IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF TEXAS, Plaintiff, v. UNITED STATES OF AMERICA and ERIC H. HOLDER, JR., in his official capacity as Attorney General of the United States, Defendants.	Civil Action No. 1:11-cv-1303 (RMC)

ATTORNEY GENERAL'S RESPONSE TO MOTION TO INTERVENE

Defendant Eric H. Holder, Jr., Attorney General of the United States ("the Attorney General"), respectfully responds to the motion to intervene as defendants filed by Senator Wendy Davis, Representative Marc Veasey, John Jenkins, Vicki Bargas, and Romeo Muñoz (collectively "Movant-Intervenors"). Movant-Intervenors are residents and registered voters of Dallas County, Texas or Tarrant County, Texas. Senator Davis represents Texas Senate District 10, and Representative Veasey represents Texas House of Representatives District 95. Movant-Intervenors seek permissive intervention under Rule 24(b)(1) and intervention of right under Rule 24(a)(2) of the Federal Rules of Civil Procedure. Movant-Intervenors filed their motion to intervene on July 25, 2011 (Docket No. 5).

Consistent with his longstanding position in Voting Rights Act cases before this Court, and as represented by Movant-Intervenors in their papers, the Attorney General does not oppose permissive intervention under Rule 24(b)(1) but submits that the conditions are not met for intervention of right under Rule 24(a)(2).

Rule 24 Intervention Standard

Movant-Intervenors seek to intervene as defendants to this action under Rule 24. Rule 24 provides two ways to intervene as a party to litigation:

> (a) Intervention of Right. On timely motion, the court must permit anyone to intervene who: (1) is given an unconditional right to intervene by a federal statute; or (2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.
>
> (b) Permissive Intervention. (1) In General. On timely motion, the court may permit anyone to intervene who: (A) is given a conditional right to intervene by a federal statute; or (B) has a claim or defense that shares with the main action a common question of law or fact.

Fed. R. Civ. P. 24. Rule 24 "governs intervention" in a declaratory judgment action under Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. *Georgia* v. *Ashcroft*, 539 U.S. 461, 476-77 (2003).

Intervention Under Rule 24(b)

Movant-Intervenors argue that they are eligible for permissive intervention as defendants under Rule 24(b)(1). Rule 24(b)(1) gives this Court discretion to grant permissive intervention. The Attorney General does not oppose permissive intervention pursuant to Rule 24(b)(1).

This Court has "routinely allowed intervention by persons situated similarly" to Movant-Intervenors in declaratory judgment actions brought by covered jurisdictions against the Attorney General as the statutory defendant in cases involving the Voting Rights Act. *County*

Council of Sumter County v. *United States*, 555 F. Supp. 694, 696-97 (D.D.C. 1983).[1] As elected officials, residents, and registered voters, Movant-Intervenors possess relevant knowledge and a "local perspective on the current and historical facts," *id*. at 697, at issue in this litigation.

Intervention Under Rule 24(a)

Movant-Intervenors argue that they are eligible to intervene as defendants under Rule 24(a), which provides intervention of right under two circumstances.

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[1] *See also, e.g.*, Order, *LaRoque* v. *Holder*, No. 10-651 (D.D.C. Aug. 25, 2010); Orders, *Georgia* v. *Holder*, No. 10-1062, (D.D.C. July 7, 28, and 29 and Aug. 3, 2010); *Nw. Austin Mun. Utility Dist. No. One* v. *Gonzales*, 573 F. Supp. 2d 221, 230 (D.D.C. 2008), *rev'd and remanded on other grounds*, 129 S. Ct. 2504 (2009); Order, *N.C. State Bd. of Elections* v. *United States*, No. 02-1174, (D.D.C. June 25, 2002); Order, *La. House of Representatives v. Ashcroft*, No. 02-0062, (D.D.C. June 6, 2002); Order, *Florida* v. *United States*, No. 02-0941, (D.D.C. May 28, 2002); *Georgia* v. *Ashcroft*, 195 F. Supp. 2d 25, 32 (D.D.C. 2002), *aff'd in relevant part and vacated on other grounds*, 539 U.S. 461, 476-77 (2003); *Virginia* v. *Reno*, 117 F. Supp. 2d 46 (D.D.C. 2000); *Castro County* v. *Crespin*, 101 F.3d 121, 122 (D.C. Cir. 1996); *Bossier Parish Sch. Bd.* v. *Reno*, 157 F.R.D. 133, 134-35 (D.D.C. 1994); *Texas* v. *United States*, 866 F. Supp. 20, 21 (D.D.C. 1994); Order, *Lee County* v. *United States*, No. 93-708, 1994 WL 238848 (D.D.C. May 18, 1994); *Texas* v. *United States*, 802 F. Supp. 481, 482 n.1 (D.D.C. 1992); Order, *Mississippi* v. *United States*, No. 87-3464, 1988 WL 58904 (D.D.C. May 20, 1988); *South Carolina* v. *United States*, 589 F. Supp. 757, 758 (D.D.C. 1984); *City of Lockhart* v. *United States*, 460 U.S. 125, 129 (1983); *Comm'rs Court of Medina County* v. *United States*, 683 F.2d 435, 438 (D.C. Cir. 1982), *appeal after remand*, 719 F.2d 1179 (D.C. Cir. 1983); *Donnell* v. *United States*, 682 F.2d 240, 244 (D.C. Cir. 1982); *Busbee v. Smith*, 549 F. Supp. 494 (D.D.C. 1982), *aff'd on other grounds*, 459 U.S. 1166 (1983); *City of Port Arthur* v. *United States*, 517 F. Supp. 987, 991 n.2 (D.D.C. 1981), *aff'd on other grounds*, 459 U.S. 159 (1982); *Mississippi* v. *United States*, 490 F. Supp. 569, 574 (D.D.C. 1979), *aff'd on other grounds*, 444 U.S. 1050 (1980); *City of Dallas* v. *United States*, 482 F. Supp. 183, 184 (D.D.C. 1979); *Virginia* v. *United States*, 386 F. Supp. 1319, 1321 (D.D.C. 1974), *aff'd on other grounds*, 420 U.S. 901 (1975); *City of Richmond* v. *United States*, 376 F. Supp. 1344, 1349 n.23 (D.D.C. 1974), *vacated on other grounds*, 422 U.S. 358 (1975); *New York* v. *United States*, 65 F.R.D. 10, 12 (D.D.C. 1974); *Beer* v. *United States*, 374 F. Supp. 363, 367 n.5 (D.D.C. 1974), *vacated on other grounds*, 425 U.S. 130 (1976); *City of Petersburg* v. *United States*, 354 F. Supp. 1021, 1024 (D.D.C. 1972), *aff'd*, 410 U.S. 962 (1973), *aff'd sub nom. Diamond* v. *United States*, 412 U.S. 901 (1973). The unpublished orders cited above are attached as part of Exhibit 1.

First, Rule 24(a)(1) provides for intervention of right when intervention is expressly provided by a federal statute. No federal statute confers the right to intervene here, and Movant-Intervenors do not so contend.

Second, Rule 24(a)(2) provides for intervention of right when the movant has certain interests in the litigation at issue that are not already adequately represented by existing parties to the litigation. However, there is no indication that the Attorney General will not properly carry out his responsibility to defend this lawsuit. Under the Voting Rights Act, the Attorney General is charged with protecting the public interest in eradicating racial discrimination in voting. To that end, the Attorney General administers the Section 5 preclearance process, brings affirmative suits to enforce the Act, serves as the statutory defendant in cases brought in this Court under the Act, and defends constitutional challenges to the Act. *See* 42 U.S.C. §§ 1973b(a), 1973c, 1973j(d), 1973*l*(b).

While this Court has, in some limited instances, granted intervention of right under Rule 24(a)(2),[2] the majority of instances where this Court has granted intervention in Voting Rights Act cases have been either permissive under Rule 24(b)(1) or silent about the basis for intervention.[3] Because permissive intervention is available, this Court need not grapple with the

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[2] *See* Orders, *N.C. State Bd. of Elections* v. *United States*, No. 02-1174 (D.D.C. June 25, 2002); Orders, *Florida* v. *United States*, No. 02-0941 (D.D.C. May 28 and June 4, 2002); Orders, *Georgia v. Ashcroft*, No. 01-2111 (D.D.C. Jan. 10 and 30, 2002), *aff'd in relevant part and vacated on other grounds*, 539 U.S. 461, 476-77 (2003). These unpublished orders are attached as part of Exhibit 1. *Georgia* v. *Ashcroft* and *North Carolina State Board of Elections* involved demonstrated distances between the positions taken by the Attorney General and those taken by the movants. *See Georgia* v. *Ashcroft*, 539 U.S. at 462; *N.C. State Bd. of Elections* v. *United States*, 208 F. Supp. 2d 14, 16-18 (D.D.C. 2002). *Florida* v. *United States* was a fast-moving redistricting case in which this Court granted intervention prior to a response by the Attorney General.

[3] *See, e.g.*, Orders, *Georgia* v. *Holder*, No. 10-1062, (D.D.C. July 7, 28, and 29 and Aug. 3, 2010) (permissive); Orders, *Nw. Austin Mun. Utility Dist. No. One* v. *Gonzales*, No. 06-1384,

question of whether the Attorney General adequately represents the interests of the Movant-Intervenors.

Conclusion

The Attorney General does not oppose permissive intervention under Rule 24(b)(1). Because no statute confers a right to intervene and because there is no indication that the Attorney General will not adequately represent the interests of the Movant-Intervenors in this litigation, the conditions are not met for intervention as of right under Rules 24(a)(1) or 24(a)(2).

Date: July 27, 2011

Respectfully submitted,

RONALD C. MACHEN, JR.
United States Attorney
District of Columbia

THOMAS E. PEREZ
Assistant Attorney General
Civil Rights Division

/s/ Daniel J. Freeman

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(D.D.C. Nov. 9, 15, and 17, 2006 and Mar. 26, 2007) (silent); Orders, *Virginia* v. *Reno*, No. 00-0751 (D.D.C. July 14 and Sept. 1, 2000) (permissive); *Bossier Parish School Bd.* v. *Reno*, 157 F.R.D. 133 (D.D.C. 1994) (permissive); *Texas* v. *United States*, 802 F. Supp. 481, 482 n.1 (D.D.C. 1992) (permissive); Order, *Mississippi* v. *United States*, No. 87-3464, 1988 WL 58904 (D.D.C. May 20, 1988) (permissive). The unpublished orders cited above are attached as part of Exhibit 1.

CERTIFICATE OF SERVICE

I hereby certify that on July 27, 2011, I served a true and correct copy of the foregoing via the Court's ECF filing system on the following counsel of record:

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/s/ Daniel J. Freeman

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EXHIBIT 1:
UNPUBLISHED ORDERS

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STEPHEN LAROQUE, et al. **Plaintiffs,** **v.** **ERIC H. HOLDER, Jr., in his official capacity as Attorney General of the United States,** **Defendant.**	**Civil Action No. 10-0561 (JDB)**

ORDER

Before the Court is a motion to intervene by Joseph M. Tyson, W.J. Best, Sr., A. Offord Carmichael, Jr., George Graham, Julian Pridgen, William A. Cooke, and the North Carolina Conference of Branches of the National Association for the Advancement of Colored People. Movants seek either intervention as of right, see Fed. R. Civ. P. 24(a), or permissive intervention, see Fed. R. Civ. P. 24(b)(1). Plaintiffs oppose intervention, and defendants do not oppose permissive intervention. Upon consideration of the motion, the parties' several memoranda, and the entire record herein, it is hereby

ORDERED that [13] Joseph M. Tyson, et al.'s motion to intervene as defendant is **GRANTED** pursuant to Federal Rule of Civil Procedure 24(b)(1); it is further

ORDERED that Joseph M. Tyson, et al.'s proposed motion to dismiss shall be deemed filed as of this date; and it is further

ORDERED that, by not later than September 3, 2010, plaintiff, defendant, and

defendant-intervenors shall confer and jointly submit a proposed briefing schedule to govern further proceedings in this case. To the extent the parties disagree on a proposed briefing schedule, they should so indicate. Along with this joint proposed briefing schedule, defendants and defendant-intervenors shall submit a report discussing what steps they will take to avoid duplication of effort and to reduce redundant filings.

SO ORDERED.

/s/
JOHN D. BATES
United States District Judge

Dated: August 25, 2010

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF GEORGIA,	)	
Plaintiff,	)	
v.	)	**Civil Action No. 10-1062 (ESH)**
ERIC H. HOLDER, in his official capacity as Attorney General of the United States,	)	
Defendant.	)	

ORDER

Before the Court is the Motion to Intervene as Defendants filed by Tyrone Brooks, Edward O. DuBose, Helen Butler, Georgia Association of Black Elected Officials, Georgia State Conference NAACP, and Georgia Coalition for the Peoples' Agenda ("Movants"). Movants seek to intervene either as of right, *see* Fed. R. Civ. P. 24(a)(1), or permissively, *see* Fed. R. Civ. P. 24(b)(1)(A) and (B). The parties do not oppose permissive intervention. Accordingly, upon consideration of the motion and the lack of opposition to permissive intervention, it is hereby

ORDERED that the motion to intervene as defendants pursuant to Federal Rule of Civil Procedure 24(b)(1)(A) and (B) [dkt. #5] is **GRANTED**; it is further

ORDERED that defendant-intervenors Tyrone Brooks, Edward O. DuBose, Helen Butler, Georgia Association of Black Elected Officials, Georgia State Conference NAACP, and Georgia Coalition for the Peoples' Agenda shall file their Answer; and it is further

ORDERED that defendant-intervenors' Answer shall be deemed filed as of the date of this Order.

/s/
THOMAS B. GRIFFITH
United States Circuit Judge

/s/
HENRY H. KENNEDY
United States District Judge

/s/
ELLEN SEGAL HUVELLE
United States District Judge

DATE: July 7, 2010

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF GEORGIA,	)	
Plaintiff,	)	
v.	)	**Civil Action No. 10-1062 (ESH)**
ERIC H. HOLDER, in his official capacity as Attorney General of the United States,	)	
Defendant,	)	
TYRONE BROOKS, et al.,	)	
Defendant-Intervenors.	)	

ORDER

Before the Court is a motion to intervene as defendant filed by the Georgia Association of Latino Elected Officials ("GALEO"). (Amended Mot. to Intervene, July 16, 2010 [dkt. #21].) GALEO seeks to intervene either as of right, *see* Fed. R. Civ. P. 24(a)(1), or permissively, *see* Fed. R. Civ. P. 24(b)(1)(A) and (B). The parties do not oppose permissive intervention. Accordingly, upon consideration of the motion and the lack of opposition to permissive intervention, it is hereby

ORDERED that GALEO's motion to intervene as defendant pursuant to Federal Rule of Civil Procedure 24(b)(1)(A) and (B) [dkt. #21] is **GRANTED**; it is further

ORDERED that defendant-intervenor GALEO shall file its Answer; it is further

ORDERED that defendant-intervenor GALEO's Answer shall be deemed filed as of the date of this Order; and it is further

ORDERED that defendant-intervenor GALEO shall comply with all deadlines in the July 12, 2010 Scheduling Order.

/s/
THOMAS B. GRIFFITH
United States Circuit Judge

/s/
HENRY H. KENNEDY
United States District Judge

/s/
ELLEN SEGAL HUVELLE
United States District Judge

DATE: July 28, 2010

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF GEORGIA, **Plaintiff,** **v.** **ERIC H. HOLDER, in his official capacity as Attorney General of the United States,** **Defendant,** **TYRONE BROOKS, et al.,** **Defendant-Intervenors,** **GEORGIA ASSOCIATION OF LATINO ELECTED OFFICIALS,** **Defendant-Intervenor.**	**Civil Action No. 10-1062 (ESH)**

ORDER

Before the Court is a motion to intervene as defendants filed by Marvin Lim, the Organization of Chinese Americans Georgia Chapter, and the Asian American Legal Advocacy Center of Georgia (collectively "Movants"). (Mot. to Intervene, July 26, 2010 [dkt. #22].) Movants seek to intervene either as of right, *see* Fed. R. Civ. P. 24(a)(1), or permissively, *see* Fed. R. Civ. P. 24(b)(1)(A) and (B). The parties do not oppose permissive intervention. (*See id.*, Ex. C, Decl. of Glenn D. Magpantay, ¶¶ 10, 11, 12; Attorney General's Response to Mot. to Intervene, July 28, 2010 [dkt. #23].) Accordingly, upon consideration of the motion and the lack of opposition to permissive intervention, it is hereby

ORDERED that the motion to intervene as defendants filed by Marvin Lim, the Organization of Chinese Americans Georgia Chapter, and the Asian American Legal Advocacy Center of Georgia pursuant to Federal Rule of Civil Procedure 24(b)(1)(A) and (B) [dkt. #22] is **GRANTED**; it is further

ORDERED that Movants shall file their Answer; it is further

ORDERED that Movants' Answer shall be deemed filed as of the date of this Order; and it is further

ORDERED that Movants shall comply with all deadlines in the July 12, 2010 Scheduling Order.

/s/
THOMAS B. GRIFFITH
United States Circuit Judge

/s/
HENRY H. KENNEDY
United States District Judge

/s/
ELLEN SEGAL HUVELLE
United States District Judge

DATE: July 29, 2010

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF GEORGIA,	)	
Plaintiff,	)	
v.	)	**Civil Action No. 10-1062 (ESH)**
ERIC H. HOLDER, in his official capacity as Attorney General of the United States,	)	
Defendant,	)	
TYRONE BROOKS, et al.,	)	
Defendant-Intervenors,	)	
GEORGIA ASSOCIATION OF LATINO ELECTED OFFICIALS,	)	
Defendant-Intervenor,	)	
MARVIN LIM, et al.,	)	
Defendant-Intervenors.	)	

ORDER

Before the Court is a motion to intervene as defendants filed by Concerned Black Clergy of Metropolitan Atlanta, the Southern Regional Office of the Rainbow Push Coalition, Michael B. Wright, Sr., and Janice Mathis (collectively "Movants"). (Mot. to Intervene, Aug. 2, 2010 [dkt. #28].) Movants seek to intervene either as of right, *see* Fed. R. Civ. P. 24(a)(1), or permissively, *see* Fed. R. Civ. P. 24(b)(1)(A) and (B). The parties do not oppose permissive intervention. (Mot. ¶ 22.) Accordingly, upon consideration of the motion and the lack of opposition to permissive intervention, it is hereby

ORDERED that the motion to intervene as defendants filed by Concerned Black Clergy of Metropolitan Atlanta, the Southern Regional Office of the Rainbow Push Coalition, Michael B. Wright, Sr., and Janice Mathis pursuant to Federal Rule of Civil Procedure 24(b)(1)(A) and (B) [dkt. #28] is **GRANTED**; it is further

ORDERED that Movants shall file their Answer; it is further

ORDERED that Movants' Answer shall be deemed filed as of the date of this Order; and it is further

ORDERED that Movants shall comply with all deadlines in the July 12, 2010 Scheduling Order.

/s/
THOMAS B. GRIFFITH
United States Circuit Judge

/s/
HENRY H. KENNEDY
United States District Judge

/s/
ELLEN SEGAL HUVELLE
United States District Judge

DATE: August 3, 2010

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NORTHWEST AUSTIN MUNICIPAL UTILITY DISTRICT, Plaintiff, v. ALBERTO GONZALES, Attorney General of the United States, Defendants.	)	Civil Action No. 06-1384 (DST, PLF, EGS)

ORDER

Before the Court are the motions to intervene of the Texas State Conference of NAACP Branches, *et al.*, Rodney Louis, *et al.*, and David Diaz, *et al.* Upon consideration of the motions, oppositions, replies, and the record of the entire case, it is hereby

ORDERED that the motion of the Texas State Conference of NAACP Branches, *et al.*, to intervene [9] is GRANTED; it is

FURTHER ORDERED that the answer of defendant-intervenors Texas State Conference of NAACP Branches, *et al.*, shall be deemed filed as of the date of this Order; it is

FURTHER ORDERED that the motion of Rodney Louis, *et al.*, to intervene [10] is GRANTED; it is

FURTHER ORDERED that the answer of defendant-intervenors Rodney Louis, *et al.*, shall be deemed filed as of the date of this Order; it is

FURTHER ORDERED that the motion to amend or correct [22] the motion of David Diaz, *et al.*, to intervene is GRANTED, and Gabriel Diaz is therefore added as a proposed defendant-intervenor; it is

FURTHER ORDERED that the motion of David Diaz, *et al.*, to intervene [13] is GRANTED; it is

FURTHER ORDERED that the answer of defendant-intervenors, David Diaz, *et al.*, shall be deemed filed as of the date of this Order; and it is

FURTHER ORDERED that the plaintiff, defendant, and defendant-intervenors, in compliance with Local Civil Rule 16.3 of this Court and Rule 26(f) of the Federal Rules of Civil Procedure, shall meet and confer and submit to this Court a joint report on or before November 28, 2006. The parties shall particularly address the issue of what dispositive motions, if any, they intend to file and what briefing schedule they propose.

SO ORDERED.

_____/s/_____
DAVID S. TATEL
United States Circuit Judge

_____/s/_____
PAUL L. FRIEDMAN
United States District Judge

_____/s/_____
EMMET G. SULLIVAN
United States District Judge

DATE: November 9, 2006

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NORTHWEST AUSTIN MUNICIPAL UTILITY DISTRICT, Plaintiff, v. ALBERTO GONZALES, Attorney General of the United States, et al., Defendants.	)	Civil Action No. 06-1384 (DST, PLF, EGS)

ORDER

Before the Court are the motions to intervene of People for the American Way, Nathaniel Lesane, and Travis County, Texas. Upon consideration of the motions, oppositions, replies, and the record of the entire case, it is hereby

ORDERED that the motion of the People for the American Way to intervene [19] is GRANTED; it is

FURTHER ORDERED that the answer of defendant-intervenor People for the American Way shall be deemed filed as of the date of this Order; it is

FURTHER ORDERED that the motion of Nathaniel Lesane to intervene [28] is GRANTED; it is

FURTHER ORDERED that the answer of defendant-intervenor Nathaniel Lesane shall be deemed filed as of the date of this Order; it is

FURTHER ORDERED that the motion of Travis County, Texas to intervene [23] is GRANTED; it is

FURTHER ORDERED that the answer of defendant-intervenor Travis County, Texas shall be deemed filed as of the date of this Order; and it is

FURTHER ORDERED that plaintiff, defendants, and defendant-intervenors People for the American Way, Nathaniel Lesane, and Travis County, Texas, in compliance with this Court's November 9, 2006 Order and pursuant to Local Civil Rule 16.3 of this Court and Rule 26(f) of the Federal Rules of Civil Procedure, shall meet and confer and submit to this Court a joint report on or before November 28, 2006. The parties shall particularly address the issue of what dispositive motions, if any, they intend to file and what briefing schedule they propose.

SO ORDERED.

_____/s/_____
DAVID S. TATEL
United States Circuit Judge

_____/s/_____
PAUL L. FRIEDMAN
United States District Judge

_____/s/_____
EMMET G. SULLIVAN
United States District Judge

DATE: November 15, 2006

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NORTHWEST AUSTIN MUNICIPAL UTILITY DISTRICT, Plaintiff, v. ALBERTO GONZALES, Attorney General of the United States, et al., Defendants.	)	Civil Action No. 06-1384 (DST, PLF, EGS)

ORDER

Before the Court are the motions to intervene of Angie Garcia, *et al*. Upon consideration of the motions, oppositions, and the record of the entire case, it is hereby

ORDERED that the motion of Angie Garcia, *et al.*, to intervene [32] is GRANTED; it is

FURTHER ORDERED that the answer of defendant-intervenor Angie Garcia, *et al.,* shall be deemed filed as of the date of this Order; it is

FURTHER ORDERED that defendant-intervenors Angie Garcia, *et al.*, in compliance with this Court's November 9, 2006 and November 15, 2006 Orders and pursuant to Local Civil Rule 16.3 of this Court and Rule 26(f) of the Federal Rules of Civil Procedure, shall meet and confer with plaintiff, defendants, and defendant-intervenors already parties in this case, and submit to this Court a joint report on or before November 28, 2006. The parties shall particularly address the issue of what dispositive motions, if any, they intend to file and what briefing schedule they propose; and it is

FURTHER ORDERED that defendant-intervenors Angie Garcia, *et al.*, as well as all other defendants and defendant-intervenors already parties in this case, and in compliance with this Court's November 15, 2006 Order, shall submit a report on or before November 28, 2006 discussing what steps will be taken to avoid duplication of effort by defendants, to reduce redundant filings and discovery requests, and to promote efficiency in the litigation of this matter. Specifically, the defendant and intervenor-defendants will address coordination of their efforts through a lead counsel.

SO ORDERED.

_____/s/_____
DAVID S. TATEL
United States Circuit Judge

_____/s/_____
PAUL L. FRIEDMAN
United States District Judge

_____/s/_____
EMMET G. SULLIVAN
United States District Judge

DATE: November 17, 2006

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NORTHWEST AUSTIN MUNICIPAL UTILITY DISTRICT, Plaintiff, v. ALBERTO GONZALES, Attorney General of the United States, et al., Defendants.	)	Civil Action No. 06-1384 (DST, PLF, EGS)

ORDER

Before the Court is the motion to intervene of Winthrop Graham, *et al*. Upon consideration of the motion, opposition, reply, and the record of the entire case, it is hereby

ORDERED that the motion of Winthrop Graham, *et al.*, to intervene [70] is GRANTED; it is

FURTHER ORDERED that the plaintiff may move for a reasonable extension of time to complete any necessary discovery related to the Graham defendant-intervenors.

SO ORDERED.

_____/s/_____
DAVID S. TATEL
United States Circuit Judge

_____/s/_____
PAUL L. FRIEDMAN
United States District Judge

_____/s/_____
EMMET G. SULLIVAN
United States District Judge

DATE:

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NORTH CAROLINA STATE BOARD OF ELECTIONS,

Plaintiff,

v.

UNITED STATES and JOHN ASHCROFT, as Attorney General of the United States,

Defendants.

Civil Action No. 02-1174 (LFO DST GK)

THREE-JUDGE COURT

ORDER

Pending before this three-judge court are two motions to intervene. In the first, Ashley Stephenson, a registered voter in North Carolina; Leo Daughtrey, Patrick Balantine, and Art Pope, individually and in their positions as Republican state legislators; and Bill Cobey, individually and as Chairman of the North Carolina Republican Party, move to intervene on behalf of the Plaintiff, the North Carolina State Board of Elections ("the Board"). In the second motion, Marc Basnight, President Pro Tempore of the North Carolina Senate, and James Black, Speaker of the North Carolina House of Representatives, move to intervene on behalf of the Defendants, the United States and John Ashcroft (collectively, "the United States").

Having considered the briefs filed by all parties and the relevant case law, we conclude that both motions satisfy the requirements for intervention under Federal Rule of Civil Procedure 24(a) and will be granted. The Board filed this lawsuit to obtain pre-clearance for a redistricting plan crafted by a state court in 2002, in order to determine whether it should implement that plan or one enacted by the North Carolina General Assembly in 2001 and pre-cleared by the

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Department of Justice in 2002. The Plaintiff-Intervenors were the plaintiffs in the state court action that ultimately led to the 2002 plan, and members of the Board were among the defendants in that action. While the Board and the Plaintiff-Intervenors seek pre-clearance of the same redistricting plan, the Plaintiff-Intervenors urge that this objective be achieved through parallel administrative proceedings pending in the Department of Justice. They further argue that the Board may not even be authorized to bring this action. Indeed, the Plaintiff-Intervenors have moved to dismiss this lawsuit on jurisdictional grounds and in deference to the Department of Justice proceedings.

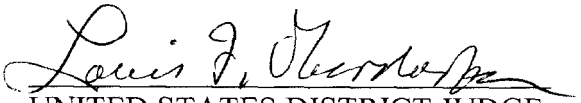
The proposed Defendant-Intervenors actively oppose pre-clearance of the state court's 2002 plan in favor of the legislature's 2001 plan. This position is not entirely consistent with that of the defendant, the United States. Indeed, the Department of Justice, as noted, is currently evaluating the competing state court's 2002 plan pursuant to Section 5 of the Voting Rights Act and could possibly pre-clear it, a result that would be diametrically opposed to the Defendant-Intervenors' interests in this action.

In sum, neither the Board nor the United States can claim to adequately represent the interests of the respective sets of proposed intervenors. All other requirements for intervention are likewise satisfied. Accordingly, and in consideration of the expedited nature of these proceedings, it is this 26th day of June 2002 hereby

ORDERED: that the Plaintiff-Intervenors' and the Defendant-Intervenors' motions to intervene are GRANTED; and it is further

ORDERED: that the Clerk of Court shall file the Plaintiff-Intervenors' Proposed Complaint-In-Intervention and the Defendant-Intervenors' Answer.

For the Three-Judge Court:



UNITED STATES DISTRICT JUDGE

IN THE UNTIED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NORTH CAROLINA STATE BOARD OF ELECTIONS, *Plaintiff,*	)	
v.	)	Civil Action No. **02-1174** (LFO DST GK)
UNITED STATES, *et al., Defendants.*	)	THREE-JUDGE COURT

ORDER

The motion of Linda Sample to intervene in this action pursuant to Federal Rule of Civil Procedure 24 is hereby granted. This Court, in the sound exercise of its discretion pursuant to Rule 24, finds that this case involves substantially the same issues as are presented in the federal action Movant Linda Sample filed in United States District for the Eastern District of North Carolina, Sample v. Jenkins, et al., 5:02-CV-383BR(3), and that she has a strong interest in appearing here to protect the relief she may receive there. Her motion is timely and will not delay or prejudice the interests of the other parties.

Louis F. Oberdorfer
Hon. Louis F. Oberdorfer
United States District Judge
(For the Court)

June 26, 2002
Date

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF FLORIDA,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 02-0941 (JR)
	:	
UNITED STATES, *et al.*,	:	
	:	
Defendants.	:	

ORDER

The motions of Alcee L. Hastings, Lavita Holmes, Robert Henriquez, Carl Warren, UNO Federation for Community Services, Inc., and Southwest Voter Registration Education Project, Inc. to intervene [#5][#13] are **granted** pursuant to Fed.R.Civ.P. 24(a). The intervenors will be aligned as defendants. The motion to admit Jonathan D. Hacker, Ronald A. Klain, and Jeremy B. Bash pro hac vice [#5] is **granted**.

The application of defendant-intervenors for a temporary restraining order is **denied**.

The parties are **directed** to deliver to the Chambers of Judge Rogers two "hard copies" of all papers filed in this case.

Judith W. Rogers	James Robertson	Henry H. Kennedy, Jr.
U.S. Circuit Judge	U.S. District Judge	U.S. District Judge

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF FLORIDA,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 02-0941 (JR)
	:	
UNITED STATES, *et al.*,	:	
	:	
Defendants.	:	

ORDER

The motion of Governor Jeb Bush, Senate President John McKay, and House Speaker Tom Feeney to intervene [#33] is **granted** pursuant to Fed.R.Civ.P. 24(a). These intervenors will be aligned as plaintiffs.

The motion of United States Representative Peter Deutsch, et al. to intervene [#15] is **granted** pursuant to Fed.R.Civ.P. 24(a). These intervenors will be aligned as defendants.

The motions to admit attorneys Norman C. Powell, Thomasina H. Williams, and Miguel De Grandy pro hac vice [#27, 28, 33] are **granted**.

The parties are **directed** to deliver to the Chambers of Judge Rogers two "hard copies" of all papers filed in this case.

Judith W. Rogers
U.S. Circuit Judge

James Robertson
U.S. District Judge

Henry H. Kennedy, Jr.
U.S. District Judge

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE LOUISIANA HOUSE OF REPRESENTATIVES, *et al.*,	:	
Plaintiffs,	:	
v.	:	Civil Action No. 02-0062 (JR)
JOHN ASHCROFT, Attorney General,	:	
Defendant.	:	

ORDER

The joint motion requesting a scheduling conference [#27] is **granted.** The conference is set for **June 25, 2002, at 10 a.m. in Courtroom 16.**

The renewed motions to intervene of Louisiana Community Coalition on Fair and Equal Representation et al. [#30] and Citizens of the State of Louisiana and members of the Louisiana Legislative Black Caucus [#31] are **granted.**

MERRICK B. GARLAND	JAMES ROBERTSON	REGGIE B. WALTON
U.S. Circuit Judge	U.S. District Judge	U.S. District Judge

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE STATE OF GEORGIA, Plaintiff, v. JOHN ASHCROFT, *et al.*, Defendants.	Civil Action No. 01-2111 (EGS HTE LFO) [33] THREE-JUDGE COURT

Before EDWARDS, Circuit Judge, SULLIVAN, District Judge, and OBERDORFER, Senior District Judge.

ORDER

On January 7, 2002, Patrick L. Jones, Roielle L. Tyra, Della Steele and Georgia W. Benton renewed their motion to intervene in this matter. Movants are African-American registered voters from the State of Georgia. On December 20, 2001, this Court dismissed without prejudice movants' motion to intervene because the United States had not yet identified its legal position with respect to Georgia's request for declaratory judgment. Without an understanding of defendants' position, the Court was unable to determine whether the existing parties to this litigation adequately represented movants' interests.

On December 31, 2001, defendants filed a notice identifying their legal position. According to this notice, defendants do not contend that Georgia's proposed redistricting plan for the United States Congressional districts violates the Voting Rights Act. The United States does, however, contend that Georgia's

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proposed State Senate plan violates Section 5 of the Voting Rights Act, based on its analysis of State Senate plan's proposed Second, Twelfth and Twenty-Sixth districts. The United States' position as to the State House plan is somewhat equivocal. While the United States clearly states it does not contend that the State House plan violates the Voting Rights Act, in an "Amended Identification of Issues," it suggests that it will be able to "confirm its position" by January 15, 2002.

In their renewed motion, movants seek leave to intervene as defendants in order to challenge all three proposed redistricting plans as retrogressive and in violation of Section 5 of the Voting Rights Act. Movants assert that five proposed Senate districts, including those identified by defendants, retrogress. With respect to the State House plan, movants contend that seven proposed districts retrogress.

The Attorney General has affirmatively stated that he does not contend that the United States Congressional redistricting plan proposed by Georgia violates the Voting Rights Act. As such, no real dispute exists between the parties with respect to this plan. While this Court is mindful that plaintiff bears the ultimate burden of demonstrating that the three proposed plans have neither the purpose nor effect of denying or abridging the right of minority citizens of Georgia to vote, the Court is not convinced that intervention as to the Congressional plan would be consistent with the fair and efficient administration of

justice.[1] In light of the stated position of defendants, this Court will not "accommodate the intervenor[s'] quest for a forum in which to test a voting plan," which the United States does not contend violates the Voting Rights Act. *City of Dallas v. United States*, 482 F. Supp. 183 (D.D.C. 1980); *see also Morris v. Gressette*, 432 U.S. 491, 97 S. Ct. 2411 (1977) (holding that Attorney General's failure to object to a change in voting laws subject to Section 5 was not subject to judicial review); *Harris v. Bell*, 562 F.2d 772, 774 (D.C. Cir. 1977) (holding that no judicial review was available where individual African-American registered voters from Georgia sought to challenge the Attorney General's withdrawal of objections to a county redistricting statute); *Commisioners Court of Medina County, Texas v. United States*, 683 F.2d 435 (D.C. Cir. 1982) (noting that, in Section 5 cases, defendant-intervenor "may not continue to litigate" once the parties have settled).

With respect to the State Senate plan and, to a lesser extent, the State House plan,[2] it is clear that the Attorney

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[1] Consistent with this Court's December 20, 2001 Initial Scheduling and Pretrial Order, movants have been granted leave to file appropriate *amicus curiae* pleadings as to any additional relevant issues.

[2] The Court again notes the elusive nature of the United States' position regarding the State House plan. In the event that defendants unequivocally assert that they do not contend that the State House plan violates the Voting Rights Act, this Court will rely on the same authority, which forms the basis for its denial of movants' request to intervene as to the Congressional plan.

General has not approved the proposed plans and that a real controversy continues to exist between the parties. As minority voters, movants allege that their right to vote will be impaired by the proposed redistricting plans. Thus, movants have demonstrated that they have standing and an interest in this case. *See Federal Election Comm'n v. Akins*, 523 U.S. 11, 25, 118 S. Ct. 978 (1998) (recognizing that, in voting rights cases, minimal injury satisfies the injury in fact). Movants' analysis of the State House and Senate redistricting plans identifies interests that are not adequately represented by the existing parties. Therefore, the Court grants movants' request to intervene as to the State Senate and State House plans. Fed. R. Civ. P. 24(a)(2).

For the foregoing reasons and upon consideration of the Renewed Motion to Intervene filed by Patrick L. Jones, Roielle L. Tyra, Della Steele and Georgia W. Benton, the plaintiff's and defendants' responses thereto, the relevant statutory and case law, the full record of this matter, the expedited nature of these proceedings, and pursuant to 28 U.S.C. § 2284(b)(3), it is hereby

ORDERED that the Renewed Motion to Intervene [33] is **GRANTED** with respect to the State Senate redistricting plan and the State House redistricting plan, and is **DENIED** with respect to the United States Congressional redistricting plan; and it is

FURTHER ORDERED that all parties, including the Intervenors, shall adhere to this Court's December 20, 2001 Initial Scheduling and Pretrial Order.

IT IS SO ORDERED FOR THE COURT.

1/10/02
DATE

EMMET G. SULLIVAN
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE STATE OF GEORGIA, Plaintiff, v. JOHN ASHCROFT, *et al.*, Defendants.	Civil Action No. 01-2111 (EGS HTE LFO) THREE-JUDGE COURT

Before EDWARDS, Circuit Judge, SULLIVAN, District Judge, and OBERDORFER, Senior District Judge.

ORDER

On January 10, 2002, the Court granted Patrick L. Jones, Roielle L. Tyra, Della Steele and Georgia W. Benton leave to intervene as defendants in this matter with respect to the proposed State House and State Senate redistricting plans, and denied intervenors' motion with respect to the United States Congressional redistricting plan. Upon consideration of the parties' recent filings, arguments of counsel at the January 25, 2002 pretrial conference, and the relevant statutory and case law, it is hereby

ORDERED that Patrick L. Jones, Roielle L. Tyra, Della Steele and Georgia W. Benton are granted leave to intervene with respect to the United States Congressional redistricting plan; and it is

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FURTHER ORDERED that the portion of the Court's January 10, 2002 Order, which denies movants' request to intervene with respect to the United States Congressional redistricting plan, is **VACATED.**

IT IS SO ORDERED FOR THE THREE-JUDGE COURT.

1/29/02
DATE

EMMET G. SULLIVAN
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

COMMONWEALTH OF VIRGINIA,
Plaintiff,
v.
JANET RENO, et al.,
Defendants.

Civil Action 00-00751 (HHK)

ORDER

Upon consideration of the motions before the court, the oppositions thereto, and oral argument, the court has concluded that the would-be intervenors' motions for intervention under Fed. R. Civ. P. 24(b) should be granted and that defendant's motion for an extension of time to meet and confer and to postpone briefing on plaintiff's motion for summary judgment should be granted in part and denied in part. Accordingly, it is this 14th day of July, 2000, hereby

ORDERED that the motion to intervene filed June 20, 2000 by Henry L. Marsh, et al. [doc. 9] is granted insofar as it requests permissive intervention; and it is further

ORDERED that the motion to intervene filed June 28, 2000 by Virginia State Conference, et al. [doc. 10] is granted insofar as it requests permissive intervention; and it is further

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ORDERED that the motion to intervene filed June 29, 2000 by George P. Smith, et al. [doc. 11] is granted insofar as it requests permissive intervention; and it is further

ORDERED that each group of intervenors shall designate one attorney to serve as counsel for that group; and it is further

ORDERED that intervenors will comply with the schedule set by the court; and it is further

ORDERED that defendant's motion for an extension of time to meet and confer and to postpone briefing on plaintiff's motion for summary judgment [doc. 17] is granted in part and denied in part; and it is further

ORDERED that the parties shall not be required to meet and confer until ordered to do so by this court; and it is further

ORDERED that briefing of plaintiff's motion for summary judgment shall not be stayed pending decision on defendant's motion to dismiss; and it is further

ORDERED that defendant shall have fourteen days from the date of this order to file its opposition to plaintiff's motion for summary judgment.

Henry H. Kennedy, Jr.
Henry H. Kennedy, Jr.
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

COMMONWEALTH OF VIRGINIA,
Plaintiff,
v.
JANET RENO, et al.,
Defendants.

Civil Action 00-00751
(HHK, ESH, JWR)

ORDER

Before the court is the motion of the City of Los Angeles, *et al.*, to intervene as defendants, docketed July 26, 2000. Upon consideration of the motion, the opposition thereto, and the record of this case, the court concludes that the motion to intervene should be granted under Rule 24(b) of the Federal Rules of Civil Procedure.

Accordingly, it is this 1st day of September, 2000, hereby

ORDERED that the motion of the City of Los Angeles, *et al.*, to intervene as defendants in this case is **GRANTED**; and it is further

ORDERED that the answer to the complaint and response to plaintiff's motion for summary judgment submitted with the motion of the City of Los Angeles, *et al.* to intervene shall be deemed filed as of the date of docketing of this order; and it is further

ORDERED that the City of Los Angeles, *et al.*, defendants shall designate

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one attorney or firm to serve as counsel for this group of intervenor defendants.

Henry H. Kennedy, Jr.
United States District Judge

Ellen Segal Huvelle
United States District Judge

Judith W. Rogers
United States Circuit Judge