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The Honorable Ricardo Martinez

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

WASHINGTON ASSOCIATION OF CHURCHES,
as an organization and representative of its members;
WASHINGTON ASSOCIATION OF COMMUNITY
ORGANIZATIONS FOR REFORM NOW
(ACORN), as an organization and representative of its
members; ORGANIZATION OF CHINESE-
AMERICANS – GREATER SEATTLE CHAPTER,
as an organization and representative of its members;
CHINESE INFORMATION & SERVICE CENTER,
as an organization and representative of its clients;
FILIPINO AMERICAN POLITICAL ACTION
GROUP OF WASHINGTON, as an organization and
representative of its members; KOREAN
AMERICAN VOTERS ALLIANCE, as an
organization and representative of its members;
SERVICE EMPLOYEES INTERNATIONAL
UNION (SEIU) – LOCAL 755, as an organization
and representative of its members; and
WASHINGTON CITIZEN ACTION, as an
organization and representative of its members,
Plaintiff,

NO. CV06-0726 RSM

DEFENDANT'S
ANSWER
AND AFFIRMATIVE
DEFENSES TO
PLAINTIFFS'
COMPLAINT

v.

SAM REED, in his official capacity as Secretary of
State for the State of Washington,

Defendant.

1 COMES NOW the Defendant, Sam Reed, by and through the undersigned counsel, and
2 in response to the Complaint denies and alleges as follows:

3 **INTRODUCTION**

4 1. No response to paragraph 1 is necessary because it is a summary of the
5 allegations.

6 2. No response to paragraph 2 is necessary because it is a summary of the
7 allegations. Defendant admits that RCW 29A.08.107 is a duly enacted Washington statute.

8 3. Defendant denies the allegation in paragraph 3.

9 4. Defendant denies the allegation in paragraph 4.

10 5. Defendant denies the allegation in paragraph 5.

11 6. Defendant has insufficient information to answer the allegation in paragraph 6
12 and, therefore, denies the same.

13 7. Defendant denies the allegation in paragraph 7, but admits that the cited
14 statute contains the quoted words.

15 8. Defendant denies the allegation in paragraph 8.

16 9. Defendant has insufficient information to answer the allegation in paragraph 9
17 and, therefore, denies the same.

18 10. Defendant denies the allegation in paragraph 10.

19 11. No response to paragraph 11 is necessary.

20 **JURISDICTION AND VENUE**

21 12. Defendant admits the allegation in paragraph 12.

22 13. Defendant admits the allegation in paragraph 13.

23 14. Defendant admits the allegation in paragraph 14.

24 **PARTIES**

25 15. Defendant has insufficient information to answer the allegation in paragraph
26 15 and, therefore, denies the same.

1 16. Defendant has insufficient information to answer the allegation in paragraph
2 16 and, therefore, denies the same.

3 17. Defendant has insufficient information to answer the allegation in paragraph
4 17 and, therefore, denies the same.

5 18. Defendant has insufficient information to answer the allegation in paragraph
6 18 and, therefore, denies the same.

7 19. Defendant has insufficient information to answer the allegation in paragraph
8 19 and, therefore, denies the same.

9 20. Defendant has insufficient information to answer the allegation in paragraph
10 20 and, therefore, denies the same.

11 21. Defendant has insufficient information to answer the allegation in paragraph
12 21 and, therefore, denies the same.

13 22. Defendant has insufficient information to answer the allegation in paragraph
14 22 and, therefore, denies the same.

15 23. Defendant denies the allegation in paragraph 23.

16 24. Defendant denies the allegation in paragraph 24.

17 25. Defendant admits that he is the duly elected Secretary of State of Washington,
18 with powers and duties set forth in state law. No response is required to the remainder of
19 paragraph 25, which is a summary or paraphrase of state law. Defendant denies that the
20 Complaint accurately paraphrases the laws in question.

21 THE FACTS

22 I. WASHINGTON'S NEW ELECTION LAW

23 26. No response to paragraph 26 is necessary.

24 27. Paragraph 27 is an argumentative attempt to paraphrase state law on the
25 subject of voting eligibility in Washington. Defendant denies that paragraph 27 is an
26

1 accurate summary of the law. The provisions of the state constitution, state statute, and state
2 regulation are matters of official record, and need not be the subject of pleadings.

3 28. Defendant admits the allegation in paragraph 28, except the parenthetical
4 sentence, for which no response is necessary.

5 29. Paragraph 29 requires no answer. RCW 29A.08.140 and .145 are matters of
6 official record, and need not be the subject of pleadings.

7 30. Defendant admits that paragraph 30 contains an accurate quote from RCW
8 29A.08.107 as amended by Laws of Washington 2005, Ch. 346.

9 31. Paragraph 31 is an argumentative summary and commentary on certain
10 language contained in RCW 29A.08.107. The words are accurately quoted, but the
11 Defendant denies that paragraph 31 accurately states the law.

12 32. Paragraph 32 is an argumentative summary and commentary on certain
13 language contained in RCW 29A.08.107. The words are accurately quoted, but the
14 Defendant denies that paragraph 32 accurately states the law.

15 33. Defendant denies the allegation in paragraph 33.

16 34. Defendant denies the allegation in paragraph 34.

17 **II. "MATCHING"**

18 35. Defendant denies the allegation in paragraph 35.

19 36. Defendant denies the allegation in paragraph 36.

20 **A. The Voter Registration Process In Washington After January 1, 2006**

21 37. Paragraph 37 consists either of a vague and general prediction of future
22 events or a vague and general attempt to summarize the law. Either way, it requires no
23 response.

24 38. The procedures for registering new voters are set forth in Washington state
25 law, including both statutes and regulations. The State expects that voter registrations will be
26 processed as set forth in the law as it exists now or may be amended or interpreted in the

1 future. Otherwise, the State denies that paragraphs 38 through 43 of the Complaint contain
2 an accurate or relevant description of the future behavior of voter registration applicants or
3 state or local election officers.

4 39. See paragraph 38.

5 40. See paragraph 38.

6 41. See paragraph 38.

7 42. See paragraph 38.

8 43. See paragraph 38.

9 44. Defendant denies the allegation in paragraph 44.

10 **B. Inputting, Maintaining and "Matching" Data in the Databases**

11 **1. Inputting the Data**

12 45. Defendant has insufficient information to answer the allegation in paragraph
13 45 and, therefore, denies the same.

14 46. No response to paragraph 46 is necessary.

15 47. No response to paragraph 47 is necessary.

16 48. Defendant has insufficient information to answer the allegation in paragraph
17 48 and, therefore, denies the same.

18 49. Defendant denies the allegation in paragraph 49.

19 **2. Maintaining, Storing, Transferring, and Transforming the Data**

20 50. Defendant has insufficient information to answer the allegation in paragraph
21 50 and, therefore, denies the same.

22 51. Defendant has insufficient information to answer the allegation in paragraph
23 51 and, therefore, denies the same.

24 52. Defendant has insufficient information to answer the allegation in paragraph
25 52 and, therefore, denies the same.

26 53. Defendant denies the allegation in paragraph 53.

1 3. **"Matching" the Data**

2 54. Defendant has insufficient information to answer the allegation in paragraph
3 54 and, therefore, denies the same.

4 55. No response to paragraph 55 is necessary.

5 56. Defendant denies the allegation in paragraph 56.

6 57. Defendant denies the allegation in paragraph 57.

7 58. No response to paragraph 58 is necessary.

8 **C. Washington's "Matching" Protocol**

9 59. Defendant has insufficient information to answer the allegation in paragraph
10 59 and, therefore, denies the same.

11 60. Defendant has insufficient information to answer the allegation in paragraph
12 60 and, therefore, denies the same.

13 61. Defendant has insufficient information to answer the allegation in paragraph
14 61 and, therefore, denies the same.

15 62. Defendant has insufficient information to answer the allegation in paragraph
16 62 and, therefore, denies the same.

17 63. Defendant has insufficient information to answer the allegation in paragraph
18 63 and, therefore, denies the same.

19 64. Defendant has insufficient information to answer the allegation in paragraph
20 64 and, therefore, denies the same.

21 65. Defendant has insufficient information to answer the allegation in paragraph
22 65 and, therefore, denies the same.

23 66. Defendant has insufficient information to answer the allegation in paragraph
24 66 and, therefore, denies the same.

25 67. Defendant has insufficient information to answer the allegation in paragraph
26 67 and, therefore, denies the same.

1 68. Defendant denies the allegation in paragraph 68.

2 **D. Nonmaterial Errors or Omissions on Voter Registration Applications**

3 69. Defendant has insufficient information to answer the allegation in paragraph
4 69 and, therefore, denies the same.

5 70. Defendant has insufficient information to answer the allegation in paragraph
6 70 and, therefore, denies the same.

7 71. Defendant has insufficient information to answer the allegation in paragraph
8 71 and, therefore, denies the same.

9 **II. THE HELP AMERICA VOTE ACT OF 2002**

10 72. Defendant has insufficient information to answer the allegation in paragraph
11 72 and, therefore, denies the same.

12 73. Defendant denies that paragraph 73 accurately describes the reasons why
13 HAVA was enacted. For the remaining allegations, Defendant has insufficient information
14 to answer the allegations and, therefore, denies the same.

15 74. Defendant admits paragraph 74 accurately quotes the statute, but denies the
16 remainder.

17 **A. The Computerized Statewide Voter Registration List**

18 75. Defendant has insufficient information to answer the allegation in this
19 paragraph and, therefore, denies the same.

20 76. Defendant admits paragraph 76 accurately quotes the statute, but denies the
21 remainder.

22 77. Defendant admits paragraph 77 accurately quotes the statute, but denies the
23 remainder.

24 78. No response is necessary because paragraph 78 is the Plaintiffs' summary of
25 the law.

26

1 **B. Identifying Numbers for List Maintenance**

2 79. Defendant admits paragraph 79 accurately quotes the statute, but denies the
3 remainder.

4 80. Defendant has insufficient information to answer the allegation in paragraph
5 80 and, therefore, denies the same.

6 81. Defendant admits paragraph 81 accurately quotes the statute, but denies the
7 remainder.

8 82. Defendant admits paragraph 82 accurately quotes the statute, but denies the
9 remainder.

10 83. Defendant admits paragraph 83 accurately quotes the statute, but denies the
11 remainder.

12 84. Defendant has insufficient information to answer the allegation in paragraph
13 84 and, therefore, denies the same.

14 85. Defendant has insufficient information to answer the allegation in paragraph
15 85 and, therefore, denies the same.

16 86. Defendant has insufficient information to answer the allegation in paragraph
17 86 and, therefore, denies the same.

18 87. No response is necessary because paragraph 87 is a legal argument.

19 **C. Identifying Numbers for First-Time Voters Who Register By Mail**

20 88. Defendant admits paragraph 88 accurately quotes the statute, but denies the
21 remainder.

22 89. Defendant denies the allegation in paragraph 89.

23 90. Defendant admits paragraph 90 accurately quotes the statute, but denies the
24 remainder.

25 91. No response is necessary because paragraph 91 is a legal argument.

26

1 92. Defendant admits paragraph 92 accurately quotes the statute, but denies the
2 remainder.

3 93. Defendant has insufficient information to answer the allegation in paragraph
4 93 and, therefore, denies the same.

5 **CLAIMS**

6 **COUNT 1 (VIOLATION OF THE HELP AMERICA VOTE ACT)**

7 94. No response to paragraph 94 is necessary.

8 95. Defendant denies paragraph 95.

9 96. Defendant denies paragraph 96.

10 97. Defendant denies paragraph 97.

11 98. Defendant denies paragraph 98.

12 99. Defendant denies paragraph 99.

13 100. Defendant denies paragraph 100.

14 101. Defendant denies paragraph 101.

15 102. Defendant denies paragraph 102.

16 103. Defendant denies paragraph 103.

17 104. Defendant denies paragraph 104.

18 **COUNT II. (VIOLATION OF THE HELP AMERICA VOTE ACT)**

19 105. No response to paragraph 105 is necessary.

20 106. Defendant denies the allegation in paragraph 106.

21 107. Defendant denies the allegation in paragraph 107.

22 108. Defendant admits paragraph 108 accurately quotes the statute, but denies the
23 remainder.

24 109. Defendant denies the allegation in paragraph 109.

25 110. Defendant denies the allegation in paragraph 110.

26 111. Defendant denies the allegation in paragraph 111.

1 112. Defendant denies the allegation in paragraph 112.

2 113. Defendant denies the allegation in paragraph 113.

3 114. Defendant denies the allegation in paragraph 114.

4 115. Defendant denies the allegation in paragraph 115.

5 116. Defendant denies the allegation in paragraph 116.

6 **COUNT III. (VIOLATION OF THE HELP AMERICA VOTE ACT)**

7 117. No response to paragraph 117 is necessary.

8 118. Defendant denies the allegation in paragraph 118.

9 119. Defendant denies the allegation in paragraph 119.

10 120. Defendant denies the allegation in paragraph 120.

11 121. Defendant denies the allegation in paragraph 121.

12 122. Defendant denies the allegation in paragraph 122.

13 123. Defendant denies the allegation in paragraph 123.

14 124. Defendant denies the allegation in paragraph 124.

15 125. Defendant denies the allegation in paragraph 125.

16 **COUNT IV. (VIOLATION OF THE FIRST AND FOURTEENTH AMENDMENTS)**

17 126. No response to paragraph 126 is necessary.

18 127. No response to paragraph 127 is necessary because this paragraph is Plaintiffs'
19 summary of the law.

20 128. Defendant denies the allegation in paragraph 128.

21 129. Defendant denies the allegation in paragraph 129.

22 130. Defendant denies the allegation in paragraph 130.

23 **COUNT V. (VIOLATION OF THE EQUAL PROTECTION CLAUSE)**

24 131. No response to paragraph 131 is necessary.

25 132. Defendant denies the allegation in paragraph 132.

26 133. Defendant denies the allegation in paragraph 133.

- 1 134. Defendant denies the allegation in paragraph 134.
- 2 135. Defendant denies the allegation in paragraph 135.
- 3 136. Defendant denies the allegation in paragraph 136.
- 4 137. Defendant denies the allegation in paragraph 137.
- 5 138. Defendant denies the allegation in paragraph 138.
- 6 139. Defendant denies the allegation in paragraph 139.

7 **COUNT VI. (VIOLATION OF THE DUE PROCESS CLAUSE)**

- 8 140. No response to paragraph 140 is necessary.
- 9 141. Defendant denies the allegation in paragraph 141.
- 10 142. Defendant denies the allegation in paragraph 142.
- 11 143. Defendant denies the allegation in paragraph 143.
- 12 144. Defendant denies the allegation in paragraph 144.
- 13 145. Defendant denies the allegation in paragraph 145.
- 14 146. Defendant denies the allegation in paragraph 146.

15 **COUNT VII. (VIOLATION OF THE VOTING RIGHTS ACT)**

- 16 147. No response to paragraph 147 is necessary.
- 17 148. Defendant denies the allegation in paragraph 148.
- 18 149. Defendant denies the allegation in paragraph 149.
- 19 150. Defendant denies the allegation in paragraph 150.
- 20 151. Defendant denies the allegation in paragraph 151.
- 21 152. Defendant denies the allegation in paragraph 152.
- 22 153. Defendant denies the allegation in paragraph 153.
- 23 154. Defendant denies the allegation in paragraph 154.
- 24 155. Defendant denies the allegation in paragraph 155.
- 25 156. Defendant denies the allegation in paragraph 156.
- 26 157. Defendant denies the allegation in paragraph 157.

1 158. Defendant denies the allegation in paragraph 158.

2 **COUNT VIII. (VIOLATION OF THE VOTING RIGHTS ACT)**

3 159. No response to paragraph 159 is necessary.

4 160. Defendant denies the allegation in paragraph 160.

5 161. Defendant admits paragraph 161 accurately quotes the statute, but denies the
6 remainder.

7 162. Defendant denies the allegation in paragraph 162.

8 163. Defendant denies the allegation in paragraph 163.

9 164. Defendant denies the allegation in paragraph 164.

10 165. Defendant denies the allegation in paragraph 165.

11 166. Defendant denies the allegation in paragraph 166.

12 **COUNT IX. (VIOLATION OF THE NATIONAL VOTER REGISTRATION ACT)**

13 167. No response to paragraph 167 is necessary.

14 168. Defendant denies the allegation in paragraph 168.

15 169. Defendant denies the allegation in paragraph 169.

16 170. Paragraph 170 is an argumentative assertion concerning the state of federal
17 law in light of the Motor Voter Law and HAVA and requires no answer.

18 171. Defendant denies the allegation in paragraph 171.

19 172. Defendant denies the allegation in paragraph 172.

20 173. Defendant denies the allegation in paragraph 173.

21 174. Defendant denies the allegation in paragraph 174.

22 175. Defendant denies the allegation in paragraph 175.

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**RESPONDENT'S FURTHER ANSWERS
AND AFFIRMATIVE DEFENSES**

By way of further answers and affirmative defenses, Defendant alleges:

1. Plaintiffs have failed to state a claim upon which relief should be granted.
2. Plaintiffs' claim is barred by laches.
3. Plaintiffs have failed to join a necessary or indispensable party.

For all of these reasons, Defendant respectfully PRAYS FOR RELIEF as follows:

1. That the Complaint be dismissed with prejudice;
2. That Plaintiffs take nothing by way of this action;
3. That Plaintiffs be ordered to pay all of Defendant's costs associated with this action; and
4. That this Court grant such other and further relief as may be just and appropriate.

RESPECTFULLY SUBMITTED this 12th day of June, 2006.

ROB MCKENNA
Attorney General



JAMES K. PHARRIS, WSBA #5313
Deputy Solicitor General

GREG OVERSTREET, WSBA #26682
Special Assistant Attorney General

JEFFREY T. EVEN, WSBA #20367
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The Honorable Ricardo Martinez

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

WASHINGTON ASSOCIATION OF CHURCHES, as an organization and representative of its members; WASHINGTON ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW (ACORN), as an organization and representative of its members; ORGANIZATION OF CHINESE-AMERICANS – GREATER SEATTLE CHAPTER, as an organization and representative of its members; CHINESE INFORMATION & SERVICE CENTER, as an organization and representative of its clients; FILIPINO AMERICAN POLITICAL ACTION GROUP OF WASHINGTON, as an organization and representative of its members; KOREAN AMERICAN VOTERS ALLIANCE, as an organization and representative of its members; SERVICE EMPLOYEES INTERNATIONAL UNION (SEIU) – LOCAL 755, as an organization and representative of its members; and WASHINGTON CITIZEN ACTION, as an organization and representative of its members,

Plaintiff,

NO. CV06-0726 RSM
CERTIFICATE OF SERVICE

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v.

SAM REED, in his official capacity as
Secretary of State for the State of
Washington,

Defendants.

I certify that on June 12, 2006, I electronically filed Defendant's Answer and Affirmative Defenses to Plaintiffs' Complaint and this Certificate of Service with the Clerk of the Court using the CM/ECF System that will send notification of such filing to the following:

Louis Peterson at: ldp@hcmp.com, smp@hcmp.com

Sarah A. Dunne at: sad@hcmp.com, nlj@hcmp.com

Robert A. Atkins at: ratkins@paulweiss.com


Evan Norris at: enorris@paulweiss.com

Wendy Robin Weiser at: wendy.weiser@nyu.edu, wendyweiser@hotmail.com

Justin Michael Levitt at: Justin.levitt@nyu.edu, levittj@juris.law.nyu.edu

I certify under penalty of perjury of the laws of the state of Washington that the foregoing is true and correct.

EXECUTED this 12th day of June, 2006, at Olympia, Washington.


ROSE SAMPSON, Legal Assistant
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