

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

ROY FERRAND, LUTHER SCOTT, JR.,
and LOUISIANA STATE CONFERENCE
OF THE NAACP, for themselves and all
other persons similarly situated,

CIVIL ACTION NO. 2:11-00926
LMA - JCW

v.

TOM SCHEDLER in his official capacity
as the Louisiana Secretary of State, RUTH
JOHNSON, in her official capacity as
Secretary of the Louisiana Department of
Children & Family Services, and BRUCE
D. GREENSTEIN, in his official capacity
as Secretary of the Louisiana Department
of Health & Hospitals,

MOTION OF DEFENDANT, TOM SCHEDLER,
IN HIS OFFICIAL CAPACITY AS LOUISIANA SECRETARY OF STATE,
TO DISMISS UNDER RULE 12(b)

NOW INTO COURT, through undersigned counsel, comes Defendant, Tom Schedler,
in his capacity as Louisiana Secretary of State, who moves to dismiss the plaintiffs
complaint, all as more fully set forth in the Memorandum in Support filed herewith, for the
following reasons:

- A. This Court should dismiss plaintiffs' claims for relief for failure to satisfy the requirements of 42 U.S.C. 1973gg-9(b) prior to filing suit;
- B. This Court should dismiss the complaint of Louisiana Conference of the NAACP because it lacks standing to sue;
- C. This Court should dismiss the plaintiffs' action for declaratory relief because it seeks to adjudicate past conduct;

- D. This Court lacks subject matter jurisdiction over the plaintiffs' second claim for relief because the Eleventh Amendment bars all state law claims for injunctive or declaratory relief; and
- E. This Court should dismiss the plaintiffs' claims for imposition of a court-approved plan of reporting and monitoring because the NVRA does not require court-approved reporting and monitoring.

WHEREFORE, Defendant, Tom Schedler, in his official capacity as Louisiana Secretary of State, prays that this Court issue an Order granting his Motion To Dismiss and dismissing the plaintiffs' Complaint with prejudice.

Respectfully Submitted:

s/Celia R. Cangelosi
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official capacity as Louisiana Secretary of State

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing “Motion of Defendant Tom Schedler, In His Official Capacity as Louisiana Secretary of State, To Dismiss Under Rule 12(b)” was sent electronically or via U.S. First Class Mail, postage prepaid, to the following:

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Baton Rouge, Louisiana, this 2nd day of June, 2011.

s/Celia R. Cangelosi
CELIA R. CANGELOSI