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Appearing *Pro Hac Vice*  
for Plaintiff Donald N. Daien

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO  
SOUTHERN DIVISION**

DONALD N. DAIEN,

Plaintiff,

v.

BEN YSURSA, in his official  
capacity as Secretary of State of  
Idaho,

Defendant.

Civil Case No. 1:09-cv-00022-REB

**PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

COMES NOW THE PLAINTIFF, Donald N. Daien ("Daien"), by and through his attorneys, The Bernhoft Law Firm, S.C., (Attorney Daniel J. Treuden, admitted *pro hac vice*), and respectfully moves this Honorable Court for Summary Judgment pursuant to Fed. R. Civ. P. 56 and Local R. 7.1. This motion is based on the pleadings, records, and files of this case, and seeks an order finding that the requirements of I.C. § 34-1807 (petition circulator residency) and I.C. § 708A (prior election percentage) violate rights secured Daien by the Constitution and Laws of the United States. As will be more fully demonstrated in the supporting memorandum

filed separately pursuant to Local R. 7.1(b)(1), there are no material facts in dispute and Daien is entitled to judgment as a matter of law.

WHEREFORE, for all the foregoing reasons, Daien respectfully prays for an order granting summary judgment in his favor, and such further relief as the Court deems just and equitable.

Dated: September 8, 2009

THE BERNHOFT LAW FIRM, S.C.  
Attorneys for the Plaintiffs

/s/ Daniel J. Treuden  
Daniel J. Treuden, Esquire  
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