

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

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CLEK-SANTA FE

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AMERICAN ASSOCIATION OF PEOPLE )  
 WITH DISABILITIES, FEDERATION OF )  
 WOMEN'S CLUBS OVERSEAS, NEW )  
 MEXICO PUBLIC INTEREST RESEARCH )  
 GROUP EDUCATION FUND, and )  
 SOUTHWEST ORGANIZING PROJECT, )  
 )  
 Plaintiffs, )  
 v. )  
 )  
 MARY HERRERA, )  
 Secretary of State, )  
 )  
 Defendant. )

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No. CV-08-702 JOB/WDS

**MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE**

The proposed Defendant-in-Intervention Shannon Robinson submits this memorandum brief in support of the Motion to Intervene. Shannon Robinson is entitled to intervene in this action as a matter of right or as a matter of discretion under Fed. R. Civ. P. 24(a)(2) or 24(b)(2).

**I. Background.**

The New Mexico Legislature passed Senate Bill 678 as part of a sweeping election reform package of bills. The statute at issue, provides protection for New Mexico voters, against voter registration fraud.

**II. Proposed Defendant-in-Intervention.**

Shannon Robinson is a resident of Albuquerque, a voter, and a New Mexico State Senator. Shannon Robinson has supports meaningful requirements with regard to voter

registration, to provide confidence in the registration and election process. Based upon public reports and debate at the Legislature in connection with the statute, Shannon Robinson is aware of the problems in the voter registration process that lead to the enactment of the statutes in question.

### **III. Intervention as a Matter of Right or Discretion.**

Rule 24(a) and (b) provides that upon timely application, an applicant should be permitted to intervene when the applicant claims an interest in the action and the applicant is so situated that disposition of the action may impair or impede the applicant's ability to protect that interest and the applicant's interest is not adequately represented by the existing parties. The question of timeliness is determined on a case by case basis and this application is timing. The statute has been in existence for more than three (3) years and the case was filed only within the last month. The Application for Preliminary Injunction is very lengthy and raises a number of issues that suggest an investigation and careful consideration are in order before any serious suggestion that the statute should be found unconstitutional should proceed. Litigation is at a very early stage, there's been limited activity to date.

With regard to the interest to be protected, the 10<sup>th</sup> Circuit "has tended to follow a somewhat liberal line in allowing intervention." See Coalition of Arizona/New Mexico Counties for Stable Econ. Growth v. Dep't of Interior, 100 F.3d 837, 841, (10<sup>th</sup> Circuit 1996). "As a practical matter, there must be a substantial regulation of elections if they are to be fair and honest and some sort of order, rather than chaos, is to accompany the democratic processes." Burdick v. Takuski, 504 U.S. 428, 433 (1992). Registration

fraud is a legitimate concern of any voter and certainly legislators who enacted the statutes under attack.

The showing that the disposition of this action may “impair or impede” to protect the proposed intervenor’s interest. The burden of the showing is “minimal”. Lastly the proposed intervenor’s interests are not adequately represented by the existing Defendant. According to the Supreme Court, this issue analysis only requires the intervenor to show that representation of its interest “may be” inadequate and the applicant’s burden on this matter should be viewed as “minimal”. National Farm Lines v. Interstate Commerce, 564 F.2d 381, 383 (10<sup>th</sup> Cir. 1977). As a legislator, as a voter, as a citizen, as a candidate in the most recent election , it is imperative that the legislature and the courts establish and protect a system that provides confidence in the process. Limitations to discourage and restrict fraud in the voter registration process is critical.

**IV. In the Alternative Permissive Intervention is Requested.**

Permissive intervention is the sound discretion of the Court and will not be disturbed absent clear abuse. Fed. R. Civ. P. 24(b). The intervention and participation of a legislator, candidate, voter and citizen will contribute to a full consideration of the facts and law in the case.

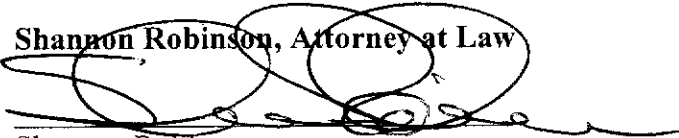
**V. Conclusion.**

For these reasons the Court should grant the Motion to Intervene. This Court should also grant a short continuance to allow this Defendant in Intervention to file an Answer and a Response to the Motion for Preliminary Injunction.

Respectfully submitted,

**Shannon Robinson, Attorney at Law**

By:

  
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**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing Motion to Intervene was mailed this 18<sup>th</sup> day of August 2008 and I will attempt to e-mail copies as well to the following:

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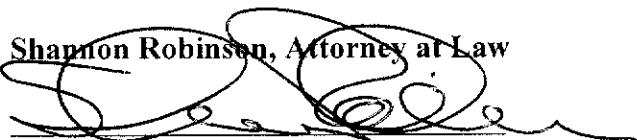
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