

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

MCCAIN-PALIN 2008, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 3:08CV709
)	
JEAN CUNNINGHAM,)	
Chairman, Virginia State Board of Elections;)	
HAROLD PYON, Vice-Chairman, Virginia State)	
Board of Elections; and NANCY RODRIGUES,)	
Secretary, Virginia State Board of Elections,)	
)	
Defendants.)	
)	
_____)	

**MOTION FOR TEMPORARY RESTRAINING
ORDER AND PRELIMINARY INJUNCTION**

Plaintiff United States of America, pursuant to Rule 65 of the Federal Rules of Civil Procedure, seeks immediate injunctive relief against Defendants in order to enforce the right of absent uniformed services and overseas voters under the Uniformed and Overseas Citizens Absentee Voting Act of 1986, 42 U.S.C. §§ 1973ff to 1973ff-6 (“UOCAVA” or “the Act”), to vote by absentee ballot in the November 4, 2008, general federal election.

On November 14, 2008, Plaintiff United States of America filed a Complaint in Intervention alleging violations of UOCAVA arising from Defendants’ failure to provide certain eligible absent uniformed services voters and overseas voters (“UOCAVA voters”) with sufficient opportunity to participate in the November 4, 2008 general election. The United States filed this action to intervene in the case McCain-Palin 2008, Inc. v. Cunningham, et al, 3:08cv709.

Pursuant to Fed. R. Civ. P. 65, the United States hereby moves for a Preliminary Injunction and Temporary Restraining Order that requires Defendants to take such steps as are necessary to ensure that Virginia election officials count as validly cast ballots any absentee ballots from UOCAVA voters that were executed by November 4, 2008 and are received by 7:00 p.m. on November 14, 2008, provided that they otherwise satisfy the requirements of Virginia law.

The basis for the United States' Motion is set forth in the accompanying Memorandum.

Respectfully submitted,

GRACE CHUNG BECKER
Acting Assistant Attorney General

DANA J. BOENTE
Acting United States Attorney

By: _____/s/_____
Robin E. Perrin
Virginia State Bar No. 65825
Assistant United States Attorney
United States Attorney's Office
600 East Main Street, Suite 1800
Richmond, Virginia 23219
Telephone: (804) 819-5400
Facsimile: (804) 819-7417
Email: Robin.Perrin2@usdoj.gov

CHRISTOPHER COATES
Chief, Voting Section

REBECCA J. WERTZ
Principal Deputy Chief
ALBERTO RUISANCHEZ
LEMA BASHIR
Trial Attorneys
United States Department of Justice
Civil Rights Division, Voting Section
950 Pennsylvania Ave., NW
Room NWB-7254
Washington, D.C. 20530
Phone: (202) 305-1291
Fax: (202) 307-3961
rebecca.j.wertz@usdoj.gov
alberto.ruisanchez@usdoj.gov
lema.bashir@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of November, 2008, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following counsel of record:

Robert A. Dybing
rdybing@t-mlaw.com
Attorney for the Defendant

Stephen Charles Piepgrass
stephen.piepgrass@troutmansanders.com
Attorney for the Plaintiff

By: /s/

Robin E. Perrin
Virginia State Bar No. 65825
Assistant United States Attorney
United States Attorney's Office
600 East Main Street, Suite 1800
Richmond, Virginia 23219
Telephone: (804) 819-5400
Facsimile: (804) 819-7417
Email: Robin.Perrin2@usdoj.gov