

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

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Association of Communities for Reform Now :  
(ACORN), New Orleans Chapter, :  
the Lower Ninth Ward Neighborhood Council, Inc., :  
Vera McFadden, and Malcolm Suber :

Plaintiffs, :

v. :

Kathleen Blanco, Governor of :  
The State of Louisiana, Al Ater, Secretary of State, :  
State of Louisiana, Louis Keller, Registrar of :  
Voters, Parish of Orleans, State of Louisiana, :  
Kimberly Williamson Butler, Clerk of Criminal :  
Court, Parish of Orleans, State of Louisiana :

Defendants. :

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CIVIL ACTION NO.:  
**CLASS ACTION  
FOR INJUNCTIVE AND  
DECLARATORY RELIEF**

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**CLASS ACTION COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

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Plaintiffs the Association of Communities for Reform Now (“ACORN”), New Orleans Chapter, the Lower Ninth Ward Neighborhood Council, Inc., Vera McFadden, and Malcolm Suber (“Plaintiffs”) by and through counsel, bring this class action complaint for a declaratory judgment and injunctive relief against defendants, Kathleen Blanco, Governor of The State of Louisiana; Al Ater, Secretary of State, State of Louisiana; Louis Keller, Registrar of Voters, Parish of Orleans, State of Louisiana; and Kimberly Williamson Butler, Clerk of Criminal Court, Parish of Orleans, State of Louisiana (collectively “Defendants”), and state as follows:

## NATURE OF ACTION

1. This action is brought to protect the voting rights of voters in Orleans Parish, Louisiana who have been temporarily displaced from their permanent residences in the aftermath of Hurricane Katrina and reside outside the Parish.

2. This is an action for declaratory and injunctive relief brought on behalf of the plaintiffs, their Orleans Parish members, and similarly situated Orleans Parish residents who were displaced by Hurricane Katrina and whose rights to vote will be denied and/or abridged in the upcoming Orleans Parish primary and general elections that are scheduled for April 22, 2006 and May 20, 2006, respectively.

3. On August 29, 2005, Hurricane Katrina landed on the Gulf Coast causing catastrophic damage to the City of New Orleans. In response to voluntary and mandatory evacuation orders, hundreds of thousands of residents left the city and dispersed throughout the country. In the days after the storm's landfall, government agencies and volunteers evacuated more residents to temporary shelters throughout the United States.

4. Hurricane Katrina disproportionately impacted low-income, African-American neighborhoods. Of the 354,000 people who resided in the sections of New Orleans in which Katrina caused moderate to severe damage, 75% were African-American, 29% lived below the poverty line, more than 10% were unemployed, and more than half were renters.

5. In light of the devastation caused by Hurricane Katrina, Defendant Governor Kathleen Blanco issued an executive order postponing the Orleans Parish elections that had been initially scheduled for February 4 and March 4, 2006.

6. In November 2005, the Louisiana Legislature held a special session to address urgent post-hurricane issues, including an emergency election plan. During that session, the

Legislature enacted and the Governor signed into law Act 40, which grants Defendant Secretary of State Ater (“the Secretary”) the authority to formulate a special emergency election plan following a declaration of disaster or emergency by the Governor and both houses of the Legislature.

7. Although Act 40 was intended to facilitate post-Katrina elections, it falls short of its goal because it does not expressly grant the Secretary substantive authority to take the necessary measures to ensure that all displaced residents of Orleans Parish can vote either in person or by absentee ballot.

8. Louisiana law, including Act 40, when applied to the post-Katrina landscape, will disenfranchise or severely burden the franchise of thousands of displaced Orleans Parish voters, a disproportionate number of whom are African-American, in violation of Section 2 of the Voting Rights Act of 1965, codified at 42 U.S.C. §§ 1973 *et seq.*

9. On January 24, 2006 the Governor issued executive order KBB 2006-2 rescheduling the Orleans Parish primary election for April 22, 2006 with the general election on May 20, 2006.

## **PARTIES**

### **Plaintiffs**

10. Plaintiff ACORN is an organization with more than 9,000 members in the New Orleans area. ACORN is a community organization of low and moderate-income families working together for social justice and stronger communities. In the wake of Katrina, ACORN founded the ACORN Katrina Survivors Association, which consists of more than 1,600 members working towards creating a voice for survivors, gathering resources that families need to survive, and developing a rebuilding plan that enables stronger communities for all. ACORN dedicates a

significant amount of its resources to encouraging civic engagement through registering voters and advocating for voter participation. ACORN's voter participation efforts have been hampered by its inability to obtain the current addresses of displaced Orleans Parish voters.

11. The Lower Ninth Ward Neighborhood Council, Inc. is a non-profit membership organization comprised of approximately 150 residents of the Ninth Ward in the City of New Orleans. Most of its members are African-American homeowners, and many are registered to vote in Orleans Parish.

12. Vera McFadden is African American and at least 18 years of age. She is a citizen of the United States and a legal resident of Orleans Parish in the State of Louisiana. She is also President of the Lower Ninth Ward Neighborhood Council. Ms. McFadden is a registered voter in Orleans Parish and would like to vote in all elections to be held in 2006.

13. Malcolm Suber is African American and at least eighteen years of age. He is a citizen of the United States and a legal resident of Orleans Parish in the State of Louisiana. Mr. Suber is a registered voter in Orleans Parish and would like to vote in all elections to be held in 2006.

#### Defendants

14. Defendant Kathleen Blanco is the Governor of the State of Louisiana. She is sued in her official capacity in connection with actions taken under color of state law. As Governor, Defendant Blanco is the chief executive officer of the State of Louisiana, having the power and responsibility to issue executive orders rescheduling state and parish elections. *See* La. R.S. 18:401.1. In addition, as Governor, she has the authority to convene the legislature of Louisiana into extraordinary session to consider only those matters specifically enumerated in her proclamations. *See* La. Const. art. III, § 2(B).

15. Defendant Al Ater is the Louisiana Secretary of State. He is sued in his official capacity in connection with actions taken under color of state law. As Secretary of State, Defendant Ater is the chief election officer of the State of Louisiana, having the power and responsibility to supervise and administer state and parish election laws. *See* La. Const. art. IV, § 7.

16. Defendant Louis Keller is the Registrar of Voters for the Parish of Orleans in the State of Louisiana. He is sued in his official capacity in connection with actions taken under color of state law. As Registrar of Voters, Defendant Keller compiles lists of eligible voters and oversees the absentee voting process.

17. Defendant Kimberly Williamson Butler is the Clerk of the Criminal Court for the Parish of Orleans in the State of Louisiana. She is sued in her official capacity in connection with actions taken under color of state law. As Clerk of the Criminal Court, Defendant Butler is the chief elections officer of the Parish of Orleans, with responsibility for conducting parish elections as set forth in the Louisiana Election Code. *See* La. R.S. 18:422.

### **JURISDICTION AND VENUE**

18. This Court has jurisdiction of the claims asserted in this complaint pursuant to 28 U.S.C. §§ 1331, 1343 and 1367. Plaintiffs' action for declaratory and injunctive relief is authorized under 28 U.S.C. §§ 2201 and Federal Rule of Civil Procedure 57.

19. Venue is proper in this district pursuant to 28 U.S.C. § 1391, in that a substantial part of the events giving rise to this action occurred in this district, and two Defendants may be found in this district.

## **FACTUAL BACKGROUND**

### **A. Hurricane Katrina Disproportionately Affected African-American and Lower Income Residents of New Orleans.**

20. On August 29, 2005, Hurricane Katrina made landfall along the Gulf Coast and caused catastrophic damage to the City of New Orleans. Hurricane Katrina disproportionately impacted predominantly African-American, lower-income neighborhoods.

21. According to U.S. Census data, in 2000, the population of New Orleans was approximately 67% African American.

22. As of February 3, 2006, the lower Ninth Ward, which had been 95.7% African-American before Katrina struck, remained uninhabitable and only accessible for “look and leave” visitation.

23. Over 80% of New Orleans’ African-American population has been displaced from the Parish.

24. Many of the New Orleans residents who were forced to evacuate from the City, the overwhelming majority of whom were African-American, have not yet returned. The U.S. Census estimated that the New Orleans population in July 2004 was approximately 462,269. The Greater New Orleans Community Data Center estimated the population of New Orleans in January 2006 was 156,140.

25. Currently, a number of African Americans represent Orleans Parish, including the mayor of New Orleans, the member of the U.S. House of Representatives whose district encompasses most of New Orleans, eight members of the Louisiana House of Representatives whose districts include parts of New Orleans, three members of the Louisiana Senate whose districts include parts of New Orleans, and four members of the New Orleans city council.

26. Over 32% of Louisiana's population is African American.

**B. Louisiana Election Code Fails To Safeguard the Voting Rights of New Orleans' Displaced Voters, the Overwhelming Number of Whom Are African-American.**

27. Louisiana election law fails to ensure that during emergency conditions, particularly when a significant portion of the population is temporarily residing outside of the state, the voting rights of displaced residents will be protected.

28. Louisiana law requires that an individual who expects to be absent from his parish on Election Day request, in writing, an absentee ballot. The registrar is prohibited by law from sending absentee ballots without first receiving such an application. Louisiana Revised Statute 18:1308(A)(1)(a) states that immediately upon receipt of an application by mail, "the registrar shall mail the necessary instructions, certificates, ballots, and envelopes to the applicant at the address furnished by the applicant." The statute further states that "the registrar shall not send an absentee ballot to an applicant whose application for an absentee ballot does not meet the requirements of Subsection A or B" of subsection (F), which refers to the procedure for requesting an absentee ballot. *Id.*

29. Persons who have registered by mail must vote for the first time in person according to Louisiana Revised Statute 18:115(F). Upon information and belief, approximately 10,000 displaced Orleans Parish residents who have registered by mail to vote will be voting for the first time in the April or May 2006 primary or general elections. Under these circumstances, current state law requires these voters to cast their ballot in person. La. R.S. 18:115(F).

30. State law provides for early voting, which must take place between twelve and six days prior to an election. La. R.S. 18:1309(A)(1).

31. Louisiana election law also provides that in the case of insufficient space in the parish registrar's office, "the registrar may provide for an alternate location to conduct early voting, which location shall be in the courthouse or in a public building in the immediate vicinity thereof." The present law does not, however, provide for early voting locations outside of the vicinity of the registrar's office.

32. In order to register to vote under Louisiana law, a voter must present a driver's license, birth certificate, "or other documentation which reasonably and sufficiently establishes the applicant's identity, age, and residency." Additionally, the law requires that prior to voting an individual must present a Louisiana driver's license, a Louisiana special identification card, or other generally recognized picture identification card. If the voter has none of these, he is permitted to complete an affidavit, but his vote is subject to challenge.

33. In four of the six neighborhoods that suffered the worst Katrina related damage, over 80% of the population is African-American. African-Americans resided in approximately 72% of the homes that flooded over six feet. Upon information and belief, many of the African-American victims of Hurricane Katrina lost most if not all of their possessions when their homes flooded and no longer have the types of identification that are required to vote according to the current election code.

C. **Act 40 and the Secretary of State's Emergency Election Plan Do Not Adequately Protect the Voting Rights of Displaced New Orleans Residents.**

34. During the 2005 First Extraordinary Session of the Louisiana Legislature, the legislature enacted Act 40 to help the Secretary of State oversee the post-Katrina election process. In pertinent part, Act 40 "authorizes the Secretary of State to certify to an emergency and write an emergency election plan, upon concurrence of said emergency by the governor, a

majority of the members of the Senate Committee on Senate and Governmental Affairs, and the House Committee on House Governmental Affairs.”

35. Act 40 is limited in that it permits the Secretary of State to address only “the technical, mechanical, or logistical problems impairing the holding of elections with respect to the relocation or consolidation of polling places within the parish, potential shortages of commissioners and absentee commissioners, or shortages of voting machines.”

36. In accordance with Act 40 on or about January 23, 2006, the Secretary released his Emergency Plan for Orleans Parish Municipal Elections. That plan consisted of four substantive sections: voting machines, polling places, commissioners and outreach.

37. First, the emergency plan proposes to provide additional counting equipment for absentee ballots and early voting ballots.

38. Second, it deputizes the Secretary’s staff to assist the registrar’s office with the potentially high volume of the requests for absentee ballots by mail. The Secretary also proposes providing his Baton Rouge Post Office Box Number to be used on all applications and absentee ballots. In addition, the Secretary’s emergency plan calls for daily runs between his office and the Registrar’s office in New Orleans for the processing of the absentee ballots.

39. Third, the Secretary’s plan calls for the establishment of multiple “polling centers” in addition to the regular polling places.

40. Finally, the Secretary requests additional commissioners and absentee commissioners to assist in the tabulation of the absentee votes.

41. Due to Hurricane Katrina’s displacement of its residents, Orleans Parish lost between 27% - 48% of its voting population. Although in-state satellite voting centers would

facilitate voting for some displaced voters, failure to provide out-of-state polling centers would leave thousands of out-of-state displaced voters with no nearby voting site.

42. Many of New Orleans' displaced voters are temporarily residing in Houston (approximately 317 miles from New Orleans) and Atlanta (approximately 429 miles from New Orleans.) Upon information and belief, many of these evacuees do not have the resources to travel from their temporary residence to New Orleans to vote in person during the upcoming municipal elections.

43. Secretary Ater intends to disseminate notice of the election, including the date of the election, date of the early voting period and its locations, date for submitting an application for absentee voting and notice of the polling place relocations, by placing notices in the official parish journal, weekly area newspapers, the Secretary's website and at prior polling places.

44. The Secretary intends to inform displaced voters of the election by an "outreach campaign" that includes mailing a letter along with each application for an absentee by mail ballot, staffing the Secretary's 1-800 number with personnel trained on the election process, producing a public service announcement to be broadcast in those areas where there is a "high concentration" of displaced persons and taking out newspaper ads in areas where there is a "high concentration" of displaced persons. The Secretary has decided that nine (9) states have "high concentrations" of displaced persons: Louisiana, Texas, Arkansas, Alabama, Georgia, Mississippi, Tennessee, California and Florida.

45. Upon information and belief, the Secretary intends to mail voter information to out-of-state voters at addresses of displaced voters gathered by the Federal Emergency Management Agency ("FEMA"), as well as change of address lists from the U.S. Postal Service.

**D. The Governor's Call and the Current Proposed Legislation in the Extraordinary Legislative Session Fail To Protect the Voting Rights of Displaced Residents of New Orleans.**

46. The Governor's call for the 1<sup>st</sup> Extraordinary Session of 2006 requests the legislature to authorize displaced first-time voters who registered to vote by mail to vote absentee by mail. The Governor furthermore requests legislation that allows registered voters of a jurisdiction for which an emergency plan has been approved "to cast their ballots during the early voting period for the affected elections at registrar of voters offices in Louisiana parishes other than the parish in which such voters are registered to vote, and otherwise to provide respect thereto."

47. Currently, several bills have been introduced in the extraordinary session to provide voting protections to displaced residents of Orleans Parish, including legislation to allow first-time voters who registered by mail to vote absentee by mail and legislation to allow voters to vote at any registrar in any parish during the early voting timeframe.

48. These bills, if enacted, would not sufficiently protect displaced Orleans Parish voters, particularly those individuals who are temporarily sheltered in a location that is a significant distance from New Orleans.

49. At present, there are no proposals to send absentee ballots automatically to displaced voters with known addresses, to publicize notices about the election in all the states where displaced voters reside, or to modify the identification requirements for registering to vote and voting.

50. On information and belief, the Secretary of State has determined that it is feasible to conduct out-of-state satellite voting in the nine states that he has identified as having the highest concentrations of displaced persons.

**E. Plaintiffs and Their Members Will Be Denied An Equal Opportunity To Vote in the New Orleans Elections Absent Judicial Intervention.**

Plaintiff ACORN

51. Plaintiff ACORN is community organization of low and moderate-income families working together for social justice and stronger communities. It has more than 9,000 members in the New Orleans area, many of whom are African-American and are registered to vote.

52. As a result of Hurricane Katrina, many of ACORN's members were displaced from Orleans Parish. These members they would like to vote in New Orleans' upcoming municipal elections but lack transportation, or resources to travel, to vote in person in Orleans Parish.

Plaintiff Lower Ninth Ward Neighborhood Council

53. Plaintiff Lower Ninth Ward Neighborhood Council (Council) was founded in the 1960's and its current President, Plaintiff Vera McFadden, has been a member since 1979. For over forty years, the Council has held community forums to discuss and address important issues that impact its predominantly African-American homeowner membership. Upon information and belief, most, if not all, of its 150 members are registered to vote in Orleans Parish.

54. The high winds and floodwaters of Hurricane Katrina devastated the Ninth Ward, causing all of its residents to evacuate. Currently, many members of the Council are temporarily residing in Mississippi and Texas.

55. Council members have been active participants in the electoral process in the past, and thus, will likely seek to participate in all upcoming New Orleans elections in 2006. For many members, the long distance between their temporary residence and New Orleans; lack of

access to transportation; and gasoline prices may prevent them from exercising their right to vote. In addition, unreliability of the mail service due to Hurricane Katrina makes absentee voting an unreasonable option.

Plaintiff Vera McFadden

56. Plaintiff Vera McFadden evacuated her residence at 6303 N. Robertson Street, New Orleans in compliance with mandatory evacuation orders issued prior to the arrival of Hurricane Katrina on August 29, 2005. The Hurricane caused extensive water damage to her home, and as a result, she has been unable to return to her New Orleans home. Ms McFadden is temporarily residing in Houston, Texas.

57. Ms. McFadden hopes to return to her New Orleans residence, and she would like to participate in all upcoming elections. She believes, however, that she will be unable to vote during the April 22, 2006 election at her usual polling place, because it is a five and one half hour drive from Houston, Texas to New Orleans. Additionally, the cost of gasoline for this trip would be approximately \$90 and present a financial hardship to Ms. McFadden.

58. Further, even if the Legislature were to approve pending proposals to allow displaced residents to engage in early voting in Louisiana registrars' offices outside Orleans Parish, it would be an undue hardship for Ms. McFadden to participate in early voting activities during April 10-16, 2006 because the closest Louisiana parish, Calcasieu Parish, is a three-hour drive from her temporary address.

59. Finally, absentee voting by mail is an unduly cumbersome and possibly unreliable option for Ms. McFadden given the unreliability of mail service for displaced Louisiana residents.

Plaintiff Malcolm Suber

60. Plaintiff Malcolm Suber evacuated his residence at 4366 Randolph Avenue, New Orleans in compliance with mandatory evacuation orders issued prior to the arrival of Hurricane Katrina on August 29, 2005. The Hurricane caused extensive water damage to his home and as a result, he has been unable to return. Mr. Suber is temporarily residing in Conroe, Texas.

61. Mr. Suber hopes to return to his New Orleans residence in the summer 2006. In the meantime, he would like to participate in all upcoming elections but believes that he will be unable to vote during the April 22, 2006 election, at his usual polling place, because it is a six-hour drive from Conroe, Texas to New Orleans. The cost of gasoline for this trip would be approximately \$100.00, which would present a financial hardship to Mr. Suber.

62. Participating in early voting activities during April 10-16, 2006 would also create undue hardship for Mr. Suber because the closest parish, Calcasieu Parish, is a three-hour drive from his temporary address.

63. Finally, Mr. Suber cannot vote absentee by mail because, on average, it takes two to three weeks for mail to arrive to him from Louisiana. Therefore, the timely receipt of an absentee ballot is highly unlikely.

**CLASS ACTION ALLEGATIONS**

64. Plaintiffs bring this action on their own behalf, their members, and on behalf of all those displaced Orleans residents who are similarly situated.

65. Plaintiffs seek to represent a class consisting of all persons who as of August 29, 2005, resided in Orleans Parish; and were displaced, and will continue to be displaced until at least April 22, 2006, from their pre-disaster primary residences by Hurricane Katrina.

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

67. 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.

68. 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.

69. Common questions of law and fact predominate in this case in that Louisiana elections law currently fails to protect the voting rights of the class members.

70. The claims of the named plaintiffs are typical of the class members in that each the voting rights of each named plaintiff, due to the current limitations of Louisiana election law, will be threatened absent judicial intervention.

71. The named plaintiffs will adequately and fairly represent and protect the interests of the class because each named 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 plaintiffs are experienced and capable litigators possessed of sufficient resources to adequately protect and represent the interests of the plaintiff class.

72. The requirements of Federal Rule of Civil Procedure 23(b)(2) are met in that the state 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 final 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.

### **CLAIMS FOR RELIEF**

#### **Count One: Violation of Section 2 of the Voting Rights Act of 1965**

73. Plaintiffs incorporate by reference herein paragraphs 1 through 72 above as if set forth in full.

74. The majority of the displaced residents of Orleans Parish are African-American, temporarily live outside of the parish limits, and will not have access to absentee ballots or the means to travel to New Orleans to vote in person.

75. The majority of white Orleans Parish residents remain within the parish limits and will have access to the polls to vote in person.

76. Act 40 and the Secretary of State's Emergency Plan will deny African-American voters an equal opportunity to participate in the Orleans parish elections in violation of Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973.

77. Thus, there are actual, bona fide and substantial issues in dispute between the Plaintiffs and the Defendants as to the sufficiency of the actions taken to protect the rights of temporarily displaced Orleans Parish voters.

78. This dispute between Plaintiffs and the Defendants presents a real, immediate and justifiable controversy that requires adjudication by this Court. A declaration of the legally sufficient measures that should be taken by the Defendants is needed.

79. There is no other form of proceeding that can provide Plaintiffs with the immediate declaratory and injunctive relief they seeks with respect to the aforementioned dispute.

80. Since declaratory relief is both appropriate and necessary in light of the conflicting positions of the parties with respect to the Emergency Elections Plan and the Defendants' obligations thereunder, Plaintiffs request a judicial determination of the parties' respective rights and obligations with regard to the upcoming primary and general municipal elections.

81. Plaintiffs have no adequate remedy at law for the deprivation of their rights under the Voting Rights Act of 1965.

Count Two: Violation of  
First and Fourteenth Amendments – Burden on Right To Vote

82. Plaintiffs incorporate by reference herein paragraphs 1 through 81 above as if set forth in full.

83. Displaced residents of Orleans Parish who registered to vote by mail and will be first-time voters in the upcoming election are required to vote in person.

84. Plaintiffs, their members, and members of the proposed class do not have the means to travel from their temporary residence to New Orleans to cast a ballot in person, or will be severely burdened by such travel. By contrast, voters who currently reside within the limits of Orleans Parish will not be similarly burdened in casting their ballots in person at polls in the Parish.

85. By failing to provide for out-of-state polling locations, Act 40 and the Secretary of State's Emergency Plan will impose severe burdens on displaced voters' fundamental right to vote.

86. Defendants cannot show any compelling basis for requiring that displaced residents of Orleans Parish, who are first-time voters who register registered by mail, cast ballots in Orleans Parish, rather than out-of-state polling locations.

87. By reason of the foregoing, Defendants, acting under color of state law, have deprived Plaintiffs, their members, and members of the proposed class of the rights, privileges, and immunities secured to them under the First and Fourteenth Amendments to the United States Constitution and protected under 42 U.S.C. § 1983.

88. Plaintiffs have no adequate remedy at law for such deprivation of their rights, privileges, and immunities.

### **PRAYER FOR RELIEF**

WHEREFORE, plaintiffs pray for a judgment:

- 1) Certifying a class, pursuant to Fed. R. Civ. P. 23(b)(2), consisting of all persons who as of August 29, 2005, resided in Orleans Parish and were displaced, and will continue to be displaced until at least April 22, 2006, from their pre-disaster primary residences by Hurricane Katrina;
- 2) Declaring that Act 40 and the Secretary of State's Emergency Plan will deny African-American voters an equal opportunity to participate in the Orleans parish elections in violation of Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973;

- 3) Declaring that Act 40 and the Secretary of State's Emergency Plan will impose a severe burden on displaced voters' fundamental right to vote and thereby violate the First and Fourteenth Amendments to the United States Constitution;
- 4) Directing Defendants to adopt voting procedures, including satellite polling places, and the mailing, in this limited instance, of unsolicited absentee ballots to those displaced persons with known addresses;
- 5) Directing Defendants to publicize the notice of elections in all states in which displaced persons reside;
- 6) Directing Defendants to accept from displaced residents alternative forms of identification to register and vote, including but not limited to FEMA relief applications, Red Cross documents, and other documents that indicate their New Orleans address;
- 7) Awarding the Plaintiffs costs and disbursements associated with the filing and maintenance of this action, including an award of reasonable attorneys' fees; and
- 8) Granting such other relief as this Court deems appropriate.

Dated: February 9, 2006

Respectfully submitted,

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