



## I. PRELIMINARY STATEMENT

1. This class action complaint is brought by the Individual Plaintiffs Emma Diaz and John Lanman on behalf of all similarly situated eligible Florida electors in Broward, Duval, Miami-Dade, Orange, and Palm Beach Counties, who have been, and continue to be, denied the right to vote because of Defendants' unduly restrictive voter registration practices and procedures, in violation of the First, Fifth and Fourteenth Amendments of the United States Constitution.

2. The Individual Plaintiffs, as well as many members of the Union Plaintiffs (the "Injured Union Members"), are eligible electors who reside in Defendant counties filed timely voter registration applications prior to the federal elections in 2004. Nonetheless, Defendant County Supervisors of Elections, acting under color of state law, refused to process their applications and failed to add these otherwise eligible electors to the voter rolls on the ground that their applications were incomplete.<sup>1</sup>

3. Defendant County Supervisors designated these applications incomplete because the Individual Plaintiffs, as well as the Injured Union Members, had not checked a box on the application indicating that he or she is a U.S. citizen, has not been convicted of a felony, and/or has been declared mentally incompetent with respect to voting.

4. Because Defendant County Supervisors of Elections failed to provide the Individual Plaintiffs and Injured Union Members with adequate and timely notice and/or did not provide them with an opportunity to cure purported deficiencies in

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<sup>1</sup> In its June 20 Order, the Court granted dismissal of all of Plaintiffs' claims against the Secretary of State based on 2004 conduct. In that Order, the Court further dismissed all claims by Plaintiffs based on the Voting Rights Act and the National Voter Registration Act.

their applications, Plaintiffs were denied an opportunity to submit the missing information.

5. With the exception of the Supervisor of Elections for Duval County, Defendant Supervisors of Elections further refused to permit applicants who submitted timely applications the opportunity to provide this particular missing information after the close of books. On information and belief, they did, however, permit applicants to correct for other types of errors after the close of books.

6. As a result, the Individual Plaintiffs, the Injured Union Members, and thousands of additional eligible voters, were denied their fundamental right to vote in the 2004 election without due process of law.

7. As the date of election and the application deadline approaches each election cycle, the number of voter registration applications progressively and dramatically increases due to the increased public interest generated by the political parties' and candidates' campaigns.

8. Consequently, the refusal by Defendant Supervisors of Elections' (with the exception of Duval County) to accept corrections to timely submitted voter registration applications after the close of books has had the devastating effect of denying thousands of eligible voters, who were motivated to register during this period of most vigorous public political debate, the right to vote.

9. Defendants could have permitted applicants to supply corrections to their applications after the close of books and ensure that all eligible electors who filed timely applications were provided an opportunity to supply any missing information.

10. Defendants thus have had no legitimate, let alone compelling, basis for their refusal to provide a grace period for such corrections.

11. Defendants' refusal to permit corrections after the close of books for eligible electors who had not checked the mental incapacity box is all the more wrongful because Defendants are largely responsible for the significant number of eligible electors whose applications were not processed for this reason.

12. Thousands of eligible voters, including Individual Plaintiffs and Injured Union Members, did not check the mental incapacity box, not because they had been adjudicated mentally incapacitated, but because the language used by Defendants to request this information is complicated and confusing.

13. The Florida Voter Registration Application Form used in 2004, as well as the one used in 2006, requires that all citizens registering to vote check a box next to a statement with the formulation, "I affirm that I have not been adjudicated mentally incapacitated with respect to voting or, if I have, my competency has been restored." Applicants' inability to understand the question and the consequence of failing to check the box caused many applicants, including Diaz and the Injured Union Members, to leave the mental incapacity checkbox blank, notwithstanding that they have not been adjudicated mentally incapacitated with regard to voting.

14. On information and belief, the mental incapacity box does not serve to exclude persons adjudicated mentally incapacitated, nor does it prevent voter fraud.

15. As a consequence, the mental incapacity box serves no legitimate, let alone compelling, state interest. As employed by Defendant Supervisors of Elections

in the months preceding the 2004 election, the mental incapacity box burdened the fundamental right to vote of all applicants under the United States Constitution; denied those eligible voters whose applications were not processed because they did not check the mental incapacity box the fundamental right to vote; and further denied such applicants who received inadequate notice and no opportunity to supply the “missing mental incapacity information” their fundamental right to vote without due process of law.

16. For these reasons, the Defendant County Supervisors of Elections’ refusal to process the applications of the Individual Plaintiffs, the Injured Union Members, and additional thousands of eligible voters, denied them the right to vote for President, Vice President, and other federal officials in the 2004 federal elections, in violation of their First, Fifth, and Fourteenth Amendments of the United States Constitution.

17. Effective in 2006, the Florida legislature amended the state’s election code to require Supervisors of Elections to deem incomplete applications in which the mental incapacity box, citizenship, and/or felon box was not checked. Thus, the Florida legislators made mandatory Defendants’ 2004 practice of rejecting applications on which the mental incapacity, felon status and/or citizenship boxes are not checked.

18. Also, effective in 2006, Florida implemented its computerized statewide voter registration application database, as required by the Help America Vote Act. On information and belief, this database has increased, and will continue to increase, the efficient processing of voter registration applications.

19. The availability of such increased technology in the administration of Florida's voter registration system renders the Defendants' refusal to provide a grace period after the close of books, during which applicants may submit corrections to applications deemed incomplete, unreasonable and arbitrary, let alone necessary.

20. The Individual Plaintiffs, Injured Union Members, and additional thousands of Florida's eligible electors who will register for the 2006 federal elections are consequently and imminently threatened with absolute denial of their fundamental right to vote in these elections. As in 2004, thousands of applicants will neglect to check the mental incapacity, felon and/or citizenship box and will not be afforded adequate notice, the opportunity to provide the "missing information" to their voter registration applications, or any grace period during which to make such corrections after the close of books. Accordingly, such eligible electors will be disenfranchised and unlawfully denied the fundamental right to vote in 2006 and future federal elections without due process of law.

21. Plaintiffs seek nominal damages from Defendant County Supervisors of Elections for Broward, Miami-Dade, Orange and Palm Beach Counties for denying them and their members the right to vote in the November 2004 general election.

22. Plaintiffs' remedies at law are, however, insufficient to provide them, and the class members, adequate relief from Defendants' ongoing violations of their First, Fifth and Fourteenth Amendment rights. Plaintiffs' rights can be preserved only through declaratory and injunctive relief against Defendant County Supervisors of Elections and the Defendant Cobb. By this action, Plaintiffs seek declaratory and injunctive relief to require that Defendants (a) provide timely and adequate notice when

an application is deemed incomplete; (b) provide an adequate grace period during which applicants may submit any “missing information” relating to the checkboxes, as well as any other “missing information”; and (c) be enjoined from deeming applications incomplete where the only omission is the applicants’ failure to check the mental incapacity box.

23. Many Floridians, including Individual Plaintiffs and members of the union Plaintiffs, have been and will continue to be denied the right to vote and excluded from the political process because of Defendants’ burdensome registration practices and procedures, unless the Court grants the requested relief.

## **II. JURISDICTION AND VENUE**

24. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331, as a case arising under the laws of the United States; under 28 U.S.C. § 1343(a)(4), as a case to recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote; and under 28 U.S.C. § 1367 granting supplemental jurisdiction over related claims.

25. Plaintiffs’ prayer for declaratory and injunctive relief is authorized by 28 U.S.C. §§ 2201 and 2202; 42 U.S.C. § 1973gg-9(b); and Rules 57 and 65 of the Federal Rules of Civil Procedure.

26. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because Defendants Lester Sola, Miami-Dade County Supervisor of Elections; Brenda Snipes, Broward County Supervisor of Elections; and Arthur Anderson, Palm Beach County Supervisor of Elections reside in this District.

### **III. THE PARTIES**

#### **A. The Individual Plaintiffs**

27. Plaintiff Emma Yaiza Diaz is a United States citizen and is over the age of eighteen. Plaintiff Diaz is a resident of Miami-Dade County, Florida. She has never been convicted of a felony and never been adjudicated mentally incompetent.

28. Plaintiff John A. Lanman is a United States citizen and is over the age of eighteen. Plaintiff Lanman is a resident of Orange County, Florida. He has never been convicted of a felony and never been adjudicated mentally incompetent.

#### **B. The Union Plaintiffs**

29. Plaintiffs AFL-CIO, AFSCME, AFSCME Council 79, and SEIU (the “Union Plaintiffs”) bring suit on behalf of their individual members in Broward, Duval, Miami-Dade, Orange and Palm Beach Counties, who have been aggrieved by Defendants’ failure to comply with federal constitutional and federal statutory guarantees and provisions relating to voting and who have standing to sue in their own right. Their members’ individual interests in fully participating in the electoral process are germane to the purposes of the plaintiff organizations, and the claims alleged herein do not require the participation of individual members in the lawsuit. In addition, Defendants’ failure to process voter registration applications submitted by eligible electors for the reasons at issue in this lawsuit has frustrated the mission of the Organizational Plaintiffs and forced them to divert substantial resources to counteract Defendants’ unlawful conduct.

#### **AFL-CIO**

30. Plaintiff American Federation of Labor and Congress of Industrial Organizations (“AFL-CIO”) is a federation of 60 national and international unions (the “affiliate unions”) with a total membership of between 8 and 9 million working men and

women, including hundreds of thousands of members throughout the State of Florida, including members in Broward, Duval, Miami-Dade, Orange and Palm Beach Counties.

31. The objectives and principles of the AFL-CIO, as set forth in its Constitution, include: “To protect and strengthen our democratic institutions, to secure full recognition and enjoyment of the rights and liberties to which we are justly entitled, and to preserve and perpetuate the cherished traditions of our democracy,” and “to encourage workers to register and vote, to exercise their full rights and responsibilities of citizenship, and to perform their rightful part in the political life of the local, state and national communities.”

32. This action is directly relevant to the AFL-CIO’s mission to secure the voting rights of working men and women and traditionally disenfranchised communities. Encouraging such political participation is a key function of the AFL-CIO. Ensuring that citizens who have attempted to register to vote are actually able to vote is an obvious corollary to that mission. The AFL-CIO thus has a strong and demonstrated interest in ensuring that their members who have applied to register to vote are, in fact, allowed to vote.

33. The affiliate unions have members in the counties of Broward, Duval, Miami-Dade, Orange, and Palm Beach, who are qualified to register to vote, in that they are citizens of the United States, at least eighteen years of age, permanent residents of the State of Florida and have never been adjudicated a felon or mentally incompetent.

**AFSCME, AFLCIO**

34. Plaintiff American Federation of State, County and Municipal Employees, AFLCIO (“AFSCME”) is an Affiliate Union of the AFL-CIO that represents

approximately 1.4 million working men and women, including in excess of 110,000 workers throughout the State of Florida, including in Broward, Duval, Miami-Dade, Orange and Palm Beach Counties.

35. The AFSCME International Constitution provides that: “Union members are both workers and citizens.” The Constitution further provides that: “For unions, the work place and the polling place are inseparable, and the exercise of the awesome rights and responsibilities of citizenship is equally required at both.”

36. This action is directly relevant to AFSCME’s mission to secure the voting rights of working men and women and traditionally disenfranchised communities. Encouraging such political participation is a key function of AFSCME. Ensuring that citizens who have attempted to register to vote are actually able to vote is an obvious corollary to that mission. AFSCME thus has a strong and demonstrated interest in ensuring that its members who have applied to register to vote are, in fact, allowed to vote.

37. AFSCME has members in the counties of Broward, Duval, Miami-Dade, Orange, and Palm Beach, of Florida who are qualified to register to vote, such that they are citizens of the United States, at least eighteen years of age, permanent residents of the State of Florida and have never been adjudicated a felon or mentally incompetent.

**AFSCME Council 79**

38. Plaintiff Florida Public Employees Council 79, AFSCME, AFL-CIO (“AFSCME Council 79”), is a labor organization, an affiliate of AFSCME and an Affiliate Union of AFL-CIO. AFSCME Council 79 represents more than 110,000 workers in Broward, Duval, Miami-Dade, Orange, and Palm Beach counties in Florida, including workers in every county in the State.

39. AFSCME Council 79 has members in the counties of Broward, Duval, Miami-Dade, Orange, and Palm Beach who are qualified to register to vote, in that they are citizens of the United States, at least eighteen years of age, permanent residents of the State of Florida and have never been adjudicated a felon or mentally incompetent.

**SEIU**

40. Plaintiff Service Employees International Union, AFL-CIO (“SEIU”) is an Affiliate of the Change to Win Federation with more than 1.6 million members, including in excess of 30,000 members in Broward, Duval, Miami-Dade, Orange and Palm Beach Counties, and elsewhere throughout the State of Florida.

41. The SEIU Constitution expresses the principle that “workers’ voices [must be] heard at every level of government” and that “unions must participate in the political life of our society.” The SEIU Constitution further provides that in order to “benefit [SEIU’s] members and improve their conditions by every means,” SEIU will “engage in ... civic, ... political, legal ... and other activities.”

42. SEIU has members in every county of Florida who are qualified to register to vote in that they are citizens of the United States, at least eighteen years of age, permanent residents of the State of Florida and have never been adjudicated a felon or mentally incompetent.

43. This action is directly relevant to the SEIU’s mission to secure the voting rights of working men and women and traditionally disenfranchised communities. Encouraging such political participation is a key function of the SEIU. Ensuring that citizens who have attempted to register to vote are actually able to vote is an obvious corollary to that mission. The SEIU thus has a strong and demonstrated interest in

ensuring that its members who have applied to register to vote are, in fact, allowed to vote.

**C. Defendants**

**Sue M. Cobb**

44. Defendant Sue M. Cobb (“Defendant Cobb”) is the Secretary of State of Florida since January 2006. As Secretary of State, Defendant Cobb is the chief elections officer of the State of Florida and has responsibility for general supervision and administration of election laws. Fla. Stat. § 97.012 (2005) & (2006). She is sued in her official capacity for her actions taken under color of state and federal law.

45. Among other things, Defendant Cobb must ensure that:

(i) Federal election laws are interpreted and interpreted and implemented in a uniform and non-discriminatory manner throughout Florida, see 42 U.S.C. §1973gg-8; Fla. Stat. §97.012(1), (2), (7), (9) (2006); and

(ii) Every eligible voter registration applicant is registered to vote, *see* 42 U.S.C. § 1973gg-6(a)(1).

46. As of January 1, 2006, the Secretary of State has authority to issue rules, pursuant to Fla. Stat. §§ 120.536(1) and 120.54 (2006), providing for uniform standards for the proper and equitable interpretation and implementation of the Florida statutes governing the registration of electors. Fla. Stat. § 97.012 (2006).

47. Defendant Cobb serves as the chief elections officer for the state under the National Voter Registration Act (“NVRA”). As such, she is accountable for coordinating the State’s responsibilities under the NVRA, and for ensuring that all voter

registration applications and forms prescribed or approved by the Division of Elections are in compliance with the Voting Rights Act of 1965 (“VRA”) and the NVRA. Fla. Stat. § 97.012 (2006).

48. Defendant Cobb is ultimately responsible for ensuring that every eligible applicant for voter registration is registered to vote. 42 U.S.C. § 1973gg-6(a)(1).

49. During 2004 and 2005, Glenda Hood was Florida’s Secretary of State and chief elections officer, until she resigned in December 2005.

### **The Defendant Supervisors of Elections**

50. Defendants Brenda Snipes (“Snipes”), Jerry Holland (“Holland”), Lester Sola (“Sola”), Bill Cowles (“Cowles”) and Arthur Anderson (“Anderson”) (collectively, the “Supervisor Defendants”) are Supervisors of Elections for Broward, Duval, Miami-Dade, Orange and Palm Beach Counties, respectively. They are sued in their official capacities in connection with their actions taken under color of state and federal law.

51. Each Supervisor, including each of the Defendant Supervisors, is obligated by law to ensure that every eligible applicant for voter registration is registered to vote. Fla. Stat. § 98.045(1) (2005) & (2006).

52. In 2004 and 2005, Supervisors were responsible for maintaining that County’s voter registration books and for ensuring that all voter registration and list maintenance procedures in that County were in compliance with the Voting Rights Act. *See* Fla. Stat. §§ 97.012(11) and 98.015 (2004) & (2005).

53. As of January 1, 2006, Supervisors became responsible for updating voter registration information, for entering new voter registrations into the new statewide voter registration system, and for ensuring that all voter registration and list

maintenance procedures in that County comply with the Voting Rights Act, the NVRA, the Help America Vote Act of 2002, and the rules issued by the Secretary of State. Fla. Stat. § 98.015 (2006).

#### **IV. LEGAL BACKGROUND**

54. The First, Fifth and Fourteenth Amendments to the U.S. Constitution prohibit a State from denying a person's fundamental right to vote, to have his or her vote counted, to associate for political purposes, and to seek political representation by voting, without a compelling state interest. Further, the State may impose no burden on such liberty interests where the state action is unreasonable and discriminatory.

##### **A. Defendants' Unlawful Actions, Insufficient Notice, And Lack Of Grace Period**

##### **During Voter Registration Period Prior to the Registration Deadlines in 2004**

55. The 2004 general election was held on November 2nd. In that election, Florida electors had an opportunity to vote for the President and Vice President of the United States, United States Senator, various other offices and a host of ballot initiatives.

56. The voter registration deadline for registering in time to vote in the November 2nd general election was October 4, 2004. §97.055(1), Fla. Stat. (voter registration books close 29 days before each election).

57. The Defendant Supervisors are required by law to notify voter registration applicants of the disposition of their applications. 42 U.S.C. § 1971gg-6(a)(2); Fla. Stat. § 97.073(1) (2005) & (2006). The notice must inform an applicant if his

or her application is deemed to be incomplete and must provide the applicant an opportunity to submit the missing information. Fla. Stat. § 97.073(1) (2005) & (2006).

58. Former Secretary of State Hood, through her counsel, was on record in 2004 as agreeing that the Department of State and the County Supervisors of Elections, including the Defendant Supervisors, must “provide each applicant an opportunity to complete the voter registration application.”

59. Nonetheless, Defendant failed to provide timely and adequate written notice to many Floridians, including Plaintiffs and their members, that their registration forms were incomplete, and failed to provide those applicants with an opportunity to correct their application in time to be eligible to vote in the November 2004 election.

60. Registration books are closed on the 29th day before an election. Fla. Stat. § 97.055 (2005) & (2006). The deadline for initial applications is the same as the deadline for completing any errors or omissions, except that updates to the voter’s name, address, and signature are permitted. *Id.*

61. Florida election law does not provide applicants with a grace period between the registration deadline and the date of the election for curing an omission to check the boxes for mental incapacity, citizenship, and/or felony status. Thus, because the deadline to correct one’s application is the same as the voter registration deadline, applicants who timely submitted their applications weeks before the close of books, but who received notice of a deficiency in their application immediately preceding or after the voter registration deadline were denied an opportunity to correct their application and vote in the November 2004 elections.

62. Because of the increase in voter registration drives, campaign activity, and awareness and interest in elections as the date of an election draws near each election cycle, the number of applications progressively increases during the months and weeks prior to the application deadline. Consequently, Defendants' refusal to accept corrections after the registration deadline denied thousands of applicants the right to vote in that election.

63. Defendants could have permitted applicants to supply corrections to their applications after the close of books and ensure that all eligible electors who filed timely applications were provided the opportunity to supply any missing information.

64. For example, in 2004, the Duval County Supervisor of Elections permitted applicants who timely filed applications prior to the voter registration deadline to correct their applications until October 18, 2004, two weeks after the deadline. Ex. \_\_\_\_

65. Duval County's efforts included a review of 1,522 voter registration applications with incomplete applications pending to determine how many applications were deemed incomplete because they were missing a checkmark in the citizenship box. The staff identified 166 applications and added these applications to the voter rolls based on the determination by the Duval County Supervisor's Office that the applicants had provided sufficient proof of citizenship by signing the form.

66. The efforts further included contacting voters with incomplete applications and notifying them during this grace period that their applications were incomplete, and obtaining the additional information necessary to add them to the rolls.

67. On information and belief, Hillsborough County and Manatee Counties likewise, permitted the amendment of registration applications already pending on October 4, 2004 through October 18, 2004.

68. Defendant Supervisors of Elections for Broward, Miami-Dade, Orange and Palm Beach Counties had no reasonable basis for refusing to provide a grace period for such corrections.

69. The failure of Defendant Supervisors (except for Duval County) to provide applicants with a grace period for completing applications with missing checkmarks unnecessarily burdened Plaintiffs' right to vote without a legitimate, let alone compelling, state interest. Moreover, Defendant County Supervisors had no reasonable basis for permitting a grace period for applicants to correct certain information, but not for corrections to the checkboxes.

**Effect of Florida's Recent Amendments to its Election Code and Implementation of the Florida Voter Registration System**

70. In January 2006, Florida's statewide voter database, the Florida Voter Registration System, went into effect pursuant to the Help America Vote Act.

71. On information and belief, the statewide database has, and will continue to, increase the efficiency in the processing of voter registration applications.

72. Florida's election code was amended, effective January 1, 2006, to afford voter registration officials fifteen (15) days to enter a voter registration application into the statewide voter registration system, from the date of receipt of the application. Fla. Stat. § 97.053(7).

73. Florida's amendments to its election code also provide that if a voter applicant submits an application that is missing information, the supervisor must

notify the applicant of the omission by mail within five business days after the supervisor “has the information available in the voter registration system.” Fla. Stat. § 97.052(6).

74. Thus, the new law provides Supervisors of Elections with a minimum of twenty days from the date on which the application is received to notify an applicant who supplied an incomplete application such deficiency.

75. Florida’s amendments to its election code, effective January 1, 2006, also restrict the ability of applicants to correct their applications after the book closing date and impose additional, and needless, burdens on applicants who wish to correct their incomplete applications.

76. In particular, the amended code makes clear that after the close of registration, “updates to a voter’s name, address, and signature . . . shall be the only changes permitted for purposes of the upcoming election.” Fla. Stat. § 97.055 (2006).

77. Thus, all Defendant Supervisors of Elections, including Duval County, will no longer be permitted to allow applicants to amend applications after the grace period that are deemed incomplete because they are missing checkmarks in the citizenship, felon status, and mental incapacity checkboxes.

78. Further, the amended code imposes new burdens on applicants. Whereas under prior state law, the applicant could supply information missing on a voter registration application “in writing” and with a signed “statement that the additional information is true and correct,” Fla. Stat. § 97.073(1) (2004), the amended law requires applicants to submit supplemental information “using a voter registration application signed by the applicant.” Fla. Stat. § 97.073(1) (2006). In other words, an applicant who

has submitted an incomplete application must submit a second voter registration application.

79. Permitting some applicants to amend their voter registration information after the book closing date and discriminates between applicants. Such applicants are similarly situated and there is no legitimate, let alone compelling basis, for permitting applicants to update their name, address, and/or signature, but not to check a box indicating mental capacity, felon status, or citizenship. Further, such differential treatment of applicants is unreasonable, let alone necessary, for the Supervisors' administration of the election.

80. As the Secretary of State has conceded, the voter registration deadline by no means constitutes a full or complete closing of the books. The Florida Division of Elections' Guide to FVRS (Sept. 7, 2005) notes that preparing precinct registers from a single statewide voter registration list "would be a very straightforward process if all the counties printed precinct registers at the same time and if the statutorily defined book closing was truly a freeze on the registration updates for the period between book closing and the election. In fact, book closing only controls the effective dates for party changes (for primaries) and the eligibility of new voters. Address changes, other determinations of eligibility such as deaths, early and absentee voting and valid registrations received after book closing all effect the inclusion of voters on a precinct register at any point in time."

81. Therefore, according to the Division of Elections, the voter registration activities are in fact "very fluid and dynamic," even after the book closing date.

82. As explained above, the lack of a grace period for completing applications with missing checkmarks unnecessarily burdens Plaintiffs' right to vote without a legitimate, let alone compelling, state interest. Moreover, there is no reasonable basis for Defendant County Supervisors refusing to permit a grace period for certain information, but not for corrections to the checkboxes.

**B. The Mental Incapacity Box**

**Florida's 2004 Voter Registration Form**

83. The Florida voter registration application that was used in 2004 contains a box at the top and center of the application and states in pertinent part: "TO REGISTER, YOU MUST . . . [n]ot now be adjudicated mentally incapacitated with respect to voting in Florida or any other state . . . ." The 2004 application is attached hereto as Ex. A. The form requires, on Line 17, that all applicants affirm an oath that states that he or she is "qualified to register as an elector under the Constitution and laws of the State of Florida."

84. On information and belief, the State has no legitimate reason for rejecting applicants that have failed to check the mental incapacity box, and the information gained from the applicants' checking or failing to check the mental incapacity box has never been used in any meaningful effort to prevent ineligible voters from registering and voting in the election.

85. The 2004 Florida Voter Registration Application Form included a checkbox which each voter applicant must check to "affirm that I have not been adjudicated mentally incapacitated with respect to voting, or if I have, my competency has been restored." On the form, applicants are instructed that, if they did not check the box, they should not complete the form. The 2006 revised form includes a similar

instruction, in addition to the one that: “YOU ARE UNABLE TO AFFIRM THE STATEMENTS IN BOX[] 4 . . . YOU ARE INELIGIBLE TO VOTE.”

86. The Supervisor Defendants refused to process voter registration applications on which the applicant neglected to check the affirmation of non-adjudication of mental incapacity box.

87. Thousands of eligible voters in Broward, Duval, Miami-Dade, Orange, and Palm Beach County were thus deprived of their right to vote in the November 2004 federal elections, not because they were not qualified as electors on the basis of mental incapacity, but simply because they did not check the corresponding box on their voter registration application.

88. In 2004, in Miami-Dade County alone, 3721 applicants did not check the mental incapacity box. In Orange County, that number was 1329.

89. The 2004 Florida Voter Registration Application is ambiguous and confusing with regard to the language and instructions concerning the mental incapacity box, and the box serves no purpose other than preventing eligible voters from registering to vote. The large number of eligible electors rejected based on the failure to check the mental incapacity box by itself demonstrates that the language is confusing. Further, the 2006 revised Florida Voter Registration Application is ambiguous and confusing with regard to the language and the instructions concerning the mental incapacity box.

90. To check the box, the voter applicant must be capable of understanding and interpreting legal terminology used in the Florida Constitution (“adjudicated mentally incapacitated”) further complicated by the addition of a double negative, which entire phrase then is made the object of an affirmation (“I affirm that I

have not been adjudicated mentally incapacitated.”). Such language presupposes a high degree of literacy, is unnecessarily and deliberately confusing, and does not conform with plain English guidelines.

91. The mental incapacity box does not suitably if at all serve the purpose of excluding ineligible applicants. On information and belief the number of voter applications rejected each year for incompleteness based on voters’ failure to check the mental incapacity box, despite such voters’ eligibility to vote, far exceeds the number of persons adjudicated mentally incapacitated in the State of Florida each year.

92. There have been around 7,000 guardianship dispositions statewide in the Probate Divisions of Florida’s Circuit Courts in the most recent year between 2004 and 2005 for which such statistics are available. On information and belief, 20 to 25 percent of these cases result in dispositions of mental incapacity with respect to voting, which amounts to around 1400-1650 cases in all of Florida per year. Based on raw data received from Miami-Dade, the number of applications rejected in 2004 in Miami-Dade County alone, because the applicant did not check the mental incapacity box amounts to 3721 applications. Based on raw data received from Orange County, the number of applications rejected in the seven months between April 4, 2004 and October 15, 2005 in Orange County alone, due to applicants not having checked the mental incapacity box, amounts to 1329 applications. On information and belief, Defendants never ascertained that any of these applicants so rejected had been adjudicated mentally incapacitated.

93. There is no legitimate, let alone compelling, state interest that justifies Defendants’ use of confusing language to request mental incapacity information, their refusal to register applicants that fail to check the box, or their failure to provide

those applicants with adequate grace period to submit a corrected application in time for the election.

94. The State of Florida does, of course, have a legitimate interest in determining whether applicants meet the state's eligibility requirements, including mental incapacity. The State of Florida further has a legitimate interest in excluding those ineligible from the franchise, and/or deterring those ineligible from attempting to register to vote. But the method by which the State of Florida has chosen to effectuate these ends – that is, the mental incapacity checkbox described in this complaint –, is on its face unreasonable, arbitrary, bizarre and even absurd.

95. The requirement that all eligible citizens check the box next to the complicated statement on the form “I affirm that I have not been adjudicated mentally incapacitated, or, if I have, my competency has been restored,” cannot effectuate the State's purported goals. The mental incapacity checkbox will necessarily elicit a random response from those so mentally incapacitated that they have been declared incapacitated with regard to voting, because such persons will not be able to understand the question. If they did, they would not have been adjudicated totally mentally incapacitated. The mental incapacity checkbox will further elicit a significant number of false positives from applicants who do not have a high degree of literacy. Finally, the mental incapacity checkbox will likely elicit very few false positives from those with a high degree of literacy.

96. The mental incapacity box therefore does not serve to establish whether an applicant is eligible to vote.

97. On information and belief, an applicant who has completed the form but for the mental incapacity checkbox, is far more likely to be eligible to vote, than ineligible. Therefore, the mental incapacity checkbox is an unreasonable and arbitrary means for determining voter eligibility, serves no legitimate, let alone compelling, state interest, and unnecessarily burdens the fundamental rights of all applicants.

**The Effect of the New Laws and Form in Effect in 2006**

98. As of January 1, 2006, many revisions to Florida's elections laws have come into effect, including revisions to statutes pertaining to the authority granted to Defendant Cobb and the Defendant Supervisors; the design of the registration application; the registration procedures; the establishment of a new centralized computerized registration system as required by the Help America Vote Act of 2002; and other matters.

99. Under the amendments, the Secretary of State as well as the Defendant Supervisors of Elections remain responsible for ensuring that all eligible electors are duly registered and/or notified of the disposition of their voter registration applications, and that registration procedures comply with the relevant provisions of the Voting Rights Act, the NVRA, and other federal laws.

100. Moreover, the changes to Florida election laws have not cured past injuries complained of in these pleadings. In fact, some of the changes will cause imminent future injury to the Individual Plaintiffs' and the Injured Union Members' voting rights.

101. As to the mental incapacity box, the statute now sets forth the precise wording required for all checkmark affirmations on the 2006 revised form. Fla. Stat. § 97.052(2) (2006). Thus, the statute provides that:

The uniform statewide voter registration application must be designed to elicit the following information from the applicant:

...

(r) Whether the applicant has been adjudicated mentally incapacitated with respect to voting or, if so adjudicated, has had his or her right to vote restored by including the statement ‘I affirm I have not been adjudicated mentally incapacitated with respect to voting, or, if I have, my competency has been restored.’ And by providing a box for the applicant to check to affirm the statement.

*Id.*

102. The new law leaves no doubt that neither the Secretary of State nor the Defendant Supervisors has any discretion with regard to the manner of eliciting information concerning the legal competence of applicants. The new law, moreover, prescribes that the only permissible language to elicit information concerning mental incapacity is the confusing formulation on the form. Moreover, on information and belief, requiring voter applicants to check the mental incapacity box is utterly ineffective in effecting its supposed purpose of preventing voter fraud.

103. Further, the January 2006 revised Florida Voter Registration Application has been rendered more confusing by ambiguous instructions. The application form states that “IF YOU ARE UNABLE TO AFFIRM THE STATEMENTS IN BOX 4 [mental incapacity] . . . YOU ARE INELIGIBLE TO REGISTER TO VOTE. DO NOT COMPLETE THIS FORM. ” A copy of the 2006 Florida Voter Registration Application is attached hereto as Exhibit B. Thus by acting and signing the oath, and by

declaring that he or she is “qualified as an elector” and affirming that “all information provided in this application is true,” the voter applicant has already doubly affirmed that he has not been adjudicated mentally incapacitated and is legally competent to vote, and arguably, has completed all the required portions of the form. *Id.* The form does not provide adequate notice to the applicant that his application will not be processed, if he does not check the mental incapacity box, but only that “if you cannot affirm the statements in box 4 . . . you are ineligible to vote . . .”

**C. The Plight of the Individual Plaintiffs**

104. On September 17, 2004, Plaintiff Diaz and her father registered to vote outside of the Miami Convention Center, in Miami-Dade County, where she had just been sworn in as a U.S. citizen. Since neither he nor Diaz had received any information from the Miami-Dade Supervisor of Elections about their applications, on October 5, 2004, Diaz’s father telephoned the Miami-Dade Supervisor’s office to inquire about the status of his application and that of Diaz. He was told that his application was accepted, but that the office would have to check into the status of Diaz’s application.

105. The next day, Diaz’s father was advised that Diaz’s application had been rejected because she had not checked the box confirming that she had not been declared mentally incompetent and she would not be allowed to submit the missing information. The Supervisor’s office further advised that it was too late for anything to be done to allow Diaz to vote in the November 2nd general election. It was not until October 8, 2004 – four days after the rolls were closed for the 2004 election – that Diaz received written notice from the Miami-Dade Supervisor’s office that her application had been deemed incomplete and that she was not yet registered to vote. Diaz would like to vote in the November 2006 elections. Defendant Miami-Dade Supervisor of Election has

refused and continues to refuse to process Diaz's voter registration application and add her to the voter rolls.

106. Shortly before the registration deadline for the November 2004 elections, Plaintiff Lanman completed a voter registration application and mailed it to Defendant Orange County Supervisor's office. To date, Plaintiff Lanman has received no communications from Defendant Cowles' office concerning the status of his application. Records of incomplete voter registration applications produced by Orange County in connection with this litigation reveal that Lanman's application was deemed incomplete because he did not check off the boxes confirming that he had not been convicted of a felony and that he had not been adjudicated mentally incapacitated. On information and belief, Lanman has not been added to the voter rolls for Orange County. Lanman would like to vote in the November 2006 elections.

**D. The Harm to the Injured Union Members**

**AFL-CIO**

107. Members of the AFL-CIO's affiliate unions residing in Broward, Duval, Miami-Dade, Orange and Palm Beach counties, who applied to register to vote, desired to vote, and to have their votes counted, were denied their right to vote in the November 2004 elections for federal office based on the unduly restrictive registration practices described in this complaint.

108. In Broward County, the applications of at least two AFL-CIO union members were not processed because the applicant had not checked the felony box, mental incapacity box, and citizenship box. *See Spreadsheet of AFL Union Members* (attached hereto as Ex. E). On information and belief, these incomplete voter registration applications were not processed prior to the November 2004 elections, nor were the

applicants allowed a reasonable opportunity to cure any purported deficiency in their application prior to the November 2004 elections. In consequence, the applicants were unable to vote on November 2, 2004.

109. In Miami-Dade County, the applications of at least eleven AFL-CIO union members were not processed because the applicant had not checked the citizenship, felon, and mental incapacity boxes; eighteen had not checked the felon and mental incapacity boxes; eight had not checked the mental incapacity box; and one had not checked the felony box. *Id.* On information and belief, these incomplete voter registration applications were not processed prior to the November 2004 elections, nor were the applicants allowed a reasonable opportunity to cure any purported deficiency in their application prior to the November 2004 elections. In consequence, the applicants were unable to vote on November 2, 2004.

110. In Orange County, the application of one AFL-CIO union member was not processed because the applicant had not checked the mental incapacity box. *Id.* On information and belief, this incomplete voter registration application was not processed prior to the November 2004 elections, nor was the applicant allowed a reasonable opportunity to cure any purported deficiency in his or her application prior to the November 2004 elections. In consequence, the applicant was unable to vote on November 2, 2004.

111. In Palm Beach County, the applications of at least twelve AFL-CIO union members were not processed because the applicant had not checked the citizenship box. Six applicants had not checked the felony box, and four had not checked the mental incapacity box. *Id.* On information and belief, these incomplete voter

registration applications were not processed prior to the November 2004 elections, nor were the applicants allowed a reasonable opportunity to cure any purported deficiency in their application prior to the November 2004 elections. In consequence, the applicants were unable to vote on November 2, 2004.

112. In Duval County, at least one AFL-CIO member was not processed because the applicant had not checked the felon box, and one application was not processed because the applicant had not checked the citizenship box. *Id.* These incomplete voter registration applications were not processed prior to the November 2004 elections, nor, on information and belief, were the applicants allowed a reasonable opportunity to cure any purported deficiency in their application prior to the November 2004 elections. In consequence, the applicants were unable to vote on November 2, 2004.

113. On information and belief, these “incomplete” voter registration applications were not processed prior to the November 2004 elections, nor were the applicants allowed a reasonable opportunity to cure any purported deficiency in their application prior to the November 2004 elections. In consequence, the applicants were unable to vote on November 2, 2004.

**AFSCME and AFSCME Council 79**

114. AFSCME and AFSCME Council 79 nion members residing in Duval and Miami-Dade counties, who have applied to register to vote, desired to vote, and to have their votes counted, were denied their right to vote in the November 2004 elections for federal office based on the unduly restrictive registration practices described in this complaint. *Id.*

115. In Miami-Dade County, the applications of approximately seven AFSCME and AFSCME Council 79 members were not processed. *Id.* On one application, the applicant had not checked the citizenship, felony, and mental incapacity boxes; on two applications, the applicant had not checked the felony and mental incapacity boxes; and on one application, the applicant had not checked the mental incapacity box . On information and belief, these incomplete voter registration applications were not processed prior to the November 2004 elections, nor were the applicants allowed a reasonable opportunity to cure any purported deficiency in their application prior to the November 2004 elections. In consequence, the applicants were unable to vote on November 2, 2004.

116. In Duval County, one AFSCME and AFSCME Council 79 member submitted an application that was not processed because the applicant had not checked the citizenship box. *Id.*

117. These “incomplete” voter registration applications were not processed and the applicants were not allowed a reasonable opportunity to cure any purported deficiency in their application. As a consequence, the applicants were unable to have their vote counted on November 2, 2004.

### SEIU

118. Members of SEIU residing in Miami-Dade and Palm Beach counties, who applied to register to vote, desired to vote, and to have their votes counted, were denied their right to vote in the November 2004 elections for federal office based on the unduly restrictive registration practices described in this complaint.

119. In Palm Beach County, the applications of two SEIU members were not processed because the applicant had not checked the mental incapacity box and

the application of one SEIU member was not processed because the applicant had not checked the felony box. *See* Spreadsheet of SEIU Members (attached hereto as Exhibit F).

On information and belief, these “incomplete” voter registration applications were not processed prior to the November 2004 elections, nor were the applicants allowed a reasonable opportunity to cure any purported deficiency in their application prior to the November 2004 elections. In consequence, the applicants were unable to vote on November 2, 2004.

### **CLASS ACTION ALLEGATIONS**

120. The Individual Plaintiffs, Emma Diaz and John A. Lanman, bring this action on their own behalf and on behalf of all similarly situated eligible electors who reside in Broward, Duval, Miami-Dade, Orange, or Palm Beach County and who have been or will be, harmed by Defendants’ unlawful voter registration practices.

121. In particular, the Individual Plaintiffs seek to represent a class consisting of all eligible electors who reside in Broward, Duval, Miami-Dade, Orange, or Palm Beach County and submitted a voter registration application to a Defendant Supervisor of Elections after January 1, 2004, and (a) did not, or will not, receive timely notice and were, or will be, denied the opportunity to cure an omission related to the mental incapacity, felon status, or citizenship box after the close of books in either the 2004 or 2006 general election or (b) whose application was rejected, or will be rejected, because the applicant did not check the mental incapacity box.

122. Each of the requirements of Federal Rule of Civil Procedure 23(a) is met.

123. Members of the class are so numerous that joinder of all members is impracticable, and individual litigation by each would necessarily and substantially burden the operation of the judicial system and is prohibitive because the individual class members lack the financial means to maintain individual actions. In addition, the prosecution of separate actions by individual class members would create a risk of inconsistent or varying adjudications establishing incompatible rules of law for the protection of voting rights of class members.

124. The number of class members can best be estimated from records in the control of Defendants. They are believed to number in the thousands, and possibly tens of thousands.

125. Common questions of law and fact predominate in this case in that the Supervisor Defendants have rejected or will reject class members' voter registration application for the same unlawful ground or grounds, thereby depriving class members of their voting rights.

126. The claims of the Individual Plaintiffs are typical of the class members in that their voter registration applications were denied on the same ground or grounds that the applications of the class members were denied, or will be denied.

127. The Individual Plaintiffs will adequately and fairly represent and protect the interests of the class because each Individual Plaintiff has suffered the same or similar harm, and has the same or similar interest in redress of his/her rights as all other members of the class, and thus their interests overlap and do not conflict. The attorneys representing the Individual Plaintiffs are experienced and capable litigators possessed of sufficient resources to adequately protect and represent the interests of the plaintiff class.

128. The requirements of Federal Rule of Civil Procedure 23(b)(2) are met in that Florida's election laws which are the subject of this lawsuit have been applied to the members of the class as a whole, and Defendants have acted and refused to act on grounds generally applicable to the class, thereby making appropriate injunctive relief and corresponding declaratory relief with respect to the class as a whole. A class action is the exclusive method by which the interests of all affected persons can be adequately protected.

V. **FIRST CAUSE OF ACTION FOR FAILURE TO PROVIDE ADEQUATE NOTICE AND AN OPPORTUNITY TO CORRECT IN 2004**  
**(SECTION 1983 CLAIM OF DEPRIVATION OF PLAINTIFFS' FUNDAMENTAL RIGHT TO VOTE UNDER THE FIRST, FIFTH AND FOURTEENTH AMENDMENTS OF THE U.S. CONSTITUTION)**  
**(As Against The Defendant County Supervisors of Elections for Broward, Miami-Dade, Orange, and Palm Beach Counties for Conduct in 2004)**

129. Plaintiffs repeat and reallege each and every allegation in the foregoing paragraphs 1 through 128 above as if fully set forth herein.

130. The First and Fourteenth Amendments of the United States Constitution protect the right to vote as a fundamental right. The First Amendment's guarantees of freedom of speech and association protect the right to vote and to participate in the political process. Moreover, the right to vote is a fundamental constitutional right incorporated into the Due Process Clause of the Fourteenth Amendment.

131. The Individual Plaintiffs, certain members of the union plaintiffs, and thousands of other eligible electors who timely filed their voter registration applications before the close of books in 2004, were not placed on the voter rolls for the 2004 elections, because they did not check one or more of the boxes relating to

citizenship, felon status, or mental incapacity and, as a result, their applications were deemed incomplete. They did not receive adequate notice or the opportunity to correct their applications and supply the “missing information.” As a result, Plaintiffs were not placed on the voter rolls and were thus prevented from casting their vote in the 2004 federal elections.

132. Defendants acting in their official capacities under color of state law, are responsible for the vote denial, because they:

(A) failed timely to notify, or to notify at all, in order that the omission on the form may be cured before the close of books;

(B) failed to provide a grace period during which omissions could be cured after the close of books;

133. The described practices severely burdened Plaintiffs’ right to vote in that they unnecessarily resulted in absolute vote denial and did not serve any compelling State interests.

134. In the alternative, the described practices constituted unreasonable discriminatory restrictions on Plaintiffs’ right to vote that did not serve any legitimate state interest.

**VI. SECOND CAUSE OF ACTION FOR FAILURE TO PROVIDE ADEQUATE NOTICE AND AN OPPORTUNITY TO CORRECT IN 2006 (SECTION 1983 CLAIM OF DEPRIVATION OF PLAINTIFFS’ FUNDAMENTAL RIGHT TO VOTE UNDER THE FIRST, FIFTH AND FOURTEENTH AMENDMENTS OF THE U.S. CONSTITUTION) (As Against All Defendant Supervisors of Elections and the Secretary of State for Conduct in 2006)**

135. Plaintiffs repeat and reallege each and every allegation in the foregoing paragraphs 1 through 128 above as if fully set forth herein.

136. The First and Fourteenth Amendments of the United States Constitution protect the right to vote as a fundamental right. The First Amendment's guarantees of freedom of speech and association protect the right to vote and to participate in the political process. Moreover, the right to vote is a fundamental constitutional right incorporated into the Due Process Clause of the Fourteenth Amendment.

137. State law permits registered voters to supply changes to their voter registration information, such as changes in a voters name and signature, after the close of books and before the elections and nevertheless vote in that upcoming election. Furthermore, the new computerized statewide voter registration database, the FVRAS, permits voters to make certain changes to their voter registration file after the close of books and before the elections. But State law prohibits Supervisors of Elections from accepting corrections to an application with regard to the checkboxes after the close of books that would render the application complete prior to the election and permit placing the voter on the rolls.

138. Notwithstanding this state law, it is feasible for Supervisors of Elections to receive and process corrections to voter registration applications after the registration deadline. In 2004, Duval County Supervisor of Election processed scores of incomplete applications until October 18, 2004, added those voters to the rolls, and permitted such voters to cast ballots in the November 2004 general elections.

139. Hundreds of members of the union plaintiffs, and thousands of other eligible electors who will timely file their voter registration applications well before the close of books in 2006 will not be placed on the voter rolls and will thus be prevented

from casting their vote in the November 2006 federal elections, because they will receive inadequate notice and no opportunity to correct their applications deemed incomplete by the Defendants because one or more of the citizenship, felon status, or mental incapacity boxes were not checked.

140. Defendants acting in their official capacities under color of state law, will be responsible for the vote denial, because they:

(A) will fail to timely notify, or to notify at all, in order that the omission on the form may be cured before the close of books;

(B) will fail to provide a grace period during which omissions could be cured after the close of books;

141. The described practices constitute ongoing violations of Plaintiffs' fundamental right to vote;

142. The described practices will continue to severely burden Plaintiffs' fundamental right to vote in that they will unnecessarily result in absolute vote denial and do not serve any compelling State interests.

143. In the alternative, the described practices constitute unreasonable discriminatory restrictions on Plaintiffs' right to vote that do not serve any legitimate state interest.

**VII. THIRD CAUSE OF ACTION RELATING TO THE MENTAL INCAPACITY CHECKBOX (SECTION 1983 CLAIM OF DEPRIVATION OF PLAINTIFFS' FUNDAMENTAL RIGHT TO VOTE UNDER THE FIRST, FIFTH AND FOURTEENTH AMENDMENTS OF THE U.S. CONSTITUTION) (As Against Defendant County Supervisors of Elections for Conduct in 2004 and 2006; and Against the Secretary of State for Conduct in 2006)**

144. Plaintiffs repeat and reallege each and every allegation in the foregoing paragraphs 1 through 128 above as if fully set forth herein.

145. The First and Fourteenth Amendments of the United States Constitution protect the right to vote as a fundamental right. The First Amendment's guarantees of freedom of speech and association protect the right to vote and to participate in the political process. Moreover, the right to vote is a fundamental constitutional right incorporated into the Due Process Clause of the Fourteenth Amendment.

146. The Individual Plaintiffs, certain members of the union plaintiffs, and thousands of other eligible electors did not check the box on the Florida voter registration form next to the questions "I affirm that I have not been adjudicated mentally incapacitated or, if I have, my competency has been restored." As a result of this omission, their applications were deemed incomplete. Applicants' inability to understand the question and the consequence of failing to check the box, caused many applicants, including Diaz and Injured Union Members, to leave the mental incapacity checkbox blank, notwithstanding that they have not been adjudicated mentally incapacitated with regard to voting.

147. Furthermore, the Individual Plaintiffs, and many of the eligible electors, whose applications were not processed for this reason, did not receive adequate notice or an opportunity to cure the omission.

148. As a result, Plaintiffs were not placed on the voter rolls and were thus prevented from casting their vote in the 2004 federal elections.

149. Defendants acting in their official capacities under color of state law, are responsible for the vote denial, because they issued registration applications that request mental incapacity information using inordinately complicated language;

150. Such practice is arbitrary and unreasonable and serves no legitimate, and certainly no compelling, government interest that justifies this severe burden upon Plaintiffs' fundamental right to vote and participate in the political process.

151. The mental incapacity box does not effectively identify persons adjudicated mentally incapacitated, nor does it prevent voter fraud. The complicated language used serves only to confuse and consequently disenfranchise thousands of eligible electors.

152. The described practices severely burdened Plaintiffs' right to vote in that they unnecessarily resulted in absolute vote denial and did not serve any compelling State interests.

153. In the alternative, the described practice constitutes an arbitrary and unreasonable burden on Plaintiffs' right to vote that does not serve any legitimate state interest.

154. The described practices constitute ongoing violations of Plaintiffs' fundamental right to vote;

155. The described practices will continue to severely burden Plaintiffs' fundamental right to vote in that they will unnecessarily result in absolute vote denial and do not serve any compelling State interests.

In the alternative, the described practices constitute unreasonable discriminatory restrictions on Plaintiffs' right to vote that do not serve any legitimate state interest.

### **VIII. PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully pray for a judgment:

- (1) Certifying a class, pursuant to Fed. R. Civ. P. 23(b)(2), consisting of all eligible electors who reside in Broward, Duval, Miami-Dade, Orange, or Palm Beach County and submitted a voter registration application to a Defendant Supervisor of Elections after January 1, 2004, and (a) did not, or will not, receive timely notice and were, or will be, denied the opportunity to cure an omission related to the mental incapacity, felon status, or citizenship box after the close of books in either the 2004 or 2006 general election or (b) whose application was rejected, or will be rejected, because the applicant did not check the mentally incapacity box.
- (2) Declaring that Defendant Supervisors of Elections violated and continue to violate the United States Constitution by refusing to process applications solely because an applicant failed to check the mental incapacity box;

- (3) Declaring that Defendant Supervisors of Elections violated and continue to violate the United States Constitution by failing to provide applicants who timely submitted voter registration applications on which the citizenship, mental incapacity, and/or felon status box was not checked with adequate notice or opportunity to cure omissions after the close of books for no rational, let alone compelling, reason;
- (4) Declaring Florida's amendments to its election code, prohibiting certain amendments to voter registration applications after the book closing date, burden the applicants' right to vote, in violation of the United States Constitution;
- (5) Directing Defendant Cobb to issue a directive to all Supervisors of Elections stating that the absence of a check in the mental capacity box does not render a Florida Voter Registration Application Form incomplete, and does not constitute a legal basis for not registering the applicant;
- (6) Directing the Defendant Supervisors to register applicants whose voter registration applications were timely submitted, including applicants who attempted to register for the 2004 election, but who did not check the mental capacity box, and to allow those applicants to vote in the November 2006 federal election;
- (7) Directing the Defendant Supervisors to permit applicants who timely submits a voter registration application prior to the deadline

for the 2006 elections, but did not check the citizenship or felon status box, a grace period of fifteen days after the close of books during which they may cure any of the described defects by submitting a new registration form.

- (8) Awarding nominal damages in the amount of \$1 to the Individual Plaintiffs, each Injured Union Member, and to all similarly situated individuals who were denied their right to vote in the November 2004 elections by the Defendant County Supervisors' unlawful actions;
- (9) Awarding the Plaintiffs attorneys' fees and costs; and
- (10) Providing any other relief the Court deems necessary.

Dated: West Palm Beach  
Florida, July 10, 2006

RESPECTFULLY SUBMITTED,

/s/ Mary Jill Hanson

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\* Pro hac vice motion to be filed; \*\* Admitted pro hac vice

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was sent via U.S. mail and electronically as an email attachment this 10th day of July, 2006 to counsel for the parties listed in Exhibit A, attached hereto.

New York, New York

By: /s/Michael Halberstam  
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## EXHIBIT A

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\* Pro hac vice motion to be filed.

\*\* Admitted pro hac vice.

## **EXHIBIT A**

# FLORIDA VOTER REGISTRATION APPLICATION FORM

YOU CAN USE THIS FORM TO: REGISTER TO VOTE IN THE STATE OF FLORIDA • CHANGE NAME OR ADDRESS • REPLACE YOUR DEFACED, LOST, OR STOLEN REGISTRATION IDENTIFICATION CARD • REGISTER WITH A POLITICAL PARTY OR CHANGE PARTY AFFILIATION • UPDATE YOUR SIGNATURE

### DEADLINE INFORMATION:

If this is a new registration form, the date the completed form is postmarked or hand delivered to your county supervisor of elections will be your registration date. You must be registered for at least 29 days before you can vote in an election. If your application is complete and you are qualified as a voter, a registration identification card will be mailed to you.

### HOMESTEAD EXEMPTION (BOX #11):

If you have a homestead exemption in Florida and you register in a precinct other than the one in which the homestead property is located, the applicable property appraisals will be notified. Your property may be subject to back taxes and your homestead exemption terminated, if it is determined that you are not entitled to such an exemption.

### PARTY AFFILIATION (BOX #13):

If you wish to register with a major political party, place an "X" in the box preceding the listed party with which you wish to affiliate.

### TO REGISTER, YOU MUST:

- Be a U.S. citizen. (BOX #2)
- Be a Florida resident. (BOX #8)
- Be 18 years old (you may pre-register if you are 17). (BOX #5)
- Not now be adjudicated mentally incapacitated with respect to voting in Florida or any other state. (BOX #4)
- Not claim the right to vote in another county or state.
- Not have been convicted of a felony in Florida, or any other state, without your civil rights having been restored. (BOX #3)
- Complete all information in the black boxes on the form. (BOXES #2,3,4,5,6,7,8 & 17)
- Submit your valid Florida driver's license number or Florida identification card number. If you do not have either of these, you must provide the last four digits of your Social Security number. (BOX #6)

If you wish to register with a minor political party, place an "X" in the box preceding "Other" and print the name of the party with which you wish to affiliate. If you wish to register without party affiliation, place an "X" in the box preceding "No Party Affiliation."

### NOTICE:

The office at which you register, or your decision not to register, will remain confidential and will be used only for voter registration purposes.

### QUESTIONS:

Contact the office of your county supervisor of elections for additional information.

### INFORMACION EN ESPAÑOL:

Sírvase llamar a la oficina del supervisor de elecciones de su condado si le interesa obtener este formulario en español.

PLEASE COMPLETE THE FORM BELOW. PLEASE PRINT USING A BLACK BALL POINT PEN.

- 1) BLACK BOXES MUST BE COMPLETED IN FORM BELOW FOR REGISTRATION TO BE VALID.
- 2) RETURN THIS COMPLETED FORM TO THE OFFICE OF YOUR SUPERVISOR OF ELECTIONS.
- 3) IF YOU ARE A FIRST-TIME VOTER IN THIS COUNTY APPLYING BY MAIL TO REGISTER TO VOTE, INCLUDE A COPY OF YOUR ID WITH THE APPLICATION.
- 4) MAIL WITH FIRST CLASS STAMP.

REVISED 1/04

## FLORIDA VOTER REGISTRATION APPLICATION FORM

<b>1</b>	Check boxes that apply: <input type="checkbox"/> New Registration <input type="checkbox"/> Address Change <input type="checkbox"/> Party Change <input type="checkbox"/> Name Change <input type="checkbox"/> ID Replacement <input type="checkbox"/> Signature Update					OFFICIAL USE ONLY:
<b>2</b>	Are you a U.S. citizen? Yes? <input type="checkbox"/> No? <input type="checkbox"/> (If NO, you cannot register to vote)					IF YOU ANSWERED NO TO QUESTION 2, OR IF YOU DID NOT CHECK BOXES 3 AND 4, DO NOT COMPLETE THIS FORM.
<b>3</b>	<input type="checkbox"/> I affirm I am not a convicted felon, or if I am, my rights relating to voting have been restored.					
<b>4</b>	<input type="checkbox"/> I affirm I have not been adjudicated mentally incapacitated with respect to voting or, if I have, my competency has been restored.					
<b>5</b>	Date of Birth (MM/DD/YYYY)    /    /					
<b>6</b>	FL DL# or FL ID# (If you do not have either, provide the last 4 Digits of SSN).					
<b>7</b>	Last Name		Suffix (circle) Jr. Sr. III IV	First Name		Middle Name/Initial
<b>8</b>	Address Where You Live (Legal Residence) <small>DOMICILIO</small>		Ap#/Lot/Unit	City	County of Legal Residence	State    Zip Code
<b>9</b>	Mailing Address If Different from Above		Ap#/Lot/Unit	City	County	State    Zip Code
<b>10</b>	Address Last Registered to Vote		Ap#/Lot/Unit	City	County	State    Zip Code
<b>11</b>	Address of Homestead Exemption Property		Ap#/Lot/Unit	City	County	State    Zip Code
<b>12</b>	Former Name if Making Name Change			Day Phone Number		
<b>13</b>	Party Affiliation (Check only one) <input type="checkbox"/> Democratic Party <input type="checkbox"/> Republican Party <input type="checkbox"/> No Party Affiliation <input type="checkbox"/> Other (print party name)					
<b>14</b>	Race/Ethnicity (Check only one) <input type="checkbox"/> American Indian/Alaskan Native <input type="checkbox"/> Asian/Pacific Islander <input type="checkbox"/> Black, not Hispanic <input type="checkbox"/> Hispanic <input type="checkbox"/> White, not Hispanic					
<b>15</b>	Sex <input type="checkbox"/> M <input type="checkbox"/> F	Do you need voting assistance at the polls? <input type="checkbox"/> Yes <input type="checkbox"/> No		Are you interested in being a poll worker? <input type="checkbox"/> Yes <input type="checkbox"/> No		State or Country of Birth
<b>16</b>	Are You: <input type="checkbox"/> Active Duty Military/Merchant Marine <input type="checkbox"/> Dependent of Active Duty Military/Merchant Marine <input type="checkbox"/> U.S. Citizen Currently Residing Outside the U.S.					
<b>17</b>	OATH: I do solemnly swear (or affirm) that I will protect and defend the Constitution of the United States and the Constitution of the State of Florida. I am qualified to register as an elector under the Constitution and laws of the State of Florida. I am a U.S. citizen. I am a legal resident of Florida. All information on this form is true. I understand that if it is not true, I can be convicted of a felony of the third degree and fined up to \$5,000 and/or imprisoned for up to five years.			SIGNATURE: Sign or mark on line below. (Invalid without signature or mark.)		Date:

**EXHIBIT B**

# FLORIDA VOTER REGISTRATION APPLICATION

YOU CAN USE THIS FORM TO: REGISTER TO VOTE IN THE STATE OF FLORIDA • CHANGE NAME OR ADDRESS • REPLACE YOUR DEFACED, LOST, OR STOLEN VOTER INFORMATION CARD • REGISTER WITH A POLITICAL PARTY OR CHANGE PARTY AFFILIATION • UPDATE YOUR SIGNATURE

## To Register, You Must:

- Be a citizen of the United States of America. (BOX #2)
- Be a Florida resident. (BOX #8)
- Be 18 years old (you may pre-register if you are 17). (BOX #5)
- Not now be adjudicated mentally incapacitated with respect to voting in Florida or any other state. (BOX #4)
- Not have been convicted of a felony in Florida, or any other state, without your civil rights having been restored. (BOX #3)
- Provide your current and valid Florida driver's license number or Florida identification card number. If you do not have a current and valid Florida driver's license or Florida identification card, you must provide the last four digits of your Social Security number. If you do not have a FL DL#, FL ID card#, or SSN, write "NONE" in the box. (BOX #6)
- Complete all information in the black boxes on the application. (BOXES #2,3,4,5,6,7,8 & 16)

### Deadline Information:

If this is a new registration application, the date the completed application is postmarked or hand delivered to a driver's license office, a voter registration agency, an armed forces recruitment office, the Division of Elections, or the office of any supervisor of elections in the state will be your registration date. If this is a new Florida application, you must be registered for at least 29 days before you can vote in an election. If your application is complete and you are qualified as a voter, a voter information card will be mailed to you.

### Party Affiliation (BOX #12):

If you wish to register with a major political party, place an "X" in the box preceding the listed party with which you wish to affiliate. If you wish to register with a minor political party, place

an "X" in the box preceding "Other, Minor Party" and print the name of the party with which you wish to affiliate. A list of the minor political parties is on the website for the Division of Elections: <http://election.dos.state.fl.us/online/parties.shtml> If you wish to register without party affiliation, place an "X" in the box preceding "No Party Affiliation".

Florida is a closed primary state. If you wish to register to vote in a partisan primary election, you must be a registered voter in the party for which the primary is being held. All registered voters, regardless of party affiliation, can vote on issues and non-partisan candidates.

### Notes:

The office at which you register, or your decision not to register, your SSN, your FL DL# and

your FL ID card# will remain confidential and will be used only for voter registration purposes.

**Note:** If the information on this application is not true, the applicant can be convicted of a felony of the third degree and fined up to \$5,000 and/or imprisoned for up to five years.

### Questions:

Contact the office of your county supervisor of elections for additional information. Contact information is on the website for the Division of Elections: <http://election.dos.state.fl.us/county/index.shtml>

### Informacion en Espanol:

Sírvase llamar a la oficina del supervisor de elecciones de su condado si le interesa obtener este formulario en Español.

PLEASE COMPLETE THE APPLICATION BELOW. PLEASE PRINT USING A BLACK BALL POINT PEN.

- 1) Black boxes must be completed on the application below for registration to be valid. 2) Return this completed application to the office of your supervisor of elections.
- 3) If you are a first-time voter in this state applying by mail to register to vote and you have not been issued a FL DL#, FL ID#, or SSN, include a copy of your ID with the application.
- 4) Mail with first class stamp.

# FLORIDA VOTER REGISTRATION APPLICATION

REVISED 1/06

REQUIRED

REQUIRED

1	Check boxes that apply: <input checked="" type="checkbox"/> New Registration <input type="checkbox"/> Address Change <input type="checkbox"/> Party Change <input type="checkbox"/> Name Change <input type="checkbox"/> Card Replacement <input type="checkbox"/> Signature Update						OFFICIAL USE ONLY: DS DE 39 1/06	
2	Are you a citizen of the United States of America? Yes? <input type="checkbox"/> No? <input type="checkbox"/> (If NO, you cannot register to vote)							
3	<input type="checkbox"/> I affirm I am not a convicted felon, or if I am, my rights relating to voting have been restored.							
4	<input type="checkbox"/> I affirm I have not been adjudicated mentally incapacitated with respect to voting or, if I have, my competency has been restored.							
IF YOU ANSWERED NO TO QUESTION 2, OR IF YOU ARE UNABLE TO AFFIRM THE STATEMENTS IN BOXES 3 AND 4, YOU ARE INELIGIBLE TO REGISTER TO VOTE. DO NOT COMPLETE THIS APPLICATION.								
5	Date of Birth (MM/DD/YYYY)		/ /					
6	If you have a current and valid FL DL# or FL ID card#, you must provide the number in this box. If you do not have either, provide the last 4 digits of your SSN. If you have not been issued a FL DL#, FL ID card#, or SSN, write "NONE":							
7	Last Name			Suffix (circle) Jr. Sr. III IV		First Name		Middle Name/Initial
8	Address Where You Live (Legal Residence) DO NOT GIVE PO BOX.		Apt/Lot/Unit	City		County of Legal Residence		State Zip Code
9	Mailing Address if Different from Above		Apt/Lot/Unit	City		Country		State Zip Code
10	Address Last Registered to Vote		Apt/Lot/Unit	City		County		State Zip Code
11	Former Name if Making Name Change					Day Phone Number		
12	Party Affiliation (Check only one) <input type="checkbox"/> Democratic Party <input type="checkbox"/> Republican Party <input type="checkbox"/> Other, Minor Party (print party name):							<input type="checkbox"/> No Party Affiliation
13	Race/Ethnicity (Check only one) <input type="checkbox"/> American Indian/Alaskan Native <input type="checkbox"/> Asian/Pacific Islander <input type="checkbox"/> Black, not Hispanic <input type="checkbox"/> Hispanic <input type="checkbox"/> White, not Hispanic							
14	Sex <input type="checkbox"/> M <input type="checkbox"/> F	Do you need voting assistance at the polls? <input type="checkbox"/> Yes <input type="checkbox"/> No		Are you interested in being a poll worker? <input type="checkbox"/> Yes <input type="checkbox"/> No		State or Country of Birth		
15	Are You: <input type="checkbox"/> Active Duty Military/Merchant Marine <input type="checkbox"/> Dependent of Active Duty Military/Merchant Marine <input type="checkbox"/> U.S. Citizen Currently Residing Outside the U.S.							
16	OATH: I do solemnly swear (or affirm) that I will protect and defend the Constitution of the United States and the Constitution of the State of Florida, that I am qualified to register as an elector under the Constitution and laws of the State of Florida, and that all information provided in this application is true.				SIGNATURE: Sign or mark on line in box below. (Invalid without signature or mark of applicant.)			
				X		Date:		

## **EXHIBIT C**

# General Instructions

## Who Can Use this Application

If you are a U.S. citizen who lives or has an address within the United States, you can use the application in this booklet to:

- Register to vote in your State,
- Report a change of name to your voter registration office,
- Report a change of address to your voter registration office, or
- Register with a political party.

## Exceptions

Please do not use this application if you live outside the United States and its territories and have no home (legal) address in this country, or if you are in the military stationed away from home. Use the Federal Postcard Application available to you from military bases, American embassies, or consular offices.

New Hampshire town and city clerks will accept this application only as a request for their own absentee voter mail-in registration form.

North Dakota does not have voter registration.

Wyoming law does not permit mail registration.

## How to Find Out If You Are Eligible to Register to Vote in Your State

Each State has its own laws about who may register and vote. Check the information under your State in the State Instructions.

*Note:* All States require that you be a United States citizen by birth or naturalization to register to vote in federal and State elections. Federal law makes it illegal to falsely claim U.S. citizenship to register to vote in any federal, State, or local election.

*Also Note:* You cannot be registered to vote in more than one place at a time.

## How to Fill Out this Application

Use both the Application Instructions and State Instructions to guide you in filling out the application.

First, read the Application Instructions. These instructions will give you important information that applies to everyone using this application.

Next, find your State under the State Instructions. Use these instructions to fill out Boxes 6, 7, and 8. Also refer to these instructions for information about voter eligibility and any oath required for Box 9.

## When to Register to Vote

Each State has its own deadline for registering to vote. Check the deadline for your State on the last page of this booklet.

## How to Submit Your Application

Mail your application to the address listed under your State in the State Instructions. Or, deliver the application in person to your local voter registration office.

The remaining States that accept the national form will accept copies of the application printed from the computer image on regular paper stock, signed by the applicant, and mailed in an envelope with the correct postage.

## First Time Voters Who Register by Mail

If you are registering to vote for the first time in your jurisdiction and are mailing this registration application, you may be required to provide proof of identification the first time you vote.

Depending on the specific requirements of your State, you may avoid providing identification at the polls when you vote for the first time by mailing a copy of an identification document together with this application. The list of acceptable documents is included in the State Instructions.

Do not include original documents with this application.

Please read the accompanying State Instructions to determine the voter identification requirements for your State.

## If You Were Given this Application in a State Agency or Public Office

If you have been given this application in a State agency or public office, it is your choice to use the application or not.

If you decide to use this application to register to vote, you can fill it out and leave it with the State agency or public office. The application will be submitted for you. Or, you can take it with you to mail to the address listed under your State in the State Instructions. You also may take it with you to deliver in person to your local voter registration office.

*Note:* The name and location of the State agency or public office where you received the application will remain confidential. It will not appear on your application. Also, if you decide not to use this application to register to vote, that decision will remain confidential. It will not affect the service you receive from the agency or office.

Revised 10/29/2003

# Application Instructions

Before filling out the body of the form, please answer the questions on the top of the form as to whether you are a United States citizen and whether you will be 18 years old on or before election day. If you answer no to either of these questions, you may not use this form to register to vote. However, state specific instructions may provide additional information on eligibility to register to vote prior to age 18.

## Box 1 — Name

Put in this box your full name in this order — Last, First, Middle. Do not use nicknames or initials.

*Note:* If this application is for a change of name, please tell us in Box A (on the bottom half of the form) your full name before you changed it.

## Box 2 — Home Address

Put in this box your home address (legal address). Do not put your mailing address here if it is different from your home address. Do not use a post office box or rural route without a box number. Refer to state-specific instructions for rules regarding use of route numbers.

*Note:* If you were registered before but this is the first time you are registering from the address in Box 2, please tell us in Box B (on the bottom half of the form) the address where you were registered before. Please give us as much of the address as you can remember.

*Also Note:* If you live in a rural area but do not have a street address, or if you have no address, please show where you live using the map in Box C (at the bottom of the form).

## Box 3 — Mailing Address

If you get your mail at an address that is different from the address in Box 2, put your mailing address in this box.

*Note:* If you have no address in Box 2, you must write in Box 3 an address where you can be reached by mail.

## Box 4 — Date of Birth

Put in this box your date of birth in this order — Month, Day, Year. *Be careful not to use today's date!*

## Box 5 — Telephone Number

Most States ask for your telephone number in case there are questions about your application. However, you do not have to fill in this box.

## Box 6 — ID Number

Federal law requires that states collect from each registrant an identification number. You must refer to your state's specific instructions for item 6 regarding information on what number is acceptable for your state. If you have neither a drivers license nor a social security number, please indicate this on the form and a number will be assigned to you by your state.

## Box 7 — Choice of Party

In some States, you must register with a party if you want to take part in that party's primary election, caucus, or convention. To find out if your State requires this, see item 7 in the instructions under your State.

If you want to register with a party, print in the box the full name of the party of your choice.

If you do not want to register with a party, write "no party" or leave the box blank. Do not write in the word "independent" if you mean "no party," because this might be confused with the name of a political party in your State.

*Note:* If you do not register with a party, you can still vote in general elections and nonpartisan (nonparty) primary elections.

## Box 8 — Race or Ethnic Group

A few States ask for your race or ethnic group, in order to administer the Federal Voting Rights Act. To find out if your State asks for this information, see item 8 in the instructions under your State. If so, put in Box 8 the choice that best describes you from the list below:

- American Indian or Alaskan Native
- Asian or Pacific Islander
- Black, not of Hispanic Origin
- Hispanic
- Multi-racial
- White, not of Hispanic Origin
- Other

## Box 9 — Signature

Review the information in item 9 in the instructions under your State. Before you sign or make your mark, make sure that:

- (1) You meet your State's requirements, and
- (2) You understand all of Box 9.

Finally, sign your full name or make your mark, and print today's date in this order — Month, Day, Year.

If the applicant is unable to sign, put in Box D the name, address, and telephone number (optional) of the person who helped the applicant.

## Voter Registration Application

Before completing this form, review the General, Application, and State specific instructions.

Are you a citizen of the United States of America? <input type="checkbox"/> Yes <input type="checkbox"/> No Will you be 18 years old on or before election day? <input type="checkbox"/> Yes <input type="checkbox"/> No If you checked "No" in response to either of these questions, do not complete form. (Please see state-specific instructions for rules regarding eligibility to register prior to age 18.)				This space for office use only.	
<b>1</b>	(Circle one) Mr. Mrs. Miss Ms.	Last Name	First Name	Middle Name(s)	(Circle one) Jr Sr II III IV
<b>2</b>	Home Address		Apt. or Lot #	City/Town	State
<b>3</b>	Address Where You Get Your Mail If Different From Above			City/Town	State
<b>4</b>	Date of Birth ____/____/____ Month Day Year		<b>5</b>	Telephone Number (optional)	
<b>6</b>	ID Number - (See item 6 in the instructions for your state)				
<b>7</b>	Choice of Party <small>(see item 7 in the instructions for your state)</small>		<b>8</b>	Race or Ethnic Group <small>(see item 8 in the instructions for your state)</small>	
<b>9</b>	I have reviewed my state's instructions and I swear/affirm that: <ul style="list-style-type: none"> <li>■ I am a United States citizen</li> <li>■ I meet the eligibility requirements of my state and subscribe to any oath required.</li> <li>■ The information I have provided is true to the best of my knowledge under penalty of perjury. If I have provided false information, I may be fined, imprisoned, or (if not a U.S. citizen) deported from or refused entry to the United States.</li> </ul> <div style="border: 1px solid black; height: 40px; width: 100%; margin-top: 5px;"></div> <p style="text-align: right; margin-right: 50px;">Please sign full name (or put mark) <b>A</b></p> Date: <span style="border-bottom: 1px solid black; width: 20px; display: inline-block;"></span> / <span style="border-bottom: 1px solid black; width: 20px; display: inline-block;"></span> / <span style="border-bottom: 1px solid black; width: 20px; display: inline-block;"></span> Month Day Year				

If you are registering to vote for the first time: please refer to the application instructions for information on submitting copies of valid identification documents with this form.

### Please fill out the sections below if they apply to you.

If this application is for a change of name, what was your name before you changed it?

<b>A</b>	Mr. Mrs. Miss Ms.	Last Name	First Name	Middle Name(s)	(Circle one) Jr Sr II III IV
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If you were registered before but this is the first time you are registering from the address in Box 2, what was your address where you were registered before?

<b>B</b>	Street (or route and box number)	Apt. or Lot #	City/Town/County	State	Zip Code
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If you live in a rural area but do not have a street number, or if you have no address, please show on the map where you live.

<b>C</b>	<ul style="list-style-type: none"> <li>■ Write in the names of the crossroads (or streets) nearest to where you live.</li> <li>■ Draw an X to show where you live.</li> <li>■ Use a dot to show any schools, churches, stores, or other landmarks near where you live, and write the name of the landmark.</li> </ul>		NORTH ↑
	Example _____ _____ Public School ●	Route #2 ● Grocery Store Woodchuck Road _____ X	

If the applicant is unable to sign, who helped the applicant fill out this application? Give name, address and phone number (phone number optional).

<b>D</b>	
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**Mail this application to the address provided for your State.**

## Voter Registration Application

Before completing this form, review the General, Application, and State specific instructions.

Are you a citizen of the United States of America? <input type="checkbox"/> Yes <input type="checkbox"/> No Will you be 18 years old on or before election day? <input type="checkbox"/> Yes <input type="checkbox"/> No If you checked "No" in response to either of these questions, do not complete form. (Please see state-specific instructions for rules regarding eligibility to register prior to age 18.)				This space for office use only.	
<b>1</b>	(Circle one) Mr. Mrs. Miss Ms.	Last Name	First Name	Middle Name(s)	(Circle one) Jr Sr II III IV
<b>2</b>	Home Address		Apt. or Lot #	City/Town	State
<b>3</b>	Address Where You Get Your Mail If Different From Above			City/Town	State
<b>4</b>	Date of Birth ____/____/____ Month Day Year		<b>5</b>	Telephone Number (optional)	
<b>6</b>	ID Number - (See Item 8 in the instructions for your state)				
<b>7</b>	Choice of Party (See Item 7 in the instructions for your state)		<b>8</b>	Race or Ethnic Group (See Item 8 in the instructions for your state)	
<b>9</b>	I have reviewed my state's instructions and I swear/affirm that: <ul style="list-style-type: none"> <li>■ I am a United States citizen</li> <li>■ I meet the eligibility requirements of my state and subscribe to any oath required.</li> <li>■ The information I have provided is true to the best of my knowledge under penalty of perjury. If I have provided false information, I may be fined, imprisoned, or (if not a U.S. citizen) deported from or refused entry to the United States.</li> </ul> <div style="border: 1px solid black; width: 100%; height: 40px; margin-top: 5px;"></div> <p style="text-align: right; margin-right: 50px;">Please sign full name (or put mark) ▲</p> <p>Date: _____</p> <p style="text-align: center; margin-left: 100px;">Month      Day      Year</p>				

If you are registering to vote for the first time: please refer to the application instructions for information on submitting copies of valid identification documents with this form.

### Please fill out the sections below if they apply to you.

If this application is for a change of name, what was your name before you changed it?

<b>A</b>	Mr. Mrs. Miss Ms.	Last Name	First Name	Middle Name(s)	(Circle one) Jr Sr II III IV
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If you were registered before but this is the first time you are registering from the address in Box 2, what was your address where you were registered before?

<b>B</b>	Street (or route and box number)	Apt. or Lot #	City/Town/County	State	Zip Code
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If you live in a rural area but do not have a street number, or if you have no address, please show on the map where you live.

<b>C</b>	<ul style="list-style-type: none"> <li>■ Write in the names of the crossroads (or streets) nearest to where you live.</li> <li>■ Draw an X to show where you live.</li> <li>■ Use a dot to show any schools, churches, stores, or other landmarks near where you live, and write the name of the landmark.</li> </ul>	NORTH ↑																			
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">Example</td> <td style="width: 10%; text-align: center;">Route #2</td> <td style="width: 10%; text-align: center;">● Grocery Store</td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> </tr> <tr> <td></td> <td></td> <td style="text-align: center;">Woodchuck Road</td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">● Public School</td> <td></td> <td></td> <td style="text-align: center;">X</td> <td></td> <td></td> </tr> </table>	Example	Route #2	● Grocery Store						Woodchuck Road				● Public School			X				
Example	Route #2	● Grocery Store																			
		Woodchuck Road																			
● Public School			X																		

If the applicant is unable to sign, who helped the applicant fill out this application? Give name, address and phone number (phone number optional).

<b>D</b>	
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**Mail this application to the address provided for your State.**

# State Instructions

**Registration Deadline** — 29 days before the election.

**6. ID Number.** If you have one, you must provide your Florida driver's license number or Florida identification card number. If you do not have a Florida driver's license or identification card, you must provide the last four digits of your social security number.

**7. Choice of Party.** You must register with a party if you want to take part in that party's primary election, caucus, or convention.

**8. Race or Ethnic Group.** You are requested to fill in this box. See the list of choices under the Application Instructions for Box 8 (on page 2).

**9. Signature.** To register in Florida you must:

- be a citizen of the United States
- be a legal resident of both the State of Florida and of the county in which you seek to be registered
- be 18 years old (you may pre-register if you are 17)
- not now be adjudicated mentally incapacitated with respect to voting in Florida or any other State
- not have been convicted of a felony without your civil rights having been restored pursuant to law
- not claim the right to vote in another county or state
- swear or affirm the following:

"I will protect and defend the Constitution of the United States and the Constitution of the State of Florida, that I am qualified to register as an elector under the Constitution and laws of the State of Florida, and that I am a citizen of the United States and a legal resident of Florida"

**Attention: Proof of Voter Identification**

*(Pursuant to the Help America Vote Act of 2002)*

Beginning in 2004, federal ID requirements will apply to any first-time voter who:

- Registered to vote by mail after January 1, 2003, and
- Has not previously voted in an election in the county in which he or she is registered

When voting the first time, these voters will need to present at the polls current, valid picture identification.

These first time voters may not sign the affirmation of identity in lieu of presenting a picture ID. Any such voter not presenting the required identification will vote a provisional ballot.

When voting the first time, if by absentee ballot, these first time voters will need to provide a COPY of:

- Current and valid picture identification, or
- COPY of a current utility bill, bank statement, government check, paycheck, or other government document (excluding a voter identification card) that shows the name and address of the voter.

Failure to provide a COPY of required identification with the absentee ballot will cause the ballot to be treated as a provisional ballot.

If you wish to avoid providing the identification required of first-time voters, you may enclose a COPY of one of the above listed documents along with this application. (DO NOT SEND ORIGINAL ID DOCUMENTS BY MAIL.)

Voters may also be required to show proof of identification under State law.

**Mailing address:**

State of Florida  
Department of State  
Division of Elections  
167 West Gaines Street, Room 231  
Tallahassee, FL 32399-0250

**Registration Deadline** — The fifth Monday before any general primary, general election, or presidential preference primary, or regularly scheduled special election pursuant to the Georgia Election Code. In the event that a special election is scheduled on a date other than those dates prescribed by the Georgia Election Code, registration would close on the 5th day after the call.

**6. ID Number.** Your full social security number is required. Your social security number will remain confidential and will not be disclosed except as required by law. The number will be used to identify and verify the identity of voters (Georgia Election Code, O.C.G.A. Ch. 21-2-219, 21-2-220, 21-2-225).

**7. Choice of Party.** You do not have to register with a party to take part in that party's primary, caucus or convention.

**8. Race or Ethnic Group.** You are requested to fill in this box. See the list of choices under the Application Instructions for Box 8 (on page 2).

**9. Signature.** To register in Georgia you must:

- be a citizen of the United States
- be a legal resident of Georgia and of the county in which you want to vote
- be 18 years old within six months after the day of registration, and be 18 years old to vote
- not be serving a sentence for having been convicted of a felony
- not have been judicially determined to be mentally incompetent, unless the disability has been removed

**Attention: Proof of Voter Identification**

*(Pursuant to the Help America Vote Act of 2002)*

If you are submitting this form by mail and you are registering for the first time in Georgia, attach a COPY of one of the following with your application: A COPY of a current and valid photo ID, a COPY of a current utility bill, bank statement, government check, paycheck, or government document that shows your name and address. If you do not provide proof of identification, you may cast a provisional ballot.

**Mailing address:**

Elections Division  
Office of the Secretary of State  
1104 West Tower  
2 Martin Luther King, Jr. Dr., S.E.  
Atlanta, GA 30334-1505

## **EXHIBIT D**

**PRIVACY ACT STATEMENT**

**AUTHORITY:** 42 USC 1973f, "Title 1 - Registration and Voting By Absentee Uniformed Services Veterans and Overseas Voters in Elections for Federal Office."

**PRINCIPAL PURPOSE:** Serves as an application for registration or request for absentee ballot for all persons covered by the Uniformed and Overseas Citizens Absentee Voting Act.

**DISCLOSURE:** Voluntary; however, failure to provide the necessary information may keep the pertinent jurisdiction from processing this request and may prevent you from voting absentee.

**MAILING INSTRUCTIONS**

Print the completed Federal Post Card Application Form (FPCA), sign and date, place the form in an envelope, affix proper postage and address to the local election official.

**SPECIFIC INSTRUCTIONS FOR COMPLETION**

Complete the state, county, and city/township section at the top of the form. Note that your state may require a separate FPCA for each election. Consult a Voting Assistance Officer or your state section in the Voting Assistance Guide for further information.

- 1. APPLICANT INFORMATION, Item 1c.** This information is requested from some states for statistical purposes by the Department of Justice in their enforcement of the Voting Rights Act and the National Voter Registration Act. Enter information for I.A. through 1.E. For block 1.f, provide identification form and number of that form. For example: passport 0008, State Department 0008, driver's license 0008, both certificate 0008.
- 2. I LAST VOTED or PLACE OF LAST REGISTRATION.** Provide as much information as possible for the location where you last voted. This is not necessarily your last residence. Do not leave blank. Enter N/A if not applicable or if you are a first time voter.
- 3. VOTING RESIDENCE.** Provide address where you ACTUALLY LIVED. Your right to vote in your state and determination of voting precinct depend on your physical residence while you vote within the state. If your voting residence address does not contain a street name, you may provide a Rural Route number and box number, but DO NOT USE A POST OFFICE BOX NUMBER. A Post Office Box is not a residence address. If using Rural Route number, include specific location of residence. Examples of voting residence: military home of record; permanent home address in U.S.; locality or state where you paid taxes, however long ago it may have been. It would be helpful if you list a name and telephone number of a local contact in the Remarks Section in the event the local election official has a question concerning the application.
- 4. MAIL, ABSENTEE BALLOT TO.** Provide the complete mailing address where you wish to receive your absentee ballot. Be sure to include APO or FPO (if applicable) and ZIP Code. If you will have a new address by the time registration forms or the ballot will be sent to you, be sure to list the new address.
- 5. YOUR FAX NUMBER:** Your complete fax number (county and city code) is required if you or the local election official will be transmitting any of your election materials by fax.

Members of the U.S. Military are requested to provide their commercial as well as DSN number (write "DSN" as a prefix if a DSN number is provided). Faxing is available in some states, for limited purposes only. If your state allows you to submit this form by fax (IMPORTANT: CONSULT VOTING ASSISTANCE OFFICER OR VOTING ASSISTANCE GUIDE FOR FURTHER INFORMATION), you must fax this form ONLY to one of the following numbers: (800) 368-5683 or (703) 692-5527 or DSN (military) 223-5527. If your state does NOT allow you to submit the form by fax, DO NOT transmit this form by fax, as it will not be processed.

**6. POLITICAL PARTY AFFILIATION.** This information is required by most states in order to vote in primary elections. In most states, if you do not complete this section, you will not be sent a ballot for primary elections. Consult your individual state section in the Voting Assistance Guide for more specific information regarding your state's policy. Political party affiliation is not required if you live in Alaska (unless you are voting in a Republican party primary), American Samoa, Guam, Hawaii, Idaho, Michigan, Minnesota, Missouri, North Dakota, Vermont, Washington or Wisconsin in order to vote in a primary election. You need not complete this section if your voting residence is in those states. If you want to indicate no affiliation or enrollment in a political party, write "unaffiliated."

**7. REMARKS.** Provide any information which may assist local election officials in approving this application, such as military service, name and telephone number of a local contact person, etc. If you are requesting the special state write-in ballot, indicate how the name you are requesting the special state write-in ballot, i.e. you are in an isolated area with specific mail service, religious duty, etc. In Colorado, you must indicate if you are a uniformed or unaffiliated citizen of the United States.

**8. AFFIRMATION BY APPLICANT.** Place an X in only one block: a, b, c, or d. In most states marking a, b, or c will get you a full ballot. Marking b, or c, generally means that you were a resident of the state before departing the U.S., and you intend to return if some time in the future is necessary. Marking block d, applies for a Federal ballot only (if one is printed by the state). Federal law provides that no tax liability may be imposed based on exercising your right to vote in Federal elections. If you are a citizen citizen residing outside the U.S. and wish to avoid classifying yourself as a state resident for any purpose, you should mark block b. If the state sends a full ballot because it does not print a separate Federal ballot, you may vote the full ballot.

Block 1.E. In some states, a criminal conviction for a felony or certain misdemeanors, or an adjudication of mental incompetency disqualifies a person from voting, unless there has been a reinstatement of voting rights if required by state law.

Block 1.f. Sign at the X. Provide the date you completed the form.

**9. WITNESS/NOTARY.** Not all states require completion of this item. Consult your state section of the Voting Assistance Guide or your Voting Assistance Officer for your state's requirements. If you require more space to complete this item, use Item 7, Remarks.

**SOURCES OF**

Assistance and information regarding the use and completion of this form, as well as specific state information may be obtained from military Unit Voting Assistance Officers, U.S. Embassy and Consular Voting Assistance Officers, or organizations of U.S. citizens overseas.

REGISTRATION AND ABSENTEE BALLOT REQUEST - FEDERAL POST CARD APPLICATION (FPCA)			
APPLICATION FOR STATE OF _____		COUNTY OF _____	CITY OR TOWNSHIP OF _____ §
I REQUEST ABSENTEE BALLOTS FOR ALL ELECTIONS IN WHICH AM ELIGIBLE TO VOTE.			
<b>1. APPLICANT INFORMATION (See instruction 1.)</b>		<b>6. POLITICAL PARTY AFFILIATION</b> (This information is required by most states to send you a ballot for primary elections. See instructions.)	
a. TYPE OR PRINT NAME (Last, first, middle initial)		b. SEX	c. RACE
d. DATE OF BIRTH		e. SOCIAL SECURITY NUMBER	
f. OTHER IDENTIFICATION NO. (Passport, Driver's License)			
g. M M O D Y Y Y T			
<b>2. I LAST VOTED or PLACE OF LAST REGISTRATION (Do not leave this section blank. See instructions.)</b>			
a. YOUR		b. COUNTY, CITY, OR TOWNSHIP	
c. STATE		d. VOTER REGISTRATION NO. (if known)	
e. Y Y Y T			
<b>3. VOTING RESIDENCE (For military, legal residents. For overseas citizens, list residence in U.S. or island nation. RECORD THIS INFORMATION.)</b>		f. LAST DATE OF RESIDENCY	
g. H A N D S E R A D S T R E E T (Do not leave blank)		h. M M O D Y Y Y T	
i. C I T Y, T O W N O R V I L L A G E		j. S T A T E	
k. C O U N T Y O R P R I N C I P A L		l. Z I P C O D E (4-digits if known)	
<b>4. MAIL, ABSENTEE BALLOT TO (Provide address where you want the ballot to be sent.)</b>			
m. _____			
n. _____			
o. _____			
p. _____			
<b>5. YOUR FAX NUMBER (For applications to be sent, both for all international purposes. See instructions.)</b>			
q. _____			
<b>8. AFFIRMATION BY APPLICANT</b>		r. I am a U.S. citizen, eligible to vote in the absent jurisdiction, and subscribe to any required statutory oath or statement.	
a. <input type="radio"/> I am a member of the Uniformed Services or merchant marine on active duty, or an eligible spouse or dependent.		s. I have not been convicted of a felony or other disqualifying offense or have adjudicated mentally incompetent, or if so, my voting rights have been reinstated.	
b. <input type="radio"/> I am a U.S. citizen temporarily residing outside the U.S.		t. I am not registering, requesting a ballot, or voting in any other jurisdiction in the U.S.	
c. <input type="radio"/> I am a U.S. citizen overseas by virtue of employment or accompanying spouse or dependent.		u. The information on this form is true and complete.	
d. <input type="radio"/> Other U.S. citizen residing outside the U.S.		v. SIGNATURE OF APPLICANT	
w. <input type="checkbox"/> I am a U.S. citizen, eligible to vote in the absent jurisdiction, and subscribe to any required statutory oath or statement.		x. _____	
y. <input type="checkbox"/> I have not been convicted of a felony or other disqualifying offense or have adjudicated mentally incompetent, or if so, my voting rights have been reinstated.		z. M M O D Y Y Y T	
aa. <input type="checkbox"/> I am not registering, requesting a ballot, or voting in any other jurisdiction in the U.S.		b. WITNESS/NOTARY ADDRESS AND SIGNATURE	
ab. The information on this form is true and complete.		cc. _____	
ac. SIGNATURE OF APPLICANT		dd. DATE SIGNED	
x. _____		ee. M M O D Y Y Y T	
b. WITNESS/NOTARY ADDRESS AND SIGNATURE		ff. _____	
(If required by state law)		gg. DATE SIGNED	
		hh. M M O D Y Y Y T	

Standard Form 76A (1-2009)

## **EXHIBIT E**

**AFL Union Members, Including AFSCME Members**

<b>No.</b>	<b>County</b>	<b>Name</b>	<b>Union</b>	<b>Reason</b>	<b>Mental Incapacity Box</b>	<b>Felony Box</b>	<b>Citizenship Box</b>
1.	Broward	Jones, Anthony B.	TWU * Transport Workers	CFI	X	X	X
2.	Broward	Saddler, Glen K.	Iron Workers	CFI	X	X	X
3.	Duval	Linder, Claudell N.	SMWIA * Sheet Metal Workers	11		X	
4.	Duval	Williams, Terrell L.	AFSCME * State, County, Mu	13			X
5.	Miami-Dade	Anglin, John T.	IAM * Machinists	ZFI	X	X	X
6.	Miami-Dade	Barnes, Durand	IAM * Machinists	FI	X	X	
7.	Miami-Dade	Barrios, Marco T.	TWU * Transport Workers	ZFI	X	X	X
8.	Miami-Dade	Batson, Sean W.	TWU * Transport Workers	FID	X	X	
9.	Miami-Dade	Borbolla, Ian	CWA * Communications Wor	FI	X	X	
10.	Miami-Dade	Caldwell, Melanie D.	AFT * Teachers	FI	X	X	
11.	Miami-Dade	Calzadilla, Maria E.	IAM * Machinists	BFI	X	X	
12.	Miami-Dade	Charles, Philomene	AFSCME * State, County, Mu	ZFI	X	X	X
13.	Miami-Dade	Cobb, Ronda Y.	AFT * Teachers	FI	X	X	
14.	Miami-Dade	Council, Joan D.	AFSCME * State, County, Mu	FI	X	X	
15.	Miami-Dade	Dwight, Bobby Edwa	LIUNA * Laborers	FI	X	X	

<u>No.</u>	<u>County</u>	<u>Name</u>	<u>Union</u>	<u>Reason</u>	<u>Mental Incapacity Box</u>	<u>Felony Box</u>	<u>Citizenship Box</u>
16.	Miami-Dade	Dzierzak, Courtney	AFT * Teachers	FI	X	X	
17.	Miami-Dade	Edlin, Alexander	IATSE * Stage Employees	FI	X	X	
18.	Miami-Dade	Fernandez, Diosdad	AFSCME * State, County, Mu	ZFI	X	X	X
19.	Miami-Dade	Gallardo, Clara Ine	AFSCME * State, County, Mu	ZFI	X	X	X
20.	Miami-Dade	Gebara, Fritz	IUPAT * Painters	I	X		
21.	Miami-Dade	Jean, Jules E.	LIUNA * Laborers	I	X		
22.	Miami-Dade	Karides, Marina	AFT * Teachers	ZFI	X	X	X
23.	Miami-Dade	Lee, Parnice B.	APWU * Postal Workers	FI	X	X	
24.	Miami-Dade	Louis, Sherly	AFT * Teachers	I	X		
25.	Miami-Dade	Martinez, Iluminada	AFSCME * State, County, Mu	I	X		
26.	Miami-Dade	McDaniels, Dennis R.	AFGE * Government Worker	FI	X	X	
27.	Miami-Dade	Naylor, Kavonni C.	AFT * Teachers	ZFI	X	X	X
28.	Miami-Dade	Odio, Reinaldo R.	UAW * Auto Workers	FI	X	X	
29.	Miami-Dade	Porter, Patricia A.	AFT * Teachers	I	X		
30.	Miami-Dade	Pratt, Janay D.	CWA * Communications Wor	I	X		
31.	Miami-Dade	Pullman, John R.	IBEW * Electrical Workers	F		X	
32.	Miami-Dade	Regalon, Ernesto	IUPAT * Painters	I	X		

No.	County	Name	Union	Reason	Mental Incapacity Box	Felony Box	Citizenship Box
33.	Miami-Dade	Reynolds, Mark W.	AFSCME * State, County, Mu	FI	X	X	
34.	Miami-Dade	Rios, Nestor L.	TWU * Transport Workers	FI	X	X	
35.	Miami-Dade	Sanchez, Maria A.	APWU * Postal Workers	ZFI	X	X	X
36.	Miami-Dade	Sanchez, Maritza	APWU * Postal Workers	ZFI	X	X	X
37.	Miami-Dade	Shipman, Michelle D.	AFT * Teachers	FI	X	X	
38.	Miami-Dade	Simpson, Andrew	IBEW * Electrical Workers	FI	X	X	
39.	Miami-Dade	Thompson, John A.	AFSCME * State, County, Mu	ZFI	X	X	X
40.	Miami-Dade	Valdes, Ada M.	AFT * Teachers	I	X		
41.	Miami-Dade	Vega, Javier Michel	IBEW * Electrical Workers	FI	X	X	
42.	Miami-Dade	Wright, Ronald P.	AFT * Teachers	ZFI	X	X	X
43.	Palm	Ariza, Eileen N.	AFT * Teachers	FELON		X	
44.	Palm	Berryman, John W.	AFT * Teachers	CITIZEN			X
45.	Palm	Brahlek, Steven Juli	AFT * Teachers	CITIZEN			X
46.	Palm	Carman, Tiffany Dia	AFT * Teachers	CITIZEN			X
47.	Palm	Connor, Telsy Clar	AFT * Teachers	FELON		X	
48.	Palm	Fiore, Samuel W.	AFT * Teachers	INCOMP	X		
49.	Palm	Glenn, Lamarr C.	AFT * Teachers	INCOMP	X		

No.	County	Name	Union	Reason	Mental Incapacity Box	Felony Box	Citizenship Box
50.	Palm	Glynn, Simon V.	AFT * Teachers	FELON		X	
51.	Palm	Hanna, Steven L. J.	LIUNA * Laborers	FELON		X	
52.	Palm	Harvey, Tracee J.	AFT * Teachers	CITIZEN			X
53.	Palm	Jones, Diana L.	CWA * Communications Wor	FELON		X	
54.	Palm	Kulp, Deborah J.	AFT * Teachers	CITIZEN			X
55.	Palm	Merrell, Philip Mich	Plumbers & Pipefitters	CITIZEN			X
56.	Palm	Moldoff, Albert	AFT * Teachers	CITIZEN			X
57.	Palm	Morris, Rachel L.	AFT * Teachers	CITIZEN			X
58.	Palm	Nesbitt, Linda Sue	APWU * Postal Workers	CITIZEN			X
59.	Palm	Patel, Jayesh R.	NALC * Letter Carriers	CITIZEN			X
60.	Palm	Patterson, Joseph A.	CWA * Communications Wor	CITIZEN			X
61.	Palm	Prickett, William R II	LIUNA * Laborers	FELON		X	
62.	Palm	Senecal, Joshua S.	Plumbers & Pipefitters	CITIZEN			X
63.	Palm	Sherman, Susan R.	AFT * Teachers	INCOMP	X		
64.	Palm	Solis, Jaime Ringo	IAM * Machinists	INCOMP	X		

<u>County</u>	<u>AFL Members Including AFSCME</u>				<u>AFSCME Only</u>			
	<u>Mental Incapacity Box</u>	<u>Felony Box</u>	<u>Citizenship Box</u>	<u>One or More Boxes</u>	<u>Mental Incapacity Box</u>	<u>Felony Box</u>	<u>Citizenship Box</u>	<u>One or More Boxes</u>
Broward	2	2	2	2	0	0	0	0
Duval	0	1	1	2	0	0	1	1
Miami-Dade	37	30	11	38	7	6	4	7
Orange	1	0	0	1	0	0	0	0
Palm Beach	4	6	12	22	0	0	0	0
<b>All Counties</b>	<b>44</b>	<b>39</b>	<b>26</b>	<b>65</b>	<b>7</b>	<b>6</b>	<b>5</b>	<b>8</b>

## **EXHIBIT F**

**SEIU Union Members**

<u>No.</u>	<u>County</u>	<u>Name</u>	<u>Reason</u>	<u>Mental Incapacity Box</u>	<u>Felony Box</u>	<u>Citizenship Box</u>
1.	Miami-Dade	Camposano, Judith	ZFI	X	X	X
2.	Palm Beach	Lurry, Toykesha L.	FELONY		X	
3.	Palm Beach	Thompson, Anthony L.	INCOMP	X		
4.	Palm Beach	Williams, Patricia A.	INCOMP	X		

<u>County</u>	<u>Mental Incapacity Box</u>	<u>Felony Box</u>	<u>Citizenship Box</u>	<u>One or More Boxes</u>
Miami-Dade	1	1	1	1
Palm Beach	2	1	0	3
<b>All Counties</b>	<b>3</b>	<b>2</b>	<b>1</b>	<b>4</b>

## **EXHIBIT G**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 04-22572-CIV-KING

EMMA YAIZA DIAZ; EBONY ROBERTS;  
ANDRE NEAL BEMBRY; AMERICAN FEDERATION  
OF LABOR AND CONGRESS OF INDUSTRIAL  
ORGANIZATIONS; AMERICAN FEDERATION  
OF STATE, COUNTY AND MUNICIPAL EMPLOYEES,  
AFL-CIO; FLORIDA PUBLIC EMPLOYEES  
COUNCIL 79, AFSCME, AFL-CIO; AND  
SERVICE EMPLOYEES INTERNATIONAL  
UNION, AFL-CIO,

Plaintiffs,

vs.

GLEND A HOOD, Secretary of State of Florida;  
BRENDA SNIPES, Broward County Supervisor of  
Elections; JOHN STAFFORD, Duval County  
Supervisor of Elections; CONSTANCE KAPLAN,  
Miami-Dade County Supervisor of Elections; BILL  
COWLES, Orange County Supervisor of Elections;  
and THERESA LEPORE, Palm Beach County  
Supervisor of Elections,

Defendants.

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**DECLARATION OF RICHARD F. CARLBERG**

1. My name is Richard F. Carlberg. I am Assistant Supervisor of Elections, Duval County, (Jacksonville), Florida, the next ranking position in the office under the Supervisor himself, and have held that position since July 1, 1999. I have worked for the Supervisor of Elections Office for eleven (11) years. For the past several months, due to illness on the part of Supervisor of Elections, John Stafford, I have handled the responsibilities of the Supervisor in Duval County, under the direction of Mr. Stafford, largely by telephone.

2. Shortly before noon, Monday, October 18, 2004, Mr. Stafford's resignation from the

Supervisor's position, based on serious health issues and inability to work, was announced. Mr. Stafford's successor has not yet been named.

3. On August 2, 2004, when the registration books were closed (29 days prior to the August 31, 2004 primary election, pursuant to Florida Statute 97.055) Duval County had approximately 470,000 registered voters. From August 2, 2004, through October 4, 2004, the date the registration books were closed again (29 days prior to the November 2, 2004 general election), our office received approximately 45,000 voter registration applications, resulting in a total of 515,202 registered voters in Duval County, the highest total ever. To the best of my knowledge, this is the highest number of registration applications ever received by our office during a comparable 60 day period.

4. With the exception of the periods when the registration books are closed (the 29 days before each election), our office processes registration applications as they are received. Typically, at the end of the 29 day period while the books are closed a backlog of registration applications accumulates and is there when the processing of voter registration applications begins again upon the reopening of the registration books. This was the case this year when registration reopened on September 1, 2004, resulting in a registration workload that was very heavy. When the flow of new voter applications continued to be unexpectedly heavy, as the month progressed, just after mid-September, I directed that additional employees assist in processing the new registration applications.

5. The registration books for the November 2, 2004 election were scheduled to (and did) close on October 4, 2004. In the last work week before they closed, on September 27, 2004, we unexpectedly lost a workday when the City was closed due to Hurricane Jeanne. This circumstance, combined with the unusually high number of registration applications, led us to process far more

registration applications then normal in the final days before the registration books closed.

6. Upon processing a Florida voter registration application form our staff checks it for the information required by Florida Statute 97.053(5)(a). If all the blank spaces are filled in and no disqualifying information is present, the application is deemed complete, and the applicant is mailed a voter registration card, as provided for in Florida Statute 97.073.

7. If the Florida voter registration application is incomplete (with the sole exception set forth in paragraphs 13-14 below), notification of the applicant is carried out by mail notice, also consistent with the provisions of Florida Statute 97.073. A new blank Florida Registration form is enclosed with the notice that his or her registration application is incomplete. If a telephone number for the applicant has been furnished on line 12 of the registration application in this situation, it is the practice of our office to also call the applicant.

8. During the last work week (ending October 1, 2004) prior to the closing of the registration books on October 4, 2004, a special effort to complete notification of all those who had submitted incomplete applications up to October 1, a Friday, was made by our staff so that those applicants would have an opportunity to provide the information missing from the application by the close of business, October 4, 2004. All the letters mailed during the week of September 28-October 1, 2004 to those with incomplete applications indicated that corrective information had to be furnished by October 4, 2004 (a Monday).

9. When a voter who has submitted an incomplete registration application is notified by mail that his or her application is incomplete, only the first area on the registration application that was left incomplete is described in the letter to the applicant. (See, for example, the October 1, 2004 letter to Andre Bemby, dated October 1, 2004, indicating that the "Not Felon" box had not been

checked; **Ex. 8A attached to Plaintiff's Preliminary Injunction Exhibits**). The voter, however, is asked in the correspondence to resubmit a new application form that includes "all required information," not just the omitted information Id.

10. If the registration application is denied, the applicant is informed of the reason for denial by mail, as also required by Florida Statute 97.073.

11. Attached hereto as **Exhibit A** is a true copy of the voter registration application of Plaintiff Andre Bemby. Exhibit A reflects that in addition to leaving the "NOT FELON" box blank, Plaintiff Bemby also failed to respond in the mental inquiry box. Plaintiff Bemby furnished no day telephone number in the space provided on line 12 of the form.

12. Attached hereto as **Exhibit B** is a true copy of the voter registration application of Plaintiff Ebony Roberts. Exhibit B reflects that Plaintiff Roberts did not complete line 6 of her registration application which required her to furnish a Florida driver's license number, a Florida identification number, or the last 4 digits of her social security number. Our receiving these numbers from the applicant is important for two reasons. First, they are used by my office to check and ensure that there are no duplicate registrations, and are an important safeguard for this reason. Second, the numbers are checked against the felon lists regularly received by us from both the state and federal courts in order to verify the correctness of our identification applicants as felons who are disqualified from registering.

13. In the past our office regarded a voter registration application which left the citizenship boxes blank on line 2 of the Florida registration form as incomplete. Most of the other Supervisors in the state had taken this same position, that is, that the citizenship box had to be marked for an application to be complete. More recently, however, on or about October 11, 2004 I

revisited this issue with my own attorneys, the Office of General Counsel of the City of Jacksonville. My attorneys advised me that because a statement of citizenship was present in the oath which precedes the signature space on the Florida voter registration application form, that the requirement of Florida Statute 97.053(5)(a)(4) was met, and that I should not treat as incomplete a form which had a signature, but was lacking **only** a check mark in the citizenship box.

14. Based on General Counsel's advice, as described in paragraph 13, I directed my staff to ascertain how many registration applications had been determined to be incomplete for the reason that one of the citizenship boxes had not been checked. This review revealed that although there were 166 such applications, only three (3) such applications had been determined to be incomplete for the sole reason that the citizenship box had not been checked. The status of these three registration applications was thereafter revised to a "complete" status and the applicants in each instance were so advised in writing. It is my intent to continue to follow the advice of the Office of General Counsel with respect to this issue.

15. Until October 14, 2004, based again on advice from the Division of Elections, I had taken the position that incomplete voter registration applications had to be completed by the applicant by October 4, 2004, the day the registration books closed, pursuant to Florida Statute 97.055. However, pursuant to advice from the Office of General Counsel, I changed my position on this issue also, effective October 14, 2004. The advice from the Office of General Counsel was that the phrase "registration books" in Florida Statute 97.055 included not only complete voter registration applications, but also incomplete applications.

16. The Office of General Counsel's advice described in paragraph 15 was consistent with a local Circuit Court decision to the same effect, entered on October 6, 2004, made in a public

records inquiry context. A copy of this decision is attached as **Exhibit C**. This conclusion, considered together with pertinent parts of Florida Statutes 97.053, 98.045, and 98.231 led to the General Counsel conclusion that the correction of omissions in voter registration applications could be permitted up until the deadline provided in Florida Statute 98.231, up to just before the 15 days prior to the election, when our office is required to advise the Department of State of the total number of registered electors of each party.

17. Based on this advice (paragraphs 15, 16) I permitted incomplete voter applications which had been received on October 4, 2004, or prior thereto, to be completed through the close of business on October 18, 2004. The political parties were advised that this would be permitted on October 14, 2004, allowing them to contact applicants who had submitted incomplete applications on October 14-18, 2004 with this information. A public announcement with this information was also made to permit voter applicants who had incomplete registration applications pending to learn about this possibility of correcting from the news media. It is my understanding that Hillsborough County and Manatee Counties likewise, have permitted the amendment of registration applications already pending on October 4, 2004 through October 18, 2004.

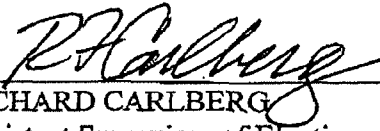
18. The discovery materials furnished to Plaintiffs prior to the close of business on October 18, 2004, pursuant to the Court's order, was a list of 1,522 voter registration applicants with incomplete applications pending, effective as of 4:25 pm, October 17, 2004. A few of these incomplete applications are simply unfixable inasmuch as they have no name at all on them or just a first name. By the close of business on October 18, 2004 this number had been reduced by 98 to 1,424 applications, the final total of incomplete applications that will remain pending through the November 2, 2004 elections. One of the 98 individuals who was registered yesterday is Plaintiff

Ebony Roberts, who is now a registered voter in Duval County and will be able to vote in the November 2, 2004 election if she chooses to do so. I believe my staff was able to reach Ebony Roberts via the telephone number on her registration application (Exhibit B) either on October 15, 2004, or thereafter, and that this contact resulted in the completion of her voting registration application.

19. In all the actions described above, I have attempted to adhere to the law to the best of my ability in every respect, to treat all prospective voters equally and fairly, and to be as effective as possible in so doing with the resources at my disposal.

20. No court summons in this case has yet been served upon me as the office representative nor upon John Stafford.

I declare under penalty of perjury that the foregoing is true and correct. Executed on October 19, 2004.

  
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RICHARD CARLBERG  
Assistant Supervisor of Elections  
Duval County, Florida