

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI CIVIL DIVISION**

Case No. 1:12-cv-22282-WJZ
Honorable Judge William J. Zloch

KARLA VANESSA ARCIA, an individual,
MELANDE ANTOINE, an individual, VEYE
YO, a civic organization based in Miami-
Dade County, FLORIDA IMMIGRANT
COALITION, INC., a Florida non-profit
corporation, NATIONAL CONGRESS FOR
PUERTO RICAN RIGHTS, a Pennsylvania
non-profit corporation, FLORIDA NEW
MAJORITY, INC., a Florida non-profit
corporation, and 1199SEIU UNITED
HEALTHCARE WORKERS EAST, a Labor
Union,

Plaintiffs,

v.

KEN DETZNER, in his official capacity as
Florida Secretary of State,

Defendant.

AMENDED COMPLAINT

Plaintiffs KARLA VANESSA ARCIA, an individual; MELANDE ANTOINE, an individual; VEYE YO, a civic organization based in Miami-Dade County; FLORIDA IMMIGRANT COALITION, INC., a Florida non-profit corporation; NATIONAL CONGRESS FOR PUERTO RICAN RIGHTS, a Pennsylvania non-profit corporation; FLORIDA NEW MAJORITY, INC., a Florida not for profit corporation; and 1199SEIU UNITED HEALTHCARE WORKERS EAST, a labor union (collectively “Plaintiffs”), bring this action seeking a declaratory judgment and injunctive relief against Defendant KEN DETZNER, in his official capacity as Florida Secretary of State (“Defendant”), and aver as follows:

NATURE OF THE CASE

1. Plaintiffs are individuals and organizations whose rights and the rights of their members are affected by the program instituted by the Florida Department of State (“DOS”) to carry out a systematic purge of alleged non-citizens from the Florida voter rolls.

2. In April 2012, DOS initiated a program known as “Processing Ineligible Registered Voters – Non-Immigrants” (the “Program to Purge Alleged Non-Citizens”). DOS had, to date, collected a list containing more than 180,000 names of alleged ‘potential non-citizens’ (the “180,000-person list”). To initiate the Program to Purge Alleged Non-Citizens, DOS sent a sample of the 180,000-person list, containing approximately 2,625 names (the “Initial Purge List”), to Florida’s Supervisors of Elections. DOS further provided Florida Supervisors of Elections with direction as to how to review and use this list to determine the eligibility of currently-registered voters. In particular, DOS instructed Supervisors of Elections to review existing voter files and further conduct additional research using “whatever other sources [Supervisors of Elections] have to confirm identity and potential change in legal status.” DOS further instructed that, once a Supervisor of Elections found “information credible and reliable” to support the determination that a registered voter was a non-citizen, they should initiate notice of this conclusion, first via certified mail and second via publication, if necessary. Several Supervisors of Elections began implementing this program by sending notices containing allegations of non-citizenship, and some Supervisors of Elections actually purged voters from the registration rolls.

3. Following press reports exposing the shockingly low accuracy rate of the Initial Purge List and demands from the United States Department of Justice and private litigants that Florida cease its purge efforts, DOS temporarily suspended the Program to Purge Alleged Non-Citizens. It did not, however, remedy the ongoing effects of its past actions. It announced that it

intended to continue the purge later using a different method. In particular, Defendant announced that DOS was awaiting a determination from the United States Department of Homeland Security (“DHS”) regarding the State’s requested access to DHS’s Systematic Alien Verification for Entitlements (“SAVE”) database. DOS stated that, if granted access to the SAVE database, it would use the information contained in that database to continue its Program to Purge Alleged Non-Citizens. DOS admitted that its own information was outdated, and without the information provided by SAVE, individuals who are naturalized citizens but who were included on the Initial Purge List would be inconvenienced, and potentially even incorrectly purged from the voter rolls and unable to vote in Florida’s upcoming Federal elections.

4. On information and belief, Defendant received word from DHS on July 9, 2012, that Florida would have access to the SAVE database following the entry of a Memorandum of Agreement (“MOA”) between DOS and DHS. DOS and DHS executed an MOA on August 14, 2012, thus DOS’s resumption of the purge is imminent. The Program to Purge Alleged Non-Citizens, both as initially established and as currently planned, violates Plaintiffs’ rights under the Voting Rights Act, the National Voter Registration Act (“NVRA”), and Florida state law. Plaintiffs are seeking a judicial declaration (1) that the Program to Purge Alleged Non-Citizens violates Section 2 of the Voting Rights Act (“VRA”), 42 U.S.C. § 1973, because it results in persons of color and members of language minority groups who are U.S. citizens having “less opportunity than other members of the electorate to participate in the political process and to elect the representatives of their choice”; (2) that the Program to Purge Alleged Non-Citizens violates Section 8(b)(1) of the National Voter Registration Act of 1993 (“NVRA”), 42 U.S.C. § 1973gg-6(b)(1), and Fla. Stat. § 98.075(1), both of which provide that any State program or

activity designed to ensure the maintenance of accurate and current voter registration rolls “shall be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965”; and (3) that the Program to Purge Alleged Non-Citizens violates Section 8(c)(2)(A) of the NVRA, 42 U.S.C. § 1973gg-6(c)(2)(A), which prohibits the systematic purging of eligible voters from the official voter list for the State of Florida within 90 days before the date of a primary or general election for Federal office. Plaintiffs additionally seek a preliminary and permanent injunction ordering Defendant to discontinue the Program to Purge Alleged Non-Citizens and take the necessary actions to remedy past harms and prevent future harms caused by the Program to Purge Alleged Non-Citizens described in their Prayer for Relief, *infra*.

JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter of 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)(3) and (4), as a case seeking equitable and other relief pursuant to an act of Congress providing for the protection of the right to vote; and under 42 U.S.C. § 1983, as a case seeking to enforce rights and privileges secured by the laws of the United States, and under 42 U.S.C. § 1973(d) and (f). In light of Florida’s history of engaging in racially discriminatory voting practices, including the discriminatory purges of eligible voters, and taking other actions that have compromised its citizens’ fundamental right to vote, and due to the likelihood that the State will continue to take steps to cause irreparable harm to valid and legitimate voters by illegally and discriminatorily purging them, it is imperative that this Court hear and consider this action. 42 U.S.C. § 1983 authorizes suits for the deprivation of a right secured by the Constitution or the laws of the United States caused by a person acting under the color of state law.

6. The Voting Rights Act of 1965 states that “Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice

prohibited by section 1973, 1973a, 1973b, 1973c, 1973e, 1973h, 1973i, or subsection (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, an action for preventive relief, including an application for a temporary or permanent injunction, restraining order, or other order[.]” 42 U.S.C. § 1973j(d). This provision has been held to authorize suits by private parties such as Plaintiffs here. See *Allen v. State Board of Elections*, 393 U.S. 554-557, fn. 18 (1969).

7. Section 11(b) of the NVRA, 42 U.S.C. § 1973gg-9(b), creates a private right of action for parties who are aggrieved by a violation of the Act.

8. This Court has jurisdiction over the pendent state law claims pursuant to 28 U.S.C. § 1367(a).

9. Venue is proper in this District because a substantial portion of the violations and harms complained of herein occurred, or will occur, in this District.

PARTIES

10. Plaintiff KARLA VANESSA ARCIA¹ (“Ms. Arcia”) is an individual and a resident of Miami-Dade County, Florida. Ms. Arcia is a citizen of the United States of America and a qualified and legally registered Florida voter. Ms. Arcia is Nicaraguan-American. As set forth more fully below, Ms. Arcia’s rights have been, and will continue to be, adversely affected by the Program to Purge Alleged Non-Citizens.

11. Plaintiff MELANDE ANTOINE (“Mrs. Antoine”) is an individual and a resident of Miami-Dade County, Florida. Mrs. Antoine is a citizen of the United States of America and a qualified and legally registered Florida voter. Mrs. Antoine is Haitian-American. As set forth

¹ Plaintiffs Arcia and Antoine may at times be referred to collectively as “Individual Plaintiffs.”

more fully below, Mrs. Antoine's rights have been, and will continue to be, adversely affected by the Program to Purge Alleged Non-Citizens.

12. Plaintiff VEYE YO² ("VEYE YO"), is a Miami-Dade County-based civic organization that is affiliated with the Haitian-American Grassroots Coalition. It has an office in Miami-Dade County, Florida, and individual members throughout South Florida. VEYE YO's primary purposes are to empower Haitian-American citizens who are engaged in civic and democratic endeavors, and to assist members of the Haitian-American community in identifying and articulating issues of concern, including voting rights issues. VEYE YO is an organization dedicated to increasing the prominence and participation of Haitian-Americans in every aspect of the political process. To achieve this goal, VEYE YO facilitates naturalization classes, registers voters and engages in voter education and voter mobilization efforts. Defendant's unlawful practices have frustrated VEYE YO's mission as VEYE YO has been required to expend resources to locate members who have been unlawfully purged or who received letters questioning their eligibility to vote, to educate its members about Defendant's unlawful practices and to combat them at the expense of its regularly-conducted programs/activities. Moreover, VEYE YO has individual members who have been adversely affected by the Program to Purge Alleged Non-Citizens.

13. Plaintiff FLORIDA IMMIGRANT COALITION, INC. ("FLIC"), is a Florida non-profit corporation with its principal office in Miami-Dade County, Florida and member organizations located throughout the State of Florida. Central to FLIC's stated mission is the integration of immigrants into the civic and cultural life of America's communities. In

² Plaintiffs Veye Yo; Florida Immigrant Coalition, Inc.; National Congress for Puerto Rican Rights; Florida New Majority, Inc.; and 1199SEIU United Healthcare Workers East may at times be referred to collectively as "Organizational Plaintiffs."

conjunction with the National Partnership for New Americans, in early 2012, FLIC launched an initiative “Florida New Americans,” aimed at providing opportunities of full integration for Florida’s largest immigrant communities, through a citizenship program that includes citizenship clinics and naturalization classes, all with the goal of advancing immigrant rights and creating active citizenship among new Americans to achieve a vibrant, just, and welcoming democracy for all. Defendant’s unlawful practices have frustrated FLIC’s mission and have forced it to divert its scarce resources to combat Defendant’s unlawful practices at the expense of its regularly-conducted programs/activities.

14. Plaintiff the NATIONAL CONGRESS FOR PUERTO RICAN RIGHTS (“NCPRR”) is a Pennsylvania non-profit corporation and membership organization founded in 1981 and dedicated to securing full equality for Puerto Ricans living in the United States through advocacy, education and participation in the political process. NCPRR has chapters across the United States, including Central and Southern Florida. These chapters are actively involved in safeguarding Puerto Rican and Hispanic voting rights and ensuring the political access of Puerto Ricans and Haitian Americans in Florida. NCPRR’s members are mainly comprised of Puerto Ricans and other Hispanics who are concerned about civic participation, including voting rights. NCPRR’s Florida members stand to be disenfranchised by Defendant’s unlawful practices, which include inaccurate name matching that has already resulted in native-born United States citizens being targeted based on improper discriminatory factors. NCPRR’s mission is frustrated by Defendant’s unlawful voter-purge practices, and NCPRR has had to divert resources to combat Defendant’s unlawful practices.

15. Plaintiff FLORIDA NEW MAJORITY, INC. (“FNM”), is a Florida non-profit corporation and membership organization with its principal office in Miami-Dade County,

Florida. Founded in 2009, FNM is dedicated to organizing, educating, and mobilizing disempowered communities in Florida to win equity and fairness throughout the State. FNM's central focus is to expand democracy and develop the leadership of underrepresented communities. To achieve its goal, FNM works with citizens who are engaged in civic and democratic endeavors and assists members of its target communities in identifying and articulating issues of concern, including voting rights issues. Defendant's unlawful practices have frustrated FNM's mission. FNM has been required to expend resources (1) to locate members who have been unlawfully purged and/or (2) to educate its members about Defendant's unlawful practices in order to combat them, at the expense of its regularly-conducted programs/activities. FNM has individual members who have been affected by the Program to Purge Alleged Non-Citizens.

16. Plaintiff 1199SEIU UNITED HEALTHCARE WORKERS EAST ("1199SEIU") is a labor union that represents 25,000 healthcare workers, as well as an additional 7,400 retired members, in the State of Florida. 1199SEIU has members in 43 out of the 67 counties in Florida, including, but not limited to, the counties in this District, as well as Collier, Lee, Hillsborough, and Hendry Counties. Many of 1199SEIU's members are registered to vote or have sought to register to vote. 1199SEIU has devoted significant time, energy and resources to making sure its members and their families, co-workers, and community members are registered to vote, and is committed to ensuring that every Floridian who is a United States citizen has the right to vote and the opportunity to exercise that right. Voter registration, education, and engagement are central to 1199SEIU's mission, as reflected in its financial and personnel commitments and in the Service Employee International Union's mission statement: "We must build political power to ensure that workers' voices are heard at every level of government to create economic

opportunity and foster social justice.” Some of 1199SEIU’s members, including Ms. Arcia and Mrs. Antoine, are United States citizens who were adversely affected by the Program to Purge Alleged Non-Citizens. Defendant’s unlawful practices frustrate 1199SEIU’s mission and require it to expend its limited resources investigating and taking measures to counteract the Program to Purge Alleged Non-Citizens, thus diverting resources from its planned voter registration and education activities.

17. Defendant KEN DETZNER is the Secretary of State for the State of Florida, and is being sued in his official capacity. Pursuant to Fla. Stat. § 92.012, Florida’s Secretary of State is the chief elections officer of the State and is therefore responsible for administration of state laws that affect voting, and for ensuring that elections in Florida are conducted according to law. Additionally, he is responsible for coordinating Florida’s responsibilities under the NVRA.

STATEMENT OF FACTS AND LAW

I. The State of Florida’s Program to Purge Alleged Non-Citizens

18. In a press release dated May 9, 2012 (the “Press Release”), Defendant announced that the DOS was partnering with the Florida Department of Highway Safety and Motor Vehicles (“DHSMV”) “*to identify non-citizens who are currently on Florida’s voter rolls.*” (emphasis added). In the Press Release, Defendant asserted that the new initiative “is already proving to be successful. DOS sent the information *of more than 2,600 potential non-citizens* to Florida’s 67 Supervisors of Elections for review and, if warranted, removal from Florida’s voter rolls.” (emphasis added)

19. According to the Press Release, the Program to Purge Alleged Non-Citizens arose after the DOS and DHSMV began working together to develop a way to identify non-citizens in early 2011 following “a credentialing project led by DHSMV which informed DOS of the potential to identify non-citizens in DHSMV’s database, which requires anyone getting a new

driver's license or renewing a driver's license or state ID card to submit documentary proof of his or her legal status.”

20. The Press Release further alleged that:

When DOS receives information from DHSMV indicating that a registered voter may not be a United States citizen, DOS conducts an initial investigation to determine whether the information identifying a voter as potentially ineligible is credible and reliable. *This preliminary investigation includes a cross-reference of all files against the Comprehensive Case Information System, DHSMV, Department of Corrections, Florida Parole Commission and Immigration and Customs Enforcement (ICE) databases* in order to assist supervisors of elections in the removal process by providing the most accurate documentation available. Additionally, DOS is actively seeking access to federal Department of Homeland Security databases such as SAVE (Systematic Alien Verification for Entitlements) for further verification of immigration status.

(Emphasis added).

A. The Initial Purge List

21. On or about April 2, 2012, Defendant sent approximately 2,625 names, with accompanying identifying information for persons whom Defendant claimed were potential non-citizens, to each of the Supervisors of Elections in Florida's 67 counties including the Supervisors of Elections for Palm Beach, Broward, Miami-Dade and Monroe Counties.

22. The Initial Purge List included columns with each person's name, date of birth, voter identification number and a column titled "LAST DHSMV TRANSACTION," purporting to set forth each person's last DHSMV visit.

23. Thereafter, in mid-April of 2012, Defendant published a Webinar (the "Webinar") directing the Supervisors of Elections to review the file information provided on the Initial Purge List and "conduct any additional research" (the "Additional Research"), described as follows:

Refer to *whatever other sources you have* to confirm identity and potential change in legal status. You should all have access to

DHSMV's DAVE [the Driver and Vehicle Express System]. *If you find information credible and reliable, proceed.*

(Emphasis added).

24. The Webinar stated that persons had been placed on the Initial Purge List as a result of positive identification that had been made by matching three out of five fields in the DHSMV database, including first name, last name, and birth date (for example "John" and "Smith" and a specific date of birth). This matching system was severely flawed and, as several media reports have indicated, resulted in naturalized citizens and citizens *born in the United States* ending up on the Initial Purge List, including a World War II veteran, who was born in Brooklyn, New York, and a woman of Puerto Rican descent who was born in New York City.

25. The Webinar indicates that the Federal REAL ID law requiring proof of immigration status at the time of securing a driver's license or state identification has not yet been fully implemented in Florida, and illustrates that changes in legal immigration status, including naturalization, may not be included in the DHSMV database.

26. After completing the Additional Research, the Supervisors of Elections were instructed by Defendant to carry out the procedures of Fla. Stat. § 98.075(7), for the removal of voters from the voter rolls. This directive was consistent with information contained in the Press Release, wherein Defendant stated as follows:

When a supervisor of elections receives information from DOS that a registered voter is a potential non-citizen, *the supervisor must begin the statutory notice and removal process.*

(Emphasis added).

27. The Webinar contained a sample notice letter and sample voter eligibility form that Defendant "suggested" be sent to the alleged potential non-citizens on the Initial Purge List. The sample notice letter and sample voter eligibility form were provided only in English.

28. The sample notice advises the recipient that:

“The [_____] County Supervisor of Elections has received information from the Florida Division of Elections that calls into question your eligibility to be registered to vote. The information obtained from the Florida Department of Highway Safety and Motor Vehicle (see attached) which lists you as not being a U.S. citizen. In Florida, only U.S. citizens can register and vote. See s. 97.041, *Fla. Stat.* (2011).

Please complete and return the enclosed ‘voter eligibility form’ to the Supervisor of Elections’ office within thirty (30) days of receipt.

If you believe we have made a mistake about your identity or citizenship status, or you have acquired citizenship since your last interaction with DHSMV, please include with the ‘voter eligibility form’ a copy of any document that either shows that you are not the person identified in this letter or that you are a U.S. citizen. The following documents are examples of proof of U.S. citizenship: U.S. Birth Certificate, Passport, U.S. Consular Certificate of Birth, or U.S. Certificate of Naturalization. If your name has changed or you use another name different from that on the document, please include a copy of the document showing that name change. You also have the right to request a hearing if you deny that the ineligibility information is accurate.

You may mail, fax, or e-mail the voter eligibility form and supporting documentation or you can come in person with that form and any supporting document to the Supervisor of Elections’ office. **If you fail to respond within thirty (30) days, we may determine that you are ineligible and remove your name from the voter registration rolls. You will then no longer be eligible to vote. . . .**

(Emphasis in original).

29. The sample voter eligibility form required voters, “[u]nder penalties of perjury,” to “swear or affirm” either that “the information that I am ineligible is inaccurate” and to request a hearing or enclose a document in support of eligibility; or that “the information that I am ineligible is accurate.” The form further warned: “It is a criminal offense to knowingly make a

false statement in writing with the intent to mislead a public official in the performance of his or her official duty.”

30. The Webinar further advised Supervisors of Elections that they “have authority to investigate and refer fraudulent registrations or illegal voting to the state attorney’s office.”

31. As set forth more fully below, the processes and procedures used by the Supervisors of Elections to verify the eligibility of persons on the Initial Purge List and to deal with the individuals the Supervisors of Elections determined to be possibly ineligible varied widely – including one county that refused to implement the Program to Purge Alleged Non-Citizens because of the inaccuracy of the Initial Purge List and at least two counties that not only implemented the Program to Purge Alleged Non-Citizens, but removed persons who did not respond to the notice and/or did not return the voter eligibility form.

32. The content of the letter sent by individual Florida county Supervisors of Elections varied as well. For example, the form letter sent by Jennifer J. Edwards, Supervisor of Elections for Collier County, dated May 11, 2012, stated that to avoid removal, the recipient must to the *bring* to Supervisor Edwards’ office the enclosed voter eligibility form, along with an *original* of any documentation demonstrating citizenship. The template notice letter provided in connection with the Webinar referenced stated that a copy of any documentation could be mailed, faxed to the relevant Supervisor’s office.

33. The Collier County letter stated:

The Collier County Supervisor of Elections has received information from the Florida Division of Elections regarding your citizenship status, bringing into question your eligibility as a registered voter.

Per Florida law, only U.S. Citizens are allowed to register to vote. See s. 97.041, *Fla. Stat.* (2012). In addition, registering to vote under fraudulent conditions or swearing a false oath are both third degree felonies in Florida. See s. 104.011, *Fla. Stat.* (2012).

If the information from the Florida Division of Elections is inaccurate regarding your citizenship status or if your citizenship status has recently changed, please stop by our main office with any *original* documentations that demonstrates U.S. citizenship. Do not mail these documents. You may want to call us prior to visiting our main office. Also, you may request an administrative hearing with the Supervisor of Elections to prove U.S. citizenship.

You must complete the attached Voter Eligibility Form and return it to the Supervisor of Elections Office within 30 days of receipt. **Failure to submit this form within thirty (30) days will result in the removal of your name from the voter registration rolls and you will no longer be eligible to vote. . . .**

(emphasis in original).

34. The Initial Purge List proved to be inaccurate, obsolete, and an insufficient basis for challenging voters. On April 30, 2012, DOS suspended the Program to Purge Alleged Non-Citizens due to its inaccuracies. DOS asserted it would resume the program once it received access to DHS's SAVE database, claiming this would allow the State to improve the accuracy of its Program to Purge Alleged Non-Citizens. But the program had already caused – and continues to cause – ongoing damage to those who received letters informing them that they were suspected to be non-citizens and needed to come forward with evidence of citizenship to prevent them from being removed from the voter rolls, as well as to those who were actually removed from the rolls. Defendant's planned resumption of the program will cause further injury to Plaintiffs and Florida voters as explained herein.

35. Pursuant to 42 U.S.C. § 1973gg-9(b), where, as here, a State is alleged to have committed acts in violation of the NVRA within 120 days of a Federal election, the statute requires that the State receive notice of that violation at least 20 days prior to the commencement of a civil lawsuit. By letter dated May 24, 2012, Plaintiffs' counsel provided Defendant with written *ante litem* notice that the Program to Purge Alleged Non-Citizens was in violation of the

NVRA. To date, the violation has not been corrected and the damage caused by that Program to Purge Alleged Non-Citizens has not been remedied.

B. The Program to Purge Alleged Non-Citizens Resumes When the State Gains Access to DHS's SAVE Database

36. The SAVE database is a compilation of databases that contains information on legal immigrants who are issued green cards or visas, as well as those that become naturalized citizens. The SAVE database includes unique numeric identifiers for those individuals, such as a person's alien number or number from a Certificate of Naturalization or Certificate of Citizenship. The SAVE database was not designed for the purpose of verifying voter eligibility and has never been used to retrospectively reexamine the eligibility of registered voters.

37. On or around July 9, 2012, DHS granted Florida access to the SAVE database, conditioned on the execution of an MOA outlining the appropriate use of the database. In a letter dated July 14, 2012, Defendant Detzner indicated that upon execution of the MOA, state staff would be trained on how to access the SAVE database in order to attempt to verify the legal status of individuals alleged to be non-citizens. Defendant Detzner asserted that the State would use the SAVE database to check the Initial Purge List, the results of which would be passed along to Florida's Supervisors of Elections for "additional actions."

38. On information and belief, use of the SAVE database will not remedy the inaccuracy, non-uniformity, and resulting discriminatory impact of the Program to Purge Alleged Non-Citizens. To the contrary, it will cause additional harm.

39. By letter dated August 3, 2012, Plaintiffs' counsel reiterated its written *ante litem* notice that the Program to Purge Alleged Non-Citizens was in violation of the NVRA. Additionally, Plaintiffs' counsel explained this violation to Defendant's counsel at both the July 23, 2012 status conference held by this Court and the parties' Federal Rule of Civil Procedure 26

meet and confer. To date, the violation has not been corrected. Instead, Defendant has made clear that he intends to go ahead with the Program to Purge Alleged Non-Citizens.

40. On August 14, 2012, Defendant Secretary of State Ken Detzner stated that Florida would purge the state voter registry using its access to the SAVE database prior to the November 2012 general election. Defendant stated that he will rely upon the DHSMV registry to compile a potential list of non-citizens, apparently similar to the way he initially compiled the flawed lists of 2,625 and 180,000 individuals, and from there, will run that list against the SAVE database. After checking the DHSMV list against the SAVE database, Defendant's spokesman Chris Cates stated that Florida will "continue to seek out names of non-citizens..." *Florida Moves Forward with Voter Purge After Feds Grant Access to Database*, WFSU Aug. 16, 2012, <http://news.wfsu.org/post/florida-moves-forward-voter-purge-after-feds-grant-access-database>.

II. The Program to Purge Alleged Non-Citizens Discriminates Against Florida Voters in Violation of Section 2 of the Voting Rights Act and the National Voter Registration Act

41. The Program to Purge Alleged Non-Citizens, which Florida failed to pre-clear as required by Section 5 of the VRA, 42 U.S.C. § 1973c, is discriminatory in violation of Section 2 of the VRA.

42. Section 2 of the VRA prohibits Florida from applying or imposing any "voting qualification or prerequisite to voting or standard, practice, or procedure" which results in denial or abridgement of the right to vote on account of race or color, or membership in a language minority group. 42 U.S.C. § 1973(a).

43. Section 8(b)(1) of the NVRA likewise requires that any state program or activity designed to ensure the maintenance of an accurate and current voter registration roll must be "uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965." *See* 42 U.S.C. §1973gg-6(b)(1).

44. The United States House of Representatives Report on the NVRA provides that the term “nondiscriminatory” is intended to mean that the procedure complies with the requirements of the Voting Rights Act. House Report No. 103-9, H.R. REP. 103-9, 15-16, 1993 U.S.C.C.A.N. 105, 119-20.

45. Congress enacted the NVRA in 1993 to “establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office”; to “make it possible for Federal, State, and local governments to implement [the law] in a manner that enhances the participation of eligible citizens as voters in elections for Federal office”; to “protect the integrity of the electoral process”; and to “ensure that accurate and current voter registration rolls are maintained.” 42 U.S.C. § 1973gg(b). Underlying the purpose of the NVRA is Congress’ explicit recognition that “the right of citizens of the United States to vote is a fundamental right”; “it is the duty of the Federal, State, and local governments to promote the exercise of that right”; and “discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal office and disproportionately harm voter participation by various groups, including racial minorities.” *Id.* § 1973gg(a).

46. Although Defendant asserts that the Program to Purge Alleged Non-Citizens does not seek to purge eligible citizens from the voting rolls, the statistics tell a vastly different story. Of the 2,625 persons initially targeted by Defendant, the overwhelming majority of those who responded to inquiries are United States citizens

47. Miami-Dade County’s experience is illustrative. Of the 1,637 persons identified by Defendant as non-citizens residing in Miami-Dade County, 1,572 were notified by the Miami-Dade County Supervisor of Elections that, if they did not prove that they were United States

citizens within 30 days of the date of the notice, they would be removed from the statewide voter registration system.³ Of the 1,572 persons who were sent the notice and voter eligibility form in Miami-Dade, a total of 562 responded. *Of the 562 who responded, 514 voters have provided proof of citizenship and 35 voters responded denying ineligibility but did not provide proof.* Only 14 voters responded admitting ineligibility. Thus, the overwhelming majority of those who responded, 549 out of the 562, or 98%, are United States citizens and lawful, eligible voters.

48. Like those who did respond to the letters, there is a great likelihood that many of those who have not responded are United States citizens and lawful, eligible voters, as demonstrated by the experiences of the individual Plaintiffs. For example, Plaintiff Arcia is a United States citizen whose name appears on the Initial Purge List and who, based on the procedures created by Defendant, was required to be removed from the statewide voter registration system. This is because she did not timely respond to the notice or return the voter eligibility form because she never received them. Thus, if Defendant's instructions to the Supervisors of Elections as set forth in the Webinar are carried out, Ms. Arcia will be removed from the statewide voter registration system and disenfranchised.

49. Plaintiff Antoine, on the other hand, did respond to the Notice from the Miami-Dade County Supervisor of Elections but should never have been on the Initial Purge List in the first place because she is a United States citizen who is eligible and duly registered to vote.

50. Additional unnamed members of Organizational Plaintiffs, who are also United States citizens, received notification from their county Supervisors of Elections of their alleged ineligibility to vote and did not respond. On information and belief, these individuals may have

³ The Supervisor decided not to mail a notice to 65 persons "since they were duplicate names, citizens, deceased, or registered in another county," according to the Miami-Dade Supervisor of Elections' Office.

failed to respond due to a sense of intimidation or due to the effort required to provide proof of citizenship. On further information and belief, many of these individuals likely believe that they cannot vote in the upcoming general election. Whether they have actually been removed from the rolls, these individuals have thus been harmed by DOS's Program to Purge Alleged Non-Citizens.

51. The Defendant's Program to Purge Alleged Non-Citizens will discriminate against racial and language minorities in Florida, who were disproportionately over-represented on the Initial Purge List. Florida's voter registration form includes race identification, and the state's racial identification data of the persons on the Initial Purge List clearly demonstrates the disparate impact of the Program to Purge Alleged Non-Citizens: the Initial Purge List itself shows 61% of the persons on the List are Hispanic, 16% of the persons on the List are Black, 16% of the persons on the List are White, and 5% of the persons on the List are Asian. In sum, 82% of those on the Initial Purge List are people of color. In contrast, just 30% of registered voters in Florida are people of color (14% Hispanic, 14% Black, 2% Asian). These numbers are glaringly disproportionate.

52. Because county Supervisors of Elections were instructed, in the Webinar, to review the immigration status of persons on the Initial Purge List, as set forth in the DHSMV records, the Program to Purge Alleged Non-Citizens specifically targets naturalized citizens (as compared to persons born in the United States), the majority of whom are people of color (including language minorities) whose rights are protected under Section 2 of the VRA.

53. Many persons of color and members of language minority groups in Florida have suffered and continue to suffer discrimination and bear the effects of that discrimination today, including a history of discrimination and neglect in voting-related activities.

54. In conducting the Program to Purge Alleged Non-Citizens, Defendant has failed to ensure that all persons of color and members of language minority groups, particularly Haitian-Americans, have an equal opportunity to participate in the political process and to elect the representatives of their choice.

55. Plaintiffs are concerned about the curtailment of their communities' voting rights as a result of the Program to Purge Alleged Non-Citizens.

56. On information and belief, use of the SAVE database will not remedy this injury. The SAVE database is not a universal citizen database; many individuals, including natural-born citizens, are not included in SAVE. Defendant has not identified how many of the individuals on his Initial Purge List, or how many of the individuals removed from the voter rolls, can actually be processed through the SAVE database with the information (including alien registration numbers and supporting documentation) that is, on information and belief, required by DHS procedures. Moreover, the use of the SAVE database as a final step cannot mitigate the discriminatory effects of Florida's program. To the extent that the Defendant relies upon the initial discriminatory lists of alleged non-citizens derived from the DHSMV registry, any use of the SAVE database will not alter the flaws of that list: the vast majority of individuals filtered through SAVE and ultimately required to affirmatively prove citizenship will be minorities.

57. On further information and belief, for the reasons articulated in the foregoing paragraph, use of the SAVE database for the purpose of removing voters from the rolls, particularly this close to the November general election, will cause additional injury to Organizational Plaintiffs, the individual registered voters they serve, and those similarly situated. To utilize the SAVE database in a voter removal program, Florida must first prepare a list of alleged noncitizen registered voters. On information and belief, to the extent such a list is

prepared by matching names of registered voters with information contained in the DHSMV database or on juror questionnaires, the program will inevitably run afoul of the NVRA's requirement that voter removal programs be "uniform, nondiscriminatory, and in compliance with the Voting Rights Act," 42 U.S.C. § 1973gg-6(b)(1), as well as Section 2 of the Voting Rights Act, *id.* § 1973. Should Florida instead seek to develop a preliminary list of alleged noncitizens to compare with the SAVE database through other means, on information and belief, it is not possible that any such action, taken this close to the November election, could be completed in a nondiscriminatory fashion, with the level of accuracy and reasonableness required by the NVRA.

III. Implementation of the Program to Purge Alleged Non-Citizens Lacks Uniformity in Violation of the NVRA and Florida Law

58. Section 8(b)(1) of the NVRA requires that any systematic program to maintain a state's voter rolls must be done with uniformity. *See* 42 U.S.C. § 1973gg-6(b)(1).

59. The term "uniform" is intended to mean "*that any purge program or activity must be applied to an entire jurisdiction.*" House Report No. 103-9, H. R. REP. 103-9, 15-16, 1993 U.S.C.C.A.N. 105, 119-20 (emphasis added).

60. Florida's procedures for registration list maintenance programs and activities are set forth in Chapter 98 of the Florida Statutes. Section 98.075(1), Florida Statutes imposes on DOS and Defendant the duty to "protect the integrity of the electoral process by ensuring the maintenance of accurate and current voter registration records" and also provides that list maintenance activities undertaken by the DOS and Defendant must be "uniform,

nondiscriminatory, and in compliance with the Voting Rights Act of 1965, the National Voter Registration Act of 1993, and the Help America Vote Act of 2002.” See Fla. Stat. § 98.075(1).⁴

61. Moreover, Section 98.075(1) states that the DOS “may adopt by rule *uniform standards and procedures* to interpret and administer this section.” See Fla. Stat. § 98.075(1) (emphasis added).

62. The Program to Purge Alleged Non-Citizens is not uniform in either design or implementation. First, as set forth above, of the approximately 2,625 persons on the Initial Purge List, 1,637 were identified by Defendant as being from Miami-Dade County. This means that ***61% of the persons on the Purge List are from one county – Miami-Dade.***

63. Moreover, the implementation of the Program to Purge Alleged Non-Citizens has varied widely by county. For example, the Palm Beach County Supervisor of Elections completely refused to implement the Program to Purge Alleged Non-Citizens. Other counties, including Broward and Monroe, have sent out notices on voter eligibility but have indicated that they likely would not remove persons who did not respond. Similarly, the Supervisor of Elections of Miami-Dade County, for her part, sent out letters to those on the Initial Purge List but informed Defendant that she “has chosen to exercise her discretion under state law and will not remove any voters (other than those whose ineligibility has been demonstrated by the evidence) until the State has the opportunity to review the remaining voters against current, credible and reliable data sources.” Collier and Lee Counties have fully implemented the Program to Purge Alleged Non-Citizens and have, in fact, removed from the statewide voter

⁴ Section 98.065(1), Florida statutes, imposes the same requirement on the Supervisors of Elections. Moreover, Section 98.075(7) sets up procedures for removal to which the Supervisors of Elections must adhere “prior to the removal of a registered voter’s name from the statewide voter registration system.” See Fla. Stat. § 98.075(7).

registration system voters who failed to respond to the notices and did not return the voter eligibility forms.

64. Further, the Program to Purge Alleged Non-Citizens is not uniform because the DHSMV database upon which it relies is an outdated, inaccurate, and unreliable source of information about citizenship because it does not capture or verify the use of citizenship information to administer driver licenses.

65. On information and belief, the Program to Purge Alleged Non-Citizens disproportionately impacts newly-naturalized citizens as well as Hispanic, Black, Asian-American, and other minority voters. Use of the SAVE database will not remedy this disproportionate impact, but will rather cause further injury to eligible Florida voters for the reasons described above.

IV. Implementation of the Program to Purge Alleged Non-Citizens Within 90 Days Prior to 2012 Federal Election Dates Violates the NVRA.

66. Section 8(c)(2)(A) of the NVRA requires that the State of Florida “complete, not later than 90 days prior to the date of a primary or general election for Federal office, any program the purpose of which is to systematically remove the names of ineligible voters from the official list of eligible voters.” 42 U.S.C. § 1973gg-6(c)(2)(A).

67. The prohibition on systematic purges within 90 days of an election is central to the NVRA’s goals of protecting against possible disenfranchisement of eligible voters while ensuring accurate and current voter registration rolls. The House Report on the NVRA revised concerns about programs that systematically remove ineligible voters from the official list of eligible voters: “The Committee is concerned that *such programs can be abused and may result in the elimination of names of voters from the rolls solely due to their failure to respond to a mailing. Abuses may be found in the design of a program as well as in its*

implementation.” House Report No. 103-9, H.R. REP. 103-9, 15-16, 1993 U.S.C.C.A.N. 105, 119-20 (emphasis added). It is difficult for voters to identify and correct the errors of a systematic purge in the short 90 day time frame. Moreover, a system-wide purge generates system-wide confusion that renders it less likely that election officials will have the time necessary to correct erroneous removals. Section 8(c)(2)(B) prohibits states from conducting within the 90 day period “any program the purpose of which is to systematically remove the names of ineligible voters...” The unequivocal language of this provision bans any and every systematic program other than the removals specifically exempted. The NVRA establishes clear, enumerated exceptions to the 90-day prohibition. A state may only remove from the list registered persons who fall into one of four categories: those who request to be removed, those ineligible because of criminal conviction, those ineligible because of mental incapacity, and those who have died. 42 U.S.C. § 1973gg-(6)(c)(2)(B). The NVRA accomplishes this by placing outside the prohibition’s ambit the categories of removals enumerated in 42 U.S.C. § 1973gg-(6)(c)(3)(A) and (B) or (4)(A) and (B).

68. Importantly, the removal of alleged non-citizen voters is not one of the enumerated exceptions to the NVRA’s 90-day prohibition. During the debates on the NVRA, Senator Mitch McConnell proposed an amendment that would have expanded the exceptions to the proscription against removal of voters from the rolls during the 90-day period. *See* 139 Cong. Rec. 2960 (Mar. 16, 1993) (Amendment No. 100); 139 Cong. Rec. 2970 (Amendment No. 141), and 139 Cong. Rec. 3066 (Mar. 17, 1993) (Amendment No. 169). *Cf.* 42 U.S.C. §1973gg-6(a)(3) (2010). That amendment was not adopted.

69. Such legislative history supports the previously delineated *expressio unius* argument that, “[w]here Congress explicitly enumerates certain exceptions to a general

prohibition, additional exceptions are not to be implied.” *Andrus v. Glover Constr. Co.*, 446 U.S. 608, 616-17 (1980).

70. The primary election in Florida was held on August 14, 2012. Ninety (90) days before the August 14 primary election was May 16, 2012. The Federal general election in Florida, as elsewhere, is November 6, 2012. Ninety (90) days before the November 6 election was August 8, 2012.

71. On information and belief, the majority of voters who were purged based on the Initial Purge List were removed after May 16, 2012, and thus were purged within 90 days of the primary election. On information and belief, the majority of voters on the Initial Purge List who were notified of their purported need to prove they were citizens were instructed that their deadline to return the voter eligibility forms was after May 16, 2012. Moreover, assuming that Defendant followed the requirements of Section 48.075(7), Florida Statutes, no voter on the Initial Purge List could possibly have been removed in accordance with those procedures until after May 16, 2012. But by that time, had these procedures been followed, such removal would have necessarily violated the NVRA because it would had to have taken place after May 16, 2012. Defendant’s plan to continue the Program to Purge Alleged Non-Citizens will result in systematic removal of additional voters within 90 days of the general election. At this point, there are fewer than 90 days before the November 6, 2012 Federal election. Accordingly, any notification sent to voters after May 16, 2012, including future notices based on the SAVE databases, stating that the State has flagged them as potentially ineligible based on the SAVE database will, at this point, violate the NVRA.

72. Defendant has not disputed the timelines set forth above. However, despite the NVRA’s ban on systematic purges within the 90 days prior to an election, as set forth above,

Defendant instructed the Supervisors of Elections to continue to carry out the Program to Purge Alleged Non-Citizens, as it was initially construed, by reviewing the Initial Purge List within 90 days of the primary, conducting Additional Research, sending out notices and voter eligibility forms, and removing voters under Fla. Stat. § 98.075(7). Similarly, Defendant has stated publicly that he plans a systematic purge targeting additional voters based on use of the SAVE database within 90 days of the general election.

73. Defendant has sought to excuse these actions by creating a new exception to Section 8(c)(2)(A) that allows removals of alleged noncitizens within the 90 day period. Defendant is wrong. As explained above, the provision prohibits “any program ...to systematically remove” ineligible voters from the roll. Removal of alleged non-citizen voters is not an enumerated exception to the NVRA’s 90-day provision.

COUNT I

DECLARATORY JUDGMENT PURSUANT TO 28 U.S.C. § 2201 SECTION 2 OF THE VOTING RIGHTS ACT, 42 U.S.C. § 1973

74. Plaintiffs incorporate Paragraphs 1 through 73 above.

75. This is an action for declaratory relief pursuant to 28 U.S.C. § 2201 (the “Declaratory Judgment Act”). Plaintiffs seek a declaration that the Program to Purge Alleged Non-Citizens violates Section 2, of the Voting Rights Act, 42 U.S.C. § 1973, which prohibits Defendant from imposing any “voting qualification or prerequisite to voting or standard, practice, or procedure” that results in a denial or abridgement of the rights of United States citizens, namely Hispanics and Blacks, to vote. 42 U.S.C. § 1973.

76. There is a *bona fide*, actual, present practical need for the requested declaration. The Program to Purge Alleged Non-Citizens has resulted – and will result – in United States citizens, namely persons of color or members of language minority groups, having “less

opportunity than other members of the electorate to participate in the political process and to elect the representatives of their choice.” 42 U.S.C. § 1973.

77. Defendant has, or reasonably may have, actual, present, adverse and antagonistic interests related to the ongoing effects of his past actions, as well as his planned additional actions. He has repeatedly advised of its intent to continue the Program to Purge Alleged Non-Citizens, despite the admitted flaws in his previous purge efforts. Moreover, Defendant has to date failed to take, or even agreed to take, any meaningful steps to adequately remedy his past actions.

COUNT II

DECLARATORY JUDGMENT PURSUANT TO 28 U.S.C. § 2201 SECTION 8(C)(2)(A) OF THE NVRA, 42 U.S.C. § 1973GG-6(B)(1) AND FLA. STAT. § 98.075(1)

78. Plaintiffs incorporate Paragraphs 1 through 77 above.

79. The Program to Purge Alleged Non-Citizens is inaccurate and unreliable, and therefore violates Section 8(b)(1) of the NVRA as well as Section 98.075(1), Florida Statutes.

80. This is an action for declaratory relief pursuant to the Declaratory Judgment Act. Plaintiffs seek a declaration that the Program to Purge Alleged Non-Citizens violates Section 8(b)(1) of the NVRA, 42 U.S.C. § 1973, 42 U.S.C. § 1973gg-6(b)(1) and Section 98.075(1), Florida Statutes, with the latter two provisions both providing that any State program or activity designed to ensure the maintenance of accurate and current voter registration rolls “shall be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965[.]”

81. There is a *bona fide*, actual, present practical need for the requested declaratory relief. The Program to Purge Alleged Non-Citizens is not uniform, has been discriminatory applied against minority voters, namely persons of color and language minority persons, and has disproportionately impacted lawful, eligible minority voters, including Plaintiffs herein.

Moreover, the Program to Purge Alleged Non-Citizens disenfranchises the minority communities that Organizational Plaintiffs serve and thus, frustrates the missions of Organizational Plaintiffs and forces them to divert their resources to combat the Program to Purge Alleged Non-Citizens.

82. Defendant and his employees and agents lack adequate rules and procedures governing the conduct of programs and activities to maintain an accurate and current voter registration roll that are uniform, nondiscriminatory, and in compliance with the Voting Rights Act and the NVRA.

83. Defendant and his employees and agents have failed to enforce substantive standards or provide adequate training to ensure that agents, employees and representatives of DOS make a reasonable effort to conduct programs and activities to maintain an accurate and current voter registration roll that are uniform, nondiscriminatory, and in compliance with the Voting Rights Act. After they temporarily suspended the Program to Purge Alleged Non-Citizens, for example, they failed to instruct the Supervisors of Elections to take any steps to correct or offset the effects of the illegal actions that had already been taken under that program.

84. Defendant has, or reasonably may have, actual, present, adverse and antagonistic interests related to the ongoing effects of his past actions, as well as his planned additional actions. He has repeatedly advised of its intent to continue the Program to Purge Alleged Non-Citizens. Moreover, Defendant has to date failed to take, or even agreed to take, any meaningful steps to adequately remedy his past actions.

85. Unless and until ordered to cease doing so by this Court, Defendant and his employees or agents will continue to fail to conduct adequate programs and activities to maintain an accurate and current voter registration roll that are uniform and non-discriminatory in

accordance with Section 8(b) of the NVRA, 42 U.S.C. § 1973, 42 U.S.C. § 1973gg-6(b), and Section 98.075(1), Florida Statutes.

COUNT III

DECLARATORY JUDGMENT PURSUANT TO 28 U.S.C. § 2201 SECTION 8(C)(2)(A) OF THE NVRA, 42 U.S.C. § 1973GG-6(C)(2)(A)

86. Plaintiffs incorporate Paragraphs 1 through 85 above.

87. This is an action for declaratory relief pursuant to the Declaratory Judgment Act. Plaintiffs seek a declaration that the Program to Purge Alleged Non-Citizens violates Section 8(c)(2)(A) of the NVRA, 42 U.S.C. § 1973gg-6(c)(2)(A), which bars systematic purges within 90 days of an election, except in limited and specific circumstances not found here.

88. There is a *bona fide*, actual, present practical need for the requested declaration. The Program to Purge Alleged Non-Citizens deprives eligible voters, including Individual Plaintiffs, of their rights under the NVRA. The Program to Purge Alleged Non-Citizens also disenfranchises the communities that Organizational Plaintiffs serve and thus frustrates the missions of Organizational Plaintiffs.

89. Defendant has, or reasonably may have actual, present, adverse, and antagonistic interests related to the ongoing effects of his past actions, as well as his planned additional actions. He has repeatedly confirmed his intent to continue the Program to Purge Alleged Non-Citizens. Moreover, Defendant has to date failed to take, or even agreed to take, any meaningful steps to adequately remedy his past actions.

COUNT IV

INJUNCTIVE RELIEF

90. Plaintiffs incorporate Paragraphs 1 through 89 above.

91. 42 U.S.C. § 1983 provides for equitable relief for the deprivation of a right secured by the Constitution or the laws of the United States caused by a person acting under the color of state law. Additionally, the Voting Rights Act authorizes Plaintiffs to seek injunctive relief to prevent violations of Section 2 of the Voting Rights Act. See 42 U.S.C. § 1973j(d). Section 11(b)(2) of the NVRA, 42 U.S.C. § 1973gg-9(b)(2), provides for injunctive relief to redress a violation of the NVRA.

92. Plaintiffs have a strong likelihood of suffering irreparable and substantial harm as a result of the Program to Purge Alleged Non-Citizens. Unless this Court requires Defendant to undertake certain steps to offset the continuing effects of the actions that Defendant already took as part of the Program to Purge Alleged Non-Citizens, lawful, eligible voters will remain removed from the voter registration rolls and disenfranchised in future elections, others will remain under the misimpression that they have been removed from the rolls, and members of Organizational Plaintiffs will be denied their fundamental right to vote. Specifically, Defendants should be ordered to place purged voters back on the rolls, to instruct voters who received letters that they remain eligible to vote, and to conduct training to ensure compliance with Federal and Florida law with respect to removal of voters from the rolls. In addition, unless this Court enjoins Defendant's planned systematic removal of additional voters, more eligible voters will be removed from the rolls between now and the November election.

93. The public interest weighs strongly in favor of letting every lawful, eligible voter exercise the right to vote.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that the Court enter a judgment declaring that:

- (a) the Program to Purge Alleged Non-Citizens violates Section 2, of the Voting Rights Act, 42 U.S.C. § 1973, because it has resulted, and will result, in United States citizens, namely persons of color and language minority persons having “less opportunity than other members of the electorate to participate in the political process and to elect the representatives of their choice”;
- (b) the Program to Purge Alleged Non-Citizens violates Section 8(b)(1) of the NVRA, 42 U.S.C. 1973gg-6(b) and Section 98.075(1), Florida Statutes, both of which provide that any State program or activity designed to ensure the maintenance of accurate and current voter registration “shall be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965[.]”;
- (c) the Program to Purge Alleged Non-Citizens violates Section 8(c)(2)(A) of the NVRA, 42 U.S.C. § 1973gg-6(c)(2)(A), which bars systematic purges within 90 days of an election, except in limited and specific circumstances not found here;

WHEREFORE, Plaintiffs request that the Court enter a preliminary and a permanent injunction ordering Defendant to:

- (a) discontinue the Program to Purge Alleged Non-Citizens, specifically including plans to remove additional voters based on use of the SAVE database;
- (b) instruct all Supervisors of Elections to restore to the rolls all voters who have been removed from the rolls as a result of the failure to respond to the notice letter or to return a voter eligibility form;
- (c) review the status of all voters who were removed ostensibly because they admitted non-citizenship, including providing a letter in both English and

Spanish (and in compliance with other language requirements) indicating that the person was removed because the person reported that she was not a citizen and allowing those persons the opportunity to correct and restore their registration if they were removed in error;

- (d) release a statement indicating that the Initial Purge List, much like the 180,000-person list from which it derived, was obsolete and inaccurate, and should not be used for any purpose. The statement should further indicate that the Initial Purge List, much like the 180,000-person list from which it derived, may not be used to challenge any voters in private challenges at the polls or otherwise, that a frivolous challenge to a voter's eligibility based on this flawed list may give rise to criminal penalties, and that inclusion on these lists will not require anyone to cast a provisional, rather than a regular, ballot;
- (e) instruct all Supervisors of Elections to send new notice letters, in English and Spanish (and in compliance with any other language requirements), to all voters who have been removed from and subsequently restored to the rolls, advising them of their reinstatement;
- (f) instruct all Supervisors of Elections to send a new notice letter, in English and Spanish (and in compliance with any other language requirements), to all persons on the Initial Purge List who were not removed, advising them that they remain registered to vote, explaining their rights as voters, and assuring them that they will not be disenfranchised based on failure to provide documentary proof of United States citizenship;

- (g) train Supervisors of Elections and their staff regarding methods to maintain voter lists in a manner that is uniform and non-discriminatory in accordance with Section 8(b)(1) of the NVRA, 42 U.S.C. § 1973gg-6(b) and Section 98.075(1) of the Florida Statutes so as to maintain accurate and current voter registration rolls in a non-discriminatory manner;
- (h) cease enforcing standards, practices, procedures and/or programs that deny persons of color and members of language minority groups who are United States citizens an opportunity to participate effectively in the political process on an equal basis with other members of the electorate;
- (i) file with the Court, within five days of the issuance of an injunction, a list of voters removed pursuant to the Purge, and a report stating which voters have been reinstated and providing confirmation of the steps that Defendant is taking to comply with the injunction.

WHEREFORE, Plaintiffs request that the Court enter a judgment for Plaintiffs that includes reasonable attorneys' fees including litigation expenses and costs pursuant to 42 U.S.C. § 1988 and 42 U.S.C. § 1973gg-9(c); and for all other relief that the Court deems just and proper.

Dated: August 22, 2012

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on August 22, 2012, a true and correct copy of the foregoing was served on all counsel of record via CM/ECF.

Dated: August 22, 2012

By: /s/ John De Leon
John De Leon