

causes of action asserted by the Plaintiff's Complaint and Emergency Motion...." The Chairman's Notice expressly reserved the right to seek leave of the Court to revise the Notice "in the event that, after this date, the Plaintiff or an Intervenor candidate raises new factual allegations or legal claims that are not presented in the Plaintiff's Complaint."

3. Two days later, on the afternoon on January 5, the Plaintiff filed an Amended Complaint that raised new factual allegations and legal theories, to wit: (1) Virginia's statutory signature petition process is wholly optional, not mandatory as the Chairman implemented it, and (2) the Republican Party of Virginia did not obtain pre-clearance for a guidance document sent to candidates explaining the process by which each candidate's petition signatures would be counted under Section 5 of the Voting Rights Act.

4. These arguments fail to state a claim against the Chairman for the reasons the Chairman has submitted to the Court in his Response to the Plaintiff's Emergency Motion for Preliminary Injunction. Moreover, these arguments are not presented in the Plaintiff's Emergency Motion for Preliminary Injunction and are not asserted as ground for the preliminary injunctive relief requested in the Plaintiff's Emergency Motion.

5. Therefore, at the hearing addressing the Plaintiff's Emergency Motion for Preliminary Injunction, the Chairman does not anticipate having to present any defense to the new claims asserted in the Amended Complaint. If the Chairman's understanding is correct, and the new legal arguments will not be presented, then the Chairman stands on his Notice of List of Witnesses filed on January 3 and does not intend to present any witnesses or documentary evidence.

6. However, in the event that the Chairman's Motion to Dismiss is not granted, and the Chairman and Republican Party of Virginia are required to answer any new claim or argument—not presented in the Plaintiff's Emergency Motion for Preliminary Injunction—that the Republican Party of Virginia violated any law in the process by which petition signatures were reviewed, counted or verified, including Va. Code § 545 or Section 5 of the Voting Rights Act, or that the Party in any way erred in its count or determination, then the Chairman respectfully requests leave to supplement his prior notice with these witnesses:

- (a) David Rexrode, Executive Director, Republican Party of Virginia. Mr. Rexrode will explain the process by which the Republican Party of Virginia counted and verified petition signatures and the guidance provided to all campaigns in the fall of 2011; Mr. Rexrode will authenticate the ballot petitions and candidate certifications that the Republican Party of Virginia received from the State Board of Elections and reviewed by the Party; and Mr. Rexrode will explain how determinations were reached upon review of each candidate's submissions.
- (b) Pat Mullins, Chairman, Republican Party of Virginia. Chairman Mullins will explain the process by which the Republican Party of Virginia counted and verified petition signatures and the guidance provided to all campaigns in the fall of 2011; Chairman Mullins will explain how determinations were reached upon review of each candidate's submissions and why he certified certain candidates but not others.

- (c) Documentary Evidence will include the actual petitions and accompanying candidate declarations and certifications that candidates Mitt Romney, Ron Paul, Rick Perry and Newt Gingrich submitted to the State Board of Elections and that the State Board of Elections provided to the Republican Party of Virginia for review and counting and verification, as well as the Party's materials used and compiled in the process of reviewing each candidate's submissions; these records will be available in the courtroom at the hearing on January 13 in the event the Court desires to review them or to fashion any relief based upon the process the Party implemented to review, count or verify signatures.

7. The Chairman respectfully requests that the Court waive the filing of a formal memorandum of law in support of this Motion. The grounds supporting this Motion are adequately set forth above.

Respectfully submitted this 11th day of January, 2012.

/s/

Charles E. Sims (Va. Bar 35845)
LeClairRyan, a Professional Corporation
Riverfront Plaza, East Tower
951 East Byrd Street, Eighth Floor
Richmond, Virginia 23219
Telephone: (804) 343-5091
Facsimile: (804) 783-7655
Charles.Sims@leclairryan.com

Lee E. Goodman (Va. Bar 31695)
LeClairRyan, a Professional Corporation
1101 Connecticut Ave., NW, Sixth Floor
Washington, DC 20036
(202) 659-6730 (Tel.)
(202) 775-6430 (Fax)
Lee.Goodman@leclairryan.com

***Attorneys for Patrick Mullins, Chairman
of the Republican Party of Virginia***

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of January 2012, I electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF system, which will then send a notification of such filing (NEF) to counsel named below:

Hugh M. Fain, III
Edward E. Bagnell, Jr.
Maurice F. Mullins
Spotts Fain PC
411 East Franklin Street
Richmond, Virginia 23218-1555
Telephone: (804) 788-1190
hfain@spottsfain.com
ebagnell@spottsfain.com
cmullins@spottsfain.com
Attorneys for The Honorable Rick Perry

James E. Trainor, III
Joseph M. Nixon
Martin D. Beirne
Beirne Maynard & Parsons LLP
1300 Post Oak Blvd., 25th Floor
Houston, Texas 77056
Telephone: (512) 623-6700
ttrainor@bmpllp.com
jnixon@bmpllp.com
mbeirne@bmpllp.com
Attorneys for The Honorable Rick Perry

E. Duncan Getchell, Jr.
Wesley G. Russell
Joseph N. Lief
Office of the Attorney General
900 East Main Street
Richmond, Virginia 23219
Telephone: (804) 786-2436
dgetchell@oag.state.va.us
wrussell@oag.state.va.us
Counsel for Charles Judd, Kimberly Bowers and Don Palmer, members of the Virginia State Board of Elections, in their official capacity

J. Christian Adams (VSB No. 42543)
Election Law Center, PLLC
300 N. Washington St., Suite 405
Alexandria, VA 22314
Telephone: (703) 963-8611
Facsimile: (703) 740-1773
adams@electionlawcenter.com
Counsel for Newt Gingrich, Jon Huntsman, Jr. and Rick Santorum

Cleta Mitchell
Foley & Lardner LLP
3000 K Street, N.W., Suite 600
Washington, DC 20007-5109
Telephone: (202) 672-5300
Facsimile: (202) 672-5399
Counsel for Rick Santorum

Stefan C. Passantino
J. Randolph Evans
Benjamin P. Keane
McKenna Long & Aldridge, LLP
1900 K St. NW
Washington, DC 20009
Telephone: (202) 496-7500
Facsimile: (202) 496-7756
Counsel for Newt Gingrich

Craig Engle
Arnet Fox LLP
1050 Connecticut Avenue, NW
Washington, DC 20036-5339
Telephone: (202) 857-6000
Facsimile: (202) 857-6395
Counsel for Jon Huntsman, Jr.

/s/

Charles E. Sims (Va. Bar 35845)
LeClairRyan, a Professional Corporation
Riverfront Plaza, East Tower
951 East Byrd Street, Eighth Floor
Richmond, Virginia 23219
Telephone: (804) 343-5091
Facsimile: (804) 783-7655
Charles.Sims@leclairryan.com

***Attorneys for Patrick Mullins, Chairman
of the Republican Party of Virginia***