

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

| | | |
|--|---|--------------------|
| ACORN, CONNECTICUT COMMON CAUSE, | : | CIVIL ACTION NO. |
| CONNECTICUT CITIZEN ACTION GROUP, | : | 3:04-CV-1624 (MRK) |
| CONNECTICUT PUBLIC INTEREST | : | |
| RESEARCH GROUP, PEOPLE FOR THE | : | |
| AMERICAN WAY, CONNECTICUT | : | |
| WORKING FAMILIES PARTY, | : | |
| DEMOCRACYWORKS, SANDEEPAN | : | |
| MUKHERJEE, STEVEN CANADY, JOSE | : | |
| CAMPODONICO, GARVIN ROOS, | : | |
| CLEONICE RAMALH, JEZEL DUPIGNY, and | : | |
| ROBIN GARRO, | : | |
| | : | |
| Plaintiffs, | : | |
| | : | |
| v. | : | |
| | : | |
| SUSAN BYSIEWICZ, in her official capacity as | : | |
| Secretary of State for the State of Connecticut, | : | |
| | : | |
| Defendant. | : | |
| | : | NOVEMBER 1, 2004 |

AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs, by their attorneys, the Brennan Center for Justice at New York University School of Law, Connecticut Civil Liberties Union, Day, Berry & Howard LLP, and Weil, Gotshal & Manges LLP, as and for their complaint against Defendant, allege as follows:

INTRODUCTION

1. In 2003, approximately 7,400 Connecticut citizens registered during the 13 days before municipal elections held in May and November, but were unable to vote because of Connecticut’s burdensome and unnecessary 14-day registration deadline. At least 3,700 citizens were disenfranchised as a result of the deadline during

the federal and state elections in 2002. After this year's deadline on October 19, 2004, thousands of Connecticut residents will once again be denied the opportunity to vote for every office on the ballot, except President and Vice-President.

2. Plaintiffs bring this action to challenge as unconstitutional Connecticut's arbitrary and unreasonable failure to allow citizens of the state to register and vote on the day of a general election. Specifically, plaintiffs – eligible voters who will want to vote in the next election for offices other than President and Vice President but will be barred by the registration deadline, and organizations that rely on voter registration to recruit members and advance their political goals – allege that the current 14-day registration deadline for voting in general, non-presidential elections violates the First and Fourteenth Amendments to the United States Constitution.

3. Each year, at a minimum, anywhere between 2,000 and 11,000 Connecticut citizens are inspired to seek to register and vote during the last days before the election when political campaigns and media coverage of election issues are at their peak.¹ During that time, there is a surge in televised campaign advertisements, direct mailings and public appearances by candidates, and newspaper endorsements, editorials and coverage. Because the registration cutoff has passed by the time voters get all of this information and become motivated to participate in the election, they cannot exercise their fundamental right to vote. Similarly, organizations seeking their support are deprived of an essential means of association.

¹ These figures represent the number of people since 1992 that actually submitted registration forms after the deadline but before Election Day. See Complaint ¶¶ 41-43. These numbers understate how many people were denied the right to vote as a result of the deadline because others who wanted to vote but missed the deadline may not have sought to register in the 14-day period after learning they could not vote in the upcoming election.

4. Connecticut cannot justify its failure to implement registration on Election Day (“Election Day Registration” or “EDR”) for general, non-presidential elections. There is no rational, and certainly no compelling, reason to impose a 14-day bar to voting in general, non-presidential elections, when the state: (i) now has a statewide computerized registration database that can immediately verify registration applications; (ii) permits unregistered citizens to obtain ballots on Election Day to vote for President and Vice-President; and (iii) permits individuals who recently became eligible to vote in a general election, or who seek to vote in a primary election, to register by noon the day before an election.

5. Connecticut has implemented a statewide voter registration database that allows election officials to verify instantaneously and efficiently a person’s identity and check for duplicate registrations. With this technological advance, the state cannot justify its continued reliance on a pre-election registration deadline.

6. Connecticut’s 14-day registration deadline is constitutionally indefensible even without the database because Connecticut allows voters to register on or the day before Election Day for certain elections. Since 1997, Connecticut has allowed unregistered citizens to vote for United States President and Vice-President by obtaining a so-called presidential ballot on Election Day. Indeed, over 30,000 voters used a presidential ballot to vote in the 2000 election, but they could not vote in any of the other federal, state or local elections that year. The deadline to register for primary elections is also very short: noon the day before the election if the individual registers in person. In addition, individuals who acquire citizenship, turn 18, or move to a new town after the 14-day deadline can also register up to noon the day before any election.

7. States that currently utilize Election Day Registration have seen voter participation rates increase by 3 to 6 percentage points as a result, and they consistently rank among the states with the highest voter participation rates in the country. Similarly, Connecticut can expect to see a substantial increase in voter participation if it adopts EDR. The states with EDR have seen no increase in the incidence of fraud since implementing EDR.

8. As recently as February 9, 2004, Secretary of State Bysiewicz testified before the Connecticut legislature that she “strongly supports” Election Day Registration and believes the bill then under consideration appropriately “balances voter rights with a stronger identification process than we already have in place in our law here in Connecticut.” 2/9/04 Government Administration and Elections (GAE) Hg. Tr., p. 1-2.

9. Thousands of Connecticut citizens seek to register and vote after the deadline, but have and will continue to be shut out of the political process by antiquated pre-registration deadlines. In light of technological advances and less restrictive alternative election practices, traditional rationales for imposing pre-election registration deadlines no longer justify disenfranchising voters and burdening the organizations that seek to associate with them. For these reasons, Plaintiffs seek an injunction under the First and Fourteenth Amendments to the United States Constitution compelling the state to make Election Day Registration available to Connecticut citizens.

JURISDICTION AND VENUE

10. The Court has jurisdiction of the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1343(a)(3), (4), 1367(a), 2201, and 2202, and 42 U.S.C. § 1983.

11. Venue of this action is properly in this district, pursuant to 28 U.S.C. § 1391(b), on the grounds that the events or omissions giving rise to the claims alleged herein occurred, and will continue to occur, in this district, and the Defendant may be found in the district.

PARTIES

12. Plaintiff Sandeepan Mukherjee is an Indian man who resides in Stamford, Connecticut. He became a United States citizen approximately four months ago. Throughout the citizenship process, Mukherjee was never informed about how to register to vote in the United States. He assumed that a voter registration form would be mailed to him, as is the practice in India. On October 23, 2004, he approached a candidate for U.S. Congress at an Indian festival to express his interest in voting and ask what he needs to do to register since nothing had been sent to him. She informed him that it was too late to register to vote in the upcoming election. He had no idea before that conversation that Connecticut had a registration deadline. Mukherjee waited several years to gain the right to vote in the United States and will be unable to fully exercise that right this year because of Connecticut's registration deadline.

13. Plaintiff Steven Canady is a 42-year old citizen who resides in New Haven, Connecticut. He was released from prison in Cheshire, Connecticut on October 28, 2004 after fully completing his sentence. Within two hours of being

released, he went to the New Haven town clerk's office to request a presidential ballot because he wanted to exercise his right to vote and do whatever he can to effect change. Canady has voted many times before and is disappointed that he cannot vote for all races this year because his voting rights were restored after Connecticut's registration deadline had passed. Had he become eligible to vote after the deadline by turning 18, becoming a citizen, or moving to another town, he would have fallen within an exception to Connecticut's registration deadline.

14. Plaintiff Jose Campodonico is a 40-year old Peruvian man who resides in Bridgeport, Connecticut. Campodonico became a United States citizen in 1998. Campodonico has voted in presidential, state, and local elections in the past. In early October 2004, he attempted to register online, but got confused as to what type of proof of residence was required and how to submit such proof. He figured he would go to the registrar's office to register in-person. On October 18, 2004, his mother had a stroke and went into a coma. Campodonico has been with his mother in the hospital ever since. Because of his mother's condition, Campodonico was unable to get to the registrar's office before the registration deadline elapsed. He is extremely disappointed that he will be unable to participate fully in American democracy this year, which is why he became a U.S. citizen.

15. Plaintiff Garvin Roos is a 24-year old citizen who goes to school full-time at the University of Connecticut in Stamford and works 40 hours per week at a bank. He served in the U.S. Marine Corps for four years. In May 2004, Roos filled out a voter registration form with his school address in Wilton, Connecticut. A few days later, his grandmother told him that he had to register in Monroe, Connecticut, where his

stepmother resides, because that is where his car is registered and he pays taxes. As a result of that conversation, Roos never mailed the form and planned to go to the Monroe registrar's office to register in-person and get confirmation that it was where he was supposed to be registering. Because of his school and work commitments, Roos did not have an opportunity before the registration deadline to travel to Monroe. As a result of Roos' experience as a marine in the Middle East, he is eager to voice his views on foreign policy by voting for U.S. Congress but will be unable to do so this year because he missed the registration deadline.

16. Plaintiff Cleonice Ramalh is a 41-year old Brazilian woman who resides in Stamford, Connecticut. She became a United States citizen in May 2003, after having lived in this country for fourteen years. Ramalh was in Brazil for most of the month of September and returned to Connecticut on October 12, 2004. As the only member of her family who is a U.S. citizen, she has been planning since she became a citizen to exercise her new right of citizenship in the November 2, 2004 election. She learned, however, on October 22, 2004, that she will be unable to vote this year for most races because she did not register before the deadline. Ramalh was never informed about voter registration during the citizenship process and had no idea there was a registration deadline. In Brazil, all citizens have to do to vote is show identification at the polls on Election Day.

17. Plaintiff Jazel Dupigny is an 18-year old citizen who attends high school in Stamford, Connecticut and works part-time at a nearby store. She resides with her parents in Bridgeport, Connecticut. In May or June of 2004, Dupigny got a voter registration form from a drive at her school. She filled out the form while standing at the

table and asked the volunteers to mail it for her. They said they couldn't because her application would have to be sent to the Bridgeport registrar and they only had the address for the Stamford registrar. Unsure how to get the address for the Bridgeport registrar, Dupigny asked a teacher who lived there, but he did not know either. Dupigny put the form in her school bag, where it remained for several months. In August, Dupigny decided to send the form without a street address, hoping the mail carrier would know where the registrar's office was located. The form was returned to her in early September because it did not have sufficient postage. Busy with work and school, Dupigny forgot to resend the form before the registration deadline. Although she knew there was probably a deadline, she did not know when it was. This is the first year that Dupigny is of age to vote and she has been looking forward to exercising that right. She believes that the decisions of all elected officials impact her and her family's life and she wants to have a say in who makes those decisions.

18. Plaintiff Robin Garro is a 47-year old homeless citizen, who has been living for the last four months in a shelter in Hartford, Connecticut. Garro used to vote regularly but has not voted in approximately twelve years. On or around October 7, 2004, she had a heated political discussion with her boyfriend, during which she decided she wants to do something about health care and welfare policy in this country by exercising her right to vote. She knew she had to register but did not know what to do. On October 20, 2004, Garro learned that she had missed the registration deadline. Before then, she did not know there was a deadline. Garro is disappointed that she will be unable to vote in all races this year because she got interested in the election too late to figure out the registration process.

19. Plaintiff Connecticut Citizen Action Group (CCAG) is a statewide membership organization dedicated to working with people to bring about social, economic, and environmental justice. CCAG has over 30,000 members statewide. CCAG is suing on its own behalf and in its representative capacity on behalf of its membership.

20. Plaintiff Connecticut ACORN is a membership organization that works to increase civic and political participation in low-income communities. It is the Connecticut chapter of the national organization, ACORN (the Association of Community Organizations for Reform Now). Connecticut ACORN views non-partisan voter participation as an essential part of its strategy for empowering poor people and expects to register over 5,000 people in Connecticut during this election cycle. Connecticut ACORN is suing on its own behalf and in its representative capacity on behalf of its membership.

21. Plaintiff Common Cause in Connecticut (CC/CT) is a nonpartisan citizens' lobbying group that works to improve the way Connecticut's government operates by breaking down barriers to voter registration and limiting the influence of big money in elections. CC/CT has 4,000 members statewide and is affiliated with the 250,000-member national Common Cause. CC/CT is suing in its representative capacity on behalf of its membership.

22. Connecticut Public Interest Research Group Citizen Lobby (ConnPIRG Citizen Lobby) is a nonprofit, nonpartisan advocate for the public interest with over 10,000 citizen members in Connecticut. The organization's mission includes advocacy to foster responsive, democratic government in Connecticut. ConnPIRG

Citizen Lobby has urged removal of the advance voter registration deadline because it creates a barrier to citizen's exercise of the right to vote. ConnPIRG Citizen Lobby's affiliate, Connecticut Student Public Interest Research Group (ConnPIRG Student) is a nonprofit, nonpartisan student-run, student-directed public interest organization that represents over 15,000 student members in Connecticut. Conducting youth voter registration drives is a key activity of the organization. ConnPIRG Citizen Lobby and ConnPIRG Student (together, "ConnPIRG") are suing on their own behalf and in their representative capacity on behalf of their membership.

23. Plaintiff DemocracyWorks is an advocacy organization dedicated to making democracy work fairly and inclusively. DemocracyWorks is a participant in Connecticut VOTES, a statewide, non-partisan voter education, voter registration, and voter mobilization project. DemocracyWorks is also the leading member of the Coalition for Effective Democracy, which has lobbied for the passage of an Election Day Registration bill in the Connecticut legislature. DemocracyWorks is suing on its own behalf.

24. Plaintiff People for the American Way (PFAW) is a national membership organization that advocates for the values and institutions that sustain a diverse democratic society. PFAW has over 10,500 members and activists in Connecticut that work to increase civic participation and preserve voting rights. PFAW is suing in its representative capacity on behalf of its membership.

25. Plaintiff Connecticut Working Families Party (WFP) is a grassroots, community and labor based political party with approximately 400 dues paying members and organizational members that represent over 60,000 Connecticut

residents. WFP combines campaign work, organizing and public education to promote issues of importance to low-income and poor people and hold candidates and elected officials accountable on those issues. By obtaining minor party status and cross endorsing candidates from other parties, WFP and its members are able to further these goals while supporting candidates with a realistic chance of winning. WFP's efforts to register voters in poor communities is a key component of its strategy to empower these communities, promote its program and gain support for its candidates. WFP's members also conduct non-partisan voter registration drives. WFP is suing on its own behalf and in its representative capacity on behalf of its membership.

26. Defendant Susan Bysiewicz is the Secretary of the State for Connecticut. The Secretary of State is designated by law as the Commissioner of Elections authorized under and acting under color of state law to supervise the administration of elections throughout the state. C.G.S. § 9-3. Specifically, under Connecticut law, she has the duty to advise local election officials in connection with proper methods of conducting elections, prepare regulations and instructions for the conduct of elections, and recommend to local election officials the form of registration cards. C.G.S. § 9-4. She is also responsible for implementing and administering the statewide computerized registration database. C.G.S. § 9-21a. She is sued in her official capacity in connection with actions taken under color of law.

THE RELEVANT PROVISIONS OF LAW

27. The registration deadline in Connecticut is generally established by Section 9-17(a) of the Election Law, which provides the meeting times for registrars of voters:

(1) The registrars of voters of each town shall hold sessions to examine the qualifications of electors and admit those found qualified on the dates and at the times set forth in this section. Such sessions shall be held on the following days during the hours indicated, except as provided in subdivision (2) of this subsection:

| Day | Hours |
|--|---|
| Fourteenth day before primary day | any two hours between 5:00 p.m. and 9:00 p.m. |
| Saturday of third week before election day | 10:00 a.m. to 2:00 p.m. |
| Fourteenth day before election day | 9:00 a.m. to 8:00 p.m. |

The session of the registrars of voters on the fourteenth day before election day shall be the last regular session for the admission of electors prior to an election, as defined in subsection (y) of section 9-1.

C.G.S. § 9-17(a). This lawsuit challenges those portions of the statute that establish the 14-day deadline.

28. Section 9-19b, which establishes locations for examining voter qualifications, prohibits town clerks and registrars from approving applications after the registration cutoff:

(a) *Except during the period between the last session for the admission of electors prior to an election and the day following that election, the town clerk or assistant town clerk, during office hours and at the office of such official, may examine the qualifications of any person applying in person to be admitted as an elector and approve such application.*

(b) *Except during the period between the last session for the admission of electors prior to an election and the day following that election, either registrar of voters, or a deputy registrar, assistant registrar or special assistant registrar . . . may examine the qualifications of any person applying to be admitted as an elector in the town and . . . approve such application submitted in person [at several designated locations].*

C.G.S. § 9-19b(a) & (b) (emphases added). This lawsuit challenges the highlighted portions of this provision.

29. In addition, Section 9-19g provides:

during the period between the last session for the admission of electors prior to an election and the opening of the limited session for such admission held on the last weekday before the election, the town clerk or assistant town clerk during office hours and at the office of such official, and either registrar of voters or a deputy or assistant registrar at the office of such official, may examine the qualifications of any person applying in person to be admitted as an elector in such town and act on such application, *except the privileges of an elector shall not attach to any such applicant until written approval is sent to him by such official no earlier than two days following the election.* If the application is disapproved, such official shall send notification thereof by certified mail no earlier than two days following the election.

C.G.S. § 9-19g (emphasis added). This lawsuit challenges the highlighted portions of this provision.

30. Notwithstanding the 14-day general election registration deadline,

Section 9-23a establishes noon the previous day as the deadline for primary elections:

(a) Except as provided in subsection (b) of this section, no person admitted as an elector after twelve o'clock noon on the last business day before a primary shall be permitted to vote in such primary.

(b) An applicant for admission or enrollment under section 9-26 shall be entitled to vote in a primary if he files his application for admission or enrollment with the town clerk before the day of the primary and is otherwise eligible to vote in the primary.

C.G.S. § 9-23a. Section 9-23a applies only to *in-person* registrations.

24. Section 9-23g provides that registration applications submitted *by mail* must be postmarked by the fifth day before the primary and the fourteenth day before the general election:

(c) A notice of acceptance or a notice of rejection shall be sent . . . (B) on the day of receipt of an application if it is received . . . (iii) during the period beginning on the twenty-first day before a primary and ending on the fifth day before a primary, or (iv) during the period beginning on the fourth day before a primary and ending at twelve o'clock noon on the last weekday before a primary, if the application has been postmarked by the fifth day before the primary and is received in the office of the registrars of voters during such period or if the application is received by the fifth day before a primary by the Commissioner of Motor Vehicles or by a voter registration agency

(d)(2) if a mailed application is postmarked, or if a delivered application is received in the office of the registrars of voters, after the fourteenth day before an election or after the fifth day before a primary, the privileges of an elector shall not attach until the day after such election or primary, as the case may be.

25. Section 9-17(b), which allows individuals who recently became eligible to vote to register the day before Election Day, provides:

The registrars of voters shall hold a limited session on the last week day before each regular election from nine o'clock a.m. to twelve o'clock noon for the purpose of admitting only those persons whose qualifications as to age, citizenship or residence in the municipality were attained after the last session for the admission of electors prior to an election.

C.G.S. § 9-17(b).

26. Section 9-158c of the Election Law provides that individuals may apply to vote in presidential elections up to the close of the polls on Election Day:

(a)(1) Not earlier than forty-five days before the election and not later than the close of the polls on election day, each resident, or former resident who desires to vote in a presidential election under sections 9-158a to 9-158m, inclusive, may apply for a "presidential ballot" to the municipal clerk of the town in which he is qualified to vote on the form prescribed in section 9-158d. Application for a

“presidential ballot” may be made in person or absentee, in the manner provided for applying for an absentee ballot under section 9-140, except as provided in said sections 9-158a to 9-158m, inclusive.

C.G.S. § 9-158c(a)(1).

FACTS

Connecticut’s Varying Registration and Voting Deadlines

27. Since 1991, Connecticut has required that voter registration forms be submitted or postmarked at least 14 days prior to a general election in which the applicant seeks to vote. C.G.S. §§ 9-17(a); 9-23g(d)(2). While voter registration forms received after the deadline may be processed immediately, voting privileges do not attach until election officials send written approval at least two days after the election. C.G.S. § 9-19g. A person must re-register each time she moves to a new town in the state.

28. Connecticut residents who turn 18, become U.S. citizens or move to a town in the state after the 14-day deadline may register up until noon the last day before a general election. C.G.S. §§ 9-17(b), 9-19b(d).

29. Since 1984, Connecticut citizens may register in person up to noon the day before a primary election. C.G.S. § 9-23a. If the person registers by mail, the application form must be postmarked by the fifth day before the primary. C.G.S. § 9-23g(d)(2).

30. Prior to 1997, a person had to apply for a presidential ballot seven days in advance. Since 1997, Connecticut has permitted unregistered voters to vote in presidential elections if they submit an application and ballot by 8:00 p.m. on Election Day. C.G.S. § 9-158c(a)(1). A person may apply for and vote by so-called presidential ballot if she is either: (i) a U.S. citizen who is at least 18 years old and a resident of a

Connecticut town but not a registered voter; or (ii) a former resident who has moved within 30 days before Election Day to another state or Connecticut town where the deadline for voter registration has passed. C.G.S. § 9-158d. She may cast a ballot for United States President and Vice President, but not for any other office. *Id.*

Burdens Imposed by the Failure to Allow Election Day Registration

31. The state's failure to allow Election Day Registration imposes severe burdens on the voter plaintiffs and thousands of unregistered citizens who are not permitted to vote in non-presidential elections once the 14-day deadline passes. The deadline also severely burdens organizations that rely on voter registration to build their membership and advance their political beliefs, but limits their ability to do so during the period when their constituents are most likely to become interested in voting and election issues.

A. Voter Interest Peaks Immediately Before Election Day

32. The 14-day voter registration deadline disenfranchises would-be voters because it runs counter to the ordinary progression of political campaigns and voter interest, which markedly intensify as Election Day approaches. During the days immediately before an election, as campaign activity peaks, more people become interested in candidates and election issues and make a decision to vote.

33. National election polls demonstrate this trend. For example, a Gallup Poll tracking voter interest during the 2000 Presidential election found that while 59% of registered voters were paying "quite a lot" of attention to the election during the first week of September, that number steadily rose and peaked at 77% on November 5-6, two days before the election.

34. Political advertisements are more frequent during the last days before an election. In Connecticut's 2000 races for the U.S. House of Representatives, 49% of political television advertisements after the primary ran during the 13 days before the election. In the same year, all of the advertisements for candidates for the U.S. Senate aired during the 13 days prior to the election. 62% of the advertisements for presidential candidates that aired in Connecticut media markets ran during that same 13-day period. In 1998, 53% of the advertisements for Connecticut candidates for U.S. House of Representatives after the primaries aired during the 13 days before the election, while 26% of the ads for Senate aired during that period.

35. Upon information and belief, independent organizations and political party committees that run advertisements supporting or opposing particular candidates are even more likely than candidates themselves to focus that advertising during the last 13 days before the election. In the 2000 federal elections, 79% of the advertisements sponsored by independent groups and political committees aired during that period.

36. Candidates and organizations conduct a disproportionate amount of their activities aimed at mobilizing voters, including direct mailings, leaflet distribution, phone banking and door-to-door canvassing, during the 13 days prior to an election, as compared with the earlier part of the campaign.

37. Print media coverage relating to candidates and election issues, including political advertisements, endorsements and feature stories, also increases immediately before the election.

38. As a result of this increased campaign activity, voters get more information about candidates and become more interested in elections during the days immediately prior to an election. After the 14-day cutoff, unregistered voters cannot make use of this information and express their preferences by voting.

B. Thousands of Connecticut Residents Cannot Vote Because of the Cutoff

39. In each general election, several thousand Connecticut residents who would like to vote are unable to do so because the registration deadline has passed.

40. In 2000, 67% of Connecticut residents who were U.S. citizens and over the age of 18 were registered to vote.² That means approximately 729,000 eligible individuals were unable to register and vote that year in non-presidential races once the registration deadline had passed.

41. As the tables below demonstrate, since 1991, thousands of individuals who missed the registration deadline submitted their applications during the 13 days before the election. These numbers are understated because they represent only those people who actually submitted registration forms during the 13 days prior to the election. Others who wanted to vote, but had missed the registration deadline, may not have sought to register because they knew they would be unable to vote in the upcoming election.

42. Federal and state elections are held in even-numbered years, with a presidential election every four years. Between 3% and 7% of the people who register in

² This statistic is based on the number of people of voting age who are also U.S. citizens. Because the U.S. Census Bureau only began tracking U.S. citizens for purposes of voting statistics in 2000, voter registration and participations statistics elsewhere in the Complaint are based on the voting age population. U.S. Census Bureau, U.S. Dep't of Commerce, Table 4c. Reported Voting and Registration of the Citizen Voting-Age Population, for States: November 2000 *available at* <http://www.census.gov/population/socdemo/voting/p20-542/tab04c.pdf> (last modified Feb. 24, 2004).

even years do so during the 13 days before the election. For example, in the year 2000, over 11,000 people registered during the 13 days before the election. Those individuals were eligible to vote for President using a presidential ballot, but could not vote for any other races on the ballot. The 3,698 people who registered during the 13 days before the 2002 state elections were unable to vote for any office on the ballot.

Connecticut Registrants Between Deadline and Election Day in Elections Held in Even Numbered Years

| Election Day | Total Number of Registrants From Beginning of Calendar Year To Election Day | Number of Registrants During 13 Days Before Election | Percentage of Registrants During 13 Days Before Election |
|---------------------|--|---|---|
| Nov. 3, 1992 | 113,276 | 7,519 | 6.64% |
| Nov. 8, 1994 | 60,006 | 1,898 | 3.16% |
| Nov. 5, 1996 | 120,609 | 6,814 | 5.65% |
| Nov. 3, 1998 | 64,544 | 2,432 | 3.77% |
| Nov. 7, 2000 | 151,310 | 11,119 | 7.35% |
| Nov. 5, 2002 | 73,272 | 3,698 | 5.05% |

43. Municipal elections are held in odd-numbered years. Certain municipalities hold elections in May, while others hold them in November. While a lower *number* of people register immediately prior to municipal elections than state elections, they represent a significantly higher *percentage* of pre-election registrants than for elections held in even-numbered years. For example, of the almost 16,000 people who had registered by May 2003, approximately 2,600 (19%) of them did so during the

13 days before the election. In one year, as many as 21% of all registrants prior to a municipal election submitted their applications during the 13 days before the election.

Connecticut Registrants Between Deadline and Election Day in Municipal Elections

| Election Day | Total Number of Registrants From Beginning of Calendar Year To Election Day | Number of Registrants During 13 Days Before Election | Percentage of Registrants During 13 Days Before Election |
|---------------------|--|---|---|
| May 3, 1993 | 2,645 | 573 | 21.66% |
| Nov. 2, 1993 | 21,310 | 1,301 | 6.11% |
| May 1, 1995 | 11,566 | 1,148 | 9.93% |
| Nov. 7, 1995 | 51,090 | 3,161 | 6.19% |
| May 5, 1997 | 14,302 | 2,529 | 17.68% |
| Nov. 4, 1997 | 53,383 | 2,322 | 4.35% |
| May 3, 1999 | 14,072 | 2,098 | 14.91% |
| Nov. 2, 1999 | 56,899 | 1,754 | 3.08% |
| May 7, 2001 | 12,994 | 2,092 | 16.10% |
| Nov. 6, 2001 | 54,957 | 1,494 | 2.72% |
| May 5, 2003 | 15,936 | 2,611 | 16.38% |
| Nov. 4, 2003 | 69,902 | 4,828 | 6.91% |

44. The high demand for presidential ballots during the 2000 election provides another indication that significant numbers of potential voters are prevented from voting in general, non-presidential elections because of the 14-day deadline. In 2000, approximately 30,000 Connecticut citizens voted for U.S. President and Vice

President by presidential ballot. Upon information and belief, the vast majority of them applied to vote on Election Day. Those individuals could not vote in any other elections that year.

45. The November 2000 presidential election was the first election in which presidential ballots could be requested and submitted up until Election Day. *See* Public Act 97-154. The deadline for requesting a presidential ballot was previously seven days before the election. *Id.*

46. In contrast to the tens of thousands of Connecticut residents who voted by presidential ballot in 2000, only 1,000 voted by presidential ballot in 1996 when the 7-day deadline remained in effect. *See* Mary M. Janicki, Office of Legislative Research (OLR) Report, 2000-R-1073, (Nov. 20, 2000).

47. All would-be voters are severely burdened by the registration deadline regardless of their reasons for being unregistered. The registration deadline is particularly harsh for younger voters, however, who are less likely to be registered and politically active than older citizens. In 2000, only 46% of young people between the ages of 18-24 were registered to vote and 34% actually voted.³ Studies show that younger voters, as well as those who tend to be more mobile, are especially likely to take advantage of Election Day Registration.

48. The registration deadline also severely burdens the associational rights of organizations that use voter registration as an essential means of recruiting members and communicating their political message. As part of their overall strategy for empowering low-income people, Plaintiffs ACORN and WFP focus their registration

³ U.S. Census Bureau, U.S. Dep't of Commerce, Table 8. Reported Voting and Representation by Family Members, by Age and Family Income: November 2000 *available at* <http://www.census.gov/population/socdemo/voting/p20-542/tab08.pdf> (Feb. 27, 2002).

efforts on poor communities, which traditionally are less likely to participate in the political process. ConnPIRG also views voter registration as a key component of its strategy to encourage civic participation and activism among young people. Because people get more interested in elections as they get closer in time, and the communities these organizations target are precisely the individuals who are less likely to be registered, the registration deadline limits the organizations' ability to build support and further their goals.

49. Working Families Party also uses voter registration to mobilize support for candidates the party endorses and to obtain minor party status on the ballot. A political party is considered a minor party if its "candidate for the office in question received at the last-preceding regular election for such office, under the designation of that political party or organization, at least one percent of the whole number of votes cast for all candidates for such office at such election." C.G.S. § 9-372(6). Once a party obtains one percent of the votes cast for an office, it is entitled to nominate candidates for that office in the next election, as opposed to having to get onto the ballot through a petition process, and can cross endorse candidates from other parties. C.G.S. § 9-379. To achieve minor party status for offices across the state, WFP has 55 candidates for state legislature and one candidate for Congress on the November 2, 2004 ballot. During the last two weeks before the election, when voter interest peaks and WFP engages in most of its campaign activity, WFP and its candidates could potentially energize and win the support of many previously unmotivated or undecided voters. However, if the registration deadline remains in effect, WFP will be unable to use this critical time period

to gain support from unregistered voters and instead must focus its limited resources on registered voters.

C. Fewer Connecticut Citizens Would Be Disenfranchised If the State Were To Implement EDR

50. Six states allow residents to register and vote on Election Day: Idaho, Maine, Minnesota, New Hampshire, Wisconsin and Wyoming. One state, North Dakota, has no registration requirement at all. Maine, Minnesota and Wisconsin adopted EDR in the early 1970s. Idaho, New Hampshire and Wyoming adopted EDR in the early 1990s.

51. Several empirical studies show that, as a result of EDR, and controlling for other factors, voter participation has increased by 3 to 6 percentage points in the six states in which it has been adopted.

52. On average, states with EDR have voter participation rates over 12 points higher than the national average. In 2000, for example, the EDR states had an average 65.6% voter turnout rate (as a percentage of the voting age population) compared to the national average of 50.5%.

53. In addition, the states with EDR have among the highest voter participation rates in the country. In 2000, Maine, Wisconsin and Minnesota were among the five states with the highest participation rates. North Dakota, which has no voter registration at all, was also among the top five. In 1998, Minnesota, Wisconsin and Maine had the highest voter turnout rates in the country.

54. The following chart compares registration and voter turnout in the 2000 election in EDR states and in Connecticut:⁴

Comparison of Voter Registration and Turnout between EDR States and Connecticut

| | Registration (as a percentage of Voting Age Population) | Turnout (as a percentage of Voting Age Population) |
|------------------|--|---|
| EDR States | 88.8% | 65.4% |
| National Average | 77.7% | 51.3% |
| Non-EDR States | 77.3% | 50.5% |
| Connecticut | 75% | 58.4% |

55. The Current Population Survey of the U.S. Census asks all registered voters who did not vote in the 2000 election why they did not vote. In states without EDR, 7.4% of *registered* non-voters stated that they did not vote because of problems with their registration at the polling place. In states with EDR, registered non-voters reported substantially fewer difficulties when they tried to vote; only 1.1% of registered non-voters stated they could not vote because of problems with their registration.

56. Connecticut has seen an overall decline in voter participation over the last decade. Voter turnout (as a percentage of the voting age population) in presidential election years was as high as 64.45% in 1992, fell to a low of 56.18% in

⁴ Federal Election Commission, National and State Voter Registration and Turnout in the Presidential Election-2000, *available at* [http://www.fec.gov/elections.html/pages/2000turnout/reg 3 to 00.htm](http://www.fec.gov/elections.html/pages/2000turnout/reg%203%20to%2000.htm) (June 2001).

1996, and was 58.4% in 2000.⁵ In years with state elections, there has been a steady decline from a high of 46% in 1990 and 1994 to a low of 41% in 2002. Statewide voter turnout (as a percentage of registered voters) at municipal elections has also declined steadily from 55% in 1991 to 40% in 2001.⁶

57. If Connecticut adopts EDR, it is estimated that voter participation will increase by 5.2% in presidential election years and 4% in odd-numbered years.

Connecticut's Efforts to Implement Election Day Registration

58. Since first enacted, Connecticut's voter registration deadline has been shortened progressively, and almost was eliminated in 2003, when an Act to implement Election Day Registration was passed by the legislature but vetoed by the Governor. In 2003 and 2004, Defendant Bysiewicz testified that she strongly supported the EDR bill. 2/9/04 GAE Comm. Hg. Tr., p. 1; 6/3/03 GAE Comm. Hg. Tr., p. 6.

59. This trend towards shortened deadlines and legislative support for EDR reflects, among other things, recognition that as technological advances improve the state's efficiency in verifying voter registration applications, there is no justification for disenfranchising voters.

60. In 1977, Connecticut's voter registration deadline was shortened from four weeks before the election to 21 days before the election. Public Act 77-330.

61. In 1991, Connecticut changed its voter registration deadline from 21 days to its current 14-day registration deadline. Public Act 91-351. Then-Secretary of State Pauline Kezer, President of the Registrar of Voters Association of Connecticut Jan

⁵ Federal Election Commission, Voter Registration and Turn Out Statistics, *available at* <http://www.fec.gov/elections.html>. (demonstrating that presidential election years typically have higher voter turnout than years with only state races).

⁶ See Mary M. Janicki, *Voter Turnout Statistics in State, Municipal, and Special Elections*, OLR Report, 2002-R-0235 (Feb. 22, 2002).

Murtha, and Executive Director and General Counsel of the State Election Enforcement Commission Jeffrey Garfield, all testified in support of the change to allow voters more time to register. 2/11/92 GAE Comm. Hg. Tr. pp. 7-9, 23.

62. In 2003, the Connecticut legislature passed Public Act 03-204 (the “EDR Act”), which would have allowed eligible residents to register to vote and cast a ballot on Election Day in state and municipal elections.

63. In addition to the Secretary of State, Jeffrey Garfield testified in support of the EDR Act saying that it “strikes the appropriate balance” between the state’s goals of increasing voter participation and protecting the integrity of the election process. 2/14/03 GAE Comm. Hg. Tr., p. 20; 2/9/04 GAE Comm. Hg. Tr., p. 54.

64. Senator Donald DeFronzo, Chair of the Government Administration and Elections Committee, explained during debate on the Senate floor that while registration deadlines may have been necessary in the past, they are no longer needed because “we now have the technology through the centralized voter registration system to attempt to [verify] on a cross town basis, the identities, or the potential duplications or potential fraud.” 6/03/03 Senate Tr., p. 65-66 (correcting typographical errors).

65. Under the EDR Act, applicants have to submit a registration form at the town registrars’ office and show identification with their name, address and photograph. If the identification has no photo, the registrars must take one. An applicant must also sign a statement swearing that he or she meets the eligibility requirements to register and has not registered or voted elsewhere. The statement includes a notice of the penalty for signing a false statement, which is a perjury conviction and up to five years in

prison, a fine up to \$5,000, or both. If the registrars accept the application, they must give the person a specially prescribed acceptance notice, attach a copy of the ID and photo, and seal and sign the notice and copies. The person can then go to the polling place, present the notice and copies, and vote.

66. At the polling place, the assistant registrar adds the person's name to the voter list with the notation "ED." The registrars must keep a copy of the identification (including the photograph) with the registration card until satisfied that the post office has delivered the applicant's confirmation notice. If they cannot validate the application, they must put the person's name on the inactive registry list and notify the State Election Enforcement Commission.

67. On July 9, 2003, Governor Rowland vetoed the EDR Act stating that, without a statewide database, the proposed registration system provided insufficient safeguards to prevent voter fraud. According to the Governor, "Without an accurate, complete, up-to-date and real-time centralized voter registration database, there would be few safeguards in place to prevent an individual, particularly one without a photo identification, from registering and voting in multiple towns on Election Day."

68. Since then, Connecticut's statewide registration database is up and running in all 169 towns in the state, as mandated by law. 2/9/04 GAE Comm. Hg. Tr., pp. 1-2; *see also* Public Act 03-117. The database allows election officials to check in real time the voter registration lists of other towns for duplicate registrations.

69. In 2004, the GAE Committee once again introduced legislation to implement Election Day Registration, but the bill was never submitted for a vote to the legislature.

Connecticut's Lack of a Compelling Interest in, or Even a Rational Basis for, the 14-Day Deadline

70. Connecticut cannot justify its failure to implement Election Day Registration. A 14-day registration deadline is not necessary to process voter registration applications, administer elections or prevent voter fraud because the statewide registration database allows the state to instantaneously verify registration applications, and there are other less restrictive alternatives to a 14-day cutoff, including identification checks and criminal penalties. Indeed, there is no rational, and certainly no compelling, basis for the deadline when the state accepts applications to vote in presidential elections on Election Day and has a half-day deadline for primaries and for people who become eligible to vote after the cutoff.

A. Registration for General and Primary Elections

71. To register, a person must submit an application, on which she affirms under penalty of perjury that she meets all of the eligibility requirements. If the application was properly completed and the person is legally eligible to vote, the registrars must send an acceptance notice by first-class mail with instructions that it be returned if not deliverable. C.G.S. §§ 9-19b, 9-20. If the notice is returned as undeliverable, the person's name is removed from the active voter registration list. *Id.*

72. Between the 20th day and 14th day before a general election, the application must be processed and notice must be sent on the same day the application is received. C.G.S. § 9-23g. Each year, approximately 10,000 to 40,000 applications are processed during this last week before the deadline.

73. If a person turns 18, acquires citizenship or moves to a new town after the cutoff for general elections, s/he may register up to noon the last week day

before the election. C.G.S. § 9-17(b). The registration forms are processed in the same manner as those received before the cutoff and non-forwardable approval or rejection notices are mailed the same day.

74. Connecticut citizens can register to vote in a primary election up to noon the day before the election if they register in person, and by the fifth day before the election if they register by mail. C.G.S. §§ 9-23a, 9-23g(d)(2). The registration forms are processed in the same manner as those received at other times and non-forwardable approval or rejection notices are mailed the same day.

B. Election Day Presidential Ballots

75. In 1997, Connecticut extended the deadline to apply for a presidential ballot to 8:00 p.m. on Election Day. *See* Public Act 97-154. Before then, the deadline was seven days before the election. *Id.*

76. The Secretary of State and Registrars of Voters Association of Connecticut (ROVAC) separately proposed the change, which the GAE Committee introduced. *See* Mary M. Janicki, OLR Report, 2000-R-1073, (Nov. 20, 2000). At a public hearing before the GAE Committee, then-Secretary of State Miles Rapoport and representatives of ROVAC testified that the change came in response to complaints from people who wanted to vote for President in the prior election but had missed the deadline. 2/24/97 GAE Comm. Hg. Tr., pp. 6, 51.

77. Mary Guinan, testifying on behalf of Judith Boudreau, the ROVAC president, summarized the rationale for extending the deadline as follows:

Right now with the seven day cutoff we are losing some voters who fall through the cracks. As the attention of the presidential election peaks toward Election Day, they've missed the seven day

cutoff. We'd like to give them an opportunity to vote right up until Election Day itself.

3/17/97 GAE Comm. Hg. Tr., p. 39.

78. Jeffrey Garfield also testified in support of extending the deadline.

2/24/97 GAE Comm. Hg. Tr., p. 14. In addition, several town clerks submitted testimony supporting the change. 2/24/97 GAE Comm. Hg. Tr., p. 51. No one testified at the public hearing or spoke in the Senate or House against the change or pointed out any anticipated difficulties with it.

79. To vote by presidential ballot, a person submits an application to the town clerk where s/he currently or previously resided, on which the applicant affirms under penalty of perjury that s/he is eligible to vote in the election. C.G.S. § 9-158d. If the town clerk determines that the person is eligible to vote, the clerk gives or mails a ballot to the applicant. The person marks the presidential ballot and seals it in inner and outer envelopes. C.G.S. § 9-158g. The ballot is returned to the town clerk, who then delivers all presidential ballots to the registrar of voters. *Id.* Presidential ballots are counted like absentee ballots.

80. Under Connecticut law, the town clerk must keep a public list of all applicants for presidential ballots for 180 days. C.G.S. § 9-158h. In addition, lists with the names of all presidential ballot applicants are available at the polling place on Election Day. C.G.S. § 9-158j. Information about presidential ballot applicants is also sent to the election official in the town where the person last lived, if she now lives in the town where she applied. C.G.S. § 9-158k. If the person is a former resident of the town where she applied, the information is sent to the state or town where she currently resides. *Id.* When a town clerk receives information indicating that someone has applied

for a presidential ballot elsewhere, the information must be kept for 180 days, and compared to the town clerk's own list of presidential ballot applications, as well as the checklist of actual voters in the election. *Id.*

81. In the 2000 presidential election, over 30,000 people voted by presidential ballot.

82. Due to the unprecedented demand for presidential ballots in the 2000 election, some towns ran out of ballots or were unable to comply with all of the administrative statutory requirements. *See e.g.* Mary M. Janicki, OLR Report, 2000-R-1073, (Nov. 20, 2000). In passing the EDR Act, legislators and election officials favored EDR as a less administratively burdensome alternative to presidential ballots. 6/3/03 Senate Tr., pp. 52-53. Accordingly, the EDR Act eliminated as unnecessary the availability of presidential ballots for currently unregistered residents of a town, leaving the option available only to former residents who missed the deadlines in their new hometowns.

83. Connecticut allows unregistered residents to apply for presidential ballots on Election Day, while furthering its interests through these administrative procedures. The burdens in administering presidential ballots are at least the same as, but possibly more substantial than, administering EDR. There is therefore no rational or compelling reason to permit unregistered voters to vote in presidential elections on Election Day, but not to permit unregistered voters to register and vote on Election Day in non-presidential races.

C. Other Less Restrictive Alternatives

84. Even if a 14-day registration deadline in fact protects against fraud and facilitates election administration, there are several effective and easily administered alternatives to meet these goals other than a 14-day registration deadline.

85. The six states that allow people to register to vote on Election Day report no increased incidents of voter fraud in connection with EDR. *See e.g.*, Jason Matthews, *Incidents of Fraud in States with Election Day Voter Registration*, OLR Report, 2002-R-0431, (Apr. 11, 2002).

86. States with EDR have adopted several measures to deter and safeguard against fraudulent voting. In all EDR states, voters who register on Election Day must take an oath affirming their eligibility to vote and/or submit some form of identification or proof of residency. *See* Idaho Code § 34-408A (oath, proof of residency, and photo identification); Me. Rev. Stat. Ann. 21-A § 121 (possible oath and proof of residency); Minn. Stat. § 201.061(3) (oath and proof of residency); N.H. Rev. Stat. Ann. § 654:12 (proof of citizenship, age and domicile); 2003-04 Wis. Legis. Serv. 265 (West) § 6.55(2)(b) (certification and proof of residency or corroboration by someone who resides in district); Wyo. Stat. Ann. § 22-3-104 (oath, acceptable identification and signature on registration form in presence of poll officer).

87. Some EDR states also verify voter registrations after the election. In Minnesota, for example, election officials send a non-forwardable postcard to all voters who registered on Election Day. If the postcard is returned undelivered, election officials must attempt to determine the reason the postcard was returned. Minn. Stat. §

201.121(2). If election officials do not obtain satisfactory proof that the person was eligible to vote, they must report the information to the county attorney and the secretary of state. *Id.* Likewise, in Wisconsin, all electors registering on election day are sent a first class postcard marked to ensure that it will be returned to the clerk or board of election commissioners if the elector does not reside at the address given on the postcard. 2003-04 Wis. Legis. Serv. 265 (West) § 6.56(3). If the postcard is returned undelivered, the clerk or board must change the status of the elector from eligible to ineligible on the registration list and provide the name to the District Attorney for the county where the polling place is located. *Id.*

88. In addition, states with EDR impose severe criminal penalties for falsified registration forms and fraudulent voting. Idaho Code §§ 18-2302, 18-5409, 18-2306 & 18-112 (false statement as to qualifications: imprisonment from one to fourteen years; illegal voting: prison not exceeding five years and/or fine not exceeding \$50,000); Me. Rev. St. Ann. 21-A § 159, 17-A § 1252 (illegal voting: imprisonment not to exceed five years; false statement and dual registration: imprisonment for a period less than a year); Minn. Stat. §§ 201.014, 201.016, 204C.14 & 609.03 (illegal voting: imprisonment not to exceed 5 years and/or fine not to exceed \$10,000; repeated voting at wrong polling place: imprisonment not to exceed 90 days and/or fine not to exceed \$1000); N.H. Rev. St. Ann. §§ 659:34, 651:2 (knowingly providing false information when voting: maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2000; providing false information when voting: civil penalty not to exceed \$5,000); Wis. Stat. §§ 12.13(1), 12.60(1), 939.50(3)(i) (intentional voting without necessary qualifications, voting more than once in same election, registration in more than one

place: imprisonment for a maximum of 3 years, 6 months and/or fine not to exceed \$10,000; false statement relating to voter registration: imprisonment for a maximum of 6 months and/or fine not to exceed \$1000); Wyo. Stat. Ann. §§ 22-26-101, 22-26-102, 22-26-108 (false voting or false registration: imprisonment up to five years or fine up to \$10,000).

89. Connecticut already has criminal penalties in place for fraudulent registration and voting. C.G.S. § 9-357 (fraudulent registration: imprisonment for not more than one year and/or fine of not more than \$500); C.G.S. § 9-360 (fraudulent voting: imprisonment between one and two years, fine between \$300-500 and disenfranchisement; assumption of false name: imprisonment for one year, fine of \$500, disenfranchisement); C.G.S. § 9-358 (false swearing: imprisonment up to two years and disenfranchisement); C.G.S. § 9-232b (false statement in registering or voting: imprisonment up to 5 years and fine up to \$10,000).

90. Election administrators in states with EDR report that, with appropriate poll worker training, advanced planning, and public education, EDR is easy and efficient to administer. It allows the state to avoid the excessive paperwork, errors, and duplication involved in having multiple state agencies register people.

CLAIMS FOR RELIEF

(COUNT ONE)

First and Fourteenth Amendments – Burden on Right to Vote

91. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1-90 as if set forth herein at length.

92. The requirement that residents register to vote 14 days prior to a general election, established in C.G.S. §§ 9-17, 9-19b(a)&(b) and 9-19g, and the state's failure to allow them to register on Election Day, impose severe burdens on the voters' fundamental right to vote.

93. Specifically, because the deadline bars registration and voting during the last days before an election when voter interest and campaign activity peaks, voters are deprived of their right to vote. The State has no legitimate interest in imposing these burdens on voters. Particularly in light of the availability of presidential ballots on Election Day, the half-day deadline for primary elections and people who became eligible to vote after the cutoff, and the statewide computerized database, the state cannot show any rational, and certainly no compelling, basis for the burdensome 14-day deadline.

94. By reason of the foregoing, Defendant, acting under color of state law, has deprived voter plaintiffs 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.

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

COUNT TWO
Fourteenth Amendment – Equal Protection

96. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1-95 as if set forth herein at length.

97. Connecticut citizens desiring to vote for U.S. President and Vice-President may vote by presidential ballot on Election Day, whereas those who want to

vote in other federal, state and municipal elections must register 14 days in advance. The state cannot show any rational, and certainly no compelling, reason for this unequal treatment of similarly situated voters.

98. By reason of the foregoing, Defendant, acting under color of state law, has deprived voter and candidate plaintiffs 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.

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

(COUNT THREE)
First Amendment –
Burden on Right to Political Association

100. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1-99 as if set forth herein at length.

101. The requirement that residents register to vote 14 days prior to a general election, established in C.G.S. §§ 9-17, 9-19b(a)&(b) and 9-19g, and the state's failure to allow them to register on Election Day, impose severe burdens on the voters' and organizations' fundamental right to associate for the advancement of political beliefs.

102. Specifically, because the deadline bars registration during the last days before an election when voter interest and campaign activity peaks, plaintiff organizations are severely burdened in their ability to communicate their message and thus associate for the advancement of their political beliefs. Plaintiff voters, who include members of organizations, are deprived of their right to associate and engage in the most important demonstration of political support--voting. The state has no legitimate interest

in imposing these burdens on voters and organizations seeking their support. Particularly in light of the availability of presidential ballots on Election Day, the half-day deadline for primary elections and people who became eligible to vote after the cutoff, and the statewide computerized database, the state cannot show any compelling or rational reason for the burdensome 14-day deadline.

103. By reason of the foregoing, Defendant, acting under color of state law, has deprived the voter and organizational plaintiffs of the rights, privileges, and immunities secured to them under the First Amendment to the United States Constitution and protected under 42 U.S.C. § 1983.

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

PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully ask this Court:

(1) To enter judgment declaring and determining that the state's failure to provide voters with an opportunity to register and vote on Election Day and the registration deadline, established in C.G.S. §§ 9-17, 9-19b(a)&(b) and 9-19g, violate the First and Fourteenth Amendments to the United States Constitution;

(2) To grant the appropriate equitable relief, including an injunction barring the Defendant from requiring individuals to register 14 days in advance of Election Day and allowing the Connecticut General Assembly to establish, within 90 days of this Court's judgment, a procedure by which individuals may register and vote on Election Day;

(3) To award Plaintiffs their costs and disbursements associated with the filing and maintenance of this action, including an award of reasonable attorneys' fees pursuant to 42 U.S.C. § 1988; and

(4) To award such other equitable and further relief as the Court deems just and proper.

Frederick A.O. Schwarz, Jr., Esq.
Burt Neuborne, Esq.
Deborah Goldberg, Esq.
Kele Williams, Esq.
Jennifer R. Weiser, Esq.
BRENNAN CENTER FOR JUSTICE
at New York University School of Law
161 Avenue of the Americas, 12th Floor
New York, NY 10013
Ph: (212) 998-6730

Annette M. Lamoreaux (ct25769)
CONNECTICUT CIVIL LIBERTIES
UNION FOUNDATION
32 Grand Street
Hartford, CT 06106
Ph: (860)247-9823
Fax: (860)728-0287
Email: annettel@cclu.org

Stanley A. Twardy, Jr. (ct05096)
DAY, BERRY & HOWARD LLP
One Canterbury Green
Stamford, CT 06901
Ph: (203) 977-7300

James W. Quinn, Esq.
Steven A. Reiss, Esq.
Pierre M. Davis, Esq.
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, NY 10153
Ph: (212) 310-8000

Of Counsel

Elliot Minberg, Esq.
PEOPLE FOR THE AMERICAN WAY
FOUNDATION
2000 M Street, N.W., Ste. 400
Washington, D.C. 20036
Ph: 202-467-4999

CERTIFICATION

THIS IS TO CERTIFY that a copy of the foregoing was mailed on this date by regular first class mail to all counsel of record as follows:

Gregory T. D'Auria, Esq.
Susan Quinn Cobb, Esq.
Perry Zinn-Rowthorn, Esq.
Robert W. Clark, Esq.
Office of the Attorney General
55 Elm Street
Hartford, CT 06141

Terence J. Gallagher