However, it is very common for members to pay late, for example delaying a renewal payment until the beginning of the calendar year, or forgetting to renew promptly. LWVF does not immediately remove these members from our communications lists or stop offering them opportunities to volunteer. Lapsed members routinely pay their renewal dues and become current again. These individuals likely consider themselves continual members, and LWVF considers them supporters and calls on them as volunteers. I do not believe that the simple lapse in payment of dues on the annual date signals that an individual wishes to terminate his or her association with LWVF, or an unwillingness to volunteer with us.

16. Not all volunteers are dues-paying members. Some volunteers only donate their time once, or on a few occasions. LWVF does not require volunteers to sign contracts or other documents, specify the beginning and ending dates of their volunteerism, or to provide updates to LWVF about "terminating" their volunteerism. Any of these requirements would stigmatize and reduce volunteerism. LWVF strives to facilitate an open, inclusive environment that accepts all comers and does not require a level of formality beyond maintaining contact information and asking the time which each volunteer is willing to give on any given day.

LWVF's Voter Registration Activity

17. Registering new voters is a critical part of LWVF's mission to promote political responsibility through an informed and active citizenry. It is also an important part of accomplishing our goal of increasing political participation by women, youth, and citizens in traditionally underrepresented and disenfranchised communities, particularly residents of low-income, African-American, and Hispanic communities. Indeed, recognizing Florida's diverse population, LWVF publishes statewide candidate guides in both English and Spanish.

18. Voter registration is particularly important and integral to LWVF's mission in presidential election years. The heightened attention to politics makes citizens more interested in government, which gives LWVF an opportunity to engage them in the political process and in the values and issues for which the League of Women Voters stands. With the extent of attention already on the 2012 election, the coming months will provide a crucial opportunity to bring more citizens into the democratic system.

19. LWVF conducts annual voter registration drives through its 29 local Leagues. There is a State Board member dedicated to voter service who communicates to those members coordinating voter registration drives at the local level about broad policy and priorities. Local

Leagues design, plan, and conduct their own voter registration activity without operational assistance from the LWVF, usually led by a local voter service chairperson. These drives occur throughout the year, but they are especially active in the summer and fall months immediately prior to voter registration deadlines for fall primary and general elections.

20. Typically, local Leagues will register new voters by attending community events or talking to citizens at malls, schools, nursing homes, or other institutions or high-traffic areas. At these events, our volunteers often set up tables and encourage passersby to stop and fill out a new voter registration form. Alternatively, volunteers walk around high-traffic areas with forms on clipboards and ask individuals if they would be willing to register to vote.

21. Helping other Floridians to register to vote is one of the most popular and effective volunteer opportunities with LWVF, and it has consistently been one of the best ways to get new volunteers invested in our work. New and busy volunteers love it because the schedule is flexible in terms of both scheduling and time commitment. It is one of the few activities in which a volunteer can participate on an impromptu basis and, within an hour or less, be trained and help voters to register. I have come to believe that individuals who begin volunteering even a few hours helping to register their fellow citizens to vote find the activity extremely rewarding and feel a sense of purpose and connection to their democracy. Many, if not most, of our seasoned volunteers, stalwart supporters, and State Board members began volunteering their time at a LWVF voter registration drive table. My own very first hour spent volunteering with LWVF was behind such a table.

22. While engaging in voter registration activity, LWVF volunteers hand out pamphlets and other materials discussing the importance of registering to vote, providing information about voting, and informing new voters about how they can contact their elected officials. For

example, LWVF volunteers provide new voters with a palm card published by the national League of Women Voters entitled "5 Things to Know," which contains tips for successfully voting, such as taking their voter ID card to their polling place. Local Leagues also frequently release "Know Your Elected Officials" publications to provide their members with a basic overview of and contact information for their local government officials.

23. LWVF has recently launched the interactive "Be Ready to Vote" campaign, which connects Florida citizens to their county Supervisor of Elections office via smart phone technology in order to ensure their voter registration information is current and complete.

24. LWVF registers voters at all of its events throughout the year. Voter registration goes hand-in-hand with virtually all of LWVF's public education efforts, as well as many of our advocacy activities. Registration efforts are automatically tied as a secondary exercise to every non-lobbying activity in which LWVF is involved. Whether the activity is a luncheon, a school event, a debate, or any another election-related activity, members always have voter registration forms on hand. LWVF believes that the best way to succeed at its mission of increasing civic engagement is to register as many citizens to vote as possible, to provide voters with basic nonpartisan information about candidates and issues on the ballot, and to get as many voters as possible out to the polls.

25. Local Leagues are very active in registering voters. For example, the Tallahassee League, which has been registering voters since its founding, registers voters at shopping malls, city Fourth of July celebrations, and the Tallahassee Saturday Downtown Market. The Tallahassee League usually registers voters in conjunction with its other activities. For instance, for several months before the 2004 election, it set up a table every Saturday at the downtown market to distribute a special edition of *State Voter*, an informational brochure published by

LWVF explaining all amendments to the State Constitution. In conjunction with this, the Tallahassee League registered voters, distributed voter registration forms, and gave out information about joining LWVF. The Tallahassee League also registered voters when it was collecting signatures for a state redistricting petition and a petition to change the timing of a city commission election in 2004.

26. Local Leagues also make a point to go to places where people who may not have either the means or the opportunity to register to vote congregate. Accordingly, LWVF members and volunteers register many people who do not have a car to go to the motor vehicle offices or the offices of their local supervisor of elections. Some people who register with the assistance of LWVF are intimidated by the prospect of navigating an official form or visiting a government office. Our targeted voter registration activity has included trips to nursing homes and outreach to social service providers, such as those providers conducting community outreach at the Palm Beach County Health Fair.

27. Many of LWVF's outreach activities are directed at traditionally underrepresented communities. For instance, the Orange County League spearheaded the "Vamos A Votar Coalition," a nonpartisan campaign to increase Hispanic voter participation in Central Florida and statewide. This campaign includes a Spanish language website, www.vamosavotar.org, maintained by the LWVF Education Fund. Similarly, when the Pinellas County League recognized fifteen years ago that there was a growing Hispanic population in that county, it started holding voter registration drives at a newly-opened Hispanic community center and at Hispanic cultural fairs. Some local Leagues, including the Jacksonville/First Coast League, regularly attend naturalization ceremonies in their communities. There, they introduce new U.S. citizens to one of the most important opportunities and responsibilities of citizenship by assisting

them in registering to vote. The Jacksonville/First Coast League also encourages these new citizens to become engaged in the political process by becoming LWVF members and by lobbying elected officials on issues of importance to them and their communities. And, the Miami/Dade County League reaches out to historically underrepresented communities in their county by publishing registration information in English, Spanish, and Creole.

LWVF Voter Registration Procedure

28. Local Leagues conducting voter registration efforts rely on volunteers who may or may not be LWVF members. LWVF's staff, which consists of only two part-time employees, does not have time to register voters or to supervise voter registration at each of the local leagues' events. We do not keep records of each volunteer and the precise time they spend with us. Nor do we ask volunteers to commit to regular volunteering, or ask when they next plan to assist LWVF. Instead, we view our members and supporters as an inclusive, constant source of potential volunteers dedicated to public service, and we are grateful for any time they spend volunteering with us.

29. Voter registration at LWVF events is well organized. The voter registration activity is announced beforehand through a newsletter or some other means, and volunteers are requested to commit in advance to a time to help register voters. While local Leagues sometimes keep proposed rosters of volunteers for each upcoming event, volunteers may get sick, have emergencies, change plans, or find out about the opportunity to volunteer at the last minute. As a result, despite our best efforts, volunteer schedules routinely change up to, and through, the day of a voter registration event.

30. At LWVF events, there are always at least two volunteers. One volunteer is always experienced and can show any new volunteers what to do. Volunteers usually have a sign that

says "League of Women Voters" and a sign that says "register here" in English and Spanish posted at their table.

31. Local League members train voter registration volunteers before they may engage in voter registration activity. Volunteers are instructed not to just hand forms out, but to assist people in filling out the forms and collecting them to make sure they get properly submitted to election officials. Volunteers are instructed to explain to potential new voters that it is important for all eligible citizens to register to vote, and to actually vote, in order to keep government accountable. Volunteers may offer literature or messaging on LWVF's mission, and some local Leagues may also offer registered voters opportunities to sign initiative positions supported by LWVF. We believe it is important that volunteers are conversant on these issues related to civic participation because conversations about the rights and responsibilities of American citizens inevitably arise in the course of conducting voter registration drives. Volunteers are poised to respond to questions presented by the applicants and to clear up any confusion about the registration and voting process. Volunteers prefer not to register more than two or three people at a time to ensure they can properly assist each one.

32. The success of LWVF's voter registration drives depends upon volunteers taking the time to ensure that a prospective voter has correctly and completely filled out a voter registration form. Volunteers are instructed to provide all necessary assistance to ensure that each voter registration form collected is fully completed. After an individual hands a completed voter application to a LWVF volunteer, volunteers check each field on each form to make sure it is correctly filled out. Many LWVF volunteers encourage registrants to put their phone numbers on the form so they can be contacted if additional information is needed.

33. It is the experience of LWVF members that the vast majority of people will not properly complete and submit applications without assistance. LWVF believes that asking people to register in person, and collecting and delivering their voter registration forms for them, results in a vastly increased rate of voter registration as compared to simply handing out blank forms to be completed and submitted a later date. As a volunteer, I have seen proof of this first hand, and I know that many citizens would not be registered to vote but for our assistance in completing and submitting voter registration forms. LWVF volunteers will distribute blank forms if that is the only option, but they make every effort to collect completed forms from registrants and to then ensure that these forms get submitted properly. For example, if a student is not carrying his or her driver's license or other government ID, he or she may not have with them the requisite personal information needed to complete the voter registration form. In those cases, the volunteer will encourage students to come back rather than just give them blank forms.

34. LWVF does not make copies of voter registration forms after completion, and it does not keep track of how many people it registers unless there is a distinct reason, such as evaluating the success of a particular drive. This is in part because LWVF hesitates to place administrative requirements on our volunteers; instead, we seek to engage them in the purely civic acts of community engagement, volunteerism, and voter registration.

35. Members and volunteers participating in voter registration efforts understand the importance of getting completed registration forms to the registrar promptly. The person in charge of the voter registration event gathers all forms to be submitted. The forms are secured by placing them in a closed box or envelope and keeping them in the member's personal possession until they are taken to a Supervisor of Elections. In some cases the forms are mailed, but LWVF prefers to have members submit them in person to ensure proper delivery. LWVF

believes it is very important to have well-trained, trustworthy people in charge to ensure that forms are not lost or submitted late.

36. The average turnaround time between when a completed registration form is collected and submitted varies based on the circumstance. In many instances, it would be very difficult to deliver the forms within 48 hours. Frequently, during multi-day voter registration drives, forms will be collected in a single secure location until the drive is over, and then delivered together to elections officials. This process ensures the security and accountability of the forms. Depending on the length of the drive, this can take 2 to 8 days. In some cases, LWVF volunteers in charge of an event may work full time, or have other pressing demands, and may not be able to take the forms to the LWVF office or an election supervisor immediately after an event. Volunteers may also be elderly or lack a car, and need assistance in submitting forms.

37. LWVF members and volunteers also register voters more informally, helping extended family, friends, co-workers, and acquaintances to register to vote on a smaller scale. LWVF members and volunteers are very enthusiastic about this work because registering people to vote is the first step in getting them involved in the political process. Moreover, registering voters is a hands-on opportunity for volunteers, during which they can meet with prospective voters face-to-face, and help inform citizens how to take part in the political and governmental process.

38. For example, I recently hired a contractor for my home, who goes by "Sonny the Carpenter." Sonny asked me about myself, and I told him I was involved in voting issues. Sonny responded that he was a citizen, thought he was registered to vote, and wanted to check his status. I offered him the opportunity to use our Be Ready to Vote Campaign technology to check his voter registration on his phone. We discovered he was not, in fact, on the voter rolls. I have not pre-registered myself as a "third-party voter registration organization," so I was unable

to offer to have Sonny fill out a registration form and give it to me for submission. I talked through the steps of voter registration with him, but felt strongly that he was unlikely to obtain, complete, and submit a voter registration form. If I could have spontaneously offered that assistance to Sonny, I am sure he would have been registered to vote. But because of the Law, I could not help him register.

39. Volunteers obtain the voter registration forms they distribute and/or collect in diverse ways. Many volunteers print publicly-available Florida state voter registration forms from the Florida Division of Elections website or obtain the national mail voter registration form available at the website of the Election Assistance Commission. In addition, LWVF and local Leagues typically enjoy excellent and close working relationships with the county Supervisors of Elections, who routinely provide blank state voter registration forms to LWVF volunteers.

40. To my knowledge, in its 72 years of engaging in citizen voter registration activity in Florida, LWVF has never been cited, fined, or found in violation of Florida's previous laws governing third-party voter registration, including under the 10-day return deadline for completed voter registration applications added in 2008.

The Law's Impact on LWVF Voter Registration Activities

The 48-Hour Requirement

41. LWVF volunteers take their duty towards voter registration forms very seriously, and endeavor at all times to turn forms in as quickly and securely as possible. Although LWVF has very good procedures for keeping track of and turning in voter registration forms, it would be nearly impossible logistically for LWVF to ensure that each completed form was submitted within 48 hours—to the minute—as the Law requires. The local Leagues operate on a decentralized model with an all-volunteer force, which has successfully registered tens of

thousands of Floridians to vote over the last 72 years without incident. The 48-hour requirement would require LWVF and its local Leagues to dramatically revise their procedures in a manner that would require volunteers to become detailed timekeepers and create strict schedules to ensure that forms were handed in before the clock strikes 48 hours—and do all this under the ticking time bomb of civil penalties and fines.

42. A LWVF volunteer could easily miss the Law's strict deadline through no fault of her or his own, and without jeopardizing the forms in any way. For example, a volunteer who has collected forms all day but is unable to deliver them the next day might leave completed applications secured in his or her home or office for one full day. In this situation, a delay of even a few minutes on the morning of delivery—due to traffic, weather, ill health, or unexpected family emergencies, for example—could lead to automatic fines. My understanding, based on public statements by county Supervisors of Elections, is that a delay of even a minute could cause the Supervisors to report a group's delinquency to the Secretary of State.

43. Several Supervisors have expressed to me their dismay over the Law, especially that it places us in adversarial postures where they are forced to "turn us in" for submitting forms even a minute over the 48-hour deadline.

44. Many LWVF volunteers are elderly and depend on others for transport. They may have a particularly hard time meeting the 48-hour deadline.

45. In one case, a LWVF member died while in possession of ballot petitions. Her sister ensured that the petitions were later turned in before the deadline, but had a 48-hour rule been in effect, LWVF would have been liable.

46. A rainstorm, flood, or hurricane could also delay a volunteer attempting to deliver forms. In these extreme circumstances, the Law does not automatically waive the fines, even though

weather emergencies are fairly common in coastal Florida. It is not clear how and when the force majeure and impossibility of performance defenses in the Law apply. And even when, or if, they do apply, they must be argued as an "affirmative defense" under the Law, which appears to mean that we would still be cited for a violation of the Law and would only have an opportunity to present these circumstances in our defense afterward. Even more troubling, the Secretary is not required to release LWVF or its local leagues from liability even for a natural disaster.

47. The Law's 48-hour requirement is all but unintelligible to me. The Law states that forms are due within 48 hours "or the next business day if the appropriate office is closed for that 48-hour period." Within the same sentence, the regulation thus uses the terms "hours" and "day." I do not understand whether, in order to receive some "grace period" when offices are closed, an office must be closed for an entire 48-hour period, or just some portion of that period. I also have no idea from the statutory text or from the regulations whether the due date shifts to the same hour and minute on a different day, or allows the submission of forms through the end of that business day.

48. Therefore, if a volunteer collects a form on a Friday night, and offices are closed for the entire weekend, I cannot decipher by what time, if any, the form must be submitted on Monday—or perhaps on Tuesday. Oddly, it might be due *after* a form collected on Saturday morning and due 48 hours later on Monday morning. Alternatively, if a volunteer collects a form on a Thursday—such that it would be due Saturday, when offices are closed—is that form entitled to the grace period even though the office was open for part of that 48-hour period? In thinking about these very likely scenarios, it is simply not clear to me how LWVF volunteers could reasonably know when they are at risk of running afoul of the 48-hour provision.

49. Even to the extent LWVF would be able to comply with the 48-hour requirement in submitting forms, compliance would prevent LWVF from following its standard procedures for ensuring that information is not missing from forms, because volunteers would be in such a rush to submit the forms within 48 hours. LWVF would waste valuable time and incur unnecessary and burdensome costs due to frequent trips to election supervisors or postal offices.

50. Although LWVF prefers to hand-deliver completed applications to Supervisors of Elections to ensure they are properly submitted, in some cases, it has been necessary to submit applications by mail. Although the newly enacted Law purports to continue to allow delivery by mail, it only counts the date of mailing as a "delivery" for purposes of the Law's 48-hour deadline if the mailing envelope is clearly postmarked. LWVF volunteers have no control over whether the postal service properly postmarks every package of applications they mail and have no way of ensuring that the postmark does not become detached, smudged, or otherwise made "unclear." Under the Law's prior, ten-day deadline, volunteers could minimize the risk of incurring fines by mailing forms so that they would arrive well before the expiration of the permissible period of delivery. Now, because of the Law's strict 48-hour deadline, combined with its requirement for a "clear" postmark for the date mailing to satisfy this deadline, it is impossible for a volunteer to submit a completed voter registration form by mail without subjecting LWVF to the potential for civil fines and reputational harm due to factors entirely beyond the control of LWVF or its volunteers.

51. There is a statement on the Division of Elections' website indicating that any affiliate or registration agent for a registered third-party voter registration group must first send any collected applications to the registered organization *before* they can be submitted to election officials. If this is true, it poses perhaps the greatest barrier to compliance with the 48-hour

requirement. Collecting all voter registration applications in our state office would be totally impossible given our structure and de-centralized voter registration practices. Moreover, our state office simply does not have the resources to be collecting, collating, and delivering voter registration forms from our 29 local Leagues. Even if we could comply with that requirement, it would make it physically impossible to then submit these forms within 48 hours. Florida is a massive state, and it is inconceivable that our local Leagues could reliably send collected forms to our state office within 48 hours—let alone with enough time for us to then get the forms to election officials. It would also double the unnecessary movement or mailing of registration forms, increasing the possibility these forms could be destroyed or lost in transit.

Registration Agent Issues

52. Compliance with the Law would require LWVF to report to the State every individual volunteer who engages in voter registration on behalf of LWVF as a "registration agent." Before helping anyone register to vote, the Law would require each of our volunteers to sign a sworn statement form provided by the Division of Elections that lists several felony penalties for "false registration," including imprisonment for up to five years and a fine of $5,000, which warns that falsely swearing to the form is a felony offense. The form does not specify what constitutes "false" registration or swearing to a form. For example, the form lists "submission of false voter registration information" as an example of a "false registration" offense, but it does not explain that submitting forms with inadvertent mistakes would not qualify as "false registration." I believe the form is intimidating and suggests serious felony charges may flow from even innocent mistakes. It is the last thing I would want to give to someone whom I am encouraging to engage in a public service. I believe that many volunteers would balk at signing such a form.

The average LWVF volunteer, who is often elderly and extremely risk-averse, is particularly likely to be deterred from volunteerism by this form.

53. LWVF cannot force all of its volunteers to become "agents" for voter registration purposes consistent with LWVF's mission. Formalizing the volunteer process would be a deterrent to many of our volunteers, particularly retired or elderly volunteers, who may view these legalistic forms detailing criminal penalties as an intimidating and complicated process in which they do not wish to become involved. Moreover, LWVF attempts to inclusively recruit volunteers to foster civic participation; LWVF does not want to force volunteers to become its signed, sworn agents in order to help others to participate in our democracy.

54. Local Leagues have no way of knowing when a volunteer stops "working" for them. We ask all members and volunteers to donate their time and create an inclusive environment to encourage *ad hoc* volunteerism when needed at events. We absolutely do not ask when or if each individual plans to "terminate" their volunteer time with LWVF. Doing so would alienate former LWVF volunteers and deter future volunteerism.

Registration, Tracking and Reporting Requirements

55. The new regulations state that any affiliate of a registered third-party voter registration group must also register with the State as a third-party voter registration organization via an electronic registration form that requires a list of its individual volunteers. LWVF does not provided local League volunteers with support staff, nor offices nor equipment, and volunteers frequently have limited familiarity with technology. Making electronic filings would be extremely difficult for them, and would duplicate the information on filings already required of LWVF. The rules are also unclear what other filings the affiliates would have to make—for example, whether they would have to make regular filings to update that initial registration when

new volunteers join their voter registration activity. Repeated filings would place a large burden on our all-volunteer local Leagues.

56. Because LWVF relies on volunteers dispersed throughout the state to collect applications, LWVF cannot, with its limited budget and staff, monitor the daily voter registration activities of each of its 29 local Leagues and their countless volunteers. There is thus a high likelihood that LWVF would not be able to fully monitor, count, and report the use of every voter registration form by every one of its members and volunteers, as the Law's monthly reports require.

57. As discussed above, we have no system of tracking the individual volunteers who donate their time to each of the 29 local Leagues, let alone determining if, or when, they "terminate" serving as a LWVF volunteer. Requiring these all-volunteer local Leagues to send us constant rosters of their volunteers—along with copies of their sworn registration agent forms to be scanned and submitted by LWVF to the State—would necessitate an entire layer of costly bureaucracy that is totally at odds with our mission and our volunteer spirit.

58. LWVF cannot realistically track all forms it "provides" to each registration agent as the monthly forms require. LWVF members and volunteers obtain voter registration forms from numerous sources. Many download state and federal voter registration forms online at home on the way to a registration event, rather than get them directly from LWVF. Some volunteers simply copy the available blank forms held by other volunteers. Even more have habitually obtained Florida voter registration forms from their local Supervisor of Elections. Because of LWVF's decentralized volunteer efforts, it is not possible for LWVF to keep track of every form distributed. Doing so would require new lines of communication between each local League and the LWVF office and would consume untold hours of volunteer resources that could be better spent on civic engagement—the reason that individuals become involved with LWVF.

59. LWVF would not be able to comply with the requisite reporting provisions. LWVF cannot afford for its already over-extended two-person staff to spend the time necessary to prepare and submit the requisite reports to the state. Such reporting would take a considerable amount of time and cost. It would, for instance, require that staff members contact each of the 29 local Leagues and collect and compile information about potentially large number of applications collected by the local league volunteers every month. The volunteers who run the local Leagues have already committed to being responsible for a substantial amount of LWVF-related work, including registering voters. Requiring unpaid volunteers to keep close track of each voter registration form they both distribute and collect would add appreciably to their work load.

60. LWVF employees also do not have the time nor the legal expertise to understand and make sure LWVF is in compliance with the constant, complicated, and byzantine reporting requirements required by the Law. LWVF cannot afford to hire attorneys to work for LWVF on an ongoing or even limited basis to ensure that we strictly comply with all filing and reporting rules for registration forms and agents. We have already spent considerable resources attending rulemaking hearings, discussing the Law, evaluating whether our voter registration work remains feasible under the Law, and responding to members' myriad concerns.

61. In short, the Law would force every volunteer to become an administrator and legal agent of LWVF. Many volunteers are unable to take on such a difficult burden and would find it extremely intimidating. Volunteers receive no pay to register voters, and they are typically unwilling to assume any financial or legal risk for their good deeds.

Form-Marking Requirement

62. In addition to imposing a financial risk to LWVF, the Law also imposes a severe threat of unfair and unjustified reputational risk. Any form containing LWVF's third-party voter registration organization number ("3PVRO number") that is received by elections officials more than 48 hours after completion—to the minute—could be considered a violation of the Law. This could occur if an individual took a "stamped" form from any of our tables and turned it in at a more leisurely pace. For example, an elderly volunteer could set up a registration table on a college campus. A group of students could come up and start filling out forms. Then one could say she forgot her ID and run off with the form to fill it out later—leaving the elderly volunteer helpless to stop her. If the student did not turn in the stamped form within 48 hours of filling it out, LWVF would be liable.

63. In the past, our volunteers have worked closely with, and relied heavily on, county Supervisors of Elections. One key to building that relationship is having LWVF volunteers go into Supervisors' offices and introduce themselves when they pick up the public forms. The Law discourages this method of obtaining forms, though, because it requires that any forms provided to citizen registration groups by county election officials be pre-stamped with the group's 3PVRO number. This means that each uncompleted form we obtain from county Supervisors of Elections becomes a walking liability for LWVF should it be inadvertently displaced or even simply distributed.

64. If we do not obtain forms that are pre-marked, the rules require us to mark our 3PVRO number on each voter registration form that we collect. Seeing us mark their forms with an identifying code could intimidate or dissuade people who strictly value their privacy, object to submitting to the State a record of their association with the LWVF, or are uncomfortable stating publicly that they used assistance to register to vote.

Moratorium

65. As a result of the new Law, LWVF has ordered a statewide cessation of voter registration until the Law is enjoined or limited in such a way as to substantially reduce the organizational and financial risk to the League, its members, and volunteers. LWVF has previously been forced to impose moratoria on voter registration due to similar laws in 2006 and 2008, but ended both moratoria when those laws were enjoined or interpreted and implemented in a way that allowed LWVF to resume voter registration work without fear of debilitating fines or prosecution.

66. LWVF imposed the present moratorium because it is concerned about our reputational and financial liability and that of the local Leagues. LWVF fears that it could be liable for up to $1,000, even for accidental failure to submit every registration form within the Law's strict 48-hour deadline, which is very difficult to interpret and satisfy. Any fine would tarnish LWVF's previously spotless reputation for voter registration, which we value highly as an organization dedicated to the rule of law and respect for the election process. LWVF's reputation is extremely important, and we cannot risk having LWVF be seen as a law-breaking organization. Anything that would cast doubt on LWVF's integrity would severely damage LWVF and its ability to attract risk-averse volunteers, members, and donors.

67. In addition, LWVF's bare-bones staff and volunteer State Board do not have the time or resources to interpret all of the vague provisions of the Law, figure out how they apply to LWVF, and ensure that LWVF is complying with all of the provisions. LWVF submitted detailed commentary during the rulemaking process governing the regulations implementing the Law, but many provisions of the Law remain hopelessly vague and confusing.

68. For instance, LWVF cannot afford the risk that its volunteers, members, directors, and officers would have to personally pay fines under the Law for being unable to turn in voter

registration forms within 48 hours—to the minute—of the time they are completed. The Law appears to allow individual volunteers to be fined, even without evidence of any intent to do wrong or any actual problems with a voter's registration form. It is not realistic to expect our volunteers to risk fines and other penalties on a ridiculously tight, 48-hour timeframe, when a single day home sick might trigger liability.

69. Furthermore, Florida law makes any general violation of the election code a first degree misdemeanor where no other penalty is specified. Although the Law specifies that fines will be levied for some delivery-related violations, it does not specify the penalties for failing to perfectly comply with all of the *other* complicated provisions in the Law. I am fearful that this puts LWVF and its volunteers at risk of criminal penalties for unintentional failures to comply with all of the other onerous requirements. LWVF cannot in good conscience accept the risk that its volunteers, members, employees, directors, and officers may be subject to criminal misdemeanors for unspecified violations of the Law.

70. In general, it is entirely unclear to me what penalties LWVF may face in the event that it fails to perfectly comply with the Law's myriad requirements. But any action subject to a fine, injunction, or other remedy contemplated by the Law would certainly require LWVF to expend costs and other resources defending its reputation. These costs may include hiring additional attorneys, investigating any complaint, preparing witnesses, preparing for court, and wasting time defending LWVF in the court of public opinion. In fact, even in the case of a natural disaster delaying the delivery of completed registration forms, LWVF only has the option of presenting an "affirmative defense," presumably after being charged with violations of the Law. Any fine, investigation, or prosecution would reduce the time and money LWVF could spend engaging in protected speech to advance its mission.

71. The current moratorium is very disruptive to LWVF's work because the year before a presidential election is ordinarily an incredibly productive time for voter registration. Based on estimates from past years, if the law is not enjoined, LWVF will be prevented from collecting and submitting thousands of voter registration forms from Floridians in advance of the book-closing deadline prior to the 2012 general election.

72. The moratorium disproportionately impacts minority, low-income, and other communities where LWVF targets outreach efforts, and where individuals have registered through third-party voter registration organizations at very high rates. Census statistics show that Florida's African-American and Hispanic voters are more than twice as likely than other voters to be registered via voter registration drives like those organized by LWVF.

73. The moratorium also disrupts LWVF's broader mission to encourage civic engagement. Because voter registration is such an integral part of LWVF's activities, and because LWVF volunteers routinely register voters as part of their education, outreach, and advocacy efforts, LWVF's inability to register voters severely inhibits our ability to further our message of citizen participation in our democracy.

I declare under penalty of perjury under the laws of the state of Florida that the foregoing is true and correct to the best of my knowledge.

DATED this 14 day of December 2011.

Deirdre Macnab

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that a copy of the foregoing *Affidavit of Deirdre Macnab Submitted in Support of Plaintiffs' Motion for Preliminary Injunction* was served via HAND DELIVERY this 19th day of December, 2011 upon the following:

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