



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

MCCAIN-PALIN 2008, INC.,)
)
 Plaintiff,)
)
 v.)
)
 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.)
)
 _____)

Case No. 3:08CV709

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

Plaintiff, McCain-Palin 2008, Inc., by counsel, and pursuant to Rule 65 of the Federal Rules of Civil Procedure, moves for a temporary restraining order and preliminary injunction as follows.

1. The Defendants, their agents and successors in office, and all persons acting in concert with them, including but not limited to members of local electoral boards and registrars, shall:

- a. preserve, safeguard and document the receipt of all absentee ballots received by local election officials in connection with the election held on November 4,

2008, even where such ballots are not received until after the close of the polls on November 4, 2008;

b. count as validly cast ballots, in contests relating to the general election for federal offices, those absentee ballots (including state-issued absentee ballots and Federal Write-in Absentee Ballots) cast by Virginia voters qualified to vote in Virginia pursuant to UOCAVA, and who otherwise comply with State law for absentee voting, where the ballot is executed and sent (whether by federal postal services or commercial delivery services) by November 4, 2008, and received by local election officials on or before 7:00 p.m. on November 14, 2008; and

2. In their capacity as members of the State Board of Elections, the Defendants and their successors in office shall issue all such instructions – and provide all such coordination and supervision – to local electoral boards and registrars as may be necessary to ensure full compliance with the foregoing

The basis for this Motion is set forth in the accompanying Memorandum.

Respectfully Submitted,
MCCAIN-PALIN 2008, INC.

By: Cedric L. Fyfe, P.
Counsel

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November 3, 2008

CERTIFICATE OF SERVICE

I hereby certify that, on the 3rd day of November, 2008, I have filed the foregoing with the Clerk of Court and have hand-delivered a copy of to:

Maureen Matson, Esq.
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