

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

CASE NO.

DIVISION:

SECTION:

ACORN, The Urban League of Greater New Orleans, UNITY 04, Maggie Doucet, and  
all those people similarly situated

VERSUS

FOX MCKEITHEN, INDIVIDUALLY AND IN HIS CAPACITY AS LOUISIANA  
SECRETARY OF STATE; KIMBERLY WILLIAMSON BUTLER, INDIVIDUALLY  
AND IN HER CAPACITY AS CLERK OF THE CRIMINAL DISTRICT COURT FOR  
THE PARISH OF ORLEANS; ORLEANS PARISH BOARD OF ELECTION  
SUPERVISORS; LOUIS KELLER, INDIVIDUALLY AND IN HIS CAPACITY AS  
REGISTRAR OF VOTERS FOR ORLEANS PARISH

FILED: \_\_\_\_\_

\_\_\_\_\_  
DEPUTY CLERK

**COMPLAINT**

I.

Made defendants in this matter are:

A. Fox McKeithen, individually and in his capacity as the Louisiana Secretary of State, a resident of East Baton Rouge, Louisiana. The Louisiana Secretary of State, Fox McKeithen, is responsible for elections in Louisiana. He is chief elections officer of the state of Louisiana and has responsibility for general supervision and administration of election laws of Louisiana. See La. Rev. Stat. Ann. §§ 18:421; 18:1353; 18:1364; 18:1371; 18:1372; 18:1373; 18:1376 et al.;

B. Kimberly Williamson Butler, individually and in her capacity as Clerk of the Criminal District Court for the Parish of Orleans, a resident of Orleans Parish, Louisiana. See La. Rev. Stat. Ann. § 18:422;

C. The Orleans Parish Board of Election Supervisors, who, according to La. Rev. Stat. 18:423 C(2) include: the Registrar of Voters, Louis Keller; the Civil Sheriff, Paul Valteau; the Clerk of the Criminal Court, Kimberly Williamson Butler; and representatives of the parish executive committees for the Democratic and Republican political parties; and James Bruneau, the appointee of the Governor. See La. Rev. Stat. Ann. § 18:423.

D. Louis Keller, Registrar of Voters Orleans Parish.

II.

This emergency action for injunctive relief is brought to preserve Plaintiff's rights to effectively cast a vote in the 2004 general election, rights secured by both federal law and the law of this State. Jurisdiction of this Court is proper under Louisiana Revised Statute § because this is a Court of general jurisdiction. Venue in this Court is proper because the parties reside and the facts alleged took place in Orleans Parish .

III.

Plaintiffs in this matter include:

ACORN, an organization of low and moderate income citizens of Louisiana, which has thousands of members in Orleans Parish, many of whom have been adversely affected, directly and indirectly, by the denial of the right to vote in Orleans Parish, Louisiana.

The Urban League of Greater New Orleans, an organization of citizens of Louisiana, which has many members who reside and registered to vote in Orleans Parish, many of whom have been adversely affected, directly and indirectly, by the denial of the right to vote in Orleans Parish, Louisiana.

UNITY 04 an organization of citizens of Louisiana, which has many members who reside and registered to vote Orleans Parish, many of whom have been adversely affected, directly and indirectly, by the denial of the right to vote in Orleans Parish, Louisiana.

The above organizations sue on behalf of all qualified voters of Orleans Parish who are within their constituencies and are being denied the effective right to vote by the practices alleged in this Complaint.

Maggie W. Doucet is a citizen and registered voter of Orleans Parish. She sues on her own behalf and on behalf of all qualified voters of Orleans Parish who are being denied the right to vote by the practices alleged in this complaint.

#### IV.

As detailed below, Defendants' actions have prevented and continue to prevent thousands of eligible Orleans Parish residents from effectively exercising their right to vote in violation of federal and state law.

#### V.

In violation of Louisiana Revised Statute § 18:541, which requires that on Election Day, election officials open polling sites at 6:00 a.m. and close at 8:00 p.m., upon information and belief, a number of polling sites in Orleans Parish failed to open promptly at 6:00 a.m., thereby depriving voters of an effective right to vote. The polls were not open because, at 29 polling sites, voting machines either were not functioning properly or could not be unlocked at 6:00 a.m.

## VI.

In violation of United States Constitution, election officials at polling sites in Orleans Parish where the voting machines malfunctioned refused to permit registered, eligible voters to cast their vote. Election officials told voters to return later in the day or to wait until the machine in question was functional. Upon information and belief, hundreds of voters who intended to vote this morning, many before work, were turned away. Malfunctioning machines were reported in the following precincts:

Ward 1, Precincts 1, 2, and 11;  
Ward 3, Precinct 12;  
Ward 5, Precincts 6 and 7;  
Ward 6, Precinct 6;  
Ward 7, Precincts 4a, 12, 17, and 27;  
Ward 9, Precinct 28e, 29, 29a, 30, 31, 31b, 31c, 38, and 42;  
Ward 10, Precincts 3, 4, 5, 6, 7, and 8;  
Ward 11, Precincts 11 and 17;  
Ward 12, Precincts 7a, 14, and 20;  
Ward 13, Precinct 11;  
Ward 16, Precinct 14; and  
Ward 17, Precincts 10, 11, 13, and 13a.

## VII.

In violation of Louisiana Revised Statute § 18:566 and the Help America Vote Action, as codified at 42 U.S.C. § 15482, election officials are failing to permit voters to cast provisional ballots when their names are not on the list of registered voters.

In many precincts in Orleans Parish, commissioners refused to permit people to cast provisional ballots because the registrar of voters was inaccessible. A commissioner is required to verify with the registrar's office any voter's registration whose name does not appear on the voter registration list, but the phone lines to the registrar's office were busy for hours. The commissioners denied voters the right to cast provisional ballots, thus effectively denying them their right to vote.

In a number of precincts in Orleans Parish, polling commissioners forced first time voters to cast only provisional ballots, thus depriving them of the right to vote for state and local elections.

In other precincts in Orleans Parish, voters were only allowed to vote provisionally for the Congressional race and not for President, thus denying them the full right to vote.

## VIII.

Elections officials failed to provide polling places with a sufficient number of provisional ballots in accordance with Louisiana Revised Statute § 18:566 and 42 U.S.C. § 15482, despite the fact Orleans Parish recorded an unprecedented number of new registrants in the weeks leading up to Election Day. Large quantities of the provisional ballots were being kept and were available for distribution at the office of Defendant Kimberley Williamson Butler, Clerk of Criminal Court, as of mid-day today, yet the Clerk's office refused to distribute the provisional ballots, stating that the obligation for such distribution fell to the Office of the Registrar. The Office of the Registrar refused to distribute the ballots, citing a lack of resources to do so.

## IX.

The Defendants' inactions and failures to carry out their duties have caused confusion and frustration among registered and eligible voters. As a result, many voters forfeited their right to vote. The Defendants actions and inactions caused confusion, resulting in voters leaving the polling sites without voting; wrongfully turning voters away based upon incorrect information and ignorance of the law and its requirements; failing to provide required assistance; creating huge delays at the polling places which are preventing people from exercising their right to vote; and in general, failing to allow people to exercise their full right to vote. See attached affidavits.

## X.

The problems occurring in Orleans Parish are so widespread as to indicate systematic and Parish-wide voting irregularities.

## XI.

The actions and inactions of the Defendants constitute violations of the Fourteenth Amendment to the Constitution of the United States, the Constitution of the State of Louisiana, and Sections 2 and 5 of the federal Voting Rights Act, 42 USC 1973, et seq. as well as numerous violations of federal and state law.

## XII.

Plaintiffs are threatened with irreparable injury by the Defendants' actions, since many voters have lost and will lose their right to vote in both state and federal elections.

Plaintiffs have no adequate remedy at law since the right to vote at this election, if not safeguarded now, can never be restored, and the election results may be irreversibly affected by the Defendants' practices.

### **PRAYER FOR RELIEF**

Plaintiffs reallege the allegations set forth in all the paragraphs above. There has been a system-wide breakdown of the voting administration process in Orleans Parish that requires a system-wide remedy.

Wherefore, Plaintiffs request that this Court issue class-wide relief in order to remedy the system-wide denial of the right to vote, and

Wherefore, Plaintiffs request that this Court issue orders to the defendants in this matter ordering them to answer and provide evidence on an expedited fashion in order to protect the right to vote of plaintiffs;

Wherefore, Plaintiffs ask this Court to issue a temporary restraining order, and later all appropriate preliminary and permanent relief, enjoining the Defendants, its agents, employees, servants, designees, including all clerks and managers, servants, designees, including all clerks and managers, and all persons acting in concert, from denying access to qualified voters, by failing to give any voter all the legally required information and assistance which he or she may request or require in order to be able to cast an effective ballot; and further that such assistance shall include at least the following:

1. Keeping all polling site locations in Orleans Parish open until 10:00 p.m. on November 2, 2004, and permitting any voter already in line at 10:00 p.m. to vote, in accordance with La. Rev. Stat. § 18:566.1; and
2. Ordering Defendants to allow all legally registered first-time voters to cast votes on the voting machines;
3. Ordering Defendants to affirmatively inform voters of their right to request a provisional ballot as required by law;
4. Ordering Defendants to allow voters who were first-time voters and who were wrongfully forced to vote provisionally, to return to the polling places and vote on the voting machines so they can vote for all local and state offices as well;

Plaintiff further requests that the Court Grant such other and further relief as may be just.

Respectfully submitted,

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Ronald L. Wilson #13575  
210 Baronne, Suite 1800  
New Orleans, LA 70112  
(504) 525-4361

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Alaina Beverly  
Appearing pro hac vice  
NAACP Legal Defense and Educational Fund, Inc.  
99 Hudson St., Suite 1600  
New York, NY 10013  
(212) 965-2200

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William P. Quigley #7769  
7214 St. Charles Avenue  
New Orleans, LA 70118  
504-861-5591

Verification of Petition

Sworn to and subscribed before me this 2<sup>nd</sup> day of November, 2004 in Orleans Parish, Louisiana. I swear that all the factual allegations in this matter are true and correct to the best of my knowledge.

William P. Quigley    November 2, 2004

Notary Public    date: \_\_\_\_\_

Please serve:

Fox McKeithen  
8549 United Plaza Blvd.  
Baton Rouge, LA 70809

Kimberly Williamson Butler  
2700 Tulane Avenue,  
New Orleans, LA

Board of Election Supervisors of Orleans Parish  
through Kimberly Williamson Butler  
2700 Tulane Avenue,  
New Orleans, LA