IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JOSE MORALES, on behalf of himself and those similarly situated, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE (NAACP), as an organization; GEORGIA ASSOCIATION OF LATINO ELECTED OFFICIALS (GALEO), as an organization; and THE CENTER FOR PAN ASIAN COMMUNITY SERVICES (CPACS), as an organization,	)	**CIVIL ACTION NO. 1:08-CV-3172 JTC-WSD-SFB**
Plaintiffs,	)	**THREE JUDGE COURT**
V	)	
BRIAN P. KEMP, in his official capacity as Georgia Secretary of State,	)	
Defendant.	)	

DEFENDANT'S CERTIFICATION OF COMPLIANCE WITH COURT'S JUNE 15, 2010 ORDER

COMES NOW BRIAN P. KEMP, the Secretary of State for the State of Georgia, by and through his attorney of record, Thurbert E. Baker, the Attorney General for the State of Georgia, and files this Certification of Compliance with the Court's June 15, 2010, Order in the above-referenced case.

In that Order, the Court continued the provisions of the preliminary injunction it had previously entered on October 27, 2008, Order and enjoined the Secretary to:

a. Reasonably ensure that persons who have been identified ("flagged") as potentially not being U.S. citizens and ineligible to vote and who remain in that status at the time of voting still have the opportunity to cast a ballot using the State's challenged ballot process provided for under O.C.G.A. § 21-2-230;

b. Provide timely notice to persons who cast such challenged ballots as to what steps must be taken to provide proof of citizenship and the time frame to do so;

c. Consistent with state and federal law, set aside the challenged ballots for consideration, evaluation and counting in according with the State's challenged ballot statute; and,

d. Issue uniform written guidance to all county registrars explaining the operation of the existing challenged balloting requirements under state law.

[Doc. 110 at 7].

In order to comply with the Court's June 15, 2010, Order, the Secretary of State has taken the following actions:

1.

In accordance with the Court's order, the Secretary of State has run the automated computer comparison of its current voter registration database with that of the Georgia Department of Driver Services. That has

produced a report, commonly referred to as the R2 report, which identifies persons whose voter registration record and driver's license record do not match on the question of whether the individual is a United States citizen. The Secretary then sent a letter to every individual so flagged in the Statewide Voter Registration database advising them of steps they can take to resolve the issue of their eligibility and their right to vote pending the determination of their eligibility. A sample of such letter is attached as Exhibit A to this report and explains that the question of citizenship has been raised and how a voter may resolve that issue. This letter is essentially the same letter, updated for the current election cycle, which was used in complying with the Court's 2008 Order. The Secretary will continue to follow this procedure in future elections.

2.

The Secretary has also sent a memorandum to all county election officials providing uniform, written guidance regarding the processing of voter applications and the procedures for accepting and counting challenged ballets. A copy of the Secretary's memorandum is attached as Exhibit B to this report. The process outlined in the uniform instructions is the same process that was used by the Secretary in complying with this Court's 2008

Order. Additionally, the Secretary has made a copy of this Court's June 15, 2010, Order available through its website.[1]

3.

The Secretary has taken the necessary steps to ensure that no voter is permanently deleted from the Statewide Voter Registration database based upon information flowing from the unprecleared automated voter verification process, unless the voter admits in writing that that he/she is not a United States citizen.

4.

In accordance with this Court's instructions, on June 21, 2010, Counsel for the Secretary provided earlier versions of the aforementioned voter correspondence and uniform guidance to the Acting Chief of the Voting Section of the U.S. Department of Justice, along with an explanation of the process that will be followed by the Secretary. The letter requested

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[1] The Order was posted on the "eLearn" section of the Secretary of State's website. *See* http://elearn.sos.ga.gov/moodle/course.view.php?id=6a. (Last accessed on July 6, 2010). *See also* Defendant's Exhibit B at 1. The Order was posted on this section of the Secretary of State's website because this is where the Secretary of State posts its latest official bulletins. Because the "eLearn" section of the Secretary of State's website is used for training purposes and reference materials, it is only accessible to county election officials. However, the main page of this section is accessible to the public. *See* http://elearn.sos.ga.gov/moodle/. (Last accessed on July 6, 2010).

whether the Department of Justice had any additional suggestions to assure that "flagged" voters otherwise were permitted to vote. The sample letters provided to the Department were those letters used in compliance with the 2008 election and the Department suggested that the dates used in the letters be updated to reflect the current or future election cycles. That was the intention of the Secretary and was incorporated into the letters and guidance that was issued by the Secretary, as demonstrated by Exhibits A and B to this report. A copy of that correspondence is included here as Exhibit C

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day electronically filed the within and foregoing **DEFENDANT'S CERTIFICATE OF COMPLIANCE WITH COURT'S JUNE 15, 2010 ORDER** with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all parties to this matter via electronic notification or otherwise:

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This 6th day of July 2010.

/s/ Julia B. Anderson
JULIA B. ANDERSON
Senior Assistant Attorney General