

CASE NO. 13-30185

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

LUTHER SCOTT, JR., for himself and all other persons similarly situated;
LOUISIANA STATE CONFERENCE OF THE NAACP, for themselves
and all other persons similarly situated,

Plaintiffs-Appellees,

v.

TOM SCHEDLER, in his official capacity as the Louisiana Secretary of State,

Defendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA
USDC No. 2:11-cv-00926-JTM-JCW

**BRIEF OF PLAINTIFFS-APPELLEES
IN OPPOSITION TO MOTION FOR STAY PENDING APPEAL**

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The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Fifth Circuit Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

1. Those persons listed by Appellant
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3. Luther Scott, Jr., Appellee
4. Louisiana Conference of the NAACP, Appellee
5. NAACP Legal Defense & Educational Fund, Inc., Counsel for Appellees
6. Sherrilyn Ifill, Counsel for Appellees
7. Elise C. Boddie, Counsel for Appellees
8. Ryan P. Haygood, Counsel for Appellees

9. Dale E. Ho, Counsel for Appellees
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14. Niyati Shah, Counsel for Appellees
15. Michelle Rupp, Counsel for Appellees
16. Ronald L. Wilson, Counsel for Appellees
17. Fried, Frank, Harris, Shriver & Jacobson LLP, Counsel for Appellees
18. Michael B. de Leeuw, Counsel for Appellees
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20. Jesse R. Loffler, Counsel for Appellees
21. David Yellin, Counsel for Appellees
22. Bruce D. Greenstein, in his official capacity as Secretary of the Louisiana
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34. Suzy Sonnier, in her official capacity as Secretary of Louisiana Department of Children and Family Services, Defendant in District Court proceedings
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41. Harry J. Philips, Jr., Counsel for Defendant Suzy Sonnier
42. Katia Desrouleaux, Counsel for Defendant Suzy Sonnier

Counsel is unaware of any other persons with an interest in this brief.

Dated: April 1, 2013

Respectfully submitted,

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RE11	Certification of Defendant Bruce D. Greenstein, dated March 15, 2013 (Doc.464)
RE12	Certification on behalf of Tom Schedler, Louisiana Secretary of State, dated March 15, 2013 (Doc. 465)
RE13	Amended and Superseding Pre-Trial Order, dated October 05, 2012 (Doc. 373) (USCA5 19397 – 19561)

PRELIMINARY STATEMENT

Plaintiffs-Appellees the Louisiana State Conference of the NAACP (“Louisiana NAACP”) and Luther Scott, Jr. (collectively, “Respondents”) respectfully urge this Court to deny Defendant-Appellant Tom Schedler’s motion for a stay for three reasons.

First, this motion violates the jurisdictional requirements of Rule 8 of the Federal Rules of Appellate Procedure, because Appellant’s identical motion for a stay is currently pending before the District Court, and has yet to be decided.

Second, Appellant has failed to demonstrate a likelihood of success on the merits. Respondents’ standing is based on the District Court’s factual findings, which are reviewed for clear error, and which this Court has no reason to overturn. Moreover, Appellant’s attempt to graft an artificial “in person” limitation to Section 7 of the National Voter Registration Act (“NVRA”), 42 U.S.C. § 1973gg-5, has no basis in that provision’s text, and has been rejected by every court that has considered this issue.

Third, the balance of the equities clearly weighs against a stay. All three defendants have certified that they are in compliance with the District Court’s

Permanent Injunction, (the “Injunction”), RE1. See RE10, RE11, RE12.¹ Appellant’s Co-Defendants have declined to appeal or to join this motion, belying Appellant’s suggestion that the Injunction would cause irreparable harm.² By contrast, a stay would deprive hundreds of thousands of Louisiana’s poorest citizens of an opportunity to register to vote, and cause continuing harm to Respondents. Moreover, Appellant’s assertion that a stay is necessary due to exigent circumstances is contradicted by his own actions. Appellant waited a full month after the Injunction was issued before seeking a stay from the District Court, and never sought expedited review.

For these and the reasons discussed below, this motion should be denied.

LEGAL STANDARD

“A stay is an intrusion into the ordinary processes of administration and judicial review,” *Nken v. Holder*, 556 U.S. 418, 427 (2009) (internal quotation marks and citations omitted), and thus is an “extraordinary remedy,” *Belcher v. Birmingham Trust Nat’l Bank*, 395 F.2d 685, 685 (5th Cir. 1968). A party seeking a stay pending appeal bears the heavy burden of establishing four separate factors:

¹ References to Record Excerpts attached to Appellant’s motion for stay and Respondents’ opposition are cited herein as “RE_.”

² The Appellant’s Co-Defendants in this matter are Bruce Greenstein, Secretary of the Louisiana Department of Health and Hospitals (“DHH”) and Suzy Sonnier, Secretary of the Louisiana Department of Children and Family Services (“DCFS”).

(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.

Nken, 556 U.S. at 433-34 (quoting *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)).

Given this stringent standard, “more commonly stay requests will not meet this standard and will be denied.” 11 Charles Alan Wright *et al.*, Federal Practice and Procedure § 2904, at 684-85 (2012).

ARGUMENT

I. APPELLANT’S MOTION SHOULD BE DENIED FOR FAILURE TO COMPLY WITH RULE 8 OF THE FEDERAL RULES OF APPELLATE PROCEDURE

Rule 8 of the Federal Rules of Appellate Procedure (“Rule 8”) provides that a party seeking a stay “must ordinarily move first in the district court.” Fed. R. App. P. 8(a)(1). A movant may only seek a stay from the Court of Appeals: (i) upon a showing that a motion to the district court “would be impracticable;” or (ii) by stating that “the district court denied the motion or failed to afford the relief requested,” in which case the movant must state “reasons given by the district court for its action.” Fed. R. App. P. 8(a)(2).

Here, before filing this motion for a stay, Appellant filed an identical stay motion under Rule 62 of the Federal Rules of Civil Procedure (“Rule 62”) with the District Court (“the District Court Motion”). RE8. That motion has not yet been

decided, and the District Court therefore retains jurisdiction over Appellant's stay request, "consistent with the general principle that an application for a stay . . . should ordinarily be made in the first instance in the district court." *In re Miranne*, 852 F.2d 805, 806 (5th Cir. 1988) (citing Fed. R. App. P. 8(a)).

Appellant does not argue that a motion to the District Court would be "impracticable;" indeed, by filing the District Court Motion, Appellant has already conceded the opposite. Moreover, the District Court has neither denied the District Court Motion, nor has it "failed to afford the relief requested." FRAP 8(a)(2)(A). It has simply yet to issue its ruling. Appellant may not, in the meantime, circumvent the jurisdictional requirements of Rule 8 simply because he prefers that the District Court move faster. Indeed, this motion not only violates Rule 8, it also contravenes the jurisdictional principle "that a federal district court and a federal court of appeals should not attempt to assert jurisdiction over a case simultaneously," *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982).

Appellant attempts to excuse this jurisdictional defect by asserting that "time is of the essence." Br. at 1. But, although the Injunction was issued on January 23, 2013, RE1, Appellant did not seek a stay from that Court until a full month later, on February 22, 2013, RE8. Even then, he did not seek expedited consideration of the District Court Motion. Nevertheless, Appellant asks this Court to grant this motion "in light of the [March 15, 2013] implementation deadline for the [District

Court's] injunction.” Br. at 1. Any request for a stay premised on the March 15 certification deadline, however, was already moot by the time this motion was filed. The March 15 certification deadline had already passed, and Appellant had already filed a notice in the District Court certifying his compliance with the Injunction, RE12, one week *before* he filed this motion on March 22.

Moreover, this motion raises arguments that have not yet been ruled upon in the first instance by the District Court: specifically, it raises an argument regarding the validity of the Injunction, which is also raised in the District Court Motion. RE9. As this Court has previously held, “[under] Rule 8(a), we believe the district court should have the opportunity to rule on the reasons and evidence presented in support of a stay.” *Ruiz v. Estelle*, 650 F.2d 555, 567 (5th Cir. 1981). The District Court should have the opportunity to consider this issue in the first instance and, if necessary, correct any purported defects in the Injunction before appellate review takes place.

II. APPELLANT HAS FAILED TO DEMONSTRATE A LIKELIHOOD OF SUCCESS ON THE MERITS

A stay pending appeal “is not a matter of right, even if irreparable injury might otherwise result,” *Nken* 556 U.S. at 427 (citation and internal quotation marks omitted), because a movant must first demonstrate a “*strong showing* that he is likely to succeed on the merits.” *Id.* at 434 (emphasis added). “It is not enough

that the chance of success on the merits be ‘better than negligible.’” *Id.* Rather, “[m]ore than a mere ‘possibility’ of relief is required.” *Id.* (internal quotations marks and citation omitted) (alteration in original). Appellant has not satisfied that standard.

A. The District Court Properly Found that Respondents Have Standing

In order to obtain a stay, Appellant must establish a likelihood of success with respect to the standing of *both* Respondents, either of whom may maintain this action against Appellant without the other. Although the legal rulings of a District Court are subject to *de novo* review, in this case, the District Court’s determination that both Respondents have standing was based on “[s]pecific factual findings [that are] entitled to review under the clearly erroneous standard.” *Hearst Newspapers, L.L.C. v. Cardenas-Guillen*, 641 F.3d 168, 174-75 (5th Cir. 2011) (citation and internal quotation marks omitted).

1. The Louisiana NAACP Has Standing

This Court has held that an organizational plaintiff has standing under Section 7 of the NVRA, if “[1] it has expended resources registering voters in low registration areas [2] who would have already been registered if the [Defendants] had complied with the requirement under the NVRA that Louisiana must make voter registration material available at public aid offices.” *Ass’n of Cmty. Orgs. for*

Reform Now v. Fowler, 178 F.3d 350, 361 (5th Cir. 1999). For the purposes of establishing standing, such resources may be in the form of “money *or time* [expended] counteracting Louisiana’s alleged failure [to comply with the NVRA]”). *Id.* at 367 (emphasis added).

After trial, the District Court made factual findings that both of these conditions were satisfied. First, the District Court found that the Louisiana NAACP’s “voter registration focus is on the low-income African-American community in Louisiana,” because this “community was largely not registered to vote.” RE2 at 18. In total, the Louisiana NAACP “received approximately \$10,000.00 from the national NAACP to perform voter activities for the 2010 election in Louisiana.” *Id.* Specifically, the Louisiana NAACP has conducted voter registration services “outside of the food stamp offices and health benefit offices because many of those individuals are not registered to vote.” *Id.* at 15. The Court found that, “[d]uring . . . 2010 . . . [its] volunteers spent approximately two to four hours, once a month, for three months at the public assistance offices.” *Id.* at 16.³

³ Appellant falsely contends that these volunteer efforts were performed in a personal, individual capacity. In fact, the District Court’s factual finding was that these volunteer efforts were conducted on behalf of the Louisiana NAACP, rather than in an individual capacity. *Id.* at 13, 15 and 18 (“[p]resident of the LSC NAACP, testified . . . [he] appointed . . . Reverend Taylor . . . to take charge of these [voter registration] activities, [in] an official position within the LSC NAACP.”). That finding, which was not clearly erroneous, was based on uncontradicted evidence at trial. *See RE5* at 226:22-24 (“I represented the Louisiana State Conference in

Cf. Fowler, 178 F.3d at 361 (finding that “one voter registration drive a year” involving “registering people at welfare waiting rooms, unemployment offices, and on Food Stamp lines” was a sufficient basis on which to confer standing) (internal quotation marks omitted).

The District Court further found that the Louisiana NAACP “expended its limited resources, time, and money, to canvass and conduct registrations outside of Louisiana DCFS and DHH offices,” in order to reach “Louisiana voters who would have already been registered if the Defendants had complied with the NVRA.” RE2 at 18. Appellant concedes that, had the Louisiana NAACP’s voter registration efforts outside of public assistance offices been unnecessary, they “would have gone to [another location] to register other low income individuals.” Br. at 20. These “wasted resources, which [the Louisiana NAACP] could have put to use registering [other] voters,” or “toward any other use [that the Louisiana NAACP] wished” are sufficient to confer standing. *Fowler*, 178 F.3d at 361.

2. Luther Scott, Jr. Has Standing

As this Court has explained, Congress “intended to extend standing under the [NVRA] to the maximum allowable under the Constitution,” by conferring standing on any “person who is aggrieved by a violation” of the Act, a term that

everything I did when it came to voter registration.”). *See also id.* at 128:22 – 129:12, 144:9-22, 145:21-24, 146:20 – 147:3, 153:11-15, and 226:14 – 227:7.

evinces “a congressional intent to cast the standing net broadly—beyond the common-law interests and substantive statutory rights upon which prudential standing traditionally rested.” *Id.* at 363-64 (citations and internal quotation marks omitted). Where, as here “the suit is one challenging the legality of government action or inaction,” and where “the plaintiff is himself an object of the action (or foregone action) at issue[,] . . . there is ordinarily little question that the action or inaction has caused him injury.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561-62 (1992).

As the District Court found, Mr. Scott suffered actionable injury in at least two distinct respects. *First*, Section 7(a)(6)(A) of the NVRA creates a statutory right to receive a voter registration form “with each application . . . , and with each recertification, renewal, or change of address form relating to [public benefits] . . . unless the applicant, in writing, declines to register to vote.” 42 U.S.C. § 1973gg-5(a)(6)(A). As the Supreme Court has made clear, “[t]he actual or threatened injury required by Art[icle] III may exist solely by virtue of ‘statutes creating legal rights, the invasion of which creates standing,’” and which, by itself, “can confer standing to sue even where the plaintiff would have suffered no judicially cognizable injury in the absence of statute.” *Warth v. Seldin*, 422 U.S. 490, 500, 514 (1975) (citing and quoting *Linda R.S. v. Richard D.*, 410 U.S. 614, 617 n.3 (1973)); *see also Havens Realty Corp. v. Coleman*, 455 U.S. 363, 373-74 (1982) (finding standing

based on deprivation of plaintiffs’ statutory right to receive accurate housing information, even though plaintiffs suffered no additional injury beyond the statutory violation); *Adar v. Smith*, 597 F.3d 697, 706 (5th Cir. 2010) (“When a person alleges . . . injury by virtue of the operation of a statute . . . Article III standing to challenge that statute’s execution usually obtains”), *overruled en banc on other grounds but aff’d as to standing*, 639 F.3d 146 (5th Cir. 2011).

As the District Court properly found, Mr. Scott was deprived of his “legally protected interest” in receiving a voter registration form along with his public assistance paperwork on three separate occasions: in September 2009, December 2009, and November 2010. *See* RE2 at 5-6. The District Court then correctly determined that this deprivation, by itself, constitutes actionable injury, “[i]rrespective of [Mr.] Scott’s voter registration status.” *Id.* at 10; *see Charles H. Wesley Educ. Found., Inc. v. Cox*, 408 F.3d 1349, 1352 (11th Cir. 2005) (rejecting the argument that a registered voter who was denied statutory rights under the NVRA lacked standing).

Second, Mr. Scott suffered injury because he was denied an opportunity to update his address information with the Registrar of Voters, and thereby to vote at the correct local polling place. As the Eleventh Circuit has held, “[a] plaintiff need not have the franchise wholly denied to suffer injury,” as even a registered voter who is denied the “right to use the federal [voter] registration form to notify the

state of a change of her address” has suffered the “injury of being unable to vote in her new home precinct.” *Cox*, 408 F.3d at 1352. Here, although Mr. Scott submitted a voter registration form when he was living at 510 St. Patrick Street in 2008, *see* RE5 at 11:19, the trial record also revealed that he has been intermittently homeless, and has lived at several different addresses since that time. When Mr. Scott applied for food stamps in September 2009, he was living temporarily at a church at 1301 S. Derbigny Street. *Id.* at 12:18-13:7, 14:13-15:3. When Mr. Scott applied for food stamps again in December 2009, he was at a different address, 1803 Gravier Street. *Id.* at 43:2-18. Finally, at the time of trial, he resided at 2515 Magnolia Street. *Id.* at 11:2-6.

Thus, the state’s failure to provide Mr. Scott with a voter registration form during his benefits transactions caused him actionable injury by denying him an opportunity to update his address information on file with the Registrar of Voters, and thereby to vote at the correct polling station. *Cox*, 408 F.3d at 1351-52.⁴

⁴ Contrary to Appellant’s assertions, Mr. Scott was not validly registered to vote at his home address at the time of his benefits transactions, because he was not “an actual *bona fide* resident of [the] precinct in which he . . . register[ed] to vote.” La. Rev. Stat. Ann. § 18:101(A)(1). In any event, Mr. Scott was unaware of his registration status, because, as the District Court found, he never received confirmation of his 2008 voter registration paperwork. RE2 at 9. He, therefore, also suffered injury because he was denied an opportunity to receive a subsequent voter registration form, which he could have submitted to verify and update his registration status.

B. The District Court’s Injunction Complies with Rule 65 of the Federal Rules of Civil Procedure

Rule 65 of the Federal Rules of Civil Procedure requires that “every order granting an injunction . . . must: (A) state the reasons why it issued; (B) state its terms specifically; and (C) describe in reasonable detail—and not by referring to the complaint or other document—the act or acts restrained or enjoined.” Fed. R. Civ. P. 65(d)(1).

Here, the Injunction satisfies each of these requirements. The Injunction states that the reason for issuance is that Appellant, along with the other Defendants, violated the NVRA. RE1 at 1. Thereafter, it specifically requires Appellant to maintain newly-revised policies, procedures, and directives relating to the NVRA coordination within Louisiana. *Id.* at 2. It further orders that Appellant certify compliance by March 15, 2013. *Id.* at 3. As required on that date, Appellant accordingly certified that he has, *inter alia*, “[r]evised the Declaration Form for use at mandatory voter registration agencies”; updated “an instruction manual” and “a powerpoint presentation to be utilized for training at mandatory voter registration agencies that provide public assistance”; and “[s]elected a staff member to serve as Secretary of State NVRA Coordinator.” RE12 at 1-2.

“Although the requirements of Rule 65(d) are mandatory, elaborate detail is unnecessary; . . . ‘[a]n injunction must simply be framed so that those enjoined will

know what conduct the court has prohibited.’” *Islander East Rental Program v. Barfield*, No. 96-41275, 1998 WL 307564, *4 (5th Cir. Mar. 24, 1998) (quoting *Meyer v. Brown & Root Construction Company*, 661 F.2d 369, 373 (5th Cir. 1981)) (alteration in original). The Appellant’s compliance certification—which Respondents do not challenge—evinces Appellant’s clear understanding of the Injunction’s terms.⁵

Contrary to Appellant’s suggestions, the Injunction in this case is not an “obey the law” injunction. *See Meyer v. Brown & Root Construction Company*, 661 F.2d 369, 373 (5th Cir. 1981) (holding that an injunction was deemed compliant with Rule 65 because it prohibited the defendant-corporation from violating Title VII by constructively discharging an employee when she was pregnant). As in *Meyer*, the Injunction here complies with Rule 65 because it states that a legal violation has occurred, and proscribes specific conduct to remedy that violation.

⁵ There is no ambiguity regarding which “programs” the Injunction governs. The Injunction only governs those programs administered by agencies that provide public assistance and disabilities services, such as DCFS and DHH (which are operated by Appellant’s Co-Defendants), because Respondents’ claims relate only to the obligations of such agencies, and not those of other voter registration agencies such as public high schools and colleges. *See infra* pg. 16, n.6. Appellant’s own certification of compliance reflects this clear understanding, stating that he has modified NVRA-related training for programs that “provide public assistance or state funded programs primarily engaged in providing services to persons with disabilities.” RE12 at 1-2.

C. The District Court Correctly Held that Section 7 of the NVRA Does Not Permit States to Carve Out an Exception for Public Assistance Benefits Transactions Conducted by Remote Means

Section 7 of the NVRA, 42 U.S.C. § 1973gg-5, provides that, *inter alia*, public assistance agencies “shall . . . distribute” a voter registration application form “*with each* application for such 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) (emphases added). Section 7(a)(6) of the NVRA, by its plain language, does not afford Louisiana the option to restrict the distribution of voter registration forms only to those public assistance clients who appear in person at a state office, but instead requires that such forms be distributed with *every* application for benefits.

“Statutory construction must begin with the language employed by Congress and the assumption that the ordinary meaning of that language accurately expresses the legislative purpose.” *Peavy v. WFAA-TV, Inc.*, 221 F.3d 158, 169 (5th Cir. 2000) (internal quotation marks omitted). In its ordinary sense, the word “each” “denotes or refers to every one of the persons or things mentioned ... ‘Each’ is synonymous with ‘all.’” *Black’s Law Dictionary* 507 (6th ed. 1990). *Accord* 5 *Oxford English Dictionary* 16 (2d ed. 1989) (“each means every”) (internal quotation marks omitted). As one court explained,

The plain meaning of this statement is clear: if an assistance office supplies an application for assistance, it must, without limitation, also distribute a voter registration form There is no clear textual basis in the operative language of Section 7 paragraph (a)(6) for . . . limit[ing] the application of the mandatory distribution of forms to only those instances when such application, recertification, renewal, or change of address is made **in person**. . . . To sustain [that] position, the court would be forced to ignore the ordinary meaning of the plain language of Section 7 paragraph (a)(6), and the court declines to do so.

Ga. State Conference of N.A.A.C.P. v. Kemp, 841 F. Supp. 2d 1320, 1329 (N.D. Ga. 2012) (citation and internal quotation marks omitted) (emphasis in original). Indeed, “nothing in Section 7(a)(6) limits its scope to in-person transactions only,” RE3 at 16, as the term “in person” is not found in Section 7 of the NVRA *at all*. Thus, the District Court correctly found that defendants violated Section 7(a)(6) by, *inter alia*, failing to distribute voter registration forms to public assistance clients who apply for benefits through “remote” means, such as mail, telephone, and internet. *See* RE2 at 20, 25, 28.

Unable to contest this plain meaning, Appellant relies on an entirely different provision of the statute, improperly seeking to import the phrase “in person” from Section 4 of the NVRA, 42 U.S.C. § 1973gg-2, into the provision that actually governs this case, Section 7, 42 U.S.C. § 1973gg-5. Appellant’s misinterpretation violates a basic principle of statutory construction: where, as here, “Congress includes particular language in one section of a statute but omits it

in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.” *Nken*, 556 U.S. at 430 (citation and internal quotation marks omitted). The presence of the term “in person” in Section 4, coupled with its absence from Section 7, compels the conclusion that Congress did not intend to apply an “in person” limitation on the latter provision. *See Kemp*, 841 F. Supp. 2d at 1331.

Appellant’s suggestion that Section 4 somehow limits the specific requirements of Section 7, Br. at 9, also violates the canon of statutory construction that “the specific governs the general,” *Long Island Care at Home, Ltd. v. Coke*, 551 U.S. 158, 170 (2007). Section 4 contains “general” guidelines to “establish procedures” for voter registration, 42 U.S.C. § 1973gg-2(a), which are “not intended to be exclusive.” RE2 at 14. But Section 4 “says nothing of the manner in which voter registration forms . . . must be distributed or provided. Section 7 paragraph (a)(6) regulates those forms. Section 4 simply regulates a different requirement under the NVRA.” *Kemp*, 841 F. Supp. 2d at 1330.⁶

⁶ The requirement under Section 4 that voter registration agencies (“VRAs”) must provide voter registration services in person is “not intended to be exclusive.” RE2 at 12. As the District Court explained, the NVRA creates two subsets of voter registration agencies (“VRAs”). *Id.* (citing 42 U.S.C. § 1973gg-5(a)(2)-(3)). Although both sets of VRAs must provide in person voter registration services, public assistance offices, “shall, *in addition to conducting voter registration* . . . distribute [a voter registration form] *with each* application for such service or assistance.” *Id.* at 15-17 (quoting 42 U.S.C. § 1973gg-5(a)(6)(A)) (emphases added). Unlike some other provisions of the statute, this obligation to distribute voter registration forms along with every

Furthermore, Appellant’s attempt to graft the words “in person” into Section 7, Br. at 10-11, would “read in an artificial limit that would frustrate [Section 7’s] purpose,” *Kemp*, 841 F. Supp. 2d at 1332, flying in the face of the rule that courts should avoid a construing a statute in a manner would “frustrate [its] goals, intent, and purposes,” *Hightower v. Tx. Hosp. Ass’n*, 65 F.3d 443, 449 (5th Cir. 1995). The express purpose of the NVRA is to “increase the number of eligible citizens who register to vote.” 42 U.S.C. § 1973gg(b)(1). *Cf.* H.R. Rep. No. 103-9, at 3, *reprinted in* 1993 U.S.C.C.A.N. 105, 107 (the statute’s purpose “to give the greatest number of people an opportunity to participate”); S. Rep. No. 103-6, at 14 (“[G]overnment should do all it can to make registration widely and easily available.”).

Appellant’s interpretation, however, would exclude the vast majority of public assistance benefits clients—hundreds of thousands of individuals in Louisiana alone, and potentially millions nationwide—from the NVRA’s protections. As all parties stipulated in the pre-trial order, majority of Medicaid and Supplemental Nutritional Assistance Program (“food stamps”) applications and renewals received in Louisiana are transmitted via remote means. RE13 at pgs. 26-

application is not subject to any locational limitations. Indeed, these requirements do not and cannot apply to other VRAs, such as public high schools and universities, which generally do not offer public assistance, *see id.* at 16, and do not conduct transactions such as “recertification[s]” or “renewal[s]” of “assistance,” 42 U.S.C. § 1973gg-5(a)(6)(A).

27, ¶¶ 11-13, 16-17, 21-22 26-28. Reading the NVRA so as to exclude individuals applying through these means would eviscerate the chief purpose of the statute.

Moreover, Congress specifically intended that the voter registration obligations of public assistance offices be mandatory, flatly rejecting a proposed amendment to the contrary. *See* H.R. Rep. No. 103-66, at 16, *reprinted in* 1993 U.S.C.C.A.N 140, 144. But under Appellant’s reading of the statute, whether a public assistance agency has a duty to offer voter registration forms to its clients would depend entirely on the method by which the agency chooses to conduct benefits applications; an agency could opt out entirely, simply by conducting all public assistance transactions remotely rather than in person. The NVRA, however, does not permit such discretion. Where, as here, Congress speaks in broad and unequivocal language, it is not required to enumerate every possible application of the statute. *Cf. Pa. Dep’t of Corr. v. Yeskey*, 524 U.S. 206, 210-12 (1998) (applying the unequivocal language of Title II of the ADA to all public entities, including prisons).⁷

⁷ Appellant points to H.R. 5799—an expired House of Representatives bill proposed in 2012—as evidence that the NVRA is limited to in person public assistance transactions, claiming that this bill “consider[ed] modernization of the NVRA to cover remote transactions at designated voter registration agencies.” Br. at 13. That assertion is false. H.R. 5799 proposed to require that all states offer online voter registration to all persons *generally*, *see* § 101(a), but says nothing about whether public assistance offices, when distributing applications for benefits by remote means, must also distribute voter registration applications “with each” of those applications under 42 U.S.C. 1973gg-5(a)(6)(A). And, in any event, Appellant’s attempt to conjure “[p]ost-

III. THE BALANCE OF EQUITIES WEIGHS AGAINST A STAY

A party seeking an appellate stay must “show that the balance of the equities *weighs heavily* in favor of granting the stay.” *Arnold v. Garlock, Inc.*, 278 F.3d 426, 438 (5th Cir. 2001) (citation and internal quotation marks omitted) (emphasis added). Appellant has failed to satisfy that standard here. Appellant and his Co-Defendants (the state agencies that have opted not to appeal the judgment below) have already certified their compliance with the Injunction. RE10, RE11, RE12. Leaving the Injunction in place would thus require nothing more of Appellant—it would only preserve the current status quo. By contrast, staying the District Court’s Injunction could at this point precipitate an active *reversion* to Appellant’s earlier noncompliance with the NVRA, which would, as described *supra* pg. 17, potentially deprive hundreds of thousands of citizens of voter registration services.

Irreparable Harm. Appellant has not established irreparable harm, which is present only ““when the threatened harm would impair the court’s ability to grant an effective remedy”” at a subsequent time. *Chisom v. Roemer*, 853 F.2d 1186, 1189 (5th Cir. 1988) (quoting 11 Charles Alan Wright and Arthur R. Miller,

enactment legislative history (a contradiction in terms) is not a legitimate tool of statutory interpretation.” *Brueswitz v. Wyeth LLC*, 131 S. Ct. 1068, 1081 (2011). Proposed legislation from 2012 is not instructive as to Congress’s intent when it passed the NVRA nearly 20 years earlier in 1993. “[S]ubsequent legislative history is a hazardous basis for inferring the intent of an earlier Congress.” *Jones v. United States*, 526 U.S. 227, 238 (1999) (citation and internal quotation marks omitted).

Federal Practice and Procedure § 2948 (1973)). Indeed, maintaining the status quo can hardly be seen as irreparable harm, and the fact that Appellant waited a full month after the issuance of a final judgment *before* seeking a stay in the District Court, and that he has already certified compliance with the Injunction, demonstrates that there is no immediate risk of irreparable harm here. *Cf. In re Antill Pipeline Constr. Co., Inc.*, No. 13-30102, 2013 WL 310207, at *1 (5th Cir. Jan. 25, 2013) (denying motion for a stay where movant waited over one month to file stay motion).

In any event, neither of the hypothetical “injuries” asserted by Appellant establishes irreparable harm. Appellant argues that the Injunction leaves him at risk of a contempt motion, Br. at 20, but this is mere speculation. “[S]imply showing some possibility of irreparable injury fails,” as a mere “possibility standard is too lenient.” *Nken*, 556 U.S. at 420, 435 (citations and internal quotation marks omitted). Indeed, Appellant’s position that exposure to a contempt motion constitutes irreparable harm would justify a stay of *every single* injunction ever granted by a district court. Furthermore, the Injunction here contains built-in features obviating the risk of future litigation, as it requires a three-month notice and resolution period before any purported violation of its terms may even be brought to the attention of the District Court. RE1 at 3.

Appellant also argues that he will be injured because he must obtain federal preclearance of the District Court's ruling. This is incorrect. Although changes to voting laws made by the State of Louisiana are generally subject to federal preclearance under Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c, there is an exemption where, as here, the voting changes are prepared and ordered by a federal court, 28 C.F.R. § 51.18(a). *See also Wesch v. Hunt*, 785 F. Supp. 1491 (S.D. Ala. 1992), *aff'd*, 504 U.S. 902 (1992) (where a federal court requires voting changes to comply with federal law, such changes need not be precleared). Here, the District Court prepared and ordered changes to comply with federal law, and thus, there is no requirement for preclearance.⁸

Injury to Respondents. Respondents Mr. Scott and the Louisiana NAACP would be gravely injured if a stay were granted. The District Court held that Appellant, as the chief election officer in Louisiana, is ultimately responsible for Louisiana's compliance with the NVRA, including Section 7's requirement that voter registration services be provided to public assistance clients. RE2 at 27-28. Voter registration through public assistance agencies will inevitably suffer if a stay

⁸ In any event, Appellant has already certified to the District Court that a submission to the Department of Justice for preclearance is being prepared. RE12. Thus, even if preclearance were required here, any purported injury is already largely moot.

is granted and if Appellant is relieved of any responsibilities to enforce Section 7 during the pendency of this appeal.⁹

Specifically, the Louisiana NAACP would be harmed by a stay because it has expended resources “designed to counteract deficiencies with [defendant’s] compliance with [their] NVRA obligations.” RE2 at 15. A stay would permit these deficiencies to persist, and would force the Louisiana NAACP to continue to expend resources on registering low-income individuals at public assistance offices—citizens who should be receiving such voter registration services from the State itself.

Moreover, Mr. Scott continues to be a recipient of the Supplemental Nutritional Assistance Program, and has a statutory right to receive a voter registration form with every covered transaction that he conducts. *See* 42 U.S.C. § 1973gg-5(a)(6)(A)-(C). There is a particular risk of further harm to Mr. Scott, who has been intermittently homeless and has moved frequently, residing at several different addresses since 2008. *See supra*, pg. 11. Indeed, since the trial, Mr. Scott has moved again and needs to update his voter registration to ensure that he is properly registered at his current address.

⁹ For example, the District Court ruled that Appellant must conduct regular trainings that properly explain the requirements of Section 7, *see RE2* at 32. If a stay were granted, DHH and DCFS would not have the benefit of these proper and regular trainings.

The Public Interest. There is no question that the public interest would be better served by denial of a stay. “Persons such as Luther Scott and organizations such the LSC NAACP will suffer hardship if there is a future violation of the NVRA by voter registration agencies and the Louisiana SOS.” RE2 at 33. The changes ordered by the District Court’s Injunction will ensure that Appellant complies with the mandates of Section 7, and that Louisiana’s poorest citizens have a meaningful opportunity to register to vote.

Furthermore, contrary to Appellant’s position, *see* Br. at 21-22, the District Court’s Injunction will have no impact on voluntary voter registration programs in Louisiana. As noted, *supra*, pg. 16, n.5, the requirement under Section 7(a)(6) of the NVRA to distribute a voter registration form along “with each application” for public assistance does not apply to all voter registration agencies. *See* 42 U.S.C. § 1973gg-5(a) (2), (3) & (6); RE3 at 12, 15-18 (holding that subsection (a)(6) only applies to those mandatory voter registration agencies that also provide “service or assistance.”). These “additional and more particularized obligations concerning the distribution of materials” do not apply to optional voter registration agencies, such as high schools, which do not provide public assistance or disability services or conduct transactions such as renewals of benefits. RE3 at 16. Appellant’s concern is therefore unfounded, and he has not met his burden to establish that the public interest would be advanced by a stay.

CONCLUSION

For the foregoing reasons, Appellant's motion for a stay pending appeal should be denied.

Dated this 1st day of April, 2013.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to Fifth Circuit Rule 25.2.1, I hereby certify that on April 1, 2013, an electronic copy of the foregoing *Brief of Plaintiffs-Appellees in Opposition to Motion for Stay Pending Appeal* was filed with the Clerk of Court and served on the following counsel through the Court's electronic filing system:

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CERTIFICATE OF COMPLIANCE WITH RULE 32(a)

Certificate of Compliance with
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Dated: April 1, 2013

s/ Dale E. Ho
Counsel of Record
for Plaintiff-Appellees

RECORD EXCERPTS

RE10

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

ROY FERRAND, LUTHER SCOTT, JR.,
and LOUISIANA STATE CONFERENCE
OF THE NAACP, for themselves and all
other persons similarly situated

CIVIL ACTION NO. 2-11-00926
JTM-JCM
SECTION: H

v.

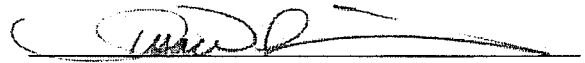
TOM SCHEDLER, in his official capacity
as the Louisiana Secretary of State, RUTH
JOHNSON, in her official capacity as
Secretary of the Louisiana Department of
Children & Family Services, and BRUCE
D. GREENSTEIN, in his official capacity
as Secretary of the Louisiana Department
of Health & Hospitals

CERTIFICATION OF DEFENDANT SUZY SONNIER

Pursuant to this Court's Order (R. Doc. 437) and in accordance with this Court's Findings
of Facts and Conclusions of Law in the above-referenced matter (R. Doc. 436), as Secretary of
Department of Children and Family Services, I, Suzy Sonnier, hereby certify that the following
programs are in compliance with the National Voter Registration Act ("NVRA"):

- A. Supplemental Nutritional Assistance Program (SNAP)
(this includes Disaster Supplemental Nutritional Assistance Program (DSNAP) and the
Louisiana Combined Application Project (LaCAP))
- B. Kinship Care Subsidy Program (KCSP)
- C. Child Care Assistance Program (CCAP)
- D. Family Independence Assistance Program (FITAP)

Signed this 15th day of March, 2013 in Baton Rouge, Louisiana.


Suzy Sonnier, Secretary
Department of Children and Family Services
Office of the Secretary
627 N. 4th Street
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Respectfully Submitted:

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the above and foregoing "Certification of Defendant Suzy Sonnier" was filed with the Clerk of Court using the CM/ECF system, which will send notifications of such filing to all parties in this matter via electronic notification or otherwise.

Baton Rouge, Louisiana, this 15th day of March, 2013.

/s/ Harry J. "Skip" Philips, Jr. _____
Harry J. "Skip" Philips, Jr.

RE11

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA**

ROY FERRAND, LUTHER SCOTT, JR.,
and LOUISIANA STATE CONFERENCE
OF THE NAACP, for themselves and all
other persons similarly situated,

Civil Action No. 2:11-cv-00926
JTM-JCW
SECTION "H" (2)

Plaintiffs,

v.

TOM SCHEDLER in his official capacity
as the Louisiana Secretary of State, RUTH
JOHNSON, in her official capacity as
Secretary of the Louisiana Department of
Children & Family Services, and BRUCE
D. GREENSTEIN, in his official capacity
as Secretary of the Louisiana Department of
Health & Hospitals,

Defendants.

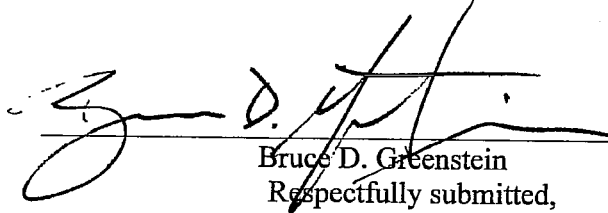
CERTIFICATION OF DEFENDANT BRUCE D. GREENSTEIN

To the extent that the Louisiana Department of Health and Hospitals is required to do so
by this Court's Order (R. Doc 437) and in accordance with this Court's Findings of Fact and
Conclusions of Law in the above-referenced matter (R. Doc. 436), as Secretary of the Louisiana
Department of Health and Hospitals, I hereby certify, to the best of my knowledge and
directives, that the following programs are in compliance with the National Voter Registration
Act ("NVRA"):

Medicaid

Women, Infants, & Children Program ("WIC")

Signed this 14 day of March, 2013 in Baton Rouge, Louisiana



Bruce D. Greenstein
Respectfully submitted,

**TAYLOR, PORTER, BROOKS & PHILLIPS
LLP**

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the above and foregoing "Certification of Defendant Bruce D. Greenstein" was filed with the Clerk of Court using the CM/ECF system, which will send notifications of such filing to all parties in this matter via electronic notification or otherwise.

Baton Rouge, Louisiana, this 15th day of March, 2013.

/s/ Harry J. "Skip Philips, Jr. _____
Harry J. "Skip" Philips, Jr.

RE12

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

LUTHER SCOTT, JR., and LOUISIANA
STATE CONFERENCE OF THE NAACP

CIVIL ACTION NO. 2:11-00926
JTM - JCW

v.

TOM SCHEDLER in his official capacity as
the Louisiana Secretary of State, SUZY
SONNIER, in her official capacity as
Secretary of the Louisiana Department of
Children & Family Services, and BRUCE D.
GREENSTEIN, in his official capacity as
Secretary of the Louisiana Department of
Health & Hospitals

CERTIFICATION ON BEHALF OF
TOM SCHEDLER, LOUISIANA SECRETARY OF STATE

The Secretary of State has undertaken the following actions to adopt and implement
policies, procedures and directives referenced in the Permanent Injunction filed and entered on
January 23, 2013 (Doc 437):

1. Adopted Emergency Rules, LAC 31:II.401-405, "Voter Registration at Designated
Agencies";
2. Revised the Declaration Form for use at mandatory voter registration agencies that
provide public assistance or provide state funded programs primarily engaged in
providing services to persons with disabilities;
3. Prepared an instruction manual entitled "Implementing the National Voter
Registration Act of 1993 for Mandatory Voter Registration Agencies That Provide
Public Assistance or Provide State Funded Programs Primarily Engaged in

Providing Services to Persons With Disabilities”;

4. Prepared a power point presentation to be utilized for training at mandatory voter registration agencies that provide public assistance or provide state funded programs primarily engaged in providing services to persons with disabilities;
5. Selected a staff member to serve as Secretary of State NVRA Coordinator;
6. Began preparation of the required submission for preclearance to the United States Attorney General through the United States Department of Justice; and,
7. Initiated the required procedures for final approval/adoption of Emergency Rules, LAC 31:II.401-405, “Voter Registration at Designated Agencies”

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing was sent electronically or via U.S. First Class Mail, postage prepaid, to the following:

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Baton Rouge, Louisiana, this 15th of March, 2013.

s/Celia R. Cangelosi
CELIA R. CANGELOSI

RE13

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA**

ROY FERRAND, LUTHER SCOTT, JR., and
LOUISIANA STATE CONFERENCE OF
THE NAACP, for themselves and all other
persons similarly situated,

Plaintiffs,

v.

TOM SCHEDLER in his official capacity as
the Louisiana Secretary of State, RUTH
JOHNSON, in her official capacity as
Secretary of the Louisiana Department of
Children & Family Services, and BRUCE D.
GREENSTEIN, in his official capacity as
Secretary of the Louisiana Department of
Health & Hospitals,

Defendants.

Civil Action No. 2:11-cv-00926-JTM-JCW

Section: H
JUDGE JANE TRICHE MILAZZO

Magistrate: 2
MAG. JOSEPH C. WILKINSON, JR.

AMENDED AND SUPERSEDING PRE-TRIAL ORDER

This Pre-Trial Order supersedes and replaces the Pre-Trial Order filed herein on
September 24, 2012 (Doc. 355).

I. PRE-TRIAL CONFERENCE

A Pre-Trial Conference was held before the Honorable Judge Jane Triche-Milazzo,
United States District Court Judge, on September 27, 2012 at 3:00 PM.

II. COUNSEL

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III. DESCRIPTION OF THE PARTIES

A. Plaintiffs herein are:

1. LUTHER SCOTT, JR, a person of full age of majority and domiciled in the parish of Orleans, State of Louisiana.
2. LOUISIANA STATE CONFERENCE OF THE NAACP, is a non-profit, organization.

B. Defendants herein are:

1. TOM SCHEDLER who, from November 22, 2010 to the present, has been the Louisiana Secretary of State. He is a named party in his official capacity.
2. SUZY SONNIER took office as Secretary of the Louisiana Department of Children and Family Services on June 23, 2012, and is automatically substituted for former Secretary RUTH JOHNSON pursuant to Fed. R. Civ. P. 25(d). She is named in her official capacity.
3. BRUCE D. GREENSTEIN who, from September 13, 2010 to the present, has been the Secretary of the Louisiana Department of Health & Hospitals (“DHH”). He is a named party in his official capacity

IV. JURISDICTION

A. Plaintiffs’ Allegation Regarding Jurisdiction

This case arises under the NVRA, a law of the United States. Plaintiffs allege this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a), and jurisdiction to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202. This Court has personal jurisdiction over each of the Defendants because each is a citizen of the State of Louisiana.

This Court has subject matter jurisdiction over this matter because both Plaintiffs have standing to bring their claims. Plaintiff Scott has standing because he suffered injury when he did

not receive a voter registration form at the time of his applications/renewal(s) for public assistance benefits in 2009 and 2010. Plaintiff Louisiana State Conference of the NAACP has standing because it has expended resources on voter registration activities that could have been put to other activities if Defendants had complied with the NVRA.

B. Defendant Suzy Sonnier's Allegations Regarding Jurisdiction

The Court's jurisdiction over this matter is disputed. Plaintiffs, Luther Scott, Jr. and the Louisiana State Conference of the NAACP allege that this federal court has subject matter jurisdiction over the current action. In their complaint, Plaintiffs contend that Defendant Ruth Johnson violated Section 7 of the National Voter Registration Act ("NVRA"), 42 U.S.C. § 19733gg-5 ("Section 7"). Defendant Johnson believes that controversy exist as to subject matter jurisdiction.

Plaintiff Luther Scott, Jr. was and is a client of DCFS. Scott alleges that DCFS did not offer him the opportunity to register to vote during application, renewal, and change of address transactions related to his SNAP benefits services. Luther Scott first made application for services in 2009. Mr. Scott failed to check that he would like to register to vote when making his initial application and it was presumed, in accordance with Section 7, that he would not like to apply to register to vote. Additionally, at the time that Plaintiff Scott made his initial application for public assistance in person, he was already a registered voter in the State of Louisiana (Scott registered to vote in 2008 through two voter registration drives, neither which were conducted by the LA Conference of the NAACP or any Chapters of the Conference).

Luther Scott, Jr. again applied for SNAP benefits in 2011 wherein he checked "no" that he would not like to apply to register to vote. Supporting evidence that Scott refused the offers extended by the Department to assist him in voter registration on both of his applications and that Scott is still currently a registered voter supports the contention that Scott has in fact not suffered

an injury for which he can bring suit in federal court. Scott failed to disclose that is a registered voter and presented statements to the contrary. An issue of standing exist as to Luther Scott, Jr., and due to this lack of standing, DCFS urges that this Court lacks subject matter jurisdiction.

Lastly, the Louisiana Conference of the NACCP brings suit for themselves and all other persons similarly situated; however, the NACCP has failed to establish standing individual of Mr. Scott or in association to Luther Scott, Jr. The Louisiana Conference of the NAACP has not presented evidence to show injury suffered on behalf of the Conference and they expelled no resources directly related to the registration of Luther Scott, Jr. or the registration of other applicants or clients of the Department of Children and Family Services. DCFS urges that this Court also lacks subject matter jurisdiction because plaintiff Louisiana Conference of the NAACP lacks standing.

C. Defendant Bruce Greenstein’s Allegations Regarding Jurisdiction

Defendant Greenstein contests subject matter jurisdiction. Defendant Greenstein contends that Plaintiffs do not have Article III standing to file suit in this Court. Defendant Greenstein maintains that there is no causal connection between the injury to Plaintiff Luther Scott, Jr., if any such injury has occurred, and Defendant Greenstein. Defendant Greenstein also maintains that the Louisiana State Conference of the NAACP lacks organizational standing because it has failed to prove the two threshold requirements—that it expended definite resources and that such resources were expended as a direct result of Defendant Greenstein’s allegedly illegal actions.

D. Defendant Tom Schedler’s Allegations Regarding Jurisdiction

The Secretary of State contests subject matter jurisdiction. No genuine case or controversy is presented under Article III of the U.S. Constitution and/or 42 U.S.C. §1973gg-9 because plaintiffs, Luther Scott, Jr. and Louisiana State Conference of the NAACP (“State Conference”), lack standing to assert the claims set out in the Complaint. Luther Scott, Jr., an

individual who is currently registered to vote and has been since 2008, was not injured or aggrieved by the conduct of the defendants set out in the Complaint. The State Conference, a non-profit organization, lacks organizational standing and failed to plead associational standing.

Luther Scott, Jr. declined each and every documented opportunity to register to vote proffered by the Department of Children and Family Services, both before and after the Complaint was filed. Scott did complete two applications to register in 2008 during neighborhood voter registration drives and became a registered voter in that year. He has been registered to vote since 2008, but has never voted nor attempted to vote. Scott misrepresented material facts to the Court relating to voter registration and the defendants' conduct.

The State Conference suffered no direct, concrete and particularized injury causally related to defendants' conduct. The State Conference does not conduct voter registration drives and did not expend nor reallocate resources in connection with registration drives or other activities as a result of defendants' conduct. Nor does the State Conference "target" public assistance applicants or recipients with respect to any voter related activities that they do conduct.

V. PENDING ISSUES

A. Pending Legal Issues Asserted by Plaintiffs

Plaintiffs Luther Scott, Jr. and the Louisiana State Conference of the NAACP submit the following list of pending legal issues, including motions *in limine* that Plaintiffs presently intend to file:

1. Motion *in limine* to exclude testimony from undisclosed witness Dr. Sandra Wilson, of the Orleans Parish Registrar of Voters.

2. Motion *in limine* to exclude the introduction of entire deposition transcripts as exhibits for non-impeachment purposes, rather than designated portions of testimony from those transcripts.
3. Motion *in limine* to limit to proper purposes evidence concerning changes to Defendants' policies and practices since the Complaint was filed on April 19, 2011.
4. Motion *in limine* to exclude evidence concerning how Plaintiffs became involved in this litigation.
5. Motion *in limine* to exclude Secretary of State's Exhibits 20 and 22 as beyond the scope of the relevant time period as defendant successfully argued for post-2001 limit.
6. Motion *in limine* to exclude documents and testimony concerning Luther Scott's December 2011 / January 2012 benefits application.
7. Motion *in limine* to exclude Luther Scott's voting history.

B. Defendants' Intended Motions *in Limine*

1. **Defendant Tom Schedler (Secretary of State)**
 - (a) Motion *in limine* to exclude evidence and issues not included in the Complaint.
 - (b) Motion *in limine* to exclude statistical analysis, evaluation and/or opinion evidence.
 - (c) Motion *in limine* to exclude evidence on issues concerning training by the Secretary of State relative to NVRA.

- (d) Motion *in limine* to exclude evidence on coding system for voter registration forms.
- (e) Motion in *limine* concerning exhibits and witnesses not specifically identified in “Plaintiffs’ List of Witnesses and Exhibits” (Doc 227) filed June 7, 2012.

C. Defendants’ Additional Contemplated Motions

1. Defendant Bruce D. Greenstein (Department of Health & Hospitals)

- (a) Defendant Greenstein may file a Motion to Enroll, seeking to enroll Brandon Babineaux as additional counsel of record for Bruce D. Greenstein.

2. Defendant Tom Schedler (Secretary of State)

- (a) Motion for Sanctions, including dismissal of his claim, against Luther Scott, Jr. for making false and misleading declarations to the Court pursuant to FRCP 56h, *Wagner v. BOH Bros. Construction Co. LLC*, CA No. 11-2030, 2012 U.S. Dist. LEXIS 118611 (E.D. La. 2012) and *United States v. Gomez-Vigil*, 929 F.2d 254 (6th Cir. 1991).

VI. SUMMARY OF MATERIAL FACTS

A. SUMMARY OF FACTS CLAIMED BY PLAINTIFFS LUTHER SCOTT, JR. AND LOUISIANA STATE CONFERENCE OF THE NAACP

1. National Voter Registration Act

The National Voter Registration Act (“NVRA”) is codified at 42 U.S.C. § 1973gg, *et. seq.* Plaintiffs’ Statement of Uncontested Material Facts, dated January 31, 2012 (“Jan. SUF”), filed with Motion for Partial Summary Judgment ¶ 1; Plaintiffs’ Statement of Uncontested

Material Facts, dated July 3, 2012, Doc. 241-2, (“July SUF”), filed with Motion for Summary Judgment ¶ 1. Section 7(a)(6) of the NVRA provides that, “with each” application for benefits, recertification, renewal of benefits, or change of address in connection of benefits, public assistance offices are obligated to: (1) “provide a form” asking if the client “would like to apply to register to vote” (hereinafter, the “voter declaration form”), (2) distribute a “mail voter registration application form” to the client, unless the client, “in writing, declines to register to vote;” and (3) provide “the same degree of assistance with regard to the completion of the [voter] registration application form as is provided by the office with regard to the completion of its own [benefits] forms, unless the applicant refuses such assistance.” 42 U.S.C. § 1973gg-5(a)(6)(A)-(C); July SUF ¶ 2. The NVRA also requires that a voter declaration form expressly “include[]” the statement that “[a]pplying to register or declining to register to vote will not affect *the amount of assistance* that you will be provided by this agency.” 42 U.S.C. § 1973gg-5(a)(6)(B)(ii) (emphasis added); July SUF ¶ 2.

When Congress enacted the NVRA, it recognized that “government should do all it can to make registration widely and easily available.” S. Rep. No. 103-6 at 13; Jan. SUF ¶ 6; July SUF ¶ 4. Section 7 of the NVRA was designed specifically to increase the registration of “the poor and persons with disabilities who do not have driver’s licenses and will not come into contact with the other principal places to register under this Act.” H.R. Rep. No. 103-66, at 16, *reprinted in* 1993 U.S.C.C.A.N. 140, 144. *See also* S. Rep. No. 103-6, at 13; Jan. SUF ¶ 5. In particular, Section 7 was included to reach those individuals who were not likely to be assisted with voter registration at departments of motor vehicles. H.R. Rep. No. 103-66, at 19, *reprinted in* 1993 U.S.C.C.A.N. 144; July SUF ¶ 6.

2. Voter Registration Data

The United States Election Assistance Commission (“EAC”) maintains data on the number of voter registration applications in Louisiana that were obtained from public assistance from each federal election cycle, beginning with 1995 through 1996, up until the 2009 through 2010 federal election cycle. *SUF* ¶¶ 7-14. The number of Louisiana voters who applied to vote through public assistance was at its peak in the 1995 through 1996 federal election cycle, with a total of 74,636 voter registration applications from public assistance. *July SUF* ¶ 14. That number has significantly decreased over the years, and the EAC reported that in the 2009 through 2010 federal election cycle, Louisiana received a total of 6,037 registrations applications from public assistance offices – an astonishing 68,599 fewer applications than in 1995 through 1996. *July SUF* ¶ 7.

Defendants’ failure to enforce the NVRA resulted in a significant decline in voter registration applications received through public assistance offices in Louisiana in comparison to the number of clients utilizing the state’s various benefits programs. For example, during the two year period from 2009 through 2010, DCFS received 728,716 SNAP (food stamp) applications. *See Doc. 297-1, DCFS Aug. Statement of Material Facts (“DCFS Aug. SMF”) ¶¶ 57-58.* DHH received over 300,000 Medicaid applications during the 12-month period of fiscal year 2009-2010. *See Batts Dep. Ex. 4.* Louisiana, however, reported only 6,037 voter registration applications statewide from all public assistance agencies to the EAC during the two year period covering the federal election cycle from 2009 through 2010. Thus, even as Section 7-covered transactions were increasing in Louisiana, the number of voter registrations from public assistance decreased.

Like Louisiana, Missouri has suffered from low voter registration applications from public assistance offices. The EAC reported fewer than 16,000 applications were received from

public assistance offices during the 2005 through 2006 election cycle. July SUF ¶ 15..

However, on July 15, 2008, the Western District of Missouri issued a preliminary injunction directing Missouri public assistance offices to comply with Section 7 of the NVRA. In the next election cycle of 2009 through 2010, Missouri reported more than 120,000 voter registration applications from public assistance offices in Missouri. July SUF ¶¶ 16-17.

Experience in Ohio confirms that strong efforts to enforce the NVRA can result in large gains in the number of public assistance clients who register to vote. The EAC reported that Ohio received a total of 42,599 voter registration applications from public assistance for the 2005 through 2006 federal election cycle. July SUF ¶ 18. On November 25, 2009, Ohio agreed to settle a lawsuit captioned *Harkless v. Brunner* and to comply with Section 7 of the NVRA. After this settlement, applications from public assistance skyrocketed during the 2009 through 2010 federal election cycle to a total of 246,932. July SUF ¶¶ 19-20.

3. **Defendants' Violations of the NVRA**

(a) **Defendant Sonnier**

Defendant Sonnier is the Secretary of the Louisiana Department of Children and Family Services (“DCFS”), which is an office in Louisiana that provides public assistance within the meaning of the NVRA. July SUF ¶¶ 49-50. DCFS also offers all three types of transactions covered by Section 7 of the NVRA (initial applications, redeterminations and change of name/address) via remote means. Jan. SUF ¶ 52. DCFS administers several public assistance benefits programs, three of which combined generate hundreds of thousands of applications yearly: the Supplemental Nutrition Assistance (“SNAP,” also called “food stamps”), the Family Independence Temporary Assistance Program (“FITAP”), and the Child Care Assistance Program (“CCAP”). July SUF ¶¶ 52-58. In addition, DCFS also operates several other programs

that involve transactions covered by the Section 7 of the NVRA, including Disaster SNAP (“DSNAP”) and Kinship Care Subsidy Program (“KCSP”).

DCFS violated the NVRA in numerous ways, several of which remain ongoing. *First*, DCFS failed to provide voter registration with every benefits transaction conducted by remote means, in violation of Section 7(a)(6) of the NVRA, 42 U.S.C. § 1973gg-5(a)(6). For example, prior to May 11, 2011, DCFS policy did not require staff to ask clients whether they would like to register to vote during all benefits interviews, Jan. SUF ¶ 66, and it was DCFS written policy from at least August 1998 to May 2011, not to offer voter registration to clients reporting a change of address via remote means. Jan. SUF ¶ 72. Given that DCFS processes approximately 45,000 applications for SNAP benefits per month, and that more than half of DCFS’s benefits transactions are conducted via remote means, this omission resulted in tens of thousands of Louisiana’s poorest citizens being denied an opportunity to register to vote. DCFS only sought to correct this omission after being sued.

Second, DCFS violated the obligation to provide voter registration services “with each” benefits transactions, in violation of Section 7(a)(6), 42 U.S.C. § 1973gg-5(a)(6), by failing to provide voter registration services with every redetermination/renewal transaction for public benefits. July SUF ¶ 64. Again, DCFS only sought to correct this omission after being sued.

Third, DCFS violated the obligation to provide voter registration services “with each” benefits transactions, in violation of Section 7(a)(6), 42 U.S.C. § 1973gg-5(a)(6), by failing to provide voter registration services with every change of address transaction in connection with for public benefits. Jan. SUF ¶ 73; July SUF ¶ 64. Once again, DCFS only sought to correct this omission after being sued.

Fourth, DCFS violated the obligation to provide voter registration services “with each” benefits transactions, in violation of Section 7(a)(6), 42 U.S.C. § 1973gg-5(a)(6), by failing to provide any voter registration services in connection with two of its benefits programs: the Child Care Assistance Program (CCAP) and the Kinship Care Subsidy Program (KCSP). Jan. SUF ¶¶ 68-71. Once again, DCFS only sought to correct this omission after being sued.

Fifth, DCFS’s current policy grants DCFS personnel discretion either to distribute voter registration forms, or simply to tell clients about the Secretary of State’s website. Doc. 297-1, DCFS Aug. SMF ¶ 70. This discretionary policy violates the mandatory duty under Section 7(a)(6)(A), 42 U.S.C. § 1973gg-5(a)(6)(A), to distribute a voter registration form to a client unless the client declines in writing.

Sixth, DCFS’s current policy does not require that its staff distribute voter registration application form to clients unless the clients affirmatively request a form. Doc. 297-1, DCFS Aug. SMF ¶¶ 68-69. Under DCFS policy, clients who do not check either “yes” or “no” on a voter preference form need not be given a voter registration form, which violates the mandatory duty under 42 U.S.C. § 1973gg-5(a)(6)(A) to distribute a voter registration form “unless” the client declines “in writing.”

Seventh, DCFS failed to maintain an adequate supply of voter registration forms for its clients, which made it impossible to fulfill its obligation to distribute voter registration forms to its clients under Section 7(a)(6)(A), 42 U.S.C. § 1973gg-5(a)(6)(A). Although DCFS receives a hundreds of thousands of benefits applications, DCFS only ordered original voter registration forms twice during 2005 through 2010. They ordered 209 units (each unit contains 100 voter registration forms) on June 6, 2005, and an additional 100 units on November 27, 2007. July SUF ¶¶ 59-63. The number of registration forms ordered by DCFS is grossly disproportionate to

the number of public assistance applications received yearly by the agency, and was insufficient to satisfy the agency's obligations under the statute.

Eighth, DCFS failed to include a question concerning voter registration in many of its benefits application and/or renewal forms. Jan. SUF ¶ 70; July SUF ¶¶ 64, 66, 69. This constituted a violation of the duty under Section 7(a)(6)(B), 42 U.S.C. § 1973gg-5(a)(6)(B), to provide "a form" that "includes" "the question, 'If you are not registered to vote where you live now, would you like to apply to register to vote here today?'" DCFS only sought to correct these forms after being sued.

Ninth, DCFS continues to use forms that omit or misplace expressly-required disclaimers advising clients of their rights under the NVRA, such as the disclaimer that the decision to register to vote will not affect the "amount" of assistance the client will receive. *See, e.g.*, July SUF ¶¶ 77-78. These omissions constitute an ongoing violation of the duties under Section 7(a)(6)(B)(ii)-(v), 42 U.S.C. § 1973gg-5(a)(6)(B)(ii)-(v).

Tenth, DCFS fails to check voter registration forms received from clients for completeness and signatures, and fails to follow up with clients if their voter registration forms are lacking in either of those respects. Jan. SUF ¶¶ 76-79. This constitutes a violation of the duty under Section 7(a)(6)(C), 42 U.S.C. § 1973gg-5(a)(6)(C), to "provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the office with regard to the completion of its own forms." This is yet another ongoing violation of the statute.

DCFS employees have admitted to not complying with the NVRA. Jan. SUF ¶¶ 74-75; July SUF ¶¶ 67, 71-76. A permanent injunction is necessary to ensure that DCFS's policies are

and remain consistent with the requirements of the NVRA, and to ensure that those official policies translate into NVRA-compliant practices by DCFS caseworkers and clerical staff.

(b) **Defendant Greenstein**¹

Defendant Greenstein is the Secretary of the Louisiana Department of Health and Hospitals (“DHH”), which is an office in Louisiana that provides public assistance within the meaning of the NVRA. DHH administers the Medicaid benefits program and the “Women, Infants, and Children” (“WIC”) benefits program. July SUF ¶¶ 31-33. DHH receives over 300,000 initial applications for Medicaid annually and processes over 300,000 renewal applications for Medicaid annually. Jan. SUF ¶¶ 23-24.

DHH violated the NVRA in many different respects, and a number of its violations remain ongoing. *First*, DHH failed to provide its clients with an opportunity to register to vote during benefits transactions conducted by remote means, in violation of Section 7(a)(6) of the NVRA, 42 U.S.C. § 1973gg-5(a)(6). Doc. 307, Def. Greenstein’s Br. in Opp. to Summ. J. at 18; Jan. SUF ¶¶ 36-37. DHH only sought to address this failure in July 2011, several months after being sued. DHH’s omissions in this regard had a staggering effect, as approximately 88% of the more than 300,000 individuals who apply for Medicaid annually do so by remote means. *See* Doc. 294-1, Def. Greenstein’s Statement of Material Facts (“Greenstein Aug. SMF”) ¶¶ 27-30.

Second, DHH maintained a policy of not distributing voter registration forms to clients unless a client affirmatively requested a voter registration form. This policy violated Section 7(a)(6)’s mandate to distribute a voter registration form to a client “unless” the client declines “in writing.” 42 U.S.C. § 1973gg-5(a)(6)(A); Doc. 307, Def. Greenstein’s Br. in Opp. to Summ. J.,

¹ Because Mr. Scott is not a recipient of services through DHH, he concedes that he only maintains claims against Defendant Sonnier in her official capacity as the Secretary of DCFS, and Defendant Schedler, in his official capacity as the Secretary of State. Plaintiff Louisiana NAACP, however, maintains claims against all three Defendants.

at 16; July SUF ¶ 41. Like DHH's failure to provide voter registration services during remote transactions, DHH did not seek to address this issue until July 2011, several months after being sued. The evidence in the record also demonstrates that this violation remains ongoing, at least in part.

Third, DHH violated the obligation to provide voter registration services "with each" covered transaction, by failing to provide voter registration services during change of address transactions. This violated Section 7(a)(6)(A), 42 U.S.C. § 1973gg-5(a)(6)(A). Doc. 307, Def. Greenstein's Br. in Opp. to Summ. J., at 17; July SUF ¶ 42. Again, DHH only sought to address this omission in July 2011, several months after being sued.

Fourth, DHH failed to include a question concerning voter registration in each of its Medicaid benefits application and renewal forms. This violated Section 7(a)(6)(B), 42 U.S.C. § 1973gg-5(a)(6)(B), which requires public assistance offices to provide "a form" that "includes" "the question, 'If you are not registered to vote where you live now, would you like to apply to register to vote here today?'" Although DHH finally added a question regarding voter registration to these forms in July 2011 (again, several months after being sued), older versions of these forms remain in circulation and may be relied on by Medicaid clients. Jan. SUF ¶¶ 33-34. The continued reliance on such forms constitutes an ongoing violation of the NVRA.

Fifth, the Medicaid "Motor Voter Clearance Form," which was sometimes used as a voter declaration form, failed to state that a client's answer would not affect the "amount" of assistance that a client would be provided. This violated the duty under 42 U.S.C. § 1973gg-5(a)(6)(B)(ii) to provide "a form" that "includes" "the statement, 'Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.'" July

SUF ¶¶ 3, 35-36. Again, DHH only sought to correct this error by taking this form out of circulation in July 2011.

Sixth, DHH failed to distribute a paper voter registration declaration form in conjunction with the WIC benefits program. This violated the duty under 42 U.S.C. § 1973gg-5(a)(6)(B) to provide “a form” that “includes” “the question, ‘If you are not registered to vote where you live now, would you like to apply to register to vote here today?’” Doc. 307, Def. Greenstein’s Br. in Opp. to Summ. J. at 12. WIC clients were also not advised of their rights under the NVRA, such as the warning that the decision to register to vote will not affect the “amount” of assistance the client will receive. DHH was aware of its non-compliance with NVRA in 2009, when WIC management was notified that distribution of declaration forms was required by the NVRA, but WIC management did not distribute these forms until at least July 2011. July SUF ¶¶ 37-38.

Seventh, DHH continues to violate the duty under Section 7(a)(6)(C), 42 U.S.C. § 1973gg-5(a)(6)(C), to “provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the office with regard to the completion of its own forms.” Specifically, DHH Medicaid personnel are not required to check voter registration applications line-by-line to ensure that all necessary information is included by the applicant—even though they are required to do so for Medicaid applications. Jan. SUF ¶¶ 39, 41. Additionally, DHH Medicaid personnel are not required to check voter registration applications submitted to DHH to ensure that all such forms are legible and/or signed, as they must for all Medicaid applications. Jan. SUF ¶¶ 41-45.

Finally, employees of the DHH have also admitted to not following the mandates of NVRA. July SUF ¶¶ 14-16; 39-40; 43-44. A permanent injunction is necessary to ensure that DHH’s policies are and remain consistent with the requirements of the NVRA, and to ensure that

those official policies translate into NVRA-compliant practices by DHH caseworkers and clerical staff.

(c) **Defendant Schedler**

Defendant Schedler is the Louisiana Secretary of State. July SUF ¶ 79. As Secretary of State, Defendant Schedler is the State of Louisiana's chief election official within the meaning of the NVRA, 42 U.S.C. § 1973gg-8 and is responsible for the coordination of the State's responsibilities under this statute. Jan. SUF ¶¶ 82-83. The Secretary of State has violated this obligation in several respects.

Most importantly, Defendant Schedler has not engaged in *any* efforts to enforce NVRA compliance by DCFS and DHH. Courts have held that the Secretary of State's duty to coordinate a state's NVRA responsibilities includes the duty to "implement and enforce" the statute throughout the state, which Defendant Schedler has failed to do, other than by conducting *ad hoc* trainings for agency personnel. Indeed, at least two employees in the Secretary of State's office were unaware of vital aspects of NVRA. July SUF ¶¶ 87-90. Donna Durand, the Assistant Director of Voter Registration at the Secretary of State's office for five years, did not know whether public assistance agencies were in compliance with NVRA during her tenure. July SUF ¶¶ 87-88. Joanne Reed, the Director of Voter Registration at the Secretary of State's office since May 2007, said she did not know when public assistance agencies are to provide voter registration applications to clients. July SUF ¶¶ 89-90.

Even the periodic trainings that Defendant Schedler has conducted have failed to comply with the NVRA. For example, at trainings conducted by Secretary of State personnel in July 2009 and in 2011, DHH staff was advised to offer DHH clients an opportunity to register to vote only if they appeared in person at a DHH office. Jan. SUF ¶¶ 86-89. At a meeting between Cate

McRitchie, an Elections Program Specialist with the Secretary of State's office, and DHH personnel in April 2009, she advised that DHH did not need to offer voting registration services to DHH clients unless they appeared in person at a DHH office. Jan. SUF ¶¶ 84-85.

The Secretary of State has also misadvised agency personnel in several other respects. Commissioner of Elections Angie Rogers has stated that if a client fails to respond to the voter declaration question, public assistance offices are not required to offer them voter registration, which is contrary to what the NVRA dictates. July SUF ¶¶ 2, 85. She acknowledged that the Secretary of State's Office did not advise DCFS or DHH the policy with regard to getting voter registration applications forms to clients who did not respond to the voter declaration question. July SUF ¶85. Commissioner Rogers also stated that the position of the Secretary of State is that public assistance officers are not to check voter registration application forms in any way before forwarding them to the registrar, because, in the Secretary of State's view, public assistance offices are not voter registration agencies. July SUF ¶¶ 85-86. The Secretary of State's office identified several respects in which the Medicaid "Motor Voter Clearance Form" was not compliant with the NVRA. July SUF ¶ 82. But the Secretary of State's office did not instruct DHH to use a voter declaration form with express language that complied with the NVRA. July SUF ¶¶ 83.

Finally, the Secretary of State's office has failed to properly code and report voter registrations generated by public assistance offices. Pursuant to 11 C.F.R. § 9428.7(b)(6)(iii), Louisiana reports, among other things, the statewide number of registration applications received statewide that "were received from or generated by" "[a]ll public assistance agencies" to the federal Election Assistance Commission. The Secretary of State, however, has advised public assistance offices to code (and Parish Registrars to report) only those voter registration forms

that are received at public assistance offices, omitting those that are *generated* from such offices by submitted through other channels. This constitutes a direct violation of Defendant Schedler's duties under the NVRA.

4. The Plaintiffs

(a) Luther Scott, Jr.

Plaintiff Luther Scott, Jr. ("Plaintiff Scott") is a recipient of food stamps benefits (known as "Supplemental Nutritional Assistance Program" or "SNAP"). July SUF ¶ 21. Plaintiff Scott meets the qualifications to register to vote in Louisiana, but is not registered to vote at his current address. July SUF ¶¶ 22-23. Plaintiff Scott did not receive a voter registration form with his 2009 and 2010 benefits applications, nor did he decline to register to vote in writing during those benefits applications. July SUF ¶¶ 24-25.

(b) Louisiana Conference of the NAACP

Plaintiff Louisiana State Conference of the NAACP ("Louisiana NAACP") provides voter registration assistance to residents of low-income communities who wish to register to vote. Defendants' failure to provide voter registration services at public assistance offices has forced the Louisiana NAACP to allocate resources to voter registration that could have been devoted to other activities. July SUF ¶¶ 29-30.

B. SUMMARY OF FACTS CLAIMED BY DEFENDANTS

1. Summary of Facts Claimed by Defendant Sonnier

Defendant Ruth Johnson, as Secretary of the Department and Children and Family Services, implemented voter registration and provided its applicants and clients the opportunity to apply to register vote in its in person transactions from 1993 till date. Continuity of services is a priority to the Department, therefore, the Department also offered the opportunity to register to

vote in its online transactions once instituted in 2009. Defendant's practice provides voter registration as a part of its SNAP, FITAP, KSCP, LaCAP, DSNAP, and CCAP benefits services in its in person and remote transactions.

Luther Scott, Jr. first applied for SNAP (food stamps) in September 2009. Luther Scott, Jr. was offered the opportunity to register to vote in his application for public assistance and he declined to respond to the question posed on the application. The question as written in the form 4APP (application for assistance) was "If you are not registered to vote where you live now, would you like to apply to register to vote here today?" as required by 42 U.S.C. § 1973gg-5(a)(6)(B). In close proximity appears the statement "If you do not check either box, we will assume that you do not want to register to vote at this time." Scott again applied for foods stamps using a later revision of the form 4APP. The same questions were on the application when Scott re-applied in December 2011. The Plaintiff checked the "no" box indicating that he would not like to apply to register to vote where he now lives. Social service analyst discussed voter registration with Scott in 2009 in person and in 2011 in a telephone interview for his SNAP services. Scott declined voter registration opportunities in both instances.

DCFS provides applications that offer the applicant the opportunity to register to vote through its initial benefits, renewal of benefits, and its change of address forms for the aforementioned programs in its in person and remote transactions.

2. Summary of Facts Claimed by Defendant Greenstein

Following its 1993 enactment, the Department developed and implemented policies and procedures in order to ensure compliance with the NVRA. At the time, the Department interpreted the NVRA to apply to in-person transactions only. Throughout the 1990s, the Department made efforts to improve compliance with the act through training and other methods.

When the Department received a notice letter from Plaintiffs in January 2011, it conducted investigations into the NVRA compliance of Medicaid and WIC offices and attempted to resolve this matter with Plaintiffs. Nevertheless, Plaintiffs filed suit on April 19, 2011, naming Secretary Greenstein as a Defendant.

The parties attempted to arrive at a settlement throughout 2011, but no settlement could be reached. Though the Department did not believe that it was required to provide voter registration during remote transactions, in July 2011, it began offering voter registration for such transactions in attempt to provide voter registration services to more of its applicants/clients.

In a May 3, 2012 ruling on motions for summary judgment filed by all parties, this Court held that the NVRA applies to in-person and remote transactions. While the Department does wish to reserve its right to appeal this matter, it does not resist this Court's interpretation of the application of the NVRA.

The Department maintains that it has never exhibited any resistance to providing voter registration services in accordance with the requirements of the NVRA. Rather, the Department has made tireless efforts to comply with the act pursuant to its understanding of the law.

The Department maintains that it is in full compliance with this Court's interpretation of the NVRA. Therefore, the Department submits that an injunction should not be granted in this case.

3. Summary of Facts Claimed by Defendant Schedler

The Secretary of State, as Chief Elections Officer of the State of Louisiana, and its predecessor agency, Louisiana State Commissioner of Elections, assisted in the implementation of and coordinated the National Voter Registration Act (NVRA) among Louisiana agencies and entities involved in the voter registration process in accordance with the terms of the NVRA and the Federal Elections Commission's "Implementing the National Voter Registration Act of 1993:

Requirements, Issues, Approaches and Examples”. Beginning in early 1993, then Commissioner of Elections (“Commissioner”) office began developing a plan of implementation for the NVRA. Between 1993 and 1995, the Commissioner attended conferences held by the Federal Elections Commission, drafted state legislation, developed forms, created training/instruction materials, conferred with agency heads, conducted training, designated and instructed additional voter registration agencies. The training materials for the NVRA have been revised and updated since the inception of the NVRA, and the Secretary of State continues to offer and conduct training for personnel designated by the voter registration agencies. Additionally, the Commissioner developed and the Secretary of State updates and maintains a manual for Registrars of Voters and trained the Registrars with respect to the NVRA. The Commissioner and subsequently the Secretary of State established and maintains a computer system for Louisiana elections including voter registration. The Commissioner and the Secretary of State keep statistics and prepares and submits reports to the EAC relative to NVRA registration in accordance with EAC regulations and requirements.

The coordination of the Act by the Chief Elections Officer was conducted according to the procedures and with the forms contained in the Secretary of State’s “Implementing the National Voter Registration Act in Voter Registration Agencies” and the Secretary of State has continued on the same course with respect to the coordination of the Act to the present time.

The Secretary of State takes the position and has coordinated the State’s efforts to comply with the NVRA’s agency registration requirements only for “applications in person--(B) at a Federal, State or nongovernmental office designated under section 1973gg-5” of the NVRA.

VII. UNCONTESTED FACTS²

1. Ruth Johnson was the Secretary of the Louisiana Department of Children and Family Services (“DCFS”) from the period July 2010 through July 2012.
2. After 1995, the Department of Children and Family Services, formerly known as DSS, was designated as a voter registration agency as designated under 42 U.S.C. § 1973gg-5.
3. DCFS administers the following public assistance programs and they are covered under the NVRA:
 - a. Supplemental Nutritional Assistance Program (“SNAP” or “food stamps”), which includes Disaster Supplemental Nutritional Assistance Program (“DSNAP”) and Louisiana Combined Application Project (“LaCAP”);
 - b. Child Care Assistance Program (“CCAP”);
 - c. Kinship Care Subsidy Program (“KCSP”); and
 - d. Family Independence Temporary Assistance Program (“FITAP”).
4. DCFS, from January 2011 through present, does not have Department policy that requires staff to distribute voter registration applications with each of the four programs, unless the applicant checks “yes” they wish to apply to register to vote at the address where they live now here today.
5. DCFS did not require its staff to distribute a voter preference form at every change of address transaction prior to May 2011.
6. DCFS application for assistance contains a voter preference question in its

² The parties reserve the right to object on the grounds of relevancy or any other ground at trial as to these facts.

applications form 4APP. The language reads: “[i]f you are not registered to vote where you live now, would you like to apply to register to vote?”

7. The Form 4APP was the sole application for SNAP (exclusive of LaCAP and DSNAP), KCSP, FITAP, and CCAP until 2005, whereby DCFS created ancillary program specific forms for KCSP and CCAP.
8. No application for DSNAP existed prior to August 2005.
9. DCFS currently administers a public assistance program known as the Child Care Assistance Program (“CCAP”).
10. DCFS currently offers “all three types of transactions covered by Section 7 of the NVRA (initial applications, redeterminations, and change of name/address) via remote means.” Doc. 144-1, DCFS SMF ¶ 52.
11. Over half of DCFS benefits provided in 2011 were via remote means.
12. In 2011, DCFS received over 45,000 initial applications for SNAP benefits per month.³
13. DCFS received approximately 15,000 applications for SNAP benefits via the internet monthly from 2009 to November 2011.³
14. As of November 2011, DCFS received approximately 35,000 SNAP redeterminations each month.³
15. In 2007, DCFS received 275,901 SNAP redeterminations; in 2008, DCFS received 242,523 SNAP redeterminations; in 2009, DCFS received 277,075 SNAP redeterminations; and in 2010, DCFS received 324,659 SNAP redeterminations.

³ DHH, DCFS, and SOS do not admit that the number of benefit/assistance applications corresponds to the number of persons submitting benefits/assistance applications because applications may overlap with respect to both DCFS and DHH applications.

16. Since the implementation of the online benefits application system, applications through that system have increased.³
17. DCFS expects online usage to further increase over the next several years.
18. Prior to April 19, 2011, DCFS did not provide voter registration services with every public assistance benefits covered transaction conducted via remote means.³
19. Prior to May 1, 2011, voter registration was not offered with CCAP online applications.
20. DHH currently administers the Medicaid public assistance benefits program in Louisiana.
21. Approximately 70% of initial applications for Medicaid are received through the mail.
22. Approximately 18% of initial applications for Medicaid are received via the internet.
23. Mail-in applications for Medicaid have been available for at least five years.
24. Internet applications for Medicaid have been available for at least five years.
25. The process of applying for Medicaid does not require a client interview.
26. The majority of applications for Medicaid are processed without in-person contact between DHH personnel and the Medicaid client.
27. The majority of renewals for Medicaid are processed without in-person contact between DHH personnel and the Medicaid client.
28. The majority of changes of address in connection with Medicaid are processed without in-person contact between DHH personnel and the Medicaid client.
29. Defendant Greenstein did not offer voter registration during remote transactions prior to July 2011.

30. “From January 1, 2001 through October 31, 2010 DCFS did not require its staff to distribute a voter preference form to clients at every change of address transaction for public benefits.” Doc. 297-1, DCFS Aug. SMF ¶ 65; Pls.’ Trial Ex. 145 (Def. Johnson’s Resp. to Pls.’ Second Req. for Admis., Resps. To Req. Nos. 3-4).
31. Since at least August 1998, and until May 2011, it has not been written in DCFS policy that voter registration services must be offered in conjunction with all Child Care Assistance Program (CCAP).
32. Until at least May 1, 2011, it was not written in DCFS policy that voter registration services must be offered in conjunction with . . . the Kinship Care Subsidy Program (KCSP).
33. Since May 2011, DCFS policy provided that because applications for CCAP only do not require an interview, “it is not necessary to contact the client to ask about voter registration.” Guillory Dep. Tr. at 138:4-19.
34. Prior to July 2011, DHH did not DHH did not use a paper change of address form.
35. Prior to July 2011, DHH did not distribute voter registration forms during change of address transactions which took place in person.
36. DCFS maintains a policy document, No. C-200/C-210, concerning the National Voter Registration Act.
37. The current version of the C-200/C-210 policy document is dated March 1, 2012.
38. The current version of the C-200/C-210 policy document instructs DCFS personnel to “[d]istribute the form LR-1M to persons who wish to register to vote or advise that an online application may be completed using the Secretary of State’s website: <http://www.sos.louisiana.gov/OnlineVoterRegistrationOVR/tabid/955/Default.aspx>.”

39. Past versions of the C-200/C-210 policy document contained the same instruction.
40. DCFS admitted in the Request for Admissions propounded that it “does not require that its staff distribute a voter registration application form to clients who do not respond to the voter preference question.”
41. DCFS ordered 209 units of LR-1Ms (original voter registration forms) on June 6, 2005.
42. DCFS ordered 100 units of LR-1Ms (original voter registration forms) on November 27, 2007.
43. There are 100 voter registration forms within each unit of LR-1Ms ordered.
44. Prior to July 2011, DHH did not distribute a voter registration form to applicants who failed to check either box on the declaration form.
45. DHH clients who fail to check either box on a voter declaration form will be considered to have decided not to register to vote at this time.
46. DHH policy provides that if, during a telephone transaction, a Medicaid client states that he would like to register to vote, DHH Medicaid personnel “shall provide the caller with the website where he or she can register to vote (www.geauxvote.com) and shall offer to mail a Mail Voter Registration Application to the caller.” Doc. 307-7, Batts Decl. ¶ 10.
47. LaCAP Forms did not contain voter registration language prior to May 2011. An applicant completing only a LaCAP application for enrollment or re-enrollment application, before May 2011, would not have been offered voter registration services.

48. The Louisiana Combined Application Project (LaCAP) is a simplified version of SNAP that provides food assistance for eligible individuals who are at least 60 years old and receive Supplemental Security Income (SSI).
49. CCAP forms did not contain voter registration language prior to June 2011.
50. Since May 2011, DCFS has used a DSNAP DIS 12 voter preference form which DCFS policy requires be provided to all applicants during the DSNAP application process.
51. Prior to June 1, 2011, DCFS DSNAP policy did not require staff to ask clients whether or not they would like to register to vote.
52. Page 1 of the July 2012 version of the OFS 4APP does not contain a disclaimer advising clients that the decision to register to vote will not affect “the amount assistance” received.
53. Page 1 of the July 2012 version of the OFS 4APP does not contain a disclaimer advising clients, “[i]f you would like help filling out the voter registration form, we will help you.”
54. Page 1 of the July 2012 version of the OFS 4APP does not contain a disclaimer advising clients, “[y]ou may fill out the application form in private.”
55. Page 1 of the July 2012 version of the OFS 4APP does not contain a disclaimer advising clients, “[y]ou may file a complaint if you believe that someone has interfered with your right to register to vote.”
56. DCFS used a *Simplified Report* form, OFS 4SR, for SNAP benefits.
57. The Simplified Report form, OFS 4SR, can be used to report a change of address.
58. As of October 2011, the Simplified Report form, OFS 4SR, did not include a

question concerning voter registration.

59. DCFS does not maintain a policy requiring that a voter declaration form be attached or distributed with every Simplified Report form, OFS 4SR.
60. The online benefits application system currently in operation for DCFS is known as the “CAFÉ system.”
61. The CAFÉ system applications contain the question asking, “[i]f you are not registered to vote where you live now, would you like to apply to register to vote?”
62. The CAFÉ system contains no other voter preference form language required under Sec. 1973gg-5 in its customer portal for applicants to review.
63. DHH utilizes a Medicaid benefits general application form known as the “BHSF Form 1-G.”
64. The BHSF Form 1-G was revised in June 2011, to include an attached voter declaration form.
65. Prior to June 2011, a voter declaration form was not attached to the BHSF Form 1-G.
66. Prior versions of the BHSF 1-G Form did not contain a question concerning voter registration.
67. DHH utilizes a Medicaid benefits renewal form known as the “BHSF Form 2(G).”
68. The BHSF Form 2(G) was revised in June 2011 to include an attached voter declaration form.
69. Prior to June, 2011, a voter declaration form was not attached to the BHSF Form 2(G).
70. Prior versions of the BHSF Form 2(G) did not contain a question concerning voter

registration.

71. Prior to August 2011, DHH utilized a voter preference form known as the DHH Medicaid “Motor Voter Clearance Form.”
72. The Medicaid “Motor Voter Clearance Form” used by Medicaid contained the statement, “Applying to register or declining to register to vote will be used only for voter registration purposes and will not affect your request for services.” Pls. Trial Ex. 159 (Motor Voter Clearance Form [DHH 87229]).
73. The Medicaid “Motor Voter Clearance Form” used by Medicaid did not contain the phrase “amount of assistance.”
74. The Medicaid “Motor Voter Clearance Form” was stamped “Obsolete 7/21/11.”
75. An email from the Medicaid Eligibility Policy Unit dated August 5, 2011, states that “[t]he Voter Registration Declaration Form is being issued. This form replaces the now obsolete Motor Voter Clearance Form.”
76. The Voter Registration Declaration Form contains the statement, “[a]pplying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.”
77. DHH administers a public benefits program known as the Women, Infants, and Children program (“WIC”).
78. Prior to August 2011, WIC did not actually provide a paper voter registration declaration form.
79. Prior to August 2011, WIC applications were virtually paperless.
80. During the course of WIC applications, caseworkers are prompted by a screen on the computerized intake system to ask clients if they would like to register to vote.

81. The screen prompting WIC caseworkers to ask clients if they would like to register to vote does not contain a disclaimer advising clients, “[i]f you would like help filling out the voter registration form, we will help you.”
82. The screen prompting WIC caseworkers to ask clients if they would like to register to vote does not contain a disclaimer advising clients that the decision to register to vote will not affect “the amount of assistance” received.
83. The screen prompting WIC caseworkers to ask clients if they would like to register to vote does not contain a disclaimer advising clients, “[y]ou may fill out the application form in private.”
84. The screen prompting WIC caseworkers to ask clients if they would like to register to vote does not contain a disclaimer advising clients, “[y]ou may file a complaint if you believe that someone has interfered with your right to register to vote.”
85. As of August 2011, Medicaid and WIC offices use a declaration form that contains the language: “Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.”
86. In June 2011, DHH updated the Medicaid Application BHSF Form 1-G by attaching voter registration forms to Form 1G.
87. Older versions of the BHSF Form 1-G, which lack a question concerning voter registration, remain in circulation.
88. If any information is missing from a SNAP application, DCFS personnel do not simply reject the application, but rather are required to assist the applicant in submitting a complete application.

89. It is DHH policy that DHH Medicaid personnel are required to check Medicaid applications submitted to DHH to ensure that all such forms are signed.
90. Donna Durand was the Assistant Director of Voter Registration at the Secretary of State's office for approximately 5 years.
91. Joanne Reed has held the agency title of Director of Voter Registration at the Secretary of State's office since May 2007.
92. Cate McRitchie has held various civil service titles of Elections Program Specialist (different rank) with the Secretary of State's office since 2004.
93. Employees of the Secretary of State's office, including Cate McRitchie and Donna Durand, conducted trainings for DHH personnel concerning the NVRA in July 2009 and in 2011.
94. Ms. McRitchie met with some DHH personnel in April 2009.
95. During that April 2009 meeting, in conformity with the Secretary of State's position regarding the NVRA's applicability to only in-person covered transactions, Ms. McRitchie advised DHH personnel that DHH did not need to offer voter registration services to DHH clients who did not appear in person at DHH offices.
96. INTENTIONALLY OMITTED
97. The publication, "Implementing the National Voter Registration Act in Voter Registration Agencies" by the Secretary of State provides: "Assist the person in completing the mail voter registration application unless the person refuses. The official must provide the same degree of assistance to each person in completing the voter registration application as the official provides to a person in completing its own agency forms."

98. The publication, “Implementing the National Voter Registration Act in Voter Registration Agencies” by the Secretary of State provides: “If a person wants to complete the application at home or requests one for a friend or family member at home, provide the necessary application. The official does not mark this application in any manner. Make a note on the declaration form if the person indicated he/she wanted to register to vote but took the form home to complete.”
99. The Secretary of State’s office utilizes a computerized database known as the “Elections Registration and Information Network” or “ERIN.”
100. Public assistance offices in Louisiana utilize voter registration application forms designated “LR-1M.”
101. The SOS reports certain information to the EAC as required by EAC regulations, including the number of completed LR-1M voter registration application forms received from a public assistance office as that number is reflected in the ERIN system.
102. From 2004-2006, reports were run on a monthly basis showing, among other things, the number of LR-1M voter registration application forms completed at public assistance offices and entered by the registrar as a PA application, broken down by parish.
103. Since 2007, reports were run on a quarterly basis showing, among other things, the number of LR-1M voter registration application forms completed at public assistance offices, broken down by parish.
104. The Secretary of State does not use these reports to analyze NVRA compliance at public assistance offices on a regular basis.

105. The Louisiana Secretary of State produced “Statewide New Registrant” statistics, including the total of new public assistance office registrations entered as “PA” by parish registrars, on a monthly basis, for the period from January 1, 2004 through June 30, 2006.
106. Plaintiff Scott applied for SNAP benefits on September 1, 2009.
107. Plaintiff Scott did not receive a voter registration form with his benefits applications in 2009 because he did not check the “YES” or “NO” box.
108. Plaintiff Scott did not check either the “YES” or the “NO” box in response to the voter registration question on his 2009 benefits applications.
109. Plaintiff Scott received a SNAP recertification application for SNAP on October 14, 2009.
110. INTENTIONALLY OMITTED
111. Prior to 2011, at least some DCFS employees did not have trainings specifically about voter registration.
112. During 2011, at least some DCFS employees did receive training that was specific to voter registration.
113. Some employees were not given written materials during those 2011 trainings.
114. The May 2011 NVRA web-based training does not instruct employees to distribute a voter registration application if the client leaves the voter preference question blank.
115. The May 2011 NVRA web-based training instructs employees that when a client “wish[es] to register to vote or change their address or name for voter registration purposes,” the employee should distribute a voter registration application “or advise

the client that an online application may be completed using the Secretary of State's website."

116. The May 2011 NVRA web-based training instructs employees to "review the voter registration application for legibility and completeness" and to "verify that the applicant signed the voter registration application in the appropriate box."
117. The May 2011 NVRA web-based training instructs employees that if a client returns the voter registration application to the parish office, they should "sign on the line 'Received by:', and Circle 'PA' as the voter registration agency."
118. The May 2011 NVRA web-based training instructs employees to "not mark [the] application in any manner" if a client wants to complete it "at home or requests one for someone else."
119. The May 2011 NVRA web-based training instructs employees to assist clients in completing the voter registration application "if requested."
120. In recent years, DHH held quarterly trainings for DHH Medicaid personnel.
121. Of those quarterly trainings, only one training in 2009 and only one training in 2011 addressed the NVRA; the NVRA was not a component of quarterly trainings in 2010, or prior to 2009.
122. These quarterly trainings were considered mandatory.
123. There were no consequences for failure to attend these trainings.
124. These NVRA trainings did not involve the distribution of written material.
125. DHH management had no basis or standard for measuring whether these NVRA

trainings were effective, such as written evaluations.

126. DHH did not conduct any follow-up or review for employees concerning the NVRA after these trainings took place.
127. This is in contrast to standard practice for training on topics related to Medicaid eligibility, which generally includes follow-up with employees.
128. Medicaid forms are also processed through workers at Medicaid Applications Centers.
129. DHH utilizes a manual or known as the “MVA Administrative Procedures Manual” or “MVA Manual.”
130. The August 2009 version of the MVA Manual “specifically instructed DHH personnel to offer clients an opportunity to register to vote during ‘in person’ transactions”
131. The August 2009 version of DHH’s MVA manual “contained no instruction as to voter registration for clients who apply for Medicaid via remote means”
132. The August 2009 version of DHH’s MVA manual did not instruct DHH personnel to distribute voter registration forms to clients who fail to check either box on a voter declaration form.
133. The August 2009 version of DHH’s MVA manual did not instruct DHH personnel to check voter registration forms submitted by clients to determine if any information is missing.
134. The August 2009 version of DHH’s MVA manual did not instruct DHH personnel to follow up with clients to obtain any missing information from voter registration forms.

135. The August 2009 version of the MVA Manual was replaced by a new version in July 2011.
136. The July 2011 version of the MVA manual contains new instructions as to clients who apply for Medicaid via remote means.
137. The July 2011 version of DHH's MVA manual did not instruct DHH personnel to check voter registration forms submitted by clients to determine if any information is missing.
138. The July 2011 version of DHH's MVA manual did not instruct DHH personnel to follow up with clients to obtain any missing information from voter registration forms.
139. DHH's WIC program has also conducted quarterly trainings for personnel.
140. WIC quarterly trainings are not mandatory.
141. WIC quarterly trainings can only accommodate 13 people at a time.
142. WIC also has webinars, but, as of 2011, these webinars do not cover the NVRA.
143. WIC clerical staff, who are tasked with distributing voter declaration forms, have no mandatory training concerning the NVRA.
144. Voter registration was added to employee performance reviews ("PPRs") in May, 2011.
145. Prior to 2011, voter registration was not discussed during employee performance reviews.
146. Since January of 2011, supervisors sit in on five interviews per month.
147. Supervisors pull a random sampling of case records for which a Medicaid caseworker is responsible each month and caseworkers get feedback of the review.

148. The case review system requires supervisors to answer questions as to the accuracy of the work done by the caseworker.
149. These case reviews do not discuss any evaluation of voter registration.
150. Before May 2011, DCFS policy did not require that any notation be placed in the case log regarding voter registration.
151. DCFS had a policy of tracking voter registration applications until September 2002, for the purposes of reporting them to the Louisiana SOS, formerly known as the Department of Elections.
152. DCFS does not currently quantitatively track the number of completed voter registration forms it received. DCFS used to quantitatively track the number of completed voter registration forms it receives but the policy requiring that this tracking occur was terminated in 2002.
153. Medicaid Employees receive annual performance evaluations.
154. Prior to 2011, the performance of voter registration-related duties was not a component of DHH's annual performance evaluations.
155. Medicaid caseworkers are primarily evaluated through case reviews and on-site monitoring.
156. Whether or not a Medicaid case worker offered the opportunity to register to vote is memorialized in the narrative in every case file.
157. Defendant Greenstein produced to Plaintiffs 25 documents, titled "Case Review" Forms.
158. Prior to 2011, individual DHH parish offices were not evaluated for the performance of voter registration-related duties.

159. Beginning in Fall 2011, DHH began a pilot program of random spot checks to Medicaid offices concerning the availability of voter registration-related duties (the “MEQC Project”).
160. The MEQC Project involves checks of 10% of Medicaid offices per quarter, which is approximately 1 office per month.
161. The results of a pilot program in August 2011 showed that employees at 2 of 4 offices that were checked stated that their offices offered voter registration.
162. No corrective action was taken against the other offices.
163. As of 2011, no WIC employees had been evaluated for the performance of NVRA-related duties.
164. Stephanie Brooks was the Assistant Director of Emerging and Legacy Technologies at DCFS, and held that position beginning in April 2011. Prior to that, she was the manager of the emerging technologies team from January 2010 until April 2011, the lead technical architect on the ACCESS system from mid-2006 until January 2010, and a lower-level programmer at DCFS beginning in 1999.
165. Ms. Brooks testified that the CAFÉ system would store data from its transactions and could be configured to report the transactions carried out through CAFÉ .
166. DHH tracks the number of Medicaid applications it receives.
167. Deputy Director Batts testified that this data is “useful.”
168. DHH does not track all client responses on voter declaration forms.
169. DHH does not track the total number of voter registration forms it distributes or receives.
170. DHH does not report any data on voter registration directly to the Secretary of State.

171. Brad Coney is a contractor employed by the University of New Orleans and performs information technology work for DHH.
172. Mr. Coney works on DHH's Electronic Case Record ("ECR") program, which is the DHH's electronic application system, as well as "a very large list" of other software.
173. Mr. Coney is familiar with, but does not manage, the Medicaid Eligibility Determination System ("MEDS"), which is used by DHH employees in handling client applications and client interviews.
174. DHH maintains a computerized system for benefits transactions conducted via internet.
175. Since approximately May, 2011, the Medicaid online system has been configured to ask applicants "if they are registered to vote in their current parish, and if not, if they would like Medicaid's assistance. And they can choose to either, through the online system, go directly to the Secretary of State's website, have a voter registration form mailed to them, or call a Medicaid representative directly to help walk them through the voter registration process." Coney Dep. Tr. 18-19. The software did not do this prior to around May 2011.
176. The computerized system for internet-based transactions can track client responses to the voter declaration question during the internet transaction.
177. When asked whether running a report from this system "is not terribly complicated," Mr. Coney replied "yes."
178. Responses to the voter registration question during internet transactions are stored in a database, which also tracks the method, if any, used to register.

179. The Medicaid Notices system, which sends mailings to Medicaid clients, has, since around May 2011, been configured to automatically mail voter registration applications to Medicaid applicants who request such applications.
180. Christine Weatherford has been an Information Technology Director with the Secretary of State's office since December of 2004.
181. The ERIN system could be programmed to record the specific agency from which a voter registration form is submitted (e.g., DHH or DCFS), provided the relevant information is entered into the system.
182. Chandra Kandula is a computer programmer employed by Multivision, Inc. and works as a contractor for DCFS. He works on numerous applications that are used by DCFS.
183. Mr. Kandula testified that the 2010 online application for benefits did not require clients to respond to the question relating to whether or not the client wished to register to vote.
184. However, Mr. Kandula testified on November 8, 2011 that a response to that question could be made mandatory.
185. Ms. Brooks testified that CAFE could be configured to automatically trigger the mailing of a form.
186. Mr. Coney testified that "[i]t would be possible" "to have [the Medicaid] Notices System fill in the blanks into something like a voter registration application form" before the form is mailed to the client, but that, as of November 17, 2011, that is not "something that the system [was] programmed to do."

187. Mr. Coney testified that he “think[s]” that “it is possible to trigger an automatic mailing” of voter registration based on a client response within the MEDS system.
188. Plaintiff Luther Scott, Jr. has never applied for Medicaid benefits.
189. DCFS did not and does not interpret 42 U.S.C. § 1973gg-5(6)(B)(iii) to require provision of a voter registration application to clients who do not respond to the question on the voter preference form.
190. In 2008, Luther Scott completed a voter registration form using the address of 510 St. Patrick Street, New Orleans, Louisiana.
191. Plaintiff Scott submitted a SNAP benefits application on December 1, 2009.
192. Plaintiff Scott engaged in a renewal of his SNAP benefits through the Simplified Report, form OFS 4SR, on November 15, 2010.
193. Luther Scott did not check the “yes” or “no” box to the question, “If you are not registered to vote where you live now, would you like to apply to register to vote?” when he submitted his application for SNAP in September 2009.
194. Plaintiff Louisiana Conference of the NAACP has never assisted Plaintiff Luther Scott, Jr. in voter registration through a voter registration drive conducted by the Louisiana Conference of the NAACP.
195. Luther Scott, Jr. is not a member of the Louisiana Conference of the NAACP
196. The Louisiana Conference of the NAACP had no relationship to Plaintiff Luther Scott, Jr. prior to investigations and preparations resulting in the filing of this litigation.

VIII. CONTESTED MATERIAL FACTS

FACTS ASSERTED BY PLAINTIFFS REGARDING REMOTE TRANSACTIONS

Facts asserted by plaintiffs concerning DCFS and remote transactions

	Party Propounding	Parties Contesting
1. While some interviews for initial applications and redeterminations take place in person, caseworkers conduct these transactions remotely by telephone in most circumstances and make no arrangements for in person interviews.	Plaintiffs	DCFS
2. Until at least May 2011, if a redetermination interview does not occur for CCAP, FITAP, SNAP, and/or KCSP, DCFS policy did not require that a client be asked about voter registration.	Plaintiffs	DCFS
3. From at least August 1998 to May 2011, DCFS written policy was not to offer voter registration to clients reporting a change of address via remote means.	Plaintiffs	DCFS

Facts asserted by plaintiffs concerning DHH and remote transactions

4. DHH receives over 300,000 initial applications for	Plaintiffs	SoS
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	Medicaid annually.		
5.	DHH processes over 300,000 renewals for Medicaid annually.	Plaintiffs	SoS

FACTS ASSERTED BY PLAINTIFF REGARDING THE OBLIGATION TO PROVIDE VOTER REGISTRATION SERVICES “WITH EACH” COVERED TRANSACTION, 42 U.S.C. § 1973GG-5(A)(6)

Facts Asserted by Plaintiffs Concerning DCFS’s Past Activities

Renewals

6.	DCFS did not require its staff to distribute a voter preference form to clients at <i>every</i> redetermination/renewal transaction for public benefits.	Plaintiffs	DCFS
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DCFS Benefits Programs: CCAP, KCSP, and DSNAP

7.	As of March 2012, DCFS employees have been instructed that it is not necessary to contact the client to ask about voter registration unless the client indicates on the form that voter assistance is needed when CCAP, LaCAP and certain SNAP redeterminations do not require an	Plaintiffs	DCFS
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interview.		
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**FACTS ASSERTED BY PLAINTIFFS REGARDING THE OBLIGATION TO
DISTRIBUTE VOTER REGISTRATION FORMS UNLESS THE CLIENT, IN
WRITING, DECLINES TO REGISTER TO VOTE, 42 U.S.C. § 1973GG- 5(A)(6)(A)**

Facts Asserted by Plaintiffs Concerning DCFS's Current Activities

C-200/ C-210 Policy

8.	The C-200/C-210 policy document gives its personnel discretion to direct clients to the Secretary of State's website, rather than giving clients an actual voter registration form.	Plaintiffs	DCFS
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Blank Voter Preference Forms

9.	At least some forms utilized by DCFS contain a question asking clients, "would you like to apply to register to vote?" (a "voter preference question"), and checkboxes marked "YES" and "NO."	Plaintiffs	DCFS
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Records from SOS regarding numbers of voter registration applications ordered

10.	Since 2007, Cate McRitchie has maintained records of all requests for voter registration forms from public	Plaintiffs	SoS
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assistance agencies		
11. Document titled “Voter Registration Application Forms” is a complete list of all requests for voter registration applications received by the Secretary of State from public assistance agencies during 2007 through July 2011.	Plaintiffs	SoS

Facts Asserted by Plaintiffs Concerning DHH’s Activities

Blank Voter Declaration Forms

12. Prior to August 2011, DHH utilized a voter preference form known as the DHH Medicaid “Motor Voter Clearance Form,” containing the question, “If you are not registered to vote where you now live, would you like to apply to register to vote here today?”, and checkboxes marked “YES” and “NO.”	Plaintiffs	SoS
13. DHH clients who fail to check either box on a voter declaration form are not given a voter registration form at the time of application.	Plaintiffs	DHH

**FACTS ASSERTED BY PLAINTIFFS REGARDING THE OBLIGATION TO PROVIDE
VOTER DECLARATION FORMS TO PUBLIC ASSISTANCE CLIENTS, 42 U.S.C. §
1973GG- 5(A)(6)(B)**

Facts Asserted By Plaintiffs Concerning DCFS's Past Activities

CCAP Forms

14.	Prior to June 2011, individuals applying for CCAP using the written CCAP 2 form were not offered an opportunity to register to vote and would not have received any form that asked whether or not they wanted to register to vote.	Plaintiffs	DCFS
15.	DCFS utilizes a CCAP form for changes of address known as the "CCAP 10" form.	Plaintiffs	DCFS
16.	Prior to March 2012 the CCAP 10 redetermination form did not contain any voter preference question.	Plaintiffs	DCFS

DSNAP Forms

17.	DSNAP forms were not created prior to 2005. The DSNAP DIS 1 application for assistance, revisions 05-09/12, do not contain voter registration language.	Plaintiffs	DCFS
18.	Prior to May 1, 2011, DCFS policy did not require staff to ask clients whether or not they would like to register to vote.	Plaintiffs	DCFS

Other

19.	Prior to May 1, 2011, DCFS policy did not require staff to ask clients whether they would like to register to vote during benefits interviews.	Plaintiffs	DCFS
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Facts Asserted by Plaintiffs Concerning DCFS's Current Activities

OFS 4APP Form

20.	The current version of the OFS 4APP form is dated July 2012.	Plaintiffs	DCFS
21.	Page 1 of the current version of the OFS 4APP contains a question asking clients if they "would like to apply to register to vote?"	Plaintiffs	DCFS

OFS 4SR Simplified Report Form

22.	The Simplified Report form, OFS 4SR, is used to accomplish redeterminations and states that "[i]mportant: You must complete, sign, and return this form and all required verification by _____ or your case may be closed. If you need help, call your worker. This information will be used to determine eligibility and benefits."	Plaintiffs	DCFS
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FACTS ASSERTED BY PLAINTIFFS REGARDING THE OBLIGATION TO PROVIDE CLIENTS WITH THE SAME DEGREE OF ASSISTANCE WITH REGARD TO THE COMPLETION OF THE VOTER REGISTRATION FORMS AS IS PROVIDED WITH REGARD TO BENEFITS FORMS, 42 U.S.C. § 1973GG- 5(A)(6)(C)

Facts Asserted by Plaintiffs Concerning DCFS's Activities

23.	DCFS personnel are required to check SNAP applications submitted to DCFS line-by-line to ensure that all necessary information is included by the applicant.	Plaintiffs	DCFS
24.	DCFS personnel are required to check SNAP applications submitted to DCFS to ensure that all forms are signed.	Plaintiffs	DCFS
25.	DCFS personnel are not required to check voter registration applications submitted to DCFS line-by-line to ensure that all necessary information has been included by the applicant.	Plaintiffs	DCFS
26.	Before May 2010, DCFS personnel were not required to check voter registration applications submitted line-by-line to ensure that all such forms were signed.	Plaintiffs	DCFS

Facts Asserted by Plaintiffs Concerning DHH's Current Activities

27.	It is DHH policy that DHH Medicaid personnel are required to check Medicaid applications submitted to DHH line-by-line to ensure that all necessary information	Plaintiffs	DHH
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	is included by the applicant.		
28.	It is DHH policy that, if any information is missing from a Medicaid application, DHH personnel do not simply reject the application, but rather are required to assist the applicant by attempting to find the missing information through other means, or by contacting the applicant directly to obtain that information.	Plaintiffs	DHH
29.	It is DHH policy that DHH Medicaid personnel are not required to check voter registration applications submitted to DHH line-by-line to ensure that all necessary information is included by the applicant.	Plaintiffs	DHH
30.	It is DHH policy that DHH Medicaid personnel are required to check Medicaid applications submitted to DHH to ensure that all such forms are legible.	Plaintiffs	DHH
31.	It is DHH policy that Medicaid personnel are not required to check voter registration applications submitted to DHH line-by-line to ensure that all such forms are legible.	Plaintiffs	DHH
32.	It is DHH policy that DHH Medicaid personnel are not required to check voter registration applications submitted to DHH to ensure that all such forms are signed.	Plaintiffs	DHH

FACTS ASSERTED BY PLAINTIFFS REGARDING DEFENDANT SCHEDLER'S OBLIGATION TO "BE RESPONSIBLE FOR COORDINATION OF STATE RESPONSIBILITIES" AS TO VOTER REGISTRATION FOR PUBLIC ASSISTANCE CLIENTS, 42 U.S.C. § 1973GG-8

Enforcement of the statute

33.	It is a duty of the Secretary of State to provide NVRA-related trainings to public assistance agencies.	Plaintiffs	SoS
34.	As of 2011, the Secretary of State did not have any requirements as to the number of trainings provided to DHH or DCFS per year.	Plaintiffs	SoS
35.	From the beginning of 2008 until Spring 2011, the Secretary of State did not conduct any NVRA training for DCFS.	Plaintiffs	SoS
36.	NVRA trainings for public assistance office personnel conducted by the Secretary of State's office do not feature an evaluation or a request for feedback from participants.	Plaintiffs	SoS
37.	Other than providing training and publishing a manual, the Secretary of State's Office does not engage in other measures to ensure that individual public assistance Offices are complying with their responsibilities under the NVRA.	Plaintiffs	SoS
38.	The Secretary of State's position is that individual public assistance agencies (<i>i.e.</i> , DCFS and DHH) are solely	Plaintiffs	SoS

	responsible for ensuring that their offices are complying with the NVRA.		
39.	In roughly April 2011, the Secretary of State's Office advised DHH to use a voter declaration form with express language that matched the language required by the NVRA.	Plaintiffs	SoS
40.	Donna Durand did not know whether public assistance agencies were in compliance with the NVRA during her tenure.	Plaintiffs	SoS
41.	Joanne Reed did not know when public assistance agencies are required to provide voter registration applications to clients.	Plaintiffs	SoS

Training Advice

Remote transactions

42.	INTENTIONALLY OMITTED		
43.	At a training event for Medicaid personnel in 2011, staff were instructed that "if [clients] don't check the box at all, it's to be considered as having declined."	Plaintiffs	SoS

Blank Voter Declaration Forms

44.	Commissioner Rogers testified that, if a client fails to respond to the voter declaration question, “it means no” and public assistance offices “are not required to offer them voter registration.”	Plaintiffs	SoS
45.	Defendant Schedler’s office “did not advise” DCFS or DHH “with regard to [distributing] voter registration applications forms to clients who did not respond” to the voter declaration question.	Plaintiffs	SoS

Voter Declaration Form language

46.	The Secretary of State’s office identified the fact that the Medicaid “Motor Voter Clearance Form” omitted a disclaimer advising clients that the decision to register to vote will not affect the “amount” of assistance received.	Plaintiffs	SoS
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Equal assistance

47.	Commissioner Rogers stated that the Secretary of State’s position is that public assistance offices are not required to check voter registration application forms in any way before forwarding them to the parish registrars of voters.	Plaintiffs	SoS
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Coding of Voter Registration Forms

48.	The LR-1M voter registration application form contains a	Plaintiffs	SoS
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	box labeled "Official Use Only."		
49.	The "Official Use Only" box contains a line that states: "Circle One: PA MV RG SDA SS"	Plaintiffs	SoS
50.	This line is used for coding LR-1M voter registration application forms.	Plaintiffs	SoS
51.	Blank LR-1M voter registration application forms are not coded at the time that they are distributed by public assistance offices.	Plaintiffs	SoS
52.	Completed LR-1M voter registration application forms are coded when they are received by public assistance offices.	Plaintiffs	SoS
53.	Upon receipt of a completed LR-1M voter registration application form, public assistance offices are supposed to code the form, by circling the initials "PA" (or "Public Assistance") before forwarding the form to the Parish Registrar of Voters.	Plaintiffs	SoS
54.	Completed LR-1M voter registration application form with the letters "PA" circled are tracked in the ERIN system.	Plaintiffs	SoS
55.	The ERIN system allows the Secretary of State's Office to track the total number of completed LR-1M voter registration application forms received from a public assistance office.	Plaintiffs	SoS

56.	Commissioner Rogers testified that she “knows” that public assistance offices in Louisiana provide voter registration services because “[w]e receive voter registration cards that come from those public assistance agencies, which gives me reason to know that they are performing their duties.”	Plaintiffs	SoS
57.	These reports are run as part of the Secretary of State’s “performance indicator reporting.”	Plaintiffs	SoS
58.	The coding system utilized by the Secretary of State’s Office does not distinguish between LR-1M voter registration application forms received at DCFS offices and those received at DHH offices.	Plaintiffs	SoS
59.	The coding system utilized by the Secretary of State’s Office does not distinguish between LR-1M voter registration application forms received at Medicaid offices and those received at WIC offices	Plaintiffs	SoS

Facts Asserted by Plaintiffs Concerning Voter Registration Data

Facts Asserted by Plaintiffs Concerning the Secretary of State’s “Statewide New Registrant Statistics”

60.	The Louisiana Secretary of State maintains “Statewide New Registrant” statistics, including the total of new public assistance office registrations statewide.	Plaintiffs	SoS
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61.	The Secretary of State's new registrant statistics list a total of 247 new public assistance office registrations statewide during the period of 1/1/2004 through 1/31/2004.	Plaintiffs	SoS
62.	The Secretary of State's new registrant statistics list a total of 115 new public assistance office registrations statewide during the period of 2/1/2004 through 2/29/2004.	Plaintiffs	SoS
63.	The Secretary of State's new registrant statistics list a total of 248 new public assistance office registrations statewide during the period of 3/1/2004 through 3/31/2004.	Plaintiffs	SoS
64.	The Secretary of State's new registrant statistics list a total of 209 new public assistance office registrations statewide during the period of 4/1/2004 through 4/30/2004.	Plaintiffs	SoS
65.	The Secretary of State's new registrant statistics list a total of 220 new public assistance office registrations statewide during the period of 5/1/2004 through 5/31/2004.	Plaintiffs	SoS
66.	The Secretary of State's new registrant statistics list a total of 174 new public assistance office registrations statewide during the period of 6/1/2004 through	Plaintiffs	SoS

6/30/2004.		
67. The Secretary of State's new registrant statistics list a total of 182 new public assistance office registrations statewide during the period of 7/1/2004 through 7/31/2004.	Plaintiffs	SoS
68. The Secretary of State's new registrant statistics list a total of 217 new public assistance office registrations statewide during the period of 8/1/2004 through 8/31/2004.	Plaintiffs	SoS
69. The Secretary of State's new registrant statistics list a total of 273 new public assistance office registrations statewide during the period of 9/1/2004 through 9/30/2004.	Plaintiffs	SoS
70. The Secretary of State's new registrant statistics list a total of 169 new public assistance office registrations statewide during the period of 10/1/2004 through 10/31/2004.	Plaintiffs	SoS
71. The Secretary of State's new registrant statistics list a total of 151 new public assistance office registrations statewide during the period of 11/1/2004 through 11/30/2004.	Plaintiffs	SoS

72.	The Secretary of State's new registrant statistics list a total of 129 new public assistance office registrations statewide during the period of 12/1/2004 through 12/31/2004.	Plaintiffs	SoS
73.	The Secretary of State's new registrant statistics list a total of 205 new public assistance office registrations statewide during the period of 1/1/2005 through 1/31/2005.	Plaintiffs	SoS
74.	The Secretary of State's new registrant statistics list a total of 124 new public assistance office registrations statewide during the period of 2/1/2005 through 2/28/2005.	Plaintiffs	SoS
75.	The Secretary of State's new registrant statistics list a total of 161 new public assistance office registrations statewide during the period of 3/1/2005 through 3/31/2005.	Plaintiffs	SoS
76.	The Secretary of State's new registrant statistics list a total of 149 new public assistance office registrations statewide during the period of 4/1/2005 through 4/30/2005.	Plaintiffs	SoS
77.	The Secretary of State's new registrant statistics list a total of 152 new public assistance office registrations statewide during the period of 5/1/2005 through	Plaintiffs	SoS

5/31/2005.		
78. The Secretary of State's new registrant statistics list a total of 152 new public assistance office registrations statewide during the period of 6/1/2005 through 6/30/2005.	Plaintiffs	SoS
79. The Secretary of State's new registrant statistics list a total of 167 new public assistance office registrations statewide during the period of 7/1/2005 through 7/31/2005.	Plaintiffs	SoS
80. The Secretary of State's new registrant statistics list a total of 4 new public assistance office registrations statewide during the period of 8/1/2005 through 8/1/2005.	Plaintiffs	SoS
81. The Secretary of State's new registrant statistics list a total of 73 new public assistance office registrations statewide during the period of 9/1/2005 through 9/30/2005.	Plaintiffs	SoS
82. The Secretary of State's new registrant statistics list a total of 85 new public assistance office registrations statewide during the period of 10/1/2005 through 10/31/2005.	Plaintiffs	SoS
83. The Secretary of State's new registrant statistics list a total of 81 new public assistance office registrations	Plaintiffs	SoS

	statewide during the period of 11/1/2005 through 11/30/2005.		
84.	The Secretary of State's new registrant statistics list a total of 102 new public assistance office registrations statewide during the period of 12/1/2005 through 12/31/2005.	Plaintiffs	SoS
85.	The Secretary of State's new registrant statistics list a total of 105 new public assistance office registrations statewide during the period of 1/1/2006 through 1/31/2006.	Plaintiffs	SoS
86.	The Secretary of State's new registrant statistics list a total of 58 new public assistance office registrations statewide during the period of 2/1/2006 through 2/28/2006.	Plaintiffs	SoS
87.	The Secretary of State's new registrant statistics list a total of 87 new public assistance office registrations statewide during the period of 3/1/2006 through 3/31/2006.	Plaintiffs	SoS
88.	The Secretary of State's new registrant statistics list a total of 40 new public assistance office registrations statewide during the period of 4/1/2006 through 4/30/2006.	Plaintiffs	SoS

89.	The Secretary of State’s new registrant statistics list a total of 71 new public assistance office registrations statewide during the period of 5/1/2006 through 5/31/2006.	Plaintiffs	SoS
90.	The Secretary of State’s new registrant statistics list a total of 85 new public assistance office registrations statewide during the period of 6/1/2006 through 6/30/2006.	Plaintiffs	SoS
91.	The new registrant statistics produced by the Secretary of State’s office did not include statistics for the period of July 1, 2006 through July 1, 2007.	Plaintiffs	SoS
92.	The Louisiana Secretary of State produced “Statewide New Registrant” statistics, including the total of new public assistance office registrations statewide, on a quarterly basis for the period from July 1, 2007 through December 31, 2011.	Plaintiffs	SoS
93.	The Secretary of State’s new registrant statistics list a total of 256 new public assistance office registrations statewide during the period of 7/1/2007 to 9/30/2007.	Plaintiffs	SoS
94.	The Secretary of State’s new registrant statistics list a total of 266 new public assistance office registrations statewide during the period of 10/1/2007 to 12/31/2007.	Plaintiffs	SoS

95.	The Secretary of State's new registrant statistics list a total of 302 new public assistance office registrations statewide during the period of 1/1/2008 to 3/31/2008.	Plaintiffs	SoS
96.	The Secretary of State's new registrant statistics list a total of 316 new public assistance office registrations statewide during the period of 4/1/2008 to 6/30/2008.	Plaintiffs	SoS
97.	The Secretary of State's new registrant statistics list a total of 243 new public assistance office registrations statewide during the period of 7/1/2008 to 10/1/2008.	Plaintiffs	SoS
98.	The Secretary of State's new registrant statistics list a total of 307 new public assistance office registrations statewide during the period of 10/1/2008 to 12/31/2008.	Plaintiffs	SoS
99.	The Secretary of State's new registrant statistics list a total of 189 new public assistance office registrations statewide during the period of 1/1/2009 to 3/31/2009.	Plaintiffs	SoS
100.	The Secretary of State's new registrant statistics list a total of 181 new public assistance office registrations statewide during the period of 4/1/2009 to 6/30/2009.	Plaintiffs	SoS
101.	The Secretary of State's new registrant statistics list a total of 188 new public assistance office registrations statewide during the period of 7/1/2009 to 9/30/2009.	Plaintiffs	SoS
102.	The Secretary of State's new registrant statistics list a total of 125 new public assistance office registrations	Plaintiffs	SoS

	statewide during the period of 10/1/2009 to 12/31/2009.		
103.	The Secretary of State's new registrant statistics list a total of 167 new public assistance office registrations statewide during the period of 1/1/2010 to 3/31/2010.	Plaintiffs	SoS
104.	The Secretary of State's new registrant statistics list a total of 141 new public assistance office registrations statewide during the period of 4/1/2010 to 6/30/2010.	Plaintiffs	SoS
105.	The Secretary of State's new registrant statistics list a total of 120 new public assistance office registrations statewide during the period of 7/1/2010 to 9/30/2010.	Plaintiffs	SoS
106.	The Secretary of State's new registrant statistics list a total of 134 new public assistance office registrations statewide during the period of 10/1/2010 to 12/31/2010.	Plaintiffs	SoS
107.	The Secretary of State's new registrant statistics list a total of 206 new public assistance office registrations statewide during the period of 1/1/2011 to 3/31/2011.	Plaintiffs	SoS
108.	The Secretary of State's new registrant statistics list a total of 705 new public assistance office registrations statewide during the period of 4/1/2011 to 6/30/2011.	Plaintiffs	SoS
109.	The Secretary of State's new registrant statistics list a total of 1384 new public assistance office registrations statewide during the period of 7/1/2011 to 9/30/2011.	Plaintiffs	SoS

110.	The Secretary of State’s new registrant statistics list a total of 1163 new public assistance office registrations statewide during the period of 10/1/2011 to 12/31/2011.	Plaintiffs	SoS
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Facts Asserted by Plaintiffs Concerning EAC Reports for Louisiana

111.	Pursuant to 11 C.F.R. § 9428.7(b)(6)(iii), Louisiana reports, among other things, the statewide number of registration applications received statewide that “were received from or generated by” “[a]ll public assistance agencies” in the state, to the federal Election Assistance Commission.	Plaintiffs	SoS
112.	The United States Election Assistance Commission reported that, during the 2009 through 2010 federal election cycle, a total of 6,037 voter registration applications were received from or generated by public assistance offices in Louisiana.	Plaintiffs	SoS
113.	The United States Election Assistance Commission reported that, during the 2007 through 2008 federal election cycle, a total of 8,688 voter registration applications were received from or generated by public assistance offices in Louisiana.	Plaintiffs	SoS
114.	The United States Election Assistance Commission reported that, during the 2005 through 2006 federal	Plaintiffs	SoS

	election cycle, a total of 12,278 voter registration applications were received from or generated by public assistance offices in Louisiana.		
115.	The United States Election Assistance Commission reported that, during the 2003 through 2004 federal election cycle, a total of 7,391 voter registration applications were received from or generated by public assistance offices in Louisiana.	Plaintiffs	SoS
116.	The Federal Election Commission reported that, during the 2001 through 2002 federal election cycle, a total of 10,522 voter registration applications were received from or generated by public assistance offices in Louisiana.	Plaintiffs	SoS
117.	The Federal Election Commission reported that, during the 1999 through 2000 federal election cycle, a total of 15,869 voter registration applications were received from or generated by public assistance offices in Louisiana.	Plaintiffs	SoS
118.	The Federal Election Commission reported that, during the 1997 through 1998 federal election cycle, a total of 21,958 voter registration applications were received from or generated by public assistance offices in Louisiana.	Plaintiffs	SoS
119.	The Federal Election Commission reported that, during 1995 through 1996 federal election cycle, a total of 74,636 voter registration applications were received from	Plaintiffs	SoS

or generated by public assistance offices in Louisiana.		
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Facts Asserted by Plaintiffs Concerning EAC Reports for States subject to consent decrees

120.	The United States Election Assistance Commission reported that, during the 2005 through 2006 federal election cycle, fewer than 16,000 voter registration applications were received from or generated by public assistance offices in Missouri.	Plaintiffs	SoS
121.	The Western District of Missouri issued a preliminary injunction on July 15, 2008, directing Missouri public assistance offices to comply with Section 7 of the NVRA.	Plaintiffs	SoS
122.	The United States Election Assistance Commission reported that, during the 2009 through 2010 federal election cycle, more than 120,000 voter registration applications were received from or generated by public assistance offices in Missouri.	Plaintiffs	SoS
123.	The United States Election Assistance Commission reported that, during the 2005 through 2006 federal election cycle, a total of 42,599 voter registration applications were received from or generated by public assistance offices in Ohio.	Plaintiffs	SoS

124.	On November 25, 2009, Ohio agreed to settle a lawsuit captioned <i>Harkless v. Brunner</i> and to comply with Section 7.	Plaintiffs	SoS
125.	The United States Election Assistance Commission reported that, during the 2009 through 2010 federal election cycle, a total of 246,923 voter registration applications were received from or generated by public assistance offices in Ohio.	Plaintiffs	SoS

FACTS ASSERTED BY PLAINTIFFS CONCERNING STANDING

Luther Scott

126.	Plaintiff Luther Scott, Jr. (“Plaintiff Scott”) is currently a recipient of benefits under the SNAP program, commonly referred to as food stamps, and has been since at least 2009.	Plaintiffs	DCFS, SoS
127.	Plaintiff Scott did not receive a voter registration form when he recertified his benefits in 2010.	Plaintiffs	DCFS, SoS
127b.	Plaintiff Scott used the Simplified Report Form OFS 4SR, which did not contain a voter preference question, to recertify his benefits in 2010.	Plaintiffs	All Defendants

Louisiana State Conference of the NAACP

128. Plaintiff Louisiana State Conference of the NAACP (“Louisiana NAACP”) provides voter registration assistance to residents of low-income communities who wish to register to vote.	Plaintiffs	All Defendants
129. Defendants’ failure to provide voter registration services at public assistance offices has forced the Louisiana NAACP to allocate more resources to voter registration activities.	Plaintiffs	All Defendants

ADDITIONAL FACTS CONCERNING THE REMEDIES SOUGHT BY PLAINTIFFS

Facts Asserted by Plaintiffs Concerning DCFS’s NVRA Training Programs

130. Prior to March 24, 2011, there wasn’t formal training like Voter Registration Annual Training OFS Executive Bulleting, E-2451-00.	Plaintiffs	DCFS
131. DCFS does not have an established training schedule for staff on benefits processes.	Plaintiffs	DCFS
132. Instead, training is done at orientation, as issues arise, or if something new is implemented.	Plaintiffs	DCFS
133. Since May 2011, DCFS Clerical Staff, Clerical Supervisors, Social Analysts, Social Service Analysts Supervisors and ES Operations mangers are supposed to	Plaintiffs	DCFS

	attend NVRA refresher training at least every six months and assure that all subordinate staff attend NVRA refresher training at least every six months.		
134.	Since March 2011, DCFS has published a written training manual on NVRA compliance.	Plaintiffs	DCFS
135.	The first DCFS training manual on NVRA compliance is dated March 2011. The most recent is dated March 2012.	Plaintiffs	DCFS
136.	The NVRA web-based training does not instruct employees on what to do if the application is illegible, incomplete, or unsigned.	Plaintiffs	DCFS

Facts Asserted by Plaintiffs Concerning DHH's NVRA Training Programs

137.	As of April 2011, there was no required training on the NVRA for staff at Medicaid Application Centers, who receive no periodic training.	Plaintiffs	DHH
138.	The July 2011 version of DHH's MVA manual did not instruct DHH personnel to distribute voter registration forms to clients who fail to check either box on a voter declaration form.	Plaintiffs	DHH
139.	As of April 2011, WIC personnel had not received any training on the NVRA from the Secretary of State's office.	Plaintiffs	SoS

Facts Asserted by Plaintiffs Concerning Defendants' Internal Oversight Policies

DCFS

140.	When a client checked "yes" to the question asking if they want to register to vote, the caseworker was supposed to note this on the application and the case log, and to write down that the caseworker gave the client an application.	Plaintiffs	DCFS
141.	Making notations in the case log is a matter of practice, not policy.	Plaintiffs	DCFS
142.	DCFS supervisors assume that there are no problems with NVRA compliance unless they hear otherwise.	Plaintiffs	DCFS
143.	All Economic Stability programs have performance goals. Voter registration is not a performance goal in those programs.	Plaintiffs	DCFS
144.	Performance and Plan Reviews for certain DCFS supervisors (Regional Administrators and Program Executive Directors) do not address voter registration.	Plaintiffs	DCFS

DHH

145.	None of the 25 Case Review Forms produced to Plaintiffs indicated that the clients in question were offered an opportunity to register to vote.	Plaintiffs	DHH, SoS
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Facts Asserted by Plaintiffs Concerning Defendants' Record-Keeping and Computer

Systems

Facts Asserted by Plaintiffs Concerning DHH Record-Keeping

146.	The Medicaid Notices system, which sends mailings to Medicaid clients, has, since around May 2011, been configured to track data on the number of voter registration applications mailed to clients through the Notices system.	Plaintiffs	DHH
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Facts Asserted by Plaintiffs Concerning Secretary of State Record-Keeping

147.	In that capacity, Ms. Weatherford oversees, <i>inter alia</i> , the Elections Project and the Elections Registration and Information Network ("ERIN"), which is used to track voter registration in Louisiana.	Plaintiffs	SoS
148.	The Secretary of State tracks voter registrations from public assistance offices through ERIN.	Plaintiffs	SoS
149.	The ERIN system tracks voter registration application forms that are received from public assistance offices.	Plaintiffs	SoS
150.	The ERIN system tracks online voter registrations.	Plaintiffs	SoS
151.	The ERIN system identifies applications from public assistance offices, but does not distinguish among types of offices (e.g., DCFS Office of Family Support vs. DHH	Plaintiffs	SoS

Medicaid).		
152. The ERIN system produces reports on, among other things, voter registration forms submitted from public assistance offices on a quarterly basis, and at one point did so on a monthly basis.	Plaintiffs	SoS
153. A system for tracking the number of individuals referred to the Secretary of State's website from the website of a public assistance agency is currently being developed as of about mid-2011.	Plaintiffs	SoS

ADDITIONAL FACTS CONCERNING THE NVRA OBLIGATIONS

154. Voter registration refresher training required by the May 2011 Operations Memorandum has not occurred.	Plaintiffs	All Defendants
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FACTS ASSERTED BY DEFENDANTS:

155. As of July 2011, Medicaid and WIC offer voter registration services to clients/applicants who apply, recertify, renew, or change their address by telephone.	DHH	Plaintiffs
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156.	As of July 2011, Medicaid and WIC offer voter registration services to clients/applications who apply, recertify, renew or change their address online.	DHH	Plaintiffs
157.	As of July 2011, Medicaid and WIC offer voter registration services to clients/applicants who apply, recertify, renew, or change their address by mail.	DHH	Plaintiffs
158.	Medicaid and WIC distribute a voter registration application with every application for benefits, recertification and renewal of benefits, and change of address form.	DHH	Plaintiffs
159.	Medicaid and WIC provide the same amount of assistance to clients/applicants with completing voter registration forms as they do with completing their own benefits forms.	DHH	Plaintiffs
160.	In order to determine Medicaid eligibility, DHH personnel must examine a completed Medicaid application line-by-line.	DHH	Plaintiffs
161.	If information necessary to the eligibility determination is missing from the Medicaid application, DHH personnel attempt to contact the applicant to gather the data necessary to determine Medicaid eligibility.	DHH	Plaintiffs
162.	DHH Medicaid personnel do not determine eligibility to vote so they are not required to examine a completed	DHH	Plaintiffs

	voter registration form line-by-line.		
163.	In order to determine Medicaid eligibility, the Medicaid application must be legible and signed by the applicant.	DHH	Plaintiffs
164.	Louisiana State Conference of the NAACP does not possess records to support their claim that they have expended resources on voter registration activities.	DHH	Plaintiffs
165.	Whether the Louisiana State Conference of the NAACP conducts voter registration drives.	DHH	Plaintiffs
166.	Whether the Louisiana State Conference of the NAACP expends resources on voter registration activities.	DHH	Plaintiffs
167.	Whether the Louisiana State Conference of the NAACP has a Voter Registration Director.	DHH	Plaintiffs
168.	Whether the Louisiana State Conference of the NAACP receives grants.	DHH	Plaintiffs
169.	Whether the Louisiana State Conference of the NAACP has made an effort to register voters who participate in public assistance programs.	DHH	Plaintiffs
170.	Whether the Louisiana State Conference of the NAACP has any individual members.	DHH	Plaintiffs
171.	The NVRA does not and has never required public assistance agencies to track the number of applicants it assists with voter registration nor the number of	DCFS	Plaintiffs

	completed voter registration forms that it collects from its client and transfers to the Parish Office of Registrars in the parish where the public assistance office is situated		
172.	From January 2001 through present, DCFS required its staff to verbally inform all of its applicants of voter registration services regardless of the applicant's response to the question of whether or not they wish to apply to register to vote at the address where they live now here today.	DCFS	Plaintiffs
173.	DCFS had no knowledge of non-compliance with NVRA prior to inquiries made by Plaintiffs which resulted in the present litigation.	DCFS	Plaintiffs
174.	Whether Plaintiff Luther Scott, Jr. declined to register to vote on his September 2009 application for assistance when he failed to check the "yes" or "no" box to the question, "If you are not registered to vote where you live now, would you like to apply to register to vote?"	DCFS	Plaintiffs
175.	Whether DCFS staff failed to distribute the voter registration application to Luther Scott, Jr. when Scott declined to apply to register to vote on his 2009 application for assistance by marking neither "yes" or "no" and by failing to verbally indicate that he would not like to register to vote when voter registration was	DCFS	Plaintiffs

discussed during his 2009 in person interview.		
176. Whether Plaintiff Luther Scott, Jr. declined to register to vote on his December 2011 application for assistance when he checked “no” to the question, “If you are not registered to voter where you live now, would you like to apply to register to vote?”	DCFS	Plaintiffs
177. Whether DCFS staff failed to distribute the voter registration application to Luther Scott, Jr. when Scott declined to apply to register to vote on his 2011 application for public assistance by checking “no” and by indicating that he would not like to apply to register to vote when discussed verbally during his 2011 telephone interview.	DCFS	Plaintiffs
178. Whether Luther Scott’s declinations in his 2009 initial application for SNAP benefits, the 2011 re-application for SNAP benefits, and his verbal declinations in subsequent interviews for SNAP benefits contradict the statement in the Declaration of Luther Scott, Jr. whereby he declares that “At no time during the benefits application or benefits renewal process has anyone asked me if I would	DCFS	Plaintiffs

	like to register to vote” or when he stated “I have not declined to register to vote in writing during the benefits application or renewal process” or when he stated “I did not decline to register vote in writing during the benefits application process.”		
179.	Whether Luther Scott, Jr. committed perjury when he stated in his first deposition conducted on May 10, 2012 that the Department did not offer him the opportunity to apply to register to vote when the question appears on the voter preference form contained in the 4APP application for assistance and he signed and dated the 2009 and 2011 application certifying under penalty of perjury that the information he had given in the application was true, complete, and correct to the best of his knowledge.	DCFS	Plaintiffs
180.	Whether Luther Scott, Jr. was a registered voter in the State of Louisiana at the time that he applied for assistance on or about September 1, 2009.	DCFS	Plaintiffs
181.	Whether Luther Scott, Jr. was a registered voter in the State of Louisiana at the time that he applied for public assistance on or about December 19, 2011.	DCFS	Plaintiffs
182.	Whether the Louisiana Conference of the NAACP has ever conducted voter registration drives in the State of	DCFS	Plaintiffs

Louisiana between January 2001 and January 2011.		
183. Whether the Louisiana Conference of the NAACP has ever conducted a voter registration drive targeting citizens who have applied for public assistance with the Department of Children and Family Services between January 2001 and January 2011.	DCFS	Plaintiffs
184. Whether the Louisiana Conference of the NAACP has expelled any resources to conduct voter registration drives targeting citizens who have applied for public assistance with the Department of Children and Family Services between January 2001 and January 2011.	DCFS	Plaintiffs
185. Whether the Louisiana Conference of the NAACP is an entity separate and apart from the local State chapters of the NAACP.	DCFS	Plaintiffs
186. Whether programs, activities such as voter registration drives, and investigations or surveys, conducted by a local NAACP Chapter, are the programs, activities, and investigations or surveys of the Louisiana Conference of the NAACP.	DCFS	Plaintiffs
187. Whether there exists an injury to the Louisiana Conference of the NAACP imposed by Defendant Ruth Johnson when no records were produced by Plaintiffs	DCFS	Plaintiffs

	evidencing that the Louisiana Conference of the NAACP conducted voter registration drives between January 2001 to January 2011, utilizing their funds and resources, to assist DCFS applicants with voter registration.		
188.	Whether or not inconsistencies proffered in the Declarations of Rev. Edward “Chipp” Taylor, signed and dated by Taylor, contradict statements taken under oath and made by Taylor during both his June 6, 2012 deposition and his deposition of July 31, 2012.	DCFS	Plaintiffs
189.	Whether or not inconsistencies proffered in the Declarations of Jerome Boykin, signed and dated by Boykin contradict statements taken under oath and made by Jerome Boykin during oath his June 6, 2012 deposition and his deposition of July 31, 2012.	DCFS	Plaintiffs
190.	Whether DCFS failed to provide voter registration in its in person transactions.	DCFS	Plaintiffs
191.	Whether DCFS failed to provide voter registration services during its remote transactions .	DCFS	Plaintiffs
192.	Whether DCFS failed to provide voter registration services in conjunctions with its CCAP, DSNAP, and KSCP assistance programs.	DCFS	Plaintiffs
193.	Whether DCFS failed to provide voter registration services to its applicants or clients with each change of	DCFS	Plaintiffs

	address form transactions.		
194.	Whether DCFS staff failed to offer the same degree of assistance with the completion of the voter registration form or application as it did with its public assistance applications when Plaintiffs have offered no evidence of such lack of assistance.	DCFS	Plaintiffs
195.	Whether Luther Scott, Jr. gave notice of the violation(s) of the NVRA by which he claims to be aggrieved.	SOS	Plaintiffs
196.	Whether Louisiana State Conference of the NAACP gave notice of the violation(s) of the NVRA by which it claims to be aggrieved.	SOS	Plaintiffs
197.	Whether the statement made by Luther Scott, Jr. in the Declaration of Luther Scott, Jr. (Doc 173-6), “I have not declined to register to vote in writing during the benefits application or renewal process” with respect to food stamps is true and correct.	SOS	Plaintiffs
198.	Whether the statement made by Luther Scott, Jr. in the Declaration of Luther Scott, Jr. (Doc 173-6), “At no time during the benefits application or benefits renewal process has anyone asked me if I would like to register to vote” with respect to food stamps is true and correct.	SOS	Plaintiffs
199.	Whether Luther Scott, Jr. declined to register to vote when he applied for food stamps at the Orleans DCFS	SOS	Plaintiffs

	office on September 1, 2009.		
200.	Whether or not Luther Scott, Jr. declined the opportunity to register to vote during his food stamp application process in September 2009 and December 2011.	SOS	Plaintiffs
201.	Whether or not Luther Scott, Jr. was offered the opportunity to register to vote by DCFS employee Shawn Banks during the intake interview when he applied for food stamps at the Orleans DCFS office on September 1, 2009.	SOS	Plaintiffs
202.	Whether or not when Luther Scott, Jr. submitted an application for food stamps with DCFS on or about December 19, 2011, he dated, signed and indicated on a voter declaration form that he did not want to register to vote.	SOS	Plaintiffs
203.	Whether or not Luther Scott, Jr. declined the opportunity to register to vote in response to offers made by legal counsel for DCFS in June 2011 by letter, May 2012 during deposition and July 2012 during deposition.	SOS	Plaintiffs
204.	Whether Luther Scott, Jr. was registered to vote in the State of Louisiana prior to May, 2008.	SOS	Plaintiffs
205.	Whether Luther Scott, Jr. registered to vote in 2008 as a result of a neighborhood voter registration drive.	SOS	Plaintiffs

206.	Whether Luther Scott, Jr. ever voted in a state or a federal election.	SOS	Plaintiffs
207.	Whether Luther Scott, Jr. ever attempted to vote in a state or a federal election.	SOS	Plaintiffs
208.	Whether the State of Louisiana has empowered the Secretary of State to exercise supervision or control or other authority to compel the Department of Health and Hospitals and/or the Department of Children and Family Services to act	SOS	Plaintiffs
209.	Whether Luther Scott, Jr. completed and filed the voter registration form provided to him by DCFS at his deposition of July 31, 2012	SOS	Plaintiffs
210.	Whether or not Luther Scott, Jr. was and has been entitled to vote in all federal elections since June 2008 when he became a registered voter.	SOS	Plaintiffs
211.	Whether the Louisiana State Conference of the NAACP has not conducted voter registration drives in “recent years.”	SOS	Plaintiffs
212.	Whether the Louisiana State Conference of the NAACP has pled associational standing.	SOS	Plaintiffs
213.	Whether the Louisiana State Conference of the NAACP has received any money in the form of grants or otherwise for the conduct of voter registration drives.	SOS	Plaintiffs

214.	Whether the Louisiana State Conference of the NAACP has spent any revenue or other resources in the conduct of voter registration drives.	SOS	Plaintiffs
215.	Whether the only programmatic activities conducted by the Louisiana State Conference of the NAACP in recent years are limited to disaster relief after Hurricane Katrina.	SOS	Plaintiffs
216.	Whether the Louisiana State Conference of the NAACP is more devoted to advocacy than programs.	SOS	Plaintiffs
217.	Whether there is any traceable connection between any resource expenditure by the Louisiana State Conference of the NAACP and any activity of the Secretary of State.	SOS	Plaintiffs
218.	Whether the 2004 voter registration drive was conducted by the NAACP National Voter Fund, not the Louisiana State Conference of the NAACP.	SOS	Plaintiffs
219.	Whether any 2008 voter registration drive activity, if any, was conducted by and paid for by the NAACP National office of Civil Engagement Department, a separate legal entity from the Louisiana State Conference of the NAACP.	SOS	Plaintiffs
220.	Whether the 2009 -2010 activity, if any, was related to the census count and involved phone banking. Whether areas targeted were those with the lowest projected response rate for the 2010 census. Whether a secondary goal of the	SOS	Plaintiffs

	work was to increase the membership of the NAACP.		
221.	Whether other 2010 activity, if any, involved phone banking for election day to Get Out The Vote efforts.	SOS	Plaintiffs
222.	Whether the Louisiana State Conference of the NAACP targeted public assistance agencies for any voter registration efforts it may have conducted.	SOS	Plaintiffs
223.	Whether there is a direct, concrete and particularized injury to the Louisiana State Conference of the NAACP which occurred as a result of any conduct by defendant in violation of Section 7 of the NVRA.	SOS	Plaintiffs
224.	Whether there is a causal connection between any alleged injury to the Louisiana State Conference of the NAACP and the challenged action of the defendant.	SOS	Plaintiffs
225.	The Louisiana State Conference of the NAACP has not pled associational standing.	All Defendants	Plaintiffs
226.	When Defendant's counsel asked Luther Scott, Jr. if he would like to register to vote by letter in June 2011, and during depositions in May 2012 and July 2012, Mr. Scott declined to do so.	All Defendants	Plaintiffs

IX. CONTESTED ISSUES OF LAW

A. Contested Issues of Law Asserted by Plaintiffs

1. Whether DCFS's and DHH's admitted failure to provide voter registration services during NVRA-covered benefits transactions conducted by remote means constituted a violation of 42 U.S.C. § 1973gg-5(a)(6).

2. Whether DCFS's current policy C-200/C-210, which grants DCFS personnel discretion either to "[d]istribute [a voter registration form] to persons who wish to register to vote *or advise that an online application may be completed* using the Secretary of State's website" (emphasis added) violates the mandatory duty under 42 U.S.C. § 1973gg-5(a)(6)(A) to distribute a voter registration form to a client unless the client declines in writing.

3. Whether DCFS's current policy, and DHH's past policy, of not requiring that their staff distribute voter registration application form to clients who do not check either "yes" or "no" on a voter declaration form, violates the mandatory duty under 42 U.S.C. § 1973gg-5(a)(6)(A) to distribute a voter registration form to a client "unless" the client declines "in writing."

4. Whether DCFS's and DHH's past failure to provide voter registration services with each change of address relating to Medicaid benefits constitutes a violation of the duties set forth in 42 U.S.C. § 1973gg-5(a)(6)(A).

5. Whether DCFS's admission that, until May 2011, DCFS policy did not expressly state that voter registration services must be offered in conjunction with the Child Care Assistance Program (CCAP) and the Kinship Child Care subsidy Program (KSCP) constituted a violation of 42 U.S.C. § 1973gg-5(a)(6)(A).

6. Whether DCFS's past failure to maintain an adequate supply of voter registration forms for its clients constituted a violation of the duties set forth in 42 U.S.C. § 1973gg-5(a)(6)(A).

7. Whether DCFS's and DHH's past and/or present failure to include a question concerning voter registration in each of their benefits application and/or renewal forms constitutes a violation of the duty under 42 U.S.C. § 1973gg-5(a)(6)(B) to provide "a form" that "includes" "the question, 'If you are not registered to vote where you live now, would you like to apply to register to vote here today?'"

8. Whether DCFS's and DHH's past and/or present use of a voter preference form omitting disclaimers advising clients of their rights under the NVRA, including the disclaimer that the decision to register to vote will not affect the "amount" of assistance the client will receive, constitutes a violation of the duty under 42 U.S.C. § 1973gg-5(a)(6)(B)(ii)-(v).

9. Whether DHH's past failure to distribute a paper voter registration declaration form in conjunction with the WIC program constituted a violation of the duty under 42 U.S.C. § 1973gg-5(a)(6)(B) to provide "a form" that "includes" "the question, 'If you are not registered to vote where you live now, would you like to apply to register to vote here today?'" and various disclaimers advising clients of their rights under the NVRA, including the disclaimer that the decision to register to vote will not affect the "amount" of assistance the client will receive.

10. Whether DCFS's and DHH's current failure to check voter registration forms received from clients for completeness and signatures, and to follow up with clients if their voter registration forms are lacking in either of those respects, constitutes a violation of the duty under 42 U.S.C. § 1973gg-5(a)(6)(C) to "provide to each applicant who does not decline to register to

vote the same degree of assistance with regard to the completion of the registration application form as is provided by the office with regard to the completion of its own forms.”

11. Whether the Secretary of State’s obligation to “be responsible for coordination of State responsibilities [under the NVRA]” pursuant to 42 U.S.C. § 1973gg-8 includes the duty to implement and enforce the Act.

12. Whether the Secretary of State’s provision of incorrect and/or incomplete information during NVRA trainings constitutes a violation of the duty to “be responsible for coordination of State responsibilities [under the NVRA]” pursuant to 42 U.S.C. § 1973gg-8.

13. Whether the Secretary of State’s duty to “be responsible for coordination of State responsibilities [under the NVRA]” pursuant to 42 U.S.C. § 1973gg-8 includes the recordkeeping and reporting requirements, set forth in 11 C.F.R. § 9428.7.

14. Whether the duty under 11 C.F.R. § 9428.7(b)(6)(iii) to report the statewide number of registration applications received statewide that “were received from or generated by” “[a]ll public assistance agencies,” includes a duty to report all voter registration forms distributed by public assistance agencies, including those distributed by remote means.

15. Whether injunctive relief is appropriate for violations of the NVRA that Defendants sought to cure after the initiation of litigation.

16. Whether the Defendants’ training programs should be modified in accordance with the Court’s legal rulings concerning the scope of Defendants’ obligations under the NVRA (e.g., with respect to remote transactions)?

17. Whether Defendants should be ordered to maintain records and internal oversight processes to ensure future compliance with the NVRA?

B. Contested Issues of Law Asserted by All Defendants

1. Whether or not “agency registration” at public assistance agencies is limited to application in person at traditional voter registration offices and at federal, state or nongovernmental offices designated under specific provisions of the NVRA. 42 U.S.C. 1973gg-2.

C. Contested Issues of Law Asserted by Defendant Sonnier

1. Whether the NVRA requires DCFS distribute a voter registration application or form when a client declines in writing by checking “no” to the question “If you are not registered to voter where you live now, would you like to apply to register here to day?”
2. Whether an in applicant for public assistance declines in writing under 42 U.S.C. 1973gg-5(a)(6)(A) when the applicant leaves the “yes” or “no” box blank failing to *mark* whether or not they are registered to vote where they live now and whether they would like to apply to register there on the day that application is made.
3. Whether the NVRA requires a public assistance agency to provide the voter registration form or application regardless of whether the applicant for public assistance checks “yes” or “no” or indicates otherwise that they would or would not like to apply to register to vote.
4. Whether the NVRA requires that a voter preference form be a form separate and apart from an application for public assistance.

5. Whether a voter declination form under 42 U.S.C. 1973 gg-5 must be separate and apart from an application form for public assistance.
6. Whether 42 U.S.C. 1973 gg-5(a)(6)(A) requires that a change of address transaction include voter registration services if the agency does not utilize or have a “change of address form”.
7. Whether the NVRA currently requires that public assistance offices track the number of applicants who complete and return a voter registration form or application to that office.
8. Whether the NVRA has ever required that a public assistance office track the number of applicants who complete and return a voter registration form or application to a public assistance office.
9. Whether the NVRA has ever required that a public assistance office track the number of applicants who respond by checking “yes” or “no” on an application for public assistance question relating to whether the applicant would like to apply to register to vote.
10. Whether the NVRA has ever required reporting of any kind by the public assistance agency, designated as a voter registration agency, to any federal or state agency.
11. Whether 1973gg-5(a)(6)(C) requires the public assistance agency provide more than the same degree of assistance with its voter registration services then it does

when assisting an applicant with its services pertaining to applications, renewals, or change of address in its public assistance programs.

D. Contested Issues of Law Asserted by Defendant Greenstein

1. Whether the NVRA requires distribution of a voter registration form when a Medicaid recipient calls a Medicaid office to change his or her address, is asked whether he or she would like to vote, and responds “no.”

E. Contested Issues of Law Asserted by Defendant Schedler

1. Whether or not “agency registration” at public assistance agencies is limited to application in person at traditional voter registration offices and at federal, state or nongovernmental offices designated under specific provisions of the NVRA. 42 U.S.C. 1973gg-2.
2. Whether an applicant for prescribed benefits at a public assistance office declines the opportunity to register “in writing” under 42 U.S.C. 1973gg-5(a)(6)(A) by signing a voter registration declination form. 42 U.S.C. 1973 gg-5.
3. Whether with respect to assistance with registration forms at public assistance offices, the NVRA requires more than the same degree of assistance with regard to the completion of the form than provided for the completion of the agency’s benefit application form. 42 U.S.C. 1973gg-5(a)(6)(C).
4. Whether the requirements in 42 U.S.C. 1973 gg-5(a)(6)(A) apply where the agency does not use an application, recertification, renewal or change of address form. 42 U.S. C. 1973gg-5(a)(6)(A).

5. Whether a private person may seek or obtain relief for violations which are not set out in the notice to the state's chief election official.
6. Whether a private person may obtain relief for violations of the NVRA by which they were not aggrieved.

X. LIST OF EXHIBITS

Per the Court's order and directive at the recent conference held on September 27, 2012, the only objections that must be listed in this section are objections for authenticity. All other objections to admissibility (*e.g.*, relevance, hearsay, foundation, or other) are reserved until the time of trial.

PLAINTIFF:

List of Uncontested Plaintiffs Exhibits⁴			
<i>Pls.' Ex. #</i>	<i>Description</i>	<i>Party Contesting</i>	<i>Reason Contesting</i>
1a	NVRA Manual 1998, Feb. 1998, [SOS00076-00103]		
1b	NVRA Manual 2004, Jan 2004, [SOS00009-00021, also at SOS00104-00123]		
1c	NVRA Manual 2007, Rev. 12/07, [SOS00911-00932; SOS00837- 00861; SOS00142-00168]		
1d	NVRA Manual 2009, Rev. 10/09, [SOS00810-00836; SOS00181- 00206]		
2a	ERIN Manual 2001, [SOS00127- 00168]		

⁴ The Secretary of State reserves an additional objection to all exhibits proposed by each plaintiff unless and until the Secretary of State is informed as to which plaintiff proposes the exhibit and the defendant against which the exhibit is offered. The Secretary of State further objects to any and all exhibits not particularly identified in Doc 227, "Plaintiffs' List of Exhibits" filed June 7, 2012.

2b	ERIN Manual 2008, [SOS00207-00213]		
2c	ERIN Manual 2010, August 11, 2010 [SOS00214-00221]		
3a	NVRA PowerPoint 2007, Rev. 12/07, [SOS00862-00908]		
3b	NVRA PowerPoint 2009, Rev. 07/09, [SOS00632-00654]		
3c	NVRA PowerPoint 2011, Rev. 04/2011, [SOS00222-00265]		
4	Dardenne Cover and Training w Notes, [SOS00689-00711]		
5	Email between Cate McRitchie and Gene Guffey (DHH) re: taped training, June 24, 2008 [SOS00025]		
6	Email to Patti Larney from C. McRitchie adding her to list for on-site training, January 6, 2009, [SOS00026]		
7	E-mail from C. McRitchie to D. Talley re on-site training, January 6, 2009, [SOS00027]		

8	Email from C. McRitchie to K. DeLaune re: NVRA training powerpoint review, October 6, 2009, [SOS00655]		
9	Email from C. McRitchie to M. Norton, W. Crawford, and P. Chesne, re: basic training info on entering NVRA apps into ERIN, Febraury 18, 2011 [SOS00682-00686]		
10	Email chain between Cate McRitchie, Angie Rogers, Joanne Reed, and Merietta Norton re: Medicaid NVRA powerpoint [SOS00909-00910]		
11	Email chain between Cate McRitchie, Merietta Norton, Angie Rogers, and Joanne Reed about the training powerpoint, April 4-5, 2011 [SOS00933-00934]		
12	Email from Darlene Hughes to Cate McRitchie, and copying others, regarding NVRA training, April 7, 2011, [SOS00036-37]		
13	Email & Attached PowerPoint from Amy Colby to Merietta Norton, re: FW: Voter Reg follow-up with Kate McRitchie, Sept. 29, 2011, [SOS Conf 21-59]		
14	Emails between Joanne Reed, Angie Rogers, and Cate McRitchie regarding incorporation of NVRA training into online training sessions, June 8, 2011 [SOS01050-01051]		
15	Email from Christopher Chase to Cate McRitchie, copying Darlene Hughes, re: quarterly training and DHH incorporation of VR to automating services, July 7, 2009 [SOS03107-03108]		

16	Email from Cate McRitchie to Joanne Guidroz and Angie Rogers, January 25, 2011 [SOS00744]		
17	Email from Joanne Reed to Angie Rogers and Merietta Norton, April 18, 2011, with draft NVRA Manual 2011 attached [SOS00325-00361]		
18	Email from Cate McRitchie to Catherine Michiels, re: Voter registration cards, April 21, 2011, [SOS00050]		
19	Emails from Darlene Hughes to Cate McRitchie, and copying others, regarding printing of voter registration forms, May 26, 2011, [SOS00054-56]		
20	Email from Edward Fowler to Cate McRitchie, copying Darlene Hughes, requesting poster; email from Cate McRitchie to Darlene Hughes, Joanne Reed, William Crawford, and Angie Rogers, and copying others, regarding production of voter registration forms in Natchitoches Parish, May 31, 2011, [SOS00057-59]		
21	Email from Cate McRitchie to Joanne Reed re: number of VR forms sent, June 2, 2011 [SOS02917]		
22	Email request by Donna Durand to Department of State Computer Center for 20,000 mail-in voter registration apps to Brendetta Age of DHH in Baton Rouge, May 11, 2007 [SOS02985]		
23	Email request from Doug Leyda (DHH) to Joanne Guidroz (SOS) for 80-100 applications, September 7, 2004 [SOS02988]		
24	Email from Carolyn Cashio to Judy Outlaw re: printing LR-1M forms, March 11, 2004 [SOS02991]		

25	Email from Elsie Cangelosi to Don Garner re: printing voter registration applications, April 22, 2005 [SOS02992]		
26	Email from Donna Durand to Department of State Computer Center re: printing voter registration applications, March 5, 2008 [SOS02998]		
27	Emails to and from Donna Durand re: requests for voter registration apps by multiple Medicaid offices, July 29, 2009 [SOS03011]		
28	Email from Cate McRitchie to Joanne Reed re: offices using up voter registration apps fast (recently), May 19, 2011 [SOS03060-03061]		
29	Email chain between Cate McRitchie and Jackie Closure re: VR forms for Ouachita Parish Health Unit, March 7, 2011 [SOS04063]		
30	Email chain between Cate McRitchie and Darlene Hughes about problems in Natchitoches w/ printing out VR apps, May 26-27, 2011 (SOS00051-00052, SOS00057)		
31	Email from David McCay re: DOJ guidance requiring VR during remote transactions, February 8, 2011, [SOS00067]		
32	Email from J. Guidroz to A. Rogers, re: ERIN documents on voter registration, February 8, 2011 [SOS00751]		
33	Email from Joanne Guidroz to Cate McRitchie (including original message from Denise Harris of DHH) re: guidance to WIC, December 16, 2008 [SOS03092-03093]		
34	Emails to and from Cate McRitchie re: NVRA video		

	taping, June 23, 2008 [SOS3096-3097]		
35	Email from Jeff Fuchs to Angie Bouy asking if NVRA requirements are new, September 9, 2008 [SOS03099] [Exhibit 31 to Doc. 241]		
36	Email from Joanne Reed to Cate McRitchie re: how to deal with completed VRs and coding, March 25, 2011 [SOS03113]		
37	Emails to Cate McRitchie re: WIC problem with VR cards too light to scan, May 26-31, 2011 [SOS03124-03126]		
38	Email to and from Cate McRitchie re: "omission on VR app forms", July 14, 2011 [SOS03138]		
39	Emails between several people, including Cate McRitchie and Denise Harris, re: Declination Form, March 2009 [SOS03139-03141]		
40	Email to and from Merietta Norton about changes to manual, February 8, 2011 [SOS03325]		
41	Emails between Cate McRitchie and Denis Harris re: NVRA obligations at WIC, March 18-23, 2009 [SOS03879-03880]		
42	Delivery slip (8,000 voter registration apps delivered to DDH Warehouse in Baton Rouge), October 31, 2006 [SOS02989]		
43	Delivery ticket for 17 boxes containing 25,000 "forms", April 26, 2005 [SOS02990]		
44	Parish Checklist, dated January 23, 2004 [SOS02993]		
45	Terrebonne Fax/Form for voter registration apps, June 22, 2011 [SOS03070-03071]		
46	Voter Registration Application Form Requests listed from 1995		

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47	Position Description - Election Program Manager, Donna Durand, June 22, 2010 [SOS Rogs 00002-00004]		
48	Position Description - Elections Prog. Specialist 5, Caryln Lefebvre, July 20, 2006 [SOS Rogs 00016-00017]		
49	Duties and Responsibilities - Election Program Specialist C (SOS Rogs 00022)		
50	Duties and Responsibilities - Election Programs Specialist 7 (SOS Rogs 00024-00026)		
51	“Declarations Form Sample (Used by Voter Registration Agencies),” [SOS00567]		
52	Medicaid Program Motor Voter Clearance Form, [SOS01010]		
53	Performance Indicator Worksheet, [Rogers Ex. 19]		
54	Louisiana Secretary of State, Statewide New Registrant Statistics, [SOS 2918-2977]		
55	Louisiana Secretary of State, Statewide New Registrant Statistics, from April 1, 2011 to December 31, 2011 [SOS 4144- 4149]		
56	Letter from Tom Schedler to William Crawford, re: Designation as NVRA Coordinator, August 25, 2011 [No Bates Number] [Crawford Deposition, Exhibit 1]		
57	Letter from Joanne Guidroz (SOS) to Kristy Nichols (LDSS), June 29, 2010, about adding link to GeauxVote to online services [SOS00023]		
58	Letter from Joanne Guidroz (SOS) to Charles Castille (DHH), June 29, 2010, about adding link		

	to GeauxVote to online services [SOS00024]		
59	Letter from Angie Rogers to Dale Ho, May 26, 2011 [SOS03282-94]		
60	Key Points Document [SOS00687-00688]		
61	Template Memo re: Medicaid Clearance Form, [SOS00687]		
62	Defendant Schedler's Initial Disclosures, dated August 1, 2011 [Exhibit 57 to Doc. 112]		
63	All Responses provided by Defendant Schedler to Plaintiffs' First Request for Admissions, August 9, 2011		
64	All Responses provided by Defendant Schedler to Plaintiffs First Revised Set of Interrogatories (including all attachments), August 26, 2011		
65	All Responses provided by Defendant Schedler to Plaintiffs Second Request for Admissions, October 25, 2011		
66a	C-210 OFS Responsibilities, August 3, 1998, [DCFS00939-00940]		
66b	C-210 OFS Responsibilities, May 1, 2010, [DCFS00941-00942]		
66c	C-210 Responsibilities, May 1, 2011, [DCFS00947-00948], [Defendants 00278-00279]		
66d	C-210 Responsibilities, September 1, 2011 [DCFS07249-07250]		
66e	C-210 Responsibilities, March 1, 2012 [Doc. 297-14]		

67a	C-220 Voter Registration Requirements, August 1998, [DCFS01135]		
67b	C-220 Voter Registration Requirements, May 2011, [DCFS01136]		
68a	C-310 Tracking/Reporting, August 3, 1998 [DCFS00929]		
68b	C-310 Tracking/Reporting, May 1, 2010 [DCFS00928]		
69a	C-410-FS Interview Procedures, July 1, 2007 [DCFS06391-06393]		
69b	C-410-FS Interview Procedures, October 1, 2007 [DCFS06388-06390]		
69c	C-410-FS Interview Procedures, October 1, 2009 [DCFS06386-06387]		
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69e	C-410-SNAP Interview Procedures, January 1, 2010 [DCFS06382-06383]		
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70e	C-410-FITAP Interview Procedures, February 1, 2011 [DCFS06394-06396]		
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71	C-690-SNAP Application Processing-Reminders, May 1, 2011 [DCFS Initial 00056]		
72	C-690-FITAP Application Processing-Reminders, May 1, 2011, [DCFS Initial 00054-00055]		
73	C-820-SNAP Actions on Changes, May 1, 2011 [DCFS Initial 00061-00070]		
74	C-820-FITAP Actions on Changes, May 1, 2011 [DCFS Initial 00057-00060]		
75	E-1981 National Voter Registration Act of 1993 (NVRA), March 22, 1995 [DCFS01137-01140]		

76	E-2310-00 Redetermination Interview Waiver, January 31, 2006 [DCFS06620-06623]		
77	E-2350-00 Change in Redetermination Process, August 30, 2007 [DCFS06366-06371]		
78	E-2451-00 Voter Registration Annual Training, March 24, 2011 [DCFS01141-01142]		
79	E-2455-00 Voter Registration, May 1, 2011 [DCFS Initial 00093]		
80	I-2002-22 Voter Registration Reporting, September 25, 2002, [DCFS01134]		
81	O-320-DSNAP Interviews, June 1, 2011 [DCFS9469-9470]		
82	P-210 Sampling, July 1, 2011, [DCFS Conf 2-3]		
83	P-320 Case Record Review, July 1, 2011, [DCFS Conf 4]		
84	Operations Memorandum 11-04, May 31, 2011, From Denise Fair (Deputy Secretary of Operations) to Regional Administrators, Re: Performance Planning and Review - Voter Registration Responsibilities [DCFS8330-8331]		
85	Screenshots of online application [DCFS00984-01001]		
86a	Application for Assistance (online version, selected for CCAP) (OFS 4APP, May 27, 2010) [DCFS06643-06647]		
86b	Application for Assistance (online version, selected for FITAP) (OFS 4APP, May 27, 2010)		

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86c	Application for Assistance (online version, selected for KCSP) (OFS 4APP, May 27, 2010) [DCFS06655-06662]		
86d	Application for Assistance (online version, selected for SNAP) (OFS 4APP, May 27, 2010) [DCFS06663-06670]		
87a	Application for Assistance (paper version) (OFS 4APP, Rev. 07/01, 10/00 Issue Obsolete, II) [DCFS Rogs 00105-00111]		
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87c	Application for Assistance (paper version) (OFS 4APP, Rev. 02/06, 09/05 Issue Obsolete, II) [DCFS06696-06711]		
87d	A-110 OFS 4APP Interviewing Guide, November 1, 2007 (for OFS 4APP Rev. 10/07) [DCFS06534-06573]		
87e	Application for Assistance (paper version) (OFS 4APP, Rev. 10/07, 08/06 Issue Obsolete, II) [DCFS06793-06808]		
87f	A-110 OFS 4APP Interviewing Guide, March 1, 2009 (for OFS 4APP Rev. 01/09) [DCFS06492-06532]		
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87k	Application for Assistance (paper version) (OFS 4APP, Rev. 02/10, 01/10 Issue Obsolete, II) [DCFS06843-06858]		
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88	OFS 004AV Verification Request Form (OFS 4AV) [Policy], October 1, 2010, [DCFS07440]		
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95f	Application for Disaster Supplemental Nutrition Assistance Program (DIS 1, Rev. 05/11, 11/09 Issue Obsolete) [DCFS9463-9464]		
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108t	SNAP Orientation Manual, November 2011 (excerpts, as filed) [Doc. 297-7, Exhibit D]		
109	“Implementing the National Voter Registration Act in Voter Registration Agencies,” Prepared and distributed by: Secretary of State, Rev. 04/11 (powerpoint slides) [DCFS01053-01074]		
110	DCFS Intranet training package, August 10, 2011 (includes printout from intranet, “Voter Registration” powerpoint slides, and “Voter Registration” pamphlet (dated May 2011)) [DCFS01079-01130]		
111	“Online Application Training Guide,” May 2010 & September 2010 (Note: Pages got Bates labeled out of order) [DCFS00851-00906]		
112a	“Voter Registration” pamphlet, March 2011 [DCFS Initial 00155-00165]		
112b	“Voter Registration” pamphlet, April 2011 [DCFS Initial 00098-00109]		
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113	Email chain between Crystal Romein and Deborah Aymond re: voter registration procedures, August 11, 2009 [DCFS8195] [Exhibit 33 to Doc. 241]		
114	Email from Rose Greene stating that voter registration is not longer required, September 27, 2002 [DCFS8197] [Exhibit 35 to Doc. 241]		
115	Email between Wanda B. Smith and Jeffrey Fuchs re: whether the office provides voter registration forms to clients, September 9, 2008 [DCFS8201] [Exhibit 32 to Doc. 241]		
116	Email re: VR reporting, September 26, 2002, [DCFS8246]		
117	Email re VR QA, March 20, 2006, [DCFS8256-8258]		
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120	PPR for Samuel Guillory [DCFS Conf 1535-1544]		
121	PPR for Wendell Burke Young [DCFS Conf 1545-1554]		
122	PPR for Wendell Burke Young [DCFS Conf 1555-1563]		
123	PPR for Johnnie Tyson [DCFS Conf 1564-1572]		

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143	All Responses provided by Defendant Ruth Johnson to Plaintiffs' First Request for Admissions, August 9, 2011		
144	All Responses provided by Defendant Ruth Johnson to Plaintiffs Revised First Set of Interrogatories (including all attachments), August 26, 2011		
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174	Email from R1WJMC423 to Denise Harris regarding PHAME Glitch, January 12, 2011, [DHH00602]		
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177	Email from Medicaid Eligibility Policy Unit, dated 8/5/11, with Voter Registration Declaration Form and Motor Voter Clearance Form attached [DHH87227-29]		
178	Email from Susan Badeaux to Darlene Hughes, copying Amanda Caire, regarding MEQC special project, June 6, 2011, [DHH87132]		
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217	Spreadsheet with survey results, undated, [DHH87125-31]		
218	Defendant Greenstein's Statement of Initial Disclosures, dated August 1, 2011 [Exhibit 13 to Doc. 112]		
219	All Responses provided by Defendant Greenstein to Plaintiffs' First Request for Admissions, August 9, 2011		
220	All Responses provided by Defendant Greenstein to Plaintiffs First Revised Set of Interrogatories (including all attachments), August 26, 2011		
221	All Responses provided by Defendant Greenstein to Plaintiffs Second Request for Admissions		
222a	<i>The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 1995-1996</i> , June 30, 1997 [Plaintiffs SOS 02493-95, 02555-68] [Exhibit 4 to Doc.		

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222b	<i>The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 1997-1998, June 30, 1999 [Plaintiffs SOS 02780, 02824-02837] [Exhibit 5 to Doc. 241]</i>		
222c	<i>The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 1999-2000, June 30, 2001 [Plaintiffs SOS 03048, 03108-21] [Exhibit 6 to Doc. 241]</i>		
222d	<i>The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 2001-2002, June 30, 2003 [Plaintiffs SOS 02986, 03026-02038] [Exhibit 7 to Doc. 241]</i>		
222e	<i>The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 2003-2004, June 30, 2005 [Plaintiffs SOS 02631, 02658] [Exhibit 8 to Doc. 241]</i>		
222f	<i>The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 2005-2006, June 30, 2007 [Plaintiffs SOS 02864, 02902-02904] [Exhibit 9 to Doc. 241]</i>		
222g	<i>The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 2007-2008, June 30, 2009 [Plaintiffs SOS 02688, 02731-02737] [Exhibit 10 to Doc. 241]</i>		

222h	<i>The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 2009-2010</i> , June 30, 2011 [Plaintiffs SOS 02413, 02453-02461] [Exhibit 3 to Doc. 241]		
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224	2006 EAC Questionnaire, [SOS01451-01466]		
225	2006 EAC Parish Breakdown, [SOS01485-01500]		
226	2006 EAC Code Breakdown, [SOS01512-01548]		
227	EAC 2008 Election Administration & Voting Survey: Statutory Overview (draft) [SOS01598-01638]		
228	2008 EAC Questionnaire, [SOS01745-S01842]		
229	2010 EAC Questionnaire, [SOS02049-02077]		
230	2010 EAC Supporting Document, [SOS02203-02271]		
231	2010 EAC Data Document, [SOS02551-02596]		
233	Transcript of Oral Argument Before the Honorable Jane Triche Milazzo in <i>Scott v. Schedler</i> , Civ. A. No. 2:11-cv-00926-JTM-JCW, dated April 20, 2012 [Exhibit 1 to Doc. 241]		
234	Declaration of Luther Scott, Jr., dated March 4, 2012 [Doc 168-7, Exhibit 66]		
235	Supplemental Declaration of Luther Scott, Jr., dated August 28, 2012 [Doc 321-12, Exhibit 52]		
236	Declaration of Edward W Taylor, III, dated March 30, 2012 [Doc 185-1]		

237	Declaration of Ernest Johnson, Sr., dated August 27, 2012 [Doc 321-15, Exhibit 55]		
238	Civic Engagement Toolkit, Let's Do It Again - 11/2/10, [LA-NAACP 0069-0110]		
239	Voter Mobilization Toolbox: Phone Bank [LA-NAACP 0664-701]		
240	Email from Chipps Taylor, Subj: Let's Do It Again, September 26, 2010, [LA-NAACP 0648]		
241	"Let's Do It Again 2010" Unit Grant Application [LA-NAACP 0649-0658]		
242	"Let's Do It Again 2010" Application in text (LA-NAACP 0846-0861)		
243	"Let's Do It Again 2010 – One Nation Voter Registration weekend" [LA-NACCP 0833—834]		
244	2010 Civic Engagement Budget Document [LA-NAACP 0742]		
245	Yes We Count Unit Grant Application, [LA-NAACP 0864-0872]		
246	Email from Kirk Clay, Subj: Target Units - Let's Do It Again in 2010, September 1, 2010, [LA-NAACP 0884-0885]		
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255	Submission Batch Sheet, August 24, 2004, [LA-NAACP 0011]		
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263	Submission Batch Sheet, September 29, 2004, [LA-NAACP 0010]		
264	Submission Batch Sheet (Instructions), [LA-NAACP 0220]		
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	[LA-NAACP 0570]		
267	NAACP NVF Empowerment 2004 Campaign Voter Work Agreement, signed by Anita Lemon, [LA-NAACP 0232-0234]		
268	Emails re: 2004 August training, [LA-NAACP 0153-0156]		
269	8-25-2004 e-mail chain regarding Voter registration conference call (LA-NAACP 0153-0158)		
270	Chain of emails, [LA-NAACP 0878-0880]		
271	Chain of emails between Kirk Clay, Dr. Ernest Johnson, Roger Vann, and Rev. Taylor [LA- NAACP 0744-0746]		
272	9-29-2010 e-mail from Kirk Clay about Let's Do it Again training [LA-NAACP 0795-0798]		
273	Agreement for Services between Edward Taylor, III and NAACP National Voter Fund, August 1, 2004, [LA-NAACP 0001-0004]		
274	Letter re: need for 20,000 voter registration applications August 4, 2004 (LA-NAACP 0005)		
275	9-2004 Field Funds request (LA- NAACP 0007)		
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280	NAACP Register to Vote 2004 Coordinator and Staff, [LA- NAACP 0233-0234]		
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282a	Louisiana Voter Registration Report, 2004 [LA-NAACP 0168]		
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284	Untitled, handwritten notes with budget numbers, [LA-NAACP 0499]		
285	Untitled, handwritten notes with budget numbers, [LA-NAACP 0546-0548]		
286	Untitled, handwritten notes with possible VR numbers, [LA-NAACP 0491-0494]		
287	September 23, 2004 Convention Highlights [LA- NAACP 0207]		
288	Form letters from Rev. Taylor to employers, seeking permission to conduct VR, Sept 2, 2004 [LA-NAACP 0159-0164]		
289	Declarations of Sheila Williams regarding submission of VR apps, Oct 4, 2004 [LA-NAACP 0166-0167]		
290	Void check from NAACP NVF, Rev. Taylor to NAACP State Conference for \$1800, Sept 23, 2004 [LA-NAACP 0607]		
291	Report regarding 2010 civic engagement (LA NAACP 0635-0647)		
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232	Center on Budget & Policy Priorities, <i>Online Services for Key Low-Income Benefit Programs</i> , December 20, 2011 [Exhibit 2 to Doc. 111]	SOS	Authenticity

DEFENDANT SONNIER (DEPARTMENT OF CHILDREN AND FAMILY SERVICES)

List of Uncontested DCFS Exhibits			
DCFS Ex. #	Description		
1	Luther Scott, Jr. Declaration		
4	Luther Scott, Jr. Supplemental Declaration		
5	Luther Scott, Jr. Volume 1 Case File		
6	Shawn Banks Declaration with attachments		
8	Edward Taylor Declaration	Plaintiffs	
11	Ernest Johnson Declaration		
14	Angie Rogers Declaration with attachments		
16	Policy C-110 – NVRA Purpose and Objective (August, 1998)		
17	Policy C-220 – Voter Registration Requirements (August, 1998)		
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19	Policy E-1981 – Executive Bulletin NVRA (March, 1995)		
20	Policy C-210 – NVRA Responsibilities (May, 2010)		
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24	LA Administrative Code Voter Registration Services (December, 2010)		
26	Policy E-2451 – Voter Registration Annual Training (March, 2011)		
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28	Policy C-110 – Purposes and Objectives (May, 2011)		
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37	Policy O-320 – DSNAP Interviews (June, 2011)		
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54	Food Stamp Orientation Manual (January, 2007)		
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137	4MR (June, 2010)		
138	4MR (December, 2010)		
139	4MR (February, 2011)		
140	4MR (August, 2011)		
142	DSNAP Application Form (May, 2011)		
143	DSNAP Application Form Supplement (May, 2011)		
144	DSNAP Rights and Responsibilities (May, 2011)		
145	DSNAP Voter Registration Form (June, 2011)		
146	Online SNAP Application		
147	Online FITAP Application		
148	Online CCAP Application		
149	Online KSCP Application		
150	Online Application Screenshots		
151	OFS 4I Information – Application for Assistance		
152	Training Manual A-110 4APP (November, 2007)		
153	Training Manual A-110 4APP (March, 2009)		
154	Training Manual A-110 4APP (April, 2009)		
155	Training Manual A-110 4APP (October, 2010)		
156	Online Training Guide (May, 2010)		
157	Online Training Guide (September, 2010)		
158	Training Manual SNAP Forms (July, 2010)		
159	Training Manual Reading Assignments (December, 2007)		
160	Training Manual The Interview (December, 2007)		
161	NVRA Training Materials (March, 2011)		
162	Intranet NVRA Training		

163	Secretary of State Training Material to DCFS (June, 2011)		
165	Email to Rose Greene		
179	Email from Jeffrey Fuchs		
180	Email to Jeffrey Fuchs		
181	Email from Crystal Romein		
182	DCFS Response to 1st Set of Interrogatories		
183	DCFS Response to 1st Set of Admissions		
184	DCFS Response to 1st Request for Production		
185	DCFS Response to 1st Revised Set of Interrogatories		
186	DCFS Response to 2nd Set of Admissions		
187	DCFS Response to 2nd Request for Production		
188	DCFS Response to 3rd Request for Production		
189	DCFS 1st Supplemental Responses		
190	DCFS 2nd Supplemental Responses		
191	DCFS 3rd Supplemental Responses		
192	DCFS 4th Supplemental Responses		

List of Contested DCFS Exhibits			
DCFS Ex. #	Description	Party Contesting	Reason Contesting
None			

DEFENDANT GREENSTEIN (DEPARTMENT OF HEALTH & HOSPITALS)

List of Uncontested DHH Exhibits			
DHH Ex. #	Description	Party Contesting	Reason Contesting

1	Medicaid paper application with a Mail Voter Registration Application and a Voter Registration Declaration attached		
2	Medicaid recertification form with a Mail Voter Registration Application and a Voter Registration Declaration attached		
3	Medicaid change of address form with a Mail Voter Registration Application and a Voter Registration Declaration attached		
4	Medicaid online application/recertification with a Mail Voter Registration Application and a Voter Registration Declaration attached		
6	Directive from DHH Secretary Bruce D. Greenstein dated May 26, 2011		
7	July 2011 Medicaid Administrative Procedures Manual		
9	Medicaid MEQC Project for National Voter Registration (NVRA) (aka NVRA Compliance Review), including the written policy and the results of the Project		
10	Directive from DHH Secretary Bruce D. Greenstein dated May 25, 2011		
11	Directive from DHH Secretary Bruce D. Greenstein dated August 1, 2011		
12	WIC application form (online screenshots)		
13	WIC voter registration application form		
14	WIC voter registration declaration form		

List of Contested DHH Exhibits			
DHH Ex. #	Description	Party Contesting	Reason Contesting

5	Medicaid online change of address with a Mail Voter Registration Application and a Voter Registration Declaration attached	Plaintiffs	Not produced in discovery
8	March 2012 Medicaid NVRA training power point	Plaintiffs	Not produced in discovery
15	WIC manual, Chapter 23	Plaintiffs	Not produced in discovery
16	January 2012 WIC training Powerpoint	Plaintiffs	Not produced in discovery

DEFENDANT SCHEDLER (SECRETARY OF STATE)

List of Uncontested SOS Exhibits			
SOS Ex. #	Description	Party Contesting	Reason Contesting
1	Declaration of Luther Scott of March 4, 2012		
2	Declaration of Luther Scott of August 2012		
3	Application for Food Stamps September, 2009		
5	Amy Colby letter of June 23, 2011 - voter registration application		
6	Completed voter registration applications - Luther Scott, Jr.		
12	Complaint		
17	Voter Registration Application, LR-1M (Sample)		
18	Voter Registration Agencies Declaration Sheet (Sample)		
19	"Implementing the National Voter Registration Act of 1993: Requirements, Issues, Approaches, and Examples," Prepared by the National Clearinghouse on Election Administration, Federal Election Commission, Washington, D.C., January 1, 1994 (Parts 1 - 2)		

21	“Implementing the NVRA in Mandated Voter Registration Agencies” (Revised, February, 1998)		
23	“Implementing the National Voter Registration Act In Voter Registration Agencies” (Revised January, 2004)		
24	“Implementing the National Voter Registration Act In Voter Registration Agencies” (Rev. 12/07)		
25	“Implementing the National Voter Registration Act In Voter Registration Agencies” (Rev. 10/09)		
26	“Implementing the National Voter Registration Act in Voter Registration Agencies” (Rev. 12/07 and Revised 2008) (Power Point Training Presentation for Public Assistance Offices)		
27	“Implementing the National Voter Registration Act in Voter Registration Agencies (Rev. 07/09 and Revised 2011) (Power Point Training Presentation for Public Assistance Offices Medicaid Application Centers)		
28	“Implementing the National Voter Registration Act in Voter Registration Agencies” (Rev. 04/2011 and Revised 2011) (Power Point Training Presentation for Public Assistance Offices Medicaid Application Centers)		

29	DVD, "Implementing the National Voter Registration Act in Voter Registration Agencies", Public Assistance Offices, Medicaid Training, as revised 04/2011 (NOTE: Delivered manually to all parties and court)		
30	FEC Report, The Impact of the National Voter Registration Act of 1993 in the Administration of Elections For Federal Office 1995-1996		
31	FEC Report, The Impact of the National Voter Registration Act of 1993 in the Administration of Elections For Federal Office 1997-1998		
32	FEC Report, The Impact of the National Voter Registration Act of 1993 in the Administration of Elections For Federal Office 1999-2000		
33	FEC Report, The Impact of the National Voter Registration Act of 1993 in the Administration of Elections For Federal Office 2001-2002		
34	EAC Report, The Impact of the National Voter Registration Act of 1993 in the Administration of Elections For Federal Office 2003-2004		
35	EAC Report, The Impact of the National Voter Registration Act of 1993 in the Administration of Elections For Federal Office 2005-2006		

36	EAC Report, The Impact of the National Voter Registration Act of 1993 in the Administration of Elections For Federal Office 2007-2008		
37	EAC Report, The Impact of the National Voter Registration Act of 1993 in the Administration of Elections For Federal Office 2009, 2010		
38	Second Set of Interrogatories and Requests for Production of Documents Propounded To Louisiana State Conference of the NAACP		
39	Plaintiffs' Responses to Defendant Schedler's Second Request for Production of Documents - written response		
42	Declaration of Ernest L. Johnson, Jr., August 27, 2012		
44	"Agreement For Services" by and between Edward "Chipps" Taylor, III, and NAACP National Voter Fund dated August 1, 2004		
45	Business Card (2004)		
46	Blank checks (2004)		
47	Fund Request (2004)		
48	Volunteer Work Agreement (2004)		
49	Letterhead (2004)		
50	Declaration of Edward W. Taylor, III, March 5, 2012		
51	Declaration of Edward W. Taylor, III, March 30, 2012		
55	Rules and Regulations, Federal Election Commission, 11 CFR Part 8, Notice 1994-8, National Voter Registration Act of 1993, Thursday, June 23, 1994		

56	Letter re Get Out the Vote Grant (undated)		
57	October 18, 2010 email from Tyra Banks to Chipps Taylor with attachment		
58	Information Sheet - GOTV Activities (LA-NAACP 0083 to LA-NAACP 0099)		
59	Yes We Count Unit Grant Application		
60	Email/Lists Do it Again Unit Grant Application		
61	The National Voter Registration Act of 1993: Questions and Answers, printed from: http://www.justice.gov/crt/about/vot/vnra/nvra_faq.php		

List of Contested SOS Exhibits			
SOS Ex. #	Description	Party Contesting	Reason Contesting
4	Application for Food Stamps December, 2011	Plaintiffs	Not produced in discovery
7	Luther Scott, Jr. voter registration record - ERIN Orleans 9-10-12	Plaintiffs	Foundation; authenticity
8	Luther Scott, Jr. Jefferson Record 9-10-12	Plaintiffs	Foundation; authenticity
9	Luther Scott West Feliciana Record 9-10-12	Plaintiffs	Foundation; authenticity
10	Luther Scott, Jr. Deposition of 5-10-2012	Plaintiffs	Failure to designate deposition; may not enter full deposition
11	Luther Scott, Jr. deposition of 7-31-2012	Plaintiffs	Failure to designate deposition; may not enter full deposition

13	Combined Voter Registration Percentages in Louisiana and Total Registrations June 2011 - July 2012	Plaintiffs	Foundation; authenticity
14	Louisiana Registered Voters 12-15-2001 thru 7-1-2011	Plaintiffs	Foundation; authenticity
15	Total US Population of 7-1-2000 thru 7-15-2012	Plaintiffs	Foundation; authenticity
16	Louisiana Voting Age Population 4-1-2000 thru 7-1-2011	Plaintiffs	Foundation; authenticity
20	"Implementing the NVRA in Mandated Voter Registration Agencies" (March, 1995)	Plaintiffs	Not produced in discovery
22	"Implementing the National Voter Registration Act In Voter Registration Agencies" (Revised, July 2000)	Plaintiffs	Not produced in discovery
40	Plaintiffs' Response to Defendant Schedler Second Request For Production of Documents - documents produced on compact disk (Parts 1-15) (FIX INTO ONE)	Plaintiffs	May not enter full document product without identifying specific documents within production
41	Rule 30(b)(6) Deposition of Louisiana State Conference of the NAACP - June 6, 2012 - Volume I - Ernest Johnson; Exhibit B - Letter from Ernest Johnson, President, NAACP State Conference of Louisiana; Exhibit C - Letter from Ernest Johnson, State President, NAACP Louisiana State Conference	Plaintiffs	Failure to designate deposition; may not enter full deposition

43	Rule 30(b)(6) Deposition of Louisiana State Conference of the NAACP - June 6, 2012 - Volume II - Edward W. "Chipps" Taylor, III w/exhibits; La State Conf of NAACP 2 - Agreement for Services (2004); La State Conf of NAACP 3 - Business Card (2004); La State Conf of NAACP 4 - Blank checks (2004); La State Conf of NAACP 5 - Fund Request (2004); La State Conf of NAACP 6 - Volunteer Work Agreement (2004); La State Conf of NAACP 7 - Letterhead (2004); La State Conf of NAACP 8 - Bates Numbers from discovery re 2004; La State Conf of NAACP 9 - Voided check, September 23, 2004; La State Conf of NAACP 10 - 2004 La State Conference of NAACP Annual State Convention; La State Conf of NAACP 11 - Bates Numbers from discovery; La State Conf of NAACP 12 - March 30, 2012 Declaration of Taylor; La State Conf of NAACP 13 - Yes We Count Unit Grant Application; La State Conf of NAACP 14 - Email/Lists Do It Again Unit Grant Application; La State Conf of NAACP 15 - Letter re Get Out the Vote Grant (undated)	Plaintiffs	Failure to designate deposition; may not enter full deposition
52	Rule 30(b)(6) Deposition of Louisiana State Conference of the NAACP - July 31, 2012 - Volume V - Ernest Johnson, Edward W. "Chipps" Taylor, III, Alice Harris Lewis, and Jerome Boykin	Plaintiffs	Failure to designate deposition; may not enter full deposition
53	Rule 30(b)(6) Deposition of Louisiana State Conference of the NAACP - June 7, 2012 - Volume III - Alice Louis, Alvin Lewis and Jerome Boykin	Plaintiffs	Failure to designate deposition; may not enter full deposition
54	Rule 30(b)(6) Deposition of Louisiana State Conference of the NAACP - July 12, 2012 - Volume IV - Charles D. Heckard	Plaintiffs	Failure to designate deposition; may not enter full deposition
62	Designations from Rule 30(b)(6) Deposition of Louisiana State Conference of the NAACP – June 6, 2012 – Volumes I and II – Ernest L. Johnson	Plaintiffs	Witness will be available to testify at trial

XI. DEPOSITION TESTIMONY

The parties have agreed to designate the deposition testimony of the following individuals in lieu of live testimony:

1. Brad Coney, University of New Orleans, IT Contractor (DHH)
628 North Fourth Street,
Baton Rouge, Louisiana 70802
2. Susan Eversull, Core CAFE Project Manager (DCFS)
627 North Fourth Street,
Baton Rouge, Louisiana 70802
3. Chandra Kandula, Tech (DCFS)
627 North Fourth Street,
Baton Rouge, Louisiana 70802

PLAINTIFFS:

None at this time, except for impeachment purposes. Plaintiffs' understanding is that all witnesses identified herein are available to testify at trial. Plaintiffs reserve the right to make additional designations within 5 days of trial as allowed under the Pre-trial Notice should any witness in this case become unavailable or beyond the reach of the Court within the meaning of the Federal Rules of Evidence.

Plaintiffs object to DCFS's and SOS's designations of entire deposition transcripts (for purposes other than impeachment), without identifying specific portions of those depositions that DCFS and SOS intend to introduce as exhibits.

Defendant Johnson (Department of Children and Family Services)

Depositions of Luther Scott, Jr. taken on May 10, 2012 and July 31, 2012.

Depositions of Earnest Johnson taken on June 6, 2012 and July 31, 2012.

Defendant Johnson reserves the right to offer any deposition for the purposes of impeachment.

Any depositions offered into evidence by the Plaintiffs and co-defendants.

Defendant Greenstein (Department of Health & Hospitals)

Defendant Greenstein does not intend to offer any deposition testimony into evidence except that used for impeachment purposes.

Defendant Schedler (Secretary of State)

As identified in exhibit list. The portions, objections, etc. will be discussed with plaintiffs.

XII. CHARTS, GRAPHS, ETC.

PLAINTIFFS:

Will use enlargements of some of the exhibits listed and demonstratives listing voter registration data for Louisiana.

DEFENDANTS:

Defendant Johnson (Department of Children and Family Services)

Defendant Ruth Johnson does not intend to utilize any graphs, charts, or similar objects during its opening or closing statements.

Defendant Greenstein (Department of Health & Hospitals)

None.

Defendant, Secretary of State

Objects to the use of undisclosed demonstrative evidence.

XIII. LIST OF WITNESSES

PLAINTIFFS:

Will call:

1. Luther Scott, Jr.
2515 Magnolia Street
New Orleans, Louisiana 70113

Re: Standing to be party-plaintiff; applications in 2009 and 2010 for benefits, did not decline to register to vote in writing by checking the "NO" box; did not receive voter registration forms; currently not registered to vote at present address.

2. Edward Taylor, Louisiana State Conference of the NAACP
1005 Richsmith Lane
Hammond, Louisiana 70403

Re: Standing to be party-plaintiff; organization engages in voter registration drives, has expended resources registering low-income voters in low registration areas, including public assistance clients; time expended on voter registration could have been put to other uses.

3. Samuel Guillory, Deputy Assistant Secretary, Division of Programs (DCFS)
627 North Fourth Street,
Baton Rouge, Louisiana 70802

Re: NVRA compliance during covered transactions, including but not limited to, policy of only distributing voter registration applications when a client affirmatively requests them; DCFS policy that clients may be referred to the Secretary of State website to download voter registration applications; and failure of DCFS to have policies ensuring NVRA procedures are followed. DCFS' failure to offer voter registration services during certain covered transactions, including but not limited to, complete failure to offer any voter registration services during certain programs offered by DCFS; failure to offer voter registration during some redetermination transactions; and failure to offer voter registration during some change of address transactions before 2011. DCFS systems, policies and practices about compliance with NVRA. Training and evaluation of NVRA compliance at DCFS, including but not limited to, NVRA compliance as a part of employee reviews and employee supervision, and NVRA data tracking.

4. Dwayne P. Joubert, Intake Analyst, SNAP Benefits (DCFS)
627 North Fourth Street,
Baton Rouge, Louisiana 70802

Re: NVRA compliance during covered transactions, including but not limited to, policy of only distributing voter registration applications when a client affirmatively requests them; and DCFS policy that clients may be referred to the Secretary of State

website to download voter registration applications. DCFS systems, policies and practices about compliance with NVRA. Training and evaluation of NVRA compliance at DCFS, including but not limited to, employee reviews, employee supervision, case reviews, and data tracking.

5. Catherine Michiels, Regional Administrator for Region 6 (DCFS)
627 North Fourth Street,
Baton Rouge, Louisiana 70802

Re: NVRA compliance during covered transactions, including but not limited to, policy of only distributing voter registration applications when a client affirmatively requests them, DCFS policy that clients may be referred to the Secretary of State website to download voter registration applications; and failure of DCFS to have policies ensuring NVRA procedures are followed. DCFS systems, policies and practices about compliance with NVRA. Training and evaluation of NVRA compliance at DCFS, including but not limited to, NVRA compliance as part of employee reviews, employee supervision, case reviews and data tracking.

6. Wendell Young, Parish Manager 2 (DCFS)
627 North Fourth Street,
Baton Rouge, Louisiana 70802

Re: NVRA compliance during covered transactions, including but not limited to, policy of only distributing voter registration applications when a client affirmatively requests them; DCFS policy that clients may be referred to the Secretary of State website to download voter registration applications; failure of DCFS to have policies ensuring NVRA procedures are followed, and DCFS' failure to offer voter registration services during certain covered transactions. DCFS systems, policies and practices about compliance with NVRA. Training and evaluation of NVRA compliance at DCFS, including but not limited to, employee reviews and employee supervision, case reviews, and data tracking.

7. Susan Eversull, Core CAFE Project Manager (DCFS) (by deposition transcript)
627 North Fourth Street,
Baton Rouge, Louisiana 70802

Re: Development and use of DCFS computer programs and software used for covered transactions, including but not limited to, the online application system in use since Spring 2010, the voter preference question found within such software, the ability to modify such programs and software, changes to the case management system and the implementation and use of the CAFE system. The potential for reporting and data collection related to voter registration and covered transactions through software.

8. Stephanie Brooks, Tech (DCFS)
627 North Fourth Street,
Baton Rouge, Louisiana 70802

Re: Development and use of DCFS computer programs and software used for covered transactions, including but not limited to, the online application system in use since Spring 2010, the voter preference question found within such software, the ability to modify such programs and software, changes to the case management system and the implementation and use of the CAFE system. The potential for reporting and data collection related to voter registration and covered transactions through software.

9. Chandra Kandula, Tech (DCFS) (by deposition transcript)
627 North Fourth Street,
Baton Rouge, Louisiana 70802

Re: Development and use of DCFS computer programs and software used for covered transactions, including but not limited to, the online application system in use since Spring 2010, the voter preference question found within such software, the ability to modify such programs and software, changes to the case management system and the implementation and use of the CAFE system. The potential for reporting and data collection related to voter registration and covered transactions through software.

10. Dianne Batts, Medicaid Deputy Director (DHH)
628 North Fourth Street,
Baton Rouge, Louisiana 70802

Re: Number of applications and renewals for Medicaid per year; number of remote transactions per year (i.e. mail, internet); Medicaid policies on voter registration; distribution of voter registration forms and missing questions on Medicaid declaration forms; recent changes to Medicaid forms; remedies including training, employee and office review processes, and data tracking capabilities.

11. Christopher Chase, Medicaid Program Manager (DHH)
628 North Fourth Street,
Baton Rouge, Louisiana 70802

Re: Number of remote transactions and failure to offer voter registration during remote transactions; Medicaid policies on voter registration; failure to train on remote transactions; failure of Medicaid offices to distribute voter registration for address changes; and remedies including training programming.

12. Brad Coney, University of New Orleans, IT Contractor (DHH) (by deposition transcript)
628 North Fourth Street,
Baton Rouge, Louisiana 70802

Re: Existing Medicaid data tracking and reporting systems; online application system for remote transactions, and address change system, offered voter registration only recently; and remedies including improvements to online Medicaid application, case record, notices, and MEDS eligibility systems and enhanced data capabilities and tracking.

13. Angie Rogers, Commissioner of Elections (Secretary of State)
8585 Archives Avenue
Baton Rouge, Louisiana 70809

Re: Discussion of the Secretary of State's responsibilities under the NVRA, including providing training, providing voter registration forms and manuals; provision of declaration forms by Medicaid that were not compliant with the law; availability of registration forms at public assistance offices; review and treatment of voter registration forms after receipt in public assistance offices; the Secretary of State's position that the NVRA requires voter registration forms to be distributed only during in-person transactions; Secretary of State's new registrant statistics; and remedies including training programs, tracking of voter registrations, and use of declaration forms distributed during covered transactions.

14. Joanne Reed, Director of Voter Registration (Secretary of State)
8585 Archives Avenue
Baton Rouge, Louisiana 70809

Re: Secretary of State's obligations under the NVRA; NVRA training and compliance.

15. Donna Durand, Former (Retired) Assistant Director of Voter Registration (Secretary of State)
8585 Archives Avenue
Baton Rouge, Louisiana 70809

Re: Secretary of State's obligations under the NVRA; NVRA training and compliance; discussion of the Secretary of State's interactions with public assistance agencies, and requirements of compliance.

16. Cate McRitchie, Election Policy Specialist, Department of Voter Registration (Secretary of State)
8585 Archives Avenue
Baton Rouge, Louisiana 70809

Re: Secretary of State's obligations under the NVRA; NVRA training and compliance; content, format, and frequency of trainings provided by the Secretary of State's office; provision of voter registration forms to public assistance agencies by the Secretary of State.

17. Christine Weatherford, Director of IT (Secretary of State)
8585 Archives Avenue
Baton Rouge, Louisiana 70809

Re: Secretary of State's new registrant statistics; management and direction of ERIN voter registration and election system; remedies, including ERIN tracking of online voter registrations, and tracking of in-person applications; and reporting and data capabilities.

May call:

18. Ernest Johnson, President, Louisiana State Conference of the NAACP
3313 Government Street
Baton Rouge, Louisiana 70806

Re: Standing to be party-plaintiff.
19. Charles D. Heckard, Treasurer, Louisiana State Conference of the NAACP
2608 May Street
Baton Rouge, Louisiana 71202

Re: Standing to be party-plaintiff.
20. Jerome Boykin, President, Terrebonne Parish Branch, Louisiana State Conference of the NAACP
405 Ardoyne Drive
Houma, Louisiana 70360

Re: Surveys of public assistance clients concerning NVRA non-compliance in Louisiana.
21. Alice Harris-Lewis, Treasurer & Member, New Orleans Branch, Louisiana State Conference of the NAACP
4650 Coronado Drive
New Orleans, Louisiana 70127

Re: Surveys of public assistance clients concerning NVRA non-compliance in Louisiana.
22. Alvin Louis, Member, Louisiana State Conference of the NAACP
2565 Fawnwood Road
Marrero, Louisiana 70072

Re: Surveys of public assistance clients concerning NVRA non-compliance in Louisiana.
23. Rose Greene, Regional Manager (DCFS)
627 North Fourth Street,
Baton Rouge, Louisiana 70802

Re: DCFS systems, policies and practices about compliance with NVRA. Training and evaluation of NVRA compliance at DCFS, including but not limited to, NVRA compliance as part of employee reviews and employee supervision.

24. Johnnie Tyson, Social Service Analyst 2 (DCFS)
627 North Fourth Street,
Baton Rouge, Louisiana 70802

Re: NVRA compliance during covered transactions, including but not limited to, policy of only distributing voter registration applications when a client affirmatively requests them; DCFS policy that clients may be referred to the Secretary of State website to download voter registration applications; and DCFS' failure to offer voter registration services during certain covered transactions. DCFS systems, policies and practices about compliance with NVRA. Discussion about training and evaluation of NVRA compliance at DCFS.

25. Terri Eckles, Tech (DCFS)
627 North Fourth Street,
Baton Rouge, Louisiana 70802

Re: Development and use of DCFS computer programs and software used for covered transactions, including but not limited to, the online application system in use since Spring 2010, the voter preference question found within such software, the ability to modify such programs and software, changes to the case management system and the implementation and use of the CAFE system. The potential for reporting and data collection related to voter registration and covered transactions through software.

26. Darlene Hughes, Medicaid Program Manager 2 (DHH)
628 North Fourth Street,
Baton Rouge, Louisiana 70802

Re: Medicaid and voter registration forms; Medicaid policies on voter registration; NVRA trainings for Medicaid personnel; and Medicaid personnel and NVRA responsibilities.

27. John Mancuso, Medicaid Analyst (DHH)
628 North Fourth Street,
Baton Rouge, Louisiana 70802

Re: Review of Medicaid eligibility and renewal materials; discussion of duties under the NVRA; recent changes to Medicaid forms; number of voter registration activities; and signage and availability of information.

28. Monica McDaniels, Assistant WIC Director, Public Health Nutritionist 7 (DHH)
628 North Fourth Street,
Baton Rouge, Louisiana 70802

Re: WIC responsibilities under the NVRA; information provided to program applicants; applications and reporting with the PHAME online application; WIC policies and procedures.

29. Kim Ricks, Administrative Coordinator 3 (DHH)
628 North Fourth Street,
Baton Rouge, Louisiana 70802

Re: Presence of voter registration questions on WIC forms; past and current practices regarding voter registration and NVRA; use of online PHAME application; training on policies, procedures, and applications.

30. Pamela Harris, Public Health Nutritionist 8, WIC Program (DHH)
628 North Fourth Street,
Baton Rouge, Louisiana 70802

Re: Number of participants in the WIC program per year; WIC responsibilities under the NVRA; failure to use declaration forms; failure to provide employee training; and remedies including mandatory, expanded trainings and employee reviews.

DEFENDANTS:

Defendant Sonnier (Department of Children and Family Services)

Will Call

1. Sammy Guillory, Deputy Assistant Secretary, Division of Programs, DCFS.

Re: May testify as to past Department policies, practices, and protocol with regard to the SNAP program, implementation of new policies since January 2011, and current policies, practices, and protocol with regard to Division programs with respect to voter registration.

2. Kim Matherne, Executive Director of Economic Stability, DCFS.

Re: May testify as to past and current Department policies, forms, practices, and protocol with regard to the DCFS programs covered by the NVRA.

3. Catherine Michiels, Lake Charles Regional Administrator, DCFS.

Re: May testify as to the management structure and makeup of DCFS for non-State office employees, protocol for delivery of policy and guidance to field offices in the Lake Charles Region, and staff training since September 2011.

4. Rose Greene, Area Manager, Lake Charles Region, DCFS.

Re: May testify as to protocol for delivery of policy and guidance to non-State office employees for the Lake Charles Region, and past and present voter registration training, past and present guidance or discussions pertaining to voter registration for the Lake Charles Region as an Area Manager, Parish Manager, and Regional Supervisor.

May Call:

5. Suzy Sonnier, Secretary of DCFS
Department of Children and Family Services
Iberville Building
627 North Fourth Street
Baton Rouge, Louisiana 70802

Re: May testify on policy and procedures with respect to the NVRA as to programs under the administration of DCFS.

6. Terri Eckles, IT Management Consultant Supervisor, DCFS.

Re: May testify as to the technical aspects of online applications from 2009 to 2012, proposed CAFÉ' startup and CAFÉ administration in preparation for Department release prior to February 2012, and current recent CAFÉ administration and proposed changes.

7. Susan Eversull, former Core CAFÉ Project Manager, DCFS (by deposition transcript).

Re: Retired from the Department July 2012. May testify as to proposed CAFÉ' startup and CAFÉ administration in preparation for Department release prior to February 2012 and CAFÉ administration until her departure from the Department.

8. Chandra Kandula, Multivision, Inc. – Technical Lead, contract employee of DCFS (by deposition transcript).

Re: May testify to technical aspects of online applications, ability to capture, report production, field entries, and makeup of the LAMI and CAPS systems.

9. Luther Scott, Jr., Plaintiff.

Re: on cross-examination as permitted.

10. Rev. Edward “Chipp” Taylor, Member Chairman and Religious Affairs, Chairman for the Louisiana State Conference of the NAACP.

Re: on cross-examination where permitted.

11. Jerome Boykin- President, Terrebonne Parish Chapter of the NAACP

Re: on cross-examination where permitted.

12. Earnest Taylor, President of the Louisiana State Conference of the NAACP

Re: on cross-examination where permitted.

13. Shawn Banks
Employee of DCFS

Re: DCFS records of Luther Scott and voter registration procedures and training at Orleans DCFS office.

14. Yolanda Johnson Ash
Employee of DCFS

Re: DCFS records of Luther Scott and voter registration procedures and training at Orleans DCFS office.

Defendant Greenstein (Department of Health & Hospitals)

15. Bruce D. Greenstein, Defendant, Secretary of the Louisiana Department of Health and Hospitals
628 N. 4th Street
Baton Rouge, LA 70821-3836

Re: Policy of the Department with respect to the NVRA

16. Diane S. Batts, DHH Deputy Medicaid Director
628 N. 4th Street
Baton Rouge, LA 70821-3836

Re: Policies and procedures of Medicaid with respect to the NVRA

17. Pamela Denise Harris, Public Health Nutritionist 8, DHH Office of Public Health
628 N. 4th Street
Baton Rouge, LA 70821-3836

Re: Policy and procedures of WIC with respect to the NVRA

18. Linda Franklin, Administrative Coordinator 4, Orleans Parish Medicaid Office
1450 Poydras Street, Suite 1018
New Orleans, LA 70112

Re: NVRA Procedures in the Orleans Parish Medicaid Office

19. Marjorie Jenkins, Medicaid Assistant Regional Administrator
2521 Wooddale Blvd.
Baton Rouge, LA 70821

Re: NVRA Policies and Procedures in DHH Region 2

20. Brad Coney, University of New Orleans, IT Contractor (DHH) (by deposition transcript)
628 North Fourth Street,
Baton Rouge, Louisiana 70802

Defendant Schedler (Secretary of State)

Will Call:

21. Elsie Cangelosi
514 Polytech Avenue
Baton Rouge, LA

Re: Actions of the defendant Louisiana Secretary of State and Louisiana Commissioner of Elections to coordinate responsibilities under the NVRA, including but not limited to implementation of NVRA in Louisiana, adoption of legislation, development of training manuals and forms, training, and efforts to coordinate NVRA responsibilities with involved agencies.

22. Angie Rogers
Commissioner of Elections
Louisiana Department of State
Twelve United Plaza
8585 Archives Ave.
Baton Rouge, LA 70809

Re: Louisiana Voter Registration and Election system records and voting history of Luther Scott; actions of the Louisiana Secretary of State and the Commissioner of Elections in coordinating responsibilities under the NVRA, including but not limited to the administration of statewide voter registration database, administrative rules, forms, training, required preclearance, use of website for NVRA information, training manuals, electronic online registration applications, programming and update of ERIN for reporting, cancellations, death and felons; voter outreach and voter education activities; voter registration options; and voter registration rate; assignment of NVRA duties within the Department.

23. Cate McRitchie
Twelve United Plaza
8585 Archives Ave.
Baton Rouge, LA 70809

Re: NVRA training, training materials, and voter registration forms

May Call:

24. Christine Weatherford
Information Technology Director
Louisiana Secretary of State

Twelve United Plaza
8585 Archives Ave.
Baton Rouge, LA 70809

Re: ERIN computer system for voter registration and preparation of EAC reports

25. Joanne Reed
Louisiana Secretary of State
Twelve United Plaza
8585 Archives Ave.
Baton Rouge, LA 70809

Re: NVRA duties and responsibilities within the Secretary of State office

26. Donna Durand
7483 Penhill Drive
Baton Rouge, LA 70817

Re: NVRA duties and responsibilities within the Secretary of State office

27. Shawn Banks
Employee of DCFS

Re: DCFS records of Luther Scott and voter registration procedures and training at Orleans DCFS office.

28. Yolanda Johnson Ash
Employee of DCFS

Re: DCFS records of Luther Scott and voter registration procedures and training at Orleans DCFS office.

29. Dr. Sandra Wilson,
1W24 City Hall
1300 Perdido Street
New Orleans, LA 70112

Registrar of Voters, Orleans Parish

Re: Voting registration records of Luther Scott and registrar of voters responsibility respecting voter registration applications and procedures relating thereto; activities of Voter Outreach Division of the Louisiana Secretary of State.

30. Ernest Johnson
President, Louisiana State Conference of The NAACP
3313 Government Street
Baton Rouge, LA 70806

Re: On cross-examination; Regarding voter registration activities and resources by Louisiana State Conference of the NAACP (by deposition as permitted under the Rules)

XIV. BENCH TRIAL

This will be a bench trial with respect to all disputed issues.

Suggested findings of fact and conclusions of law and a separate trial memorandum are required, unless ordered otherwise by the Court, and shall be submitted not less than five full working days prior to trial.

XV. DAMAGES

Plaintiffs do not seek damages. Plaintiffs seek injunctive relief and declaratory judgment.

XVI. TRIAL

Trial shall commence on October 15, 2012 at 8:30 AM, and is expected to last 5 days.

XVII. FORMATION OF PRE-TRIAL ORDER

This pre-trial order has been formulated after a conference at which counsel for the respective parties have appeared telephonically. Reasonable opportunity has been afforded counsel for corrections, or additions, prior to signing. Hereafter, this order will control the course of the trial and may not be amended except by consent of the parties and the Court, or by order of the Court to prevent manifest injustice.

XVIII. POSSIBILITY OF SETTLEMENT

Possibility of settlement of this case was considered, however, the parties were unable to reach agreement.

XIX. SIGNATURE SPACES

Respectfully submitted,

/s/
Celia R. Cangelosi

/s/
Ronald Lawrence Wilson

(celiacan@bellsouth.net)
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/s/

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/s/

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/s/

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*MOTION FOR ADMISSION PRO HAC
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/s/

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/s/

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APPROVED this __ day of _____, 2012.

[JUDGE NAME]
UNITED STATES DISTRICT JUDGE

United States Court of Appeals
FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE
NEW ORLEANS, LA 70130

April 02, 2013

Mr. Dale Edwin Ho
NAACP
Legal Defense & Educational Fund
99 Hudson Street
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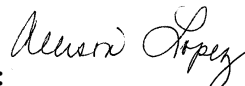
No. 13-30185, Luther Scott, Jr., et al v. Tom Schedler
USDC No. 2:11-CV-926

Your response to the motion to for injunction pending appeal exceeds the page limit of FED. R. APP. P. 27. You have until April 12, 2013 to file a response which is 20 or fewer pages, or to move for permission to file in excess of the page limitation.

Although you attached a motion to file in excess pages to your response, the motion must be filed separately. Since the motion for injunction pending appeal is presently under submission to the court, you should correct the deficiency as quickly as possible since a ruling on the motion could be entered at any time.

Sincerely,

LYLE W. CAYCE, Clerk


By: Allison G. Lopez, Deputy Clerk
504-310-7702

cc: Ms. Leah Camille Aden
Ms. Elise Catharine Boddie
Ms. Celia Rhea Cangelosi
Mr. Ryan Paul Haygood
Mr. Carey Thompson Jones
Ms. Natasha M. Korgaonkar
Mr. Ronald Lawrence Wilson