

**UNITED STATES DISTRICT COURT,  
NORTHERN DISTRICT OF FLORIDA**

FLORIDA STATE CONFERENCE OF THE  
NATIONAL ASSOCIATION FOR THE  
ADVANCEMENT OF COLORED PEOPLE  
(NAACP), as an organization and representative  
of its members; *et al.*,

Plaintiffs,

vs.

KURT S. BROWNING, in his official capacity as  
Secretary of State for the State of Florida,

Defendant.

Civil No. 4:07cv402SPM/WCS

**DECLARATION OF  
CONNY McCORMACK  
IN SUPPORT OF  
PLAINTIFFS' MOTION  
FOR A PRELIMINARY  
INJUNCTION**

Pursuant to 28 U.S.C. § 1746, I, Conny McCormack, hereby declare as follows:

1. Since 1995, I have been the Registrar-Recorder and County Clerk for Los Angeles County, California, the most populous county in the United States. I am responsible for administering federal, state, and local elections in the county, which now has almost four million active registered voters and comprises approximately 5,000 precincts encompassing 88 cities. I submit this declaration in support of Plaintiffs' Motion for a Preliminary Injunction. This declaration is based on personal knowledge, except where otherwise noted.

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## **I. BACKGROUND**

2. For 26 years, I have administered elections in some of the most populous counties in the country. From 1981–1987, I was the elections administrator for Dallas County, Texas; from 1987–1994, I was the registrar of voters for San Diego County, California; and from 1995 on, I have been the Registrar-Recorder/County Clerk for Los Angeles County, California.

3. In my capacity as the Registrar-Recorder/County Clerk, I maintain election records; property records; business records; and birth, death, and marriage records in several sophisticated database systems. In the United States, only the Social Security Administration and the Pentagon maintain more records than the 200 million records on file in my office. Consequently, I have extensive experience confronting various problems associated with large database systems.

4. Currently, there are 3.9 million voters included on the list of active registered voters in Los Angeles County; there are another 1.6 million voters designated as inactive. At least ten significant language minority populations — English, Chinese, Japanese, Korean, Spanish, Tagalog, Vietnamese, Armenian, Cambodian, and Russian — are included in this tally.

5. From July 2004 through July 2006, I was the President of the California Association of Clerks and Election Officials. In both 2001 and 2005, I was a member of the Election Center’s Task Force on Election Reform.

## **II. OVERVIEW OF RELEVANT REGISTRATION PRACTICES IN CALIFORNIA**

6. On January 1, 2006, pursuant to the Help America Vote Act of 2002 (“HAVA”), California implemented a new system for attempting to “match” the information on voter registration applications against information maintained by the California Department of Motor Vehicles (“DMV”) or the Social Security Administration.

7. Under this new system, information on a voter registration form is typed into a local computer and submitted to California’s electronic verification system (“CalValidator”). CalValidator will automatically seek a “match” between this entered information and information maintained by the DMV or Social Security Administration. If CalValidator cannot find a “matching” record, CalValidator will return the record as unverified, with an indication that no match was found.

8. My office periodically produced audits concerning CalValidator’s processing of submitted voter registration forms. One representative audit reflected the status of all voter registration forms submitted between January 1 and April 7, 2006; in this period, state regulation purported to require that a voter’s registration information, including a driver’s license number or Social Security digits for voters who were assigned such numbers, be verified before the voter could be registered. Later in the year, state regulation changed to permit counties to register eligible citizens even if information on their registration forms was returned as unverified by CalValidator, but

the audit reflecting January 1 through August 7 provides an accurate snapshot of registration activity while verification was a prerequisite.

9. During this time, the CalValidator system used the following “match” protocols: (1) to determine whether registration information “matched” information maintained by the DMV, the system checked to see if each character of the driver’s license number and the first three characters of the last name were exactly the same in both records; (2) to determine whether registration information “matched” information maintained by the Social Security Administration, the system checked to see if each character of the first name, each character of the last name, each character of the year of birth, each character of the month of birth, and each character of the last four digits of the applicant’s Social Security number were exactly the same in both records.

10. My year-to-date audit of voter registration forms submitted between January 1 through April 7, 2006, showed that an enormous number of voter registration applications — including many from persons who were eligible voters already registered at the time the applications were submitted — were returned by the statewide registration system as unverified, with an indication that no matching record was found.

### **III. IMPLEMENTATION OF THE CALVALIDATOR SYSTEM AND ITS IMPACT ON ELIGIBLE APPLICANTS**

11. California has maintained a statewide voter registration database, called CalVoter, since 1996. However, until 2006, that system was not regularly updated by all

counties, and was not used as the official list of registered voters. Pursuant to HAVA, on January 1, 2006, CalVoter became the official list of voters in the state. CalValidator, a component of the CalVoter system, was also put into use on January 1, 2006 as the official system for verifying information on applications for voter registration.

12. Until January 1, 2006, Los Angeles County found cause to reject, on average, less than 1% of the voter registration applications received.

13. Between January 1 and April 7, 2006, according to an audit my office conducted of voter registration applications submitted during that period of time, 28,369 of 64,673 voter registration applications received in Los Angeles County were returned by CalValidator as unverified. This amounted to approximately 44% of all voter registration applications received in Los Angeles County. These returned applications can be separated into three primary categories:

- 11,753 of these 64,673 applications were returned by CalValidator as unverified because CalValidator could not “match” the information provided. Thus, approximately 18% of all voter registration applications received in Los Angeles County were returned because of a failed “match.”
- 4,837 of 64,673 applications were returned by CalValidator as unverified because of a system error, including a system “time out” or other system “down time.” Thus, approximately 7.5% of all voter registration applications received in Los Angeles County were returned solely because of a computer system error.
- 10,945 of 64,673 voter registration applications received in Los Angeles County were returned by CalValidator as unverified because the applicant did not supply a driver’s license number or non-driver’s identification number or Social Security digits on the voter registration form. These applications — approximately 17% of all voter

registration applications received in Los Angeles County — were returned solely because of an immaterial omission on the registration form.

14. Between January 1 and April 7, 2006, thousands of applications by residents of Los Angeles County whose eligibility was not in question were returned by CalValidator as unverified. My staff and I reviewed and analyzed many of these applications in an attempt to determine the cause of, and to correct, the failed matches. A few representative examples include:

- Applicants with last names of De Leon, De La Torre, and Yi Fen. Although the names were properly entered by Los Angeles County staff as they appeared on the voter registration form — with a space in the last name field — the applicants were represented in the DMV database without a space in the last name field. Therefore, the information uploaded to CalVoter did not “match” the information available at the DMV. The applicants were eligible and accurately completed all required fields on the voter registration form.
- An applicant with the last name Moses. The applicant entered both middle and last names in the area marked “last name” on the voter registration form. Los Angeles County staff accurately entered the information on the form. Although the applicant’s name was exactly the same as the name listed in the DMV database, because middle and last names were both entered in one field, the information uploaded to CalVoter did not “match” the information available at the DMV. The applicant was eligible and provided all necessary information on the voter registration form.
- An applicant with the last name Johnson. The applicant accurately entered name and address on the voter registration form, but mistakenly transposed two digits of the California driver’s license number. Therefore, the information uploaded to CalVoter did not “match” the information available at the DMV. The applicant was eligible to vote. Similar situations occur when similar data entry errors are made by elections staff.

15. The office of the Los Angeles County Registrar-Recorder/County Clerk attempted to contact all applicants with applications returned by CalValidator, in order to resolve errors in the registration process. As of April 7, 2006, we had placed at least 10,364 individual phone calls and mailed at least 15,981 letters to citizens with applications returned by CalValidator in 2006. We were not able to contact every voter successfully by the time of the audit. For example, in 3,559 calls, we received no answer or an answering machine; in 1,337 calls, the number dialed was incorrect or invalid (which might have been the result of a typographical error in data entry). In addition, even for those applicants with whom we managed to establish contact, we were not able to resolve all registration errors successfully by the time of the audit. As a result, despite our efforts to resolve all match failures, many eligible applicants remained unmatched in the CalValidator system.

16. Moreover, although my office received thousands of applications between January 1 and April 7, 2006, and although thousands of these applications were returned by CalValidator as unverified, these applications represented only a small fraction of the applications that I received through the entire registration cycle. In previous cycles, voter registration activity in the first few months of an election year had been relatively slow, compared to the volume of voter registration activity later in the year. In my experience, voter registration activity increases dramatically in the months before a major election, as statewide elections draw closer and the deadline for voter registration approaches.

17. Applications in 2006 fit the general pattern of voter registration activity: relatively limited voter registration activity early in the year, increasing dramatically as statewide elections approached. Between January 1 and April 7, 2006, Los Angeles County received 64,673 applications — an average of 667 applications per day. Los Angeles County received 70,876 applications — or an average of 10,125 applications per day — executed in the week before the 2006 general election voter registration deadline. During heavy election periods, including years of highly contested presidential races, we routinely receive between 11,000 and 25,000 voter registration forms *each day*, with individual days spiking as high as 62,332 forms.

18. My office's resources were strained by the attempt to respond to the thousands of applications returned by CalValidator from January through April 7 of 2006, over and above our normal efforts to follow up on the usual irregularities in applications. Between 40 and 68 staff members followed up on applications found invalid by CalValidator, at least 24 of whom were dedicated full-time to the endeavor. Most of these staff members were diverted from other positions to respond to applications returned by CalValidator. I was also forced to pay overtime for some of these staff members because of this additional work. Moreover, I was forced to hire 14 "temp" employees solely to work on responding to applications returned by CalValidator.

19. Once the magnitude of the problem became apparent to the California Secretary of State, that office revised its approach to the use of the CalValidator system. First, counties were authorized to register voters whose forms were submitted without a



driver's license number, non-driver's identification number, or Social Security digits, if such a number could be reliably identified by the CalValidator system. Second, the matching algorithm was modified to improve the likelihood that information could be successfully matched by CalValidator. Subsequently, counties were authorized to register voters whose records were submitted with Social Security digits but returned by CalValidator as unverified. Finally, counties were authorized to register *all* voters whose records were returned by CalValidator as unverified, assigning such voters a unique identifying number generated by the state.

20. Based on my experience during the period from January 1, 2006, through April 7, 2006, if I had not been permitted to register voters whose records were returned by CalValidator as unverified, I expect that even at an augmented staffing level, my office would have been overwhelmed later in the year. We ensure that we are adequately staffed to process and follow up on assorted registration irregularities, but the need to follow up with voters who were not registered because their records were returned by CalValidator caused problems of a different magnitude. Given the increasing rate at which we received applications in 2006, I believe that the number of applications returned by CalValidator would also have grown dramatically as the statewide primary and general elections approached. If the rate of applications requiring individual follow-up had continued to approximate the rate from January 1 through April 7, 2006, it is extremely likely that, at any reasonable staffing level, the office of the Los Angeles County Registrar-Recorder/County Clerk would have been unable to contact many voters with applications returned by CalValidator in time to resolve errors in the process.

21. Given my 26 years of experience in election administration, the volume and timing of voter registration forms received in offices that I have supervised, the error rate in “matching” protocols that I have observed, and the effort involved in reliably contacting voters for follow-up, I expect that in any jurisdiction with a sizable number of applications, if verifying the particular identification number submitted on a registration form is a precondition to registration, eligible voters will — through no fault of their own — be prevented from timely registering to vote.

22. HAVA’s requirement to either capture or assign a unique identifying number for each voter is a provision that facilitates the smooth administration of elections. It is a valuable means of eliminating duplicate registrations, and enables election administrators to maintain a more accurate voter registration list. However, it is my understanding that the process of capturing a unique identifying number for each voter was not intended by HAVA to impact a voter’s eligibility, and I believe that it should not be misused as a barrier to the franchise. In my experience, computer system flaws and staff errors have resulted in the failure to match the information of eligible voters to other state databases. Voters should not be penalized as a result of such errors.

I declare under penalty of perjury under the laws of the United States of America  
that the foregoing is true and correct, and that this Declaration was executed on  
September 14, 2007 in Los Angeles, California.

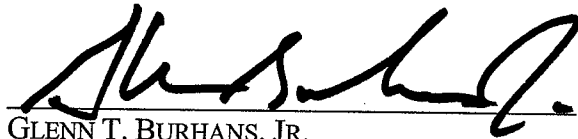
  
CONNY McCORMACK

**CERTIFICATE OF SERVICE**

Undersigned counsel hereby certifies that a copy of the foregoing *Declaration* was served via HAND DELIVERY this 17<sup>th</sup> of September, 2007 upon the following:

Kurt Browning, Defendant  
Secretary of State  
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