IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF FLORIDA, Plaintiff, v. UNITED STATES OF AMERICA and ERIC H. HOLDER, JR., in his official capacity as Attorney General, Defendants, FLORIDA STATE CONFERENCE OF THE NAACP, *et al.*, Defendant-Intervenors, KENNETH SULLIVAN, *et al.*, Defendant-Intervenors, NATIONAL COUNCIL OF LA RAZA, and LEAGUE OF WOMEN VOTERS OF FLORIDA, Defendant-Intervenors.	No. 1:11-cv-1428-CKK-MG-ESH

DEFENDANT-INTERVENORS' CONSOLIDATED ANSWER TO PLAINTIFF'S SECOND AMENDED COMPLAINT FOR DECLARATORY JUDGMENT

Mindful of the Court's October 19, 2011 Order (Dkt. No. 42), Defendant-Intervenors the NAACP Group,[1] the Sullivan Group,[2] and the NCLR Group[3] (collectively "Defendant-

[1] The NAACP Group consists of Defendant Intervenors the Florida State Conference of the NAACP, Belinthia Berry, Sharon Carter, Ella Kate Coffee, Howard Harris, Dianne Hart, Yvette Lewis, Marvin Martin, Charles McKenzie, Jr., Earl Rutledge, Alonda Vaughan, and Paulette Walker.

[2] The Sullivan Group consists of Defendant Intervenors Kenneth Sullivan, Albert Leo Sullivan, Michael Berman, Senator Arthenia Joyner, Representative Janet Cruz, Helen Gordon

Intervenors") submit the following Consolidated Answer in response to the Second Amended Complaint for Declaratory Judgment (Dkt. No. 52-1) ("Complaint") filed in this matter by the State of Florida ("Florida").

RESPONSES TO COMPLAINT

Defendant-Intervenors deny each and every averment of the Complaint except as specifically admitted in the following responses to the enumerated paragraphs of the Complaint.

I. PARTIES

1. Defendant-Intervenors admit the allegations in paragraph 1 to the extent that they identify the Plaintiff and that the Voting Rights Act ("VRA") authorizes Florida to bring a claim seeking VRA Section 5 ("Section 5") preclearance before this Court. Defendant-Intervenors deny that all of the citizens of Florida support this action or the relief sought.

2. Defendant-Intervenors admit the allegations in paragraph 2.

3. Defendant-Intervenors admit the allegations in paragraph 3, except to the extent that they suggest that only the United States of America and Attorney General are authorized to defend a Section 5 declaratory judgment action in this Court. Defendant-Intervenors aver that citizens and organizations in Section 5 jurisdictions are frequently permitted to intervene as defendants in Section 5 declaratory judgment actions.

Davis, Joyce Hamilton Henry, Harold Weeks, Ophelia Allen, Project Vote, Voting for America, Harry L. Sawyer, Jr., Ion Sancho, Reverend Tom Scott, and the Florida AFL-CIO.

[3] The NCLR Group consists of Defendant-Intervenors the National Council of La Raza and the League of Women Voters of Florida.

II. BACKGROUND

A. The Voting Rights Act

4. Defendant-Intervenors deny that the Fifteenth Amendment provides only one "guarantee" or that it was the only Constitutional provision that Congress sought to enforce through the VRA. Defendant-Intervenors otherwise admit the allegations in paragraph 4.

5. Defendant-Intervenors deny that the Fifteenth Amendment provides only one "guarantee" or that it was the only Constitutional provision that Congress sought to enforce through the VRA. Defendant-Intervenors admit that paragraph 5 accurately quotes portions of the original enactment of Section 2 of the VRA, and that Section 2 of the VRA applies nationwide.

6. Defendant-Intervenors admit that Section 4(b) of the VRA, 42 U.S.C. § 1973b(b), sets forth which jurisdictions are subject to certain portions of the VRA, including Sections 5 and 8.

7. Defendant-Intervenors admit that paragraph 7 accurately quotes portions of Section 4(b) of the VRA as enacted in 1965, and that Section 4(b) sets forth which jurisdictions are subject to Section 5 of the VRA.

8. Defendant-Intervenors admit the allegations in paragraph 8 to the extent that they purport to identify certain coverage determinations made under the VRA as originally enacted in 1965, but deny the allegations in paragraph 8 to the extent that they purport to correctly identify every coverage determination made under the VRA as originally enacted in 1965.

9. Defendant-Intervenors admit that paragraph 9 accurately quotes certain portions of Section 5 of the VRA as enacted in 1965, except that Section 5 does not use the term "preclear."

10. Defendant-Intervenors admit that paragraph 10 accurately quotes certain portions of Section 5 as originally enacted in 1965.

11. Defendant-Intervenors admit that paragraph 11 accurately quotes a portion of *Nw. Austin Mun. Util. Dist. No. One v. Holder*, 129 S. Ct. 2504 (2009), and that Congress reauthorized the VRA for five years in 1970.

12. Defendant-Intervenors admit that Congress reauthorized the VRA for seven years in 1975.

13. Defendant-Intervenors admit the allegations in paragraph 13 to the extent that they describe changes made as a result of Congress's 1975 reauthorization of the VRA, including amendments to Section 4 of the VRA.

14. Defendant-Intervenors admit the allegations in paragraph 14 to the extent that they describe changes made as a result of Congress's 1975 reauthorization of the VRA.

15. Defendant-Intervenors admit that Congress reauthorized the VRA for 25 years in 1982.

16. Defendant-Intervenors admit that Congress reauthorized the VRA for 25 years in 2006.

17. Defendant-Intervenors admit that in 2006 Congress reauthorized the VRA and made certain amendments to Section 4 of the VRA.

18. Defendant-Intervenors admit that in 2006 Congress reauthorized the VRA and made certain amendments to Section 5 of the VRA.

19. Defendant-Intervenors admit that paragraph 19 accurately, but only partially, quotes certain portions of the VRA as reauthorized in 2006, but deny that paragraph 19 completely sets forth all applicable requirements of the VRA.

20. Defendant-Intervenors deny the allegations contained in paragraph 20 to the extent that they imply that "the totality of the circumstances" retrogression test was applicable at any time before the 2003 decision of the United States Supreme Court in *Georgia v. Ashcroft*, 539 U.S. 461 (2003). Defendant-Intervenors admit that paragraph 20 accurately quotes certain portions of the cited Supreme Court opinions.

21. Defendant-Intervenors deny the allegations contained in paragraph 21 to the extent that they imply that Section 5 preclearance was permitted for voting changes "enacted with a discriminatory but nonretrogressive purpose" at any time before the 2000 decision of the United States Supreme Court in *Reno v. Bossier Parish Sch. Bd.*, 528 U.S. 320 (2000). Defendant-Intervenors admit that in 2006 Congress reauthorized the VRA and made certain amendments to Section 5 of the VRA, including requiring that covered jurisdictions prove that proposed voting changes do not have "any discriminatory purpose," and that paragraph 21 accurately quotes a portion of *Reno v. Bossier Parish Sch. Bd.*, 528 U.S. 320 (2000).

22. Defendant-Intervenors admit that paragraph 22 accurately quotes a portion of *Reno v. Bossier Parish Sch. Bd.*, 528 U.S. 320 (2000), but otherwise deny the allegations in paragraph 22.

B. Florida and the Voting Rights Act

23. Defendant-Intervenors admit the allegations in paragraph 23.

24. Defendant-Intervenors admit the allegations in paragraph 24, except that the date for determining Section 5 coverage, with regard to voter registration rates in Florida counties in 1972, is November 1, 1972.

25. Defendant-Intervenors admit the allegations in paragraph 25 to the extent that the five Florida counties named in paragraph 23 continue to be covered jurisdictions under Section 5.

26. Defendant-Intervenors admit that "Florida must establish that the voting changes in the five jurisdictions do not have [either] the 'purpose of [n]or will have the effect of diminishing the ability of any citizens of the United States on account of race or color … to elect their preferred candidates of choice,'" 42 U.S.C. § 1973c(b), but deny that this is the only applicable requirement.

C. The 2011 Florida Voting Changes

27. Defendant-Intervenors deny that the provisions of Chapter 2011-40, Laws of Florida (the "Act"), for which Florida seeks a declaratory judgment in this lawsuit, are effective as law in the Florida counties covered by Section 5, and otherwise admit the allegations in paragraph 27.

28. Defendant-Intervenors admit the allegations in paragraph 28.

29. Defendant-Intervenors admit the allegations in paragraph 29 that on or about May 19, 2011, Florida Secretary of State Kurt Browning issued Directive 2011-01 describing his interpretation of the Act.

30. Upon information and belief, Defendant-Intervenors admit that Florida made an administrative Section 5 submission to the Attorney General, which was received on June 9, 2011, regarding the voting changes occasioned by the Act, and that subsequent to the filing of this lawsuit, on August 8, 2011, the Attorney General granted Section 5 preclearance to certain of the submitted voting changes, *i.e.*, all submitted changes except those voting changes that

Florida withdrew from review before the Attorney General and for which Florida now seeks a declaratory judgment in this suit.

31. Defendant-Intervenors admit that the Florida Department of State filed Rule 1S-2.042, titled Third-Party Voter Registration Organizations, for adoption on October 13, 2011, that it is slated to take effect on November 2, 2011, and that it seeks to implement certain provisions of the Act. Defendant-Intervenors lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 31, and thus deny these allegations.

32. Defendant-Intervenors admit that paragraph 32 accurately quotes certain portions of Rule 1S-2.042, which relates to the Florida voter registration process, adopts certain voter registration forms, and addresses the process for the submission of completed voter registration forms, but deny all other allegations in paragraph 32.

33. Defendant-Intervenors admit the allegations in paragraph 33 to the extent that they describe the statutory basis for the claims asserted by Florida. Defendant-Intervenors understand that Florida's claims include a request for preclearance of the changes occasioned by Rule 1S-2.042 (attached to the Complaint as Exhibit B), and that those claims incorporate the Secretary of State's May 19, 2011 Directive (attached to the Complaint as Exhibit A) insofar as that Directive addresses early voting and voter changes of residence. Defendant-Intervenors deny that Florida is entitled to receive the relief that it requests and that VRA Section 5 precludes Florida from uniformly enforcing its election laws.

III. JURISDICTION AND VENUE

34. Defendant-Intervenors admit the allegations in paragraph 34.

35. Defendant-Intervenors admit the allegations in paragraph 35.

IV. PRECLEARANCE ALLEGATIONS

36. Defendant-Intervenors admit the allegations in paragraph 36.

37. Defendant-Intervenors admit that the allegations in paragraph 37 accurately characterize the subject matter of this lawsuit, which the Defendant-Intervenors understand to include Florida's request for preclearance of the changes occasioned by Rule 1S-2.042 (attached to the Complaint as Exhibit B) and by the Secretary of State's May 19, 2011 Directive (attached to the Complaint as Exhibit A), insofar as that Directive addresses early voting and voter changes of residence, but deny that Florida is entitled to receive the relief that it requests and that Section 5 precludes Florida from uniformly enforcing its election laws.

38. Defendant-Intervenors deny the allegations in paragraph 38.

A. Section 4 (Third-Party Voter Registration Organizations)

(i) Benchmark Practice – Third Party Voter Registration Organizations

39. Defendant-Intervenors admit that paragraph 39 correctly summarizes Florida's voter registration law prior to January 1, 1995, and that Florida adopted Fla. Stat. § 97.0575 in 2005 and amended this law in 2007. Defendant-Intervenors deny that Fla. Stat. § 97.0575 represents the Florida Legislature's first comprehensive regulation of third-party voter registration organizations, as Defendant-Intervenors aver that the law governing voter registration in Florida before 2005 included the National Voter Registration Act of 1993 and the Florida Voter Registration Act of 1995. Defendant-Intervenors further deny that Fla. Stat. § 97.0575 represents the Section 5 benchmark practice, in that the benchmark includes the decision in *League of Women Voters v. Browning*, 575 F. Supp. 2d 1298 (S.D. Fla. 2008), and the regulations, practices, and materials issued or adopted by the Florida Division of Elections and the Secretary of State.

40. Defendant-Intervenors admit that the allegations in paragraph 40 correctly describe provisions of Fla. Stat. § 97.021(37) and that the provisions of this statute, in part, constitute the Section 5 benchmark. Defendant-Intervenors deny that the allegations in paragraph 40 fully identify the applicable Section 5 benchmark.

41. Defendant-Intervenors admit that Fla. Stat. § 97.0575(1) includes provisions relating to the matters alleged in paragraph 41 and that paragraph 41 accurately quotes from that statute. Defendant-Intervenors deny that paragraph 41 accurately sets forth, even in part, the Section 5 benchmark in that Defendant-Intervenors deny that the statute requires third-party registration organizations to register with the State of Florida, or otherwise provide information to Florida, since Fla. Stat. § 97.0575 provides that there is no penalty if such organizations decline to register and decline to provide such information.

42. Defendant-Intervenors admit that the allegations in paragraph 42 correctly quote provisions of Fla. Stat. § 97.0575(3) and that the provisions of this statute, in part, constitute the Section 5 benchmark. Defendant-Intervenors deny that the allegations in paragraph 42 fully identify the applicable Section 5 benchmark.

43. Defendant-Intervenors admit that the allegations in paragraph 43 correctly describe provisions of Fla. Stat. § 97.0575 and that the provisions of this statute, in part, constitute the Section 5 benchmark. Defendant-Intervenors deny that the allegations in paragraph 43 fully identify the applicable Section 5 benchmark.

44. Defendant-Intervenors admit that the allegations in paragraph 44 correctly describe provisions of Fla. Stat. § 97.0575 and that the provisions of this statute, in part, constitute the Section 5 benchmark. Defendant-Intervenors deny that the allegations in paragraph 44 fully identify the applicable Section 5 benchmark.

45. Defendant-Intervenors admit that Fla. Stat. § 97.0575(1) includes provisions relating to the matters alleged in paragraph 45. Defendant-Intervenors deny that paragraph 45 accurately sets forth, even in part, the Section 5 benchmark in that Defendant-Intervenors deny that the statute requires third-party registration organizations to submit any report to the Florida Secretary of State, since Fla. Stat. § 97.0575 provides that there is no penalty if such organizations decline to submit the report described in paragraph 45.

(ii) Changes Sought to be Precleared – Third Party Registration Organizations

46. Defendant-Intervenors admit that the Act will require that third-party voter registration organizations register with Florida before engaging in any registration activities, but deny that existing law requires any such preregistration (*see* Answer to paragraph 41). Defendant-Intervenors admit that existing law requires that third-party voter registration organizations promptly deliver completed voter registration applications to election officials, and that the Act also requires prompt delivery of such applications, but deny that this is the only requirement imposed by the Act on third-party voter registration organizations. Defendant-Intervenors admit that the applicable fines remain unchanged by the Act. Defendant-Intervenors otherwise deny the allegations in paragraph 46 insofar as they characterize the requirements of existing Florida law and compare that law to the provisions in the Act relating to third-party voter registration activities. Defendant-Intervenors further deny the allegations in paragraph 46 regarding the Section 5 benchmark because the allegations replicate or incorporate the incomplete and/or mistaken allegations concerning the Section 5 benchmark identified in the Answers to paragraphs 39, 41, and 45.

47. Defendant-Intervenors admit that one of the principal changes in the Act relates to the time period for delivery of completed voter registration applications, but deny the allegation

that this is "[t]he principal change." Defendant-Intervenors deny the allegations in paragraph 47 describing the Act's provisions relating to the time period in which third-party voter registration organizations must deliver completed applications to election officials, insofar as the following corrections are needed: Defendant-Intervenors aver that the Act permits applications to be submitted after the 48-hour period on the next business day only if the office is closed for the 48-hour period; Defendant-Intervenors further aver that the Act requires voter registration forms to be submitted within 48 hours of the time of completion by the applicant. Defendant-Intervenors admit that the allegations in the last two sentences of paragraph 47 correctly describe provisions of Fla. Stat. § 97.0575(3)(b).

48. Defendant-Intervenors admit that the allegations in paragraph 48 correctly, but not completely, describe provisions included in the Act relating to third-party voter registration activities.

49. Defendant-Intervenors admit that the allegations in paragraph 49 correctly describe provisions included in the Act relating to third-party voter registration activities.

(iii) Purpose and Effect – Third-Party Voter Registration Organizations

50. Defendant-Intervenors deny the allegations in paragraph 50.

51. Defendant-Intervenors admit the allegations in paragraph 51 insofar as they quote provisions of existing Fla. Stat. § 97.0575(3), but deny all other allegations in paragraph 51.

B. Section 23 (Constitutional Amendments Proposed by Initiative)

(i) Benchmark Practice – Constitutional Amendments Proposed by Initiative

52. Defendant-Intervenors admit that the allegations in paragraph 52 correctly describe the provisions of Fla. Stat. § 100.371. Defendant-Intervenors aver that existing Florida law regarding constitutional amendments proposed by initiative includes any regulations,

practices, and materials issued or adopted by the Florida Division of Elections and the Florida Secretary of State. Defendant-Intervenors aver that the benchmark practices are the practices that have received Section 5 preclearance or otherwise are legally enforceable under Section 5, but deny that paragraph 52 sets forth the appropriate Section 5 benchmark to the extent that any of the practices described have not received Section 5 preclearance.

53. Defendant-Intervenors admit that the allegations in paragraph 53 correctly describe the provisions of Fla. Stat. § 100.371(3). Defendant-Intervenors deny the allegations in paragraph 53 regarding the Section 5 benchmark for the reasons set forth in the Answer to the paragraph 52 allegations.

54. Defendant-Intervenors admit that the allegations in paragraph 54 correctly describe the provisions of Fla. Stat. § 100.371(6) and the holding of *Browning v. Florida Hometown Democracy, Inc., PAC,* 29 So.3d 1053 (Fla. 2010). Defendant-Intervenors deny the allegations in paragraph 54 regarding the Section 5 benchmark for the reasons set forth in the Answer to the paragraph 52 allegations.

(ii) Changes Sought to be Precleared – Constitutional Amendments Proposed by Initiative

55. Defendant-Intervenors admit that the allegations in paragraph 55 correctly describe the Act's amendments to Fla. Stat. § 100.371(3). Defendant-Intervenors deny the allegations in paragraph 55 regarding the Section 5 benchmark for the reasons set forth in the Answer to the paragraph 52 allegations.

56. Defendant-Intervenors admit that the allegations in paragraph 56 correctly describe the Act's provisions governing signature verification. Defendant-Intervenors deny the allegations in paragraph 56 regarding the Section 5 benchmark for the reasons set forth in the Answer to the paragraph 52 allegations.

57. Defendant-Intervenors admit that the allegations in paragraph 57 correctly describe the Act's amendments to Fla. Stat. § 100.371(6).

(iii) Purpose and Effect – Constitutional Amendments Proposed by Initiative

58. The Sullivan Group admits the allegations in paragraph 58 that the changes contained in Section 23 of the Act change the signature verification responsibilities of county supervisors of elections and repeal statutory language related to signature revocation that had been judicially invalidated, but denies the remaining allegations of this paragraph. The NCLR Group and the NAACP Group lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 58, and thus deny these allegations.

59. The Sullivan Group denies the allegations in paragraph 59. The NCLR Group and the NAACP Group lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 59, and thus deny these allegations.

C. Section 26 (Change of Residence)

(i) Benchmark Practice – Change of Residence

60. Defendant-Intervenors admit that the allegations in paragraph 60 correctly describe the provisions of Fla. Stat. §§ 101.045(1), 101.045(2)(a), and 97.1031. Defendant-Intervenors aver that existing Florida law regarding voting by registered voters who change their voting residence includes any regulations, practices, and materials issued or adopted by the Florida Division of Elections and the Florida Secretary of State. Defendant-Intervenors aver that the benchmark practices are the practices that have received Section 5 preclearance or otherwise are legally enforceable under Section 5, but deny that paragraph 60 sets forth the appropriate Section 5 benchmark to the extent that any of the practices described have not received Section 5 preclearance.

61. Defendant-Intervenors admit that the allegations in paragraph 61 correctly describe the provisions of Fla. Stat. § 101.045(2). Defendant-Intervenors deny the allegations in paragraph 61 regarding the Section 5 benchmark for the reasons set forth in the Answer to the paragraph 60 allegations.

62. Defendant-Intervenors admit that the allegations in paragraph 62 correctly describe the provisions of Fla. Stat. § 101.045(2)(d).

(ii) Changes Sought to be Precleared – Change of Residence

63. Defendant-Intervenors admit that the allegations in paragraph 63 correctly describe the Act's amendments to Fla. Stat. § 101.045(2). Defendant-Intervenors deny the allegations in paragraph 63 regarding the Section 5 benchmark for the reasons set forth in the Answer to the paragraph 60 allegations.

64. Defendant-Intervenors admit that the standards for canvassing a provisional ballot are not changed by the Act. Upon information and belief, Defendant-Intervenors deny that the allegations in paragraph 64 correctly describe the provisions of Fla. Stat. § 101.048(2)(b)(1), and aver that this statute permits the counting of a provisional ballot only if the person is registered to vote and entitled to vote at the precinct where the person cast a vote in the election. Defendant-Intervenors deny the allegations in paragraph 64 regarding the Section 5 benchmark for the reasons set forth in the Answer to the paragraph 60 allegations. Defendant-Intervenors understand that Florida's claims incorporate the Secretary of State's May 19, 2011 Directive (attached to the Complaint as Exhibit A) insofar as that Directive addresses voter changes of residence and the canvassing of provisional ballots.

(iii) Purpose and Effect – Change of Residence

65. Defendant-Intervenors deny the allegations in paragraph 65.

66. Defendant-Intervenors deny the allegations in paragraph 66 that the voting changes concerning voting by registered voters who have changed their residence, for which Florida requests a declaratory judgment, will apply equally to every elector regardless of race, color, or membership in a language minority group. Defendant-Intervenors admit the allegations in paragraph 66 describing the individuals impacted by the Act's changes concerning residence for voting purposes.

67. Defendant-Intervenors deny the allegations in paragraph 67 that only a limited number of electors will be affected by the referenced voting changes, and further deny that affected individuals will not have their right to vote denied or abridged on account of race, color, or membership in a language minority group. Defendant-Intervenors also deny the allegations in paragraph 67 regarding the Section 5 benchmark for the reasons set forth in the Answer to the paragraph 60 allegations. Defendant-Intervenors lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 67, and thus deny these allegations.

68. Defendant-Intervenors deny the allegations of paragraph 68.

D. Section 39 (Early Voting)

(i) Benchmark Practice – Early Voting

69. Defendant-Intervenors admit that the allegations in paragraph 69 correctly describe the provisions of Fla. Stat. § 101.657. Defendant-Intervenors aver that existing Florida law regarding early voting includes any regulations, practices, and materials issued or adopted by the Florida Division of Elections, the county Supervisors of Elections, and the Florida Secretary of State. Defendant-Intervenors aver that the benchmark practices are the practices that have received Section 5 preclearance or otherwise are legally enforceable under Section 5, but deny

that paragraph 69 sets forth the appropriate Section 5 benchmark to the extent that any of the practices described have not received Section 5 preclearance.

70. Defendant-Intervenors admit that the allegations in paragraph 70 correctly describe the provisions of Fla. Stat. § 101.657(1). Defendant-Intervenors deny the allegations in paragraph 70 regarding the Section 5 benchmark for the reasons set forth in the Answer to the paragraph 69 allegations.

(ii) Changes Sought to be Precleared – Early Voting

71. Defendant-Intervenors admit that the allegations in paragraph 71 correctly describe the provisions of the Act amending Fla. Stat. § 101.657(1). Defendant-Intervenors deny the allegations in paragraph 71 that the changes to the early voting law occasioned by the Act adequately preserve the option of early voting or provide increased flexibility in a manner equivalent to the existing practice.

72. Defendant-Intervenors admit that the allegations in paragraph 72 correctly describe the Act's amendment to Fla. Stat. § 101.657(1)(d).

(iii) Purpose and Effect – Early Voting

73. Defendant-Intervenors deny the allegations in paragraph 73.

74. Defendant-Intervenors admit that the allegations in paragraph 74 correctly describe the Act's amendment to Fla. Stat. § 101.657(1)(d), but deny all other allegations in paragraph 74.

75. Defendant-Intervenors admit that the allegations in paragraph 75 correctly describe the Act's amendment to the maximum number of early voting hours in an individual day on which early voting is permitted under the Act, but deny all other allegations in paragraph 75.

76. Defendant-Intervenors admit that the allegations in paragraph 76 correctly describe the Act's amendments to Fla. Stat. § 101.657(1)(d) insofar as the Act provides for 6-12 hours of early voting on the one Sunday of early voting permitted by the Act; however, Defendant-Intervenors aver that the Act disallows early voting on the Sunday immediately prior to an election. Defendant-Intervenors further admit that, although the five covered Florida counties were authorized by law to offer early voting on Sundays, those counties did not do so in the primary or general elections held in 2008 or 2010.

77. Defendant-Intervenors deny the allegations in paragraph 77.

V. CAUSES OF ACTION

COUNT ONE: DECLARATORY JUDGMENT – THIRD-PARTY VOTER REGISTRATION

78. Paragraph 78 re-alleges the allegations contained in paragraphs 1 through 77 of the Complaint and thus does not include any new or additional allegations; to the extent that Paragraph 78 includes any allegations, Defendant-Intervenors deny them to the extent that the allegations of paragraphs 1 through 77 are denied above.

79. Defendant-Intervenors deny the allegations in paragraph 79.

80. Defendant-Intervenors deny the allegations in paragraph 80.

81. Defendant-Intervenors deny the allegations in paragraph 81.

82. Defendant-Intervenors deny the allegations in paragraph 82.

83. Defendant-Intervenors deny the allegations in paragraph 83.

84. Defendant-Intervenors deny the allegations in paragraph 84.

85. Defendant-Intervenors deny the allegations in paragraph 85.

86. Defendant-Intervenors deny the allegations in paragraph 86.

COUNT TWO: DECLARATORY JUDGMENT – CONSTITUTIONAL AMENDMENTS PROPOSED BY INITIATIVE

87. Paragraph 87 re-alleges the allegations contained in paragraphs 1 through 77 of the Complaint and thus does not include any new or additional allegations; to the extent that Paragraph 87 includes any allegations, Defendant-Intervenors deny them to the extent that the allegations of paragraphs 1 through 77 are denied above.

88. Defendant-Intervenors deny the allegations in paragraph 88.

89. Defendant-Intervenors deny the allegations in paragraph 89.

90. Defendant-Intervenors deny the allegations in paragraph 90.

91. Defendant-Intervenors deny the allegations in paragraph 91.

92. Defendant-Intervenors deny the allegations in paragraph 92.

93. Defendant-Intervenors deny the allegations in paragraph 93.

94. Defendant-Intervenors deny the allegations in paragraph 94.

COUNT THREE: DECLARATORY JUDGMENT – CHANGE OF ADDRESS

95. Paragraph 95 re-alleges the allegations contained in paragraphs 1 through 77 of the Complaint and thus does not include any new or additional allegations; to the extent that Paragraph 95 includes any allegations, Defendant-Intervenors deny them to the extent that the allegations of paragraphs 1 through 77 are denied above.

96. Defendant-Intervenors deny the allegations in paragraph 96.

97. Defendant-Intervenors deny the allegations in paragraph 97.

98. Defendant-Intervenors deny the allegations in paragraph 98.

99. Defendant-Intervenors deny the allegations in paragraph 99.

100. Defendant-Intervenors deny the allegations in paragraph 100.

101. Defendant-Intervenors deny the allegations in paragraph 101.

102. Defendant-Intervenors deny the allegations in paragraph 102.

COUNT FOUR: DECLARATORY JUDGMENT – EARLY VOTING

103. Paragraph 103 re-alleges the allegations contained in paragraphs 1 through 77 of the Complaint and thus does not include any new or additional allegations; to the extent that Paragraph 103 includes any allegations, Defendant-Intervenors deny them to the extent that the allegations of paragraphs 1 through 77 are denied above.

104. Defendant-Intervenors deny the allegations in paragraph 104.

105. Defendant-Intervenors deny the allegations in paragraph 105.

106. Defendant-Intervenors deny the allegations in paragraph 106.

107. Defendant-Intervenors deny the allegations in paragraph 107.

108. Defendant-Intervenors deny the allegations in paragraph 108.

109. Defendant-Intervenors deny the allegations in paragraph 109.

110. Defendant-Intervenors deny the allegations in paragraph 110.

COUNT FIVE: DECLARATORY JUDGMENT – SECTION 4(b) OF THE VRA IS UNCONSTITUTIONAL

111. Paragraph 111 re-alleges the allegations contained in paragraphs 1 through 77 of the Complaint and thus does not include any new or additional allegations; to the extent that Paragraph 111 includes any allegations, Defendant-Intervenors deny them to the extent that the allegations of paragraphs 1 through 77 are denied above.

112. Defendant-Intervenors deny the allegations in paragraph 112.

113. Defendant-Intervenors deny the allegations in paragraph 113.

114. Defendant-Intervenors deny the allegations in paragraph 114.

COUNT SIX: DECLARATORY JUDGMENT – SECTION 5 OF THE VRA IS UNCONSTITUTIONAL

115. Paragraph 115 re-alleges the allegations contained in paragraphs 1 through 77 of the Complaint and thus does not include any new or additional allegations; to the extent that Paragraph 115 includes any allegations, Defendant-Intervenors deny them to the extent that the allegations of paragraphs 1 through 77 are denied above.

116. Defendant-Intervenors deny the allegations in paragraph 116.

117. Defendant-Intervenors deny the allegations in paragraph 117.

118. Defendant-Intervenors deny the allegations in paragraph 118.

119. Defendant-Intervenors deny the allegations in paragraph 119.

120. Defendant-Intervenors deny the allegations in paragraph 120.

PRAYER FOR RELIEF

Wherefore, Defendant-Intervenors respectfully request that the Court enter a judgment:

1. Dismissing Plaintiff's Second Amended Complaint with prejudice;

2. Denying Plaintiff's request for a declaratory judgment determining that the voting changes that are the subject of the Complaint neither have a discriminatory or retrogressive effect nor were adopted with a discriminatory purpose;

3. Denying Plaintiff's request for a declaratory judgment determining that Section 4(b) and Section 5 of the VRA are unconstitutional;

4. Granting Defendant-Intervenors appropriate temporary, preliminary, and/or permanent injunctive relief to enforce Section 5 of the VRA;

5. Awarding Defendant-Intervenors reasonable attorneys' fees, litigation expenses (including expert witness fees and expenses), and costs; and

6. Granting Defendant-Intervenors such other relief as the Court deems appropriate.

Respectfully submitted on October 28, 2011,

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CERTIFICATE OF SERVICE

I certify that on October 28, 2011, I filed the foregoing with the Court's electronic filing system, which will provide notice to all counsel of record.

/s/ Daniel T. O'Connor