**UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF COLUMBIA**

Asa Gordon, Pro Se
DC Presidential Elector,
Chair, DC Statehood Green Party Electoral College Task Force
Exe.Dir. Douglass Institute of Government
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3101 College Street
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**Plaintiff**s

VS.

The Honorable Lorraine C. Miller
Clerk of the U.S. House of Representatives
U.S. Capitol, Room H154
Washington, DC 20515–6601
(202) 225–7000

**Defendant.**

Case: 1:11-cv-0003
Assigned To: Kennedy, Henry H.
Assign. Date: 1/3/2011
Description: TRO/PI

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

## I. JURISDICTION AND VENUE

1. This is an action for declaratory and injunctive relief under the First, Ninth, Tenth and Fourteenth Amendment to the United States Constitution, 42U.S.C.§1983 and 2U.S.C.§6. Plaintiff, pursuant to Rule 65 of the Federal Rules of Civil Procedure, seeks the entry of a Temporary Restraining Order and Preliminary Injunction against Defendant Lorraine C. Miller, Clerk of the U.S. House of Representatives.

## II. THE PARTIES

2. Plaintiff, Robert Asa Gordon, Pro Se, is Founder and Executive Director of the Douglass Institute of Government, registered voter of the District of Columbia, Presidential Elector, and Chair, DC Statehood Green Party Electoral College Task Force. In this capacity the Plaintiff has been instrumental in formulating the position statement of the Green Party of the United States in regards to voting rights under the 14th Amendment.

3. Plaintiff, Thelma Tharpe, Pro Se, is a registered voter of the Democratic Party in Chatham County, Thunderbolt, Ga.

4. The Honorable Lorraine C. Miller, is being sued in her ex officio capacity as the Clerk of the U.S. House of Representatives, acting under House Rules to recognize elected members to the U.S. House of Representatives, on January 5th, 2011, and following sessions of each Congress.

## III INTRODUCTION

5. Pursuant to Rule II of the House Rules, the Clerk(Defendant) is required to: prepare the roll of House Members-elect. and call the Members-elect to order at the commencement of each Congress.

6. The Office of the Federal Register of the National Archives and Records Administration explicitly declares that "Electors in these States ARKANSAS, GEORGIA, LOUISIANA, TENNESSEE, and TEXAS are not bound by State Law to cast their vote for a specific candidate".

{ http://www.archives.gov/federal-register/electoral-college/laws.html }

7. The following states: ARKANSAS, GEORGIA, LOUISIANA, TENNESSEE, TEXAS, are unbound electoral states that allocated their presidential electors on a "winner take all" basis wherein there exists no "winner take all" state election statute. These states de-facto disenfranchised the citizens of their respective states who voted for presidential electors pledged to the candidate with less then a plurality of the popular vote in the Presidential election of 2008.

8. Enshrined in the Constitution of the United States of America (**Amend. XIV§2**) as implemented by the "Reduction of representation" U.S. Code (**2USC §6**) is a ***de jure*** mandate for the reduction of a State's representatives to Congress"when the right to vote at any election for the choice of electors for President and Vice-President of the United States... is denied to any ... citizens of the United States, or in any way abridged"

9. Plaintiff enters this plea for injunctive relief against the Defendant, Clerk of the U.S. House of Representatives, acting ex officio under House Rules in order to enjoin the Clerk from recognizing the full slate of elected members from *unbound Southern electoral states* to the U.S. House of Representatives, who by practice, unsupported by state or federal statute, traditionally award Presidential Electors on a "winner-take-all basis". Plaintiff seeks redress by enforcement of the *malapportionment penalty* provided by Section 2 of the 14th Amendment to the U.S. Constitution, wherein "the right to vote at any election for the choice of electors for President and Vice President of the United States, ... is denied .. or in any way abridged" .

10. Plaintiff enters this plea for a Court declaratory judgment for a *proportional reallocation of electors* for the subject unbounded Southern states in the presidential election of 2008 to relieve the present unbounded states from the *malapportionment penalty* of **Amend. XIV§2** as implemented by **2USC§6**, in order to avoid the present standing constitutional mandate for Congressional reduction. Further, the Plaintiff enters this plea for a Court declaratory judgment that **Amend. XIV§2** as implemented by **2USC§6** mandates *proportional apportionment of presidential electors* based on the popular vote split for unbounded electoral states.

## IV COMPLAINT

11. Plaintiffs aver and request that this court take judicial notice that the following states: ARKANSAS, GEORGIA, LOUISIANA, TENNESSEE, TEXAS, are unbound presidential electors states. These "unbound" electoral states following the general presidential election of November 4, 2008 allocated their presidential electors on a "winner take all" basis wherein there exists no "winner take all" election statute. These states have in effect disenfranchised the citizens of the state who voted for the presidential electors pledged to the candidate with less than the popular majority vote.

12. Plaintiffs aver and request that this court take judicial notice of the following: the *unbounded electoral states* under "winner take all" provisions ungrounded in state law *did* de facto deny and/or abridge "citizens of the United States" in the exercise of their "right to vote ... for the choice of electors for President and Vice-President of the United States" on the basis of race and/ or party affiliation in violation of the second section of the Fourteenth Amendment. The plain textual language of the malapportionment penalty of the Second Section of the Fourteenth Amendment mandates that the offending states representatives to congress be reduced in the proportion that the discriminated class of citizens based on race and/or party affiliation bears to the whole number of the State's citizens.

13. Plaintiffs aver and request that this court take judicial notice of the following: These Southern states awarded all of their unbounded presidential electors by "winner take all" provisions not based in any state or federal law but predicated on the majority choice of its white citizens. These unbounded Southern states de-facto disenfranchise those electors of the state based on the votes of the states black citizens.

14. Plaintiffs aver and request that this court take judicial notice of the following: There is no legal, or rational reason, for the unbounded Southern states not to allocate a proportionate apportionment of the statess presidential electors based on the popular split, other than to preserve a preferential discriminate electoral choice representative of the states' majority white population.

15. Plaintiffs aver and request that this court take judicial notice of the following: the allocation of presidential electors by *unbounded Southern electoral states* on an at large "winner take all" basis ungrounded in either state or federal law invokes *minority vote dilution* for voters registered to vote *in or out* of the offending states *by race and/or party affiliation* and de facto denies to the Plaintiffs an *equally effective national vote* for the President of the United States of America.

16. Plaintiffs aver and request that this court take judicial notice of the following: The Honorable Lorraine C. Miller, acting ex officio as the Clerk of the U.S. House of Representatives, under House Rules will in the absence of a court injunction recognize elected members to the U.S. House of Representatives, on January 5th, 2011, and following sessions of each Congress in explicit violation of **Amend. XIV§2** as implemented by the "Reduction of representation" U.S. Code **2USC§6** , depriving citizens' constitutionally protected rights under the First , Ninth, Tenth and Fourteenth Amendment to the United States Constitution from minority vote dilution based on race and/or party affiliation and certain **Amend. IX** rights retained by the people or **Amend. X** powers reserved to the people.

## VI. CLASS ACTION ALLEGATIONS

17. Plaintiffs files this action in *behalf of self* and *derivative beneficiary class members* as registered voters and Presidential Electors of states subject to the impact of the diminishment of their vote by the award of presidential electors on a "Winner Take All" basis in the 2008 presidential elections ungrounded in state law and congressional representation in explicit violation of 2USC§6 (Reduction of representation).

18. Plaintiffs files this action in *behalf of self* and *derivative beneficiary class members* as registered voters and Presidential Electors of states subject to the impact of the diminishment of their vote by the denial and/or abridgment of Presidential Electors who represent their candidate in unbounded Southern states wherein there is no state election law that explicitly allocates that state's electors on a "winner take all" basis.

19. The numerosity requirements of Rule 23(a)(1) are satisfied, in that the members of the class constitute the entire class of Presidential Electors and voters who have suffered minority vote dilution by unbounded electoral Southern states' allocation of a state's Presidential Electors in violation of **Amend. XIV§2** as implemented by **2USC§6**.

20. The requirements of Rule 23(a)(2) are met in that the questions of law and fact are common to the class. In addition, the requirements of Rule 23(a)(3) are met, in that the claims of the Plaintiffs arise from the manner in which the Defendant will recognize elected members to the U.S. House of Representatives, on January 5th, 2011, and following sessions of each Congress in explicit violation of **Amend. XIV§2** as implemented by the "Reduction of representation" U.S. Code **2USC§6**, and are therefore typical of all class claims.

21. Plaintiffs, as representatives of the entire class described, seeks herein to halt Defendants' action to disregard the adherence to the mandates of a Constitutional Article that protects the right of "*citizens of the United States, to vote at any election named in the amendment to the Constitution, article 14, section 2*" ( 2USC§6). If successful, such stoppage would benefit all class members. The requirement of Rule 23(a)(4) will therefore be met, because the Plaintiff will fairly and adequately protect the interests of the class.

## CONCLUSION

21. For the foregoing reasons, Plaintiff respectfully request that this Court, pursuant to Rule 65, issue a temporary restraining order or, in the alternative, a preliminary injunction prohibiting the Defendant from recognizing members to the U.S. House of Representatives, on January 5th, 2011, and following sessions of each Congress in explicit violation of **Amend. XIV§2** as implemented by the "Reduction of representation" U.S. Code **2USC§6**.

22. For the foregoing reasons The plaintiff seeks this temporary restraining order and preliminary injunction at this time to constrain the Defendant from recognizing and presiding over the commencement of a Congress in standing violation of the Constitution and predicated on a "Winner Take All" electoral formula ungrounded in either state or federal law that serves no democratic purpose but to maintain racial and regional party supremacy.

## PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully submit:

1. Plaintiff respectfully request that this Court, pursuant to Rule 65, issue a temporary restraining order or, in the alternative, a preliminary injunction prohibiting the the clerk from including the full slate of *unbounded electoral states* Congressional representatives subject to the malapportionment penalty based on Fourteenth Amendment "equal protection" and "right to vote" violations predicated on Race and/or Party Affiliation in violation of Section 2 of the Fourteenth Amendment to the United States Constitution. This amendment which requires that

said congressional representatives be reduced in the proportion of the states protected class of voters under the Fourteenth Amendment who are denied the right "to vote at any election for the choice of electors for President and Vice-President of the United States."

2. Plaintiffs request that the Court enter a temporary restraining order and set this matter down for a hearing on a permanent injunction to enjoin the Defendant pursuant to action taken under Rule II of the U.S. House of Representatives from recognizing the full slate of *unbounded electoral states'* Congressional representatives who are subject to the malapportionment penalty as implemented by 2USC§6, and based on Fourteenth Amendment "equal protection" and "Right to Vote" violations predicated on Race and/or Party Affiliation .

3 Plaintiffs request the court to apply the sanction in section two of the Fourteenth Amendment as implemented by 2USC§6 which calls for the reduction of the number of State representatives in congress in proportion to the disenfranchised class of U.S. Citizens whose voting rights were denied *and/or abridged* .

4. Plaintiffs request the Court enter a declaratory judgment for a *proportional reallocation of electors* for the subject unbounded Southern states in the presidential election of 2008 to relieve the present unbounded Southern electoral states from the *malapportionment penalty* of **Amend. XIV§2** as implemented by **2USC§6**, in order to avoid execution of the present standing constitutional mandate for reduction of representatives to Congress. Further, the Plaintiffs request the Court to enter a declaratory judgment that **Amend. XIV§2** as implemented by **2USC§6** mandates *proportional apportionment of presidential electors* based on the popular vote split for unbounded electoral states.

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**Respectfully submitted,**

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**Defendant.**

Case: 1:11-cv-0003
Assigned To: Kennedy, Henry H.
Assign. Date: 1/3/2011
Description: TRO/PI

**MOTION FOR TEMPORARY RESTRAINING ORDER**
**PRELIMINARY INJUNCTION AND SUPPORTING MEMORANDUM OF LAW**

## JURISDICTION

Jurisdiction of this court is evoked under the First, Ninth, Tenth and Fourteenth Amendment of the United States Constitution, 42 U.S.C. § 1983, 2 U.S.C. § 6 and pursuant to Rule 65 of the Federal Rules of Civil Procedure.

## INTRODUCTION

1. This is a motion for a temporary restraining order and preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure.

2. Pursuant to Rule II of the House Rules, the Clerk(Defendant) is required to: prepare the roll of House Members-elect. and call the Members-elect to order at the commencement of each Congress.

3. The Office of the Federal Register of the National Archives and Records Administration explicitly declares that there is that "Electors in these (Southern) States ARKANSAS, GEORGIA, LOUISIANA, TENNESSEE, and TEXAS are not bound by State Law to cast their vote for a specific candidate".

{ http://www.archives.gov/federal-register/electoral-college/laws.html }

4. The following states: ARKANSAS, GEORGIA, LOUISIANA, TENNESSEE, TEXAS, are unbound electoral states that allocated their presidential electors on a "winner take all" basis wherein there exists no "winner take all" state election statute. These states de-facto disenfranchised the citizens of their respective states who voted for presidential electors pledged to the candidate with less than a plurality of the popular vote in the Presidential election of 2008.

5. Enshrined in the Constitution of the United States of America (**Amend. XIV§2**) as implemented by the "Reduction of representation" U.S. Code (**2USC §6**) is a ***de jure*** mandate for the reduction of a State's representatives to Congress "when the right to vote at any election for the choice of electors for President and Vice-President of the United States... is denied to any ... citizens of the United States, or in any way abridged"

6. Plaintiffs enter this plea for injunctive relief against the Defendant, Clerk of the U.S. House of Representatives, acting ex officio under House Rules in order to enjoin the Clerk from recognizing the full slate of elected members from *unbound Southern electoral states* to the U.S. House of Representatives, who by practice, unsupported by state or federal statute, traditionally award Presidential Electors on a "winner-take-all basis". Plaintiffs seek redress by enforcement of the *malapportionment penalty* provided by Section 2 of the 14th Amendment to the U.S. Constitution, wherein "the right to vote at any election for the choice of electors for President and Vice President of the United States, ... is denied .. or in any way abridged" .

**FACTUAL BACKGROUND and**
**MEMORANDUM OF LAW IN SUPPORT OF MOTION**

Plaintiffs aver and request that this court take judicial notice of the following:

## I. "Reduction of representation" (2USC §6) Malapportionment Penalty Mandate for Violations of the Fourteenth Amendment "right to vote" Clause based on Party Affiliation.

7. In the 2008 Presidential election the unbounded Southern electoral states of ARKANSAS, GEORGIA, LOUISIANA, TENNESSEE, and TEXAS abridged the vote of citizens of the United States in the exercise of their "right to vote ... for the choice of electors for President and Vice-President of the United States" on the basis of race and/or party affiliation in violation of the second section of the Fourteenth Amendment. The plain textual language of the malapportionment penalty of the Second Section of the Fourteenth Amendment as implemented by the "Reduction of representation" U.S. Code (**2USC §6**) presents a ***de jure*** mandate for the reduction of a State's representatives to Congress in the proportion that the discriminated class of citizens based on race and/or party affiliation bears to the whole number of the State's citizens.

8. The following table demonstrates how the electoral weight that represents the votes for a minority party is transferred to the party that received a majority of votes by the "winner take all" rule in the unbounded Southern electoral states.

## <u>The Abridgment of Votes by Party Affiliation</u>

| Dave Leip's Atlas of U.S. Presidential Elections _ http://www.uselectionatlas.org/ | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | Proportional Allocation | | Winner Take All | | Democratic | Republican | Total Votes | Popular Vote | |
| State | EV | McCain | Obama | R | D | | | | McCain | Obama |
| Ar | 6 | 4 | 2 | 6 | | 422,310 | 638,017 | 1,060,327 | 60% | 40% |
| Ga | 15 | 8 | 7 | 15 | | 1,844,123 | 2,048,759 | 3,892,882 | 53% | 47% |
| La | 9 | 5 | 4 | 9 | | 782,989 | 1,148,275 | 1,931,264 | 59% | 41% |
| Tn | 11 | 6 | 5 | 11 | | 1,087,437 | 1,479,178 | 2,566,615 | 58% | 42% |
| Tx | 34 | 19 | 15 | 34 | | 3,528,633 | 4,479,328 | 8,007,961 | 56% | 44% |
| | | McCain | Obama | | | Democratic | Republican | | McCain | Obama |
| Total | 75 | 42 | 33 | 75 | 0 | 7,665,492 | 9,793,557 | 17,459,049 | | |
| | | 56% | 44% | | | 44% | 56% | | | |

This table demonstrates that the popular vote for the Democratic Presidential candidate in the 2008 Presidential election would translate to 33 Presidential electors with proportional apportionment. Under the "winner take all" rule the 33 electors were transferred to the Republican party candidate. No state election laws in the unbounded Southern states authorize the allocation of the states' presidential electors on a "winner take all" basis. Therefore the exclusive selection of the Republican slate of electors on a "winner take all" basis constituted an *abridgment* of the citizens' "right to vote" and a debasement in the weight of the citizens' vote and plaintiffs' vote in and external to the state in violation of **Amend. 14§2.** as implemented by **2U.S.C. § 6.**

## II. "Reduction of representation" (2USC §6) Malapportionment Penalty Mandate for Violations of the Fourteenth Amendment "right to vote" Clause based on Affiliation by Race.

9. The following table demonstrates how the electoral weight that represents the majority votes of Southern Blacks is transferred to augment the majority votes of Southern Whites by the "winner take all" rule in the unbounded Southern electoral states.

### <u>The Abridgment of Votes by Race</u>

| Source: U.S. Census Bureau_Internet Release date: February, 2009 | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | Proportional Allocation | | Winner Take All | | BLACK | WHITE | Total Votes | Popular Vote | |
| State | EV | White | Black | R | D | | | | White | Black |
| Ar | 6 | 5 | 1 | 6 | | 173,000 | 755,000 | 928,000 | 81% | 19% |
| Ga | 15 | 10 | 5 | 15 | | 1,010,000 | 1,810,000 | 2,820,000 | 64% | 36% |
| La | 9 | 6 | 3 | 9 | | 564,000 | 1,456,000 | 2,020,000 | 72% | 28% |
| Tn | 11 | 9 | 2 | 11 | | 344,000 | 1,836,000 | 2,180,000 | 84% | 16% |
| Tx | 34 | 30 | 4 | 34 | | 803,000 | 6,042,000 | 6,845,000 | 88% | 12% |
| | | | | | | | | | | |
| Total | 75 | 60 | 15 | 75 | 0 | 2,894,000 | 11,899,000 | 14,793,000 | | |
| | | 80% | 20% | | | 20% | 80% | | | |

This table demonstrates that the black popular vote in the unbounded Southern States in the 2008 Presidential election translates into approximately 15 Presidential electors. Over 95% of blacks in these states cast their votes for the Democratic candidate. Under the "winner take all" rule, the 15 electors that represent the majority choice of these states' black populations are negated and transferred to represent the majority choice of the states' white populations. There is no state election law in the unbounded Southern states that authorizes the allocation of the states' presidential electors on a "winner take all" basis. Therefore the exclusive selection of the States' slates of electors on a "winner take all" basis constituted an *abridgment* of the States' black citizens' "right to vote" and a debasement in the weight of the national black vote and plaintiffs vote in and external to the unbounded Southern electoral states in violation of **Amend. 14§2.** as implemented by **2U.S.C. § 6.**

10. The unbounded Southern electoral states without an explicit "winner take all" election statute are constitutionally mandated by the plain text of the second section of the Fourteenth Amendment to allocate their presidential electors predicated upon the popular split in the popular vote or be subject to the Amendment's malapportionment penalty reducing the states Congressional representatives. There is no federal or state statutory authority in such states for presidential candidates pledged to a minority candidate to be discarded and replaced with presidential electors pledged to the majority vote candidate.

## III. Rule 65 of the Federal Rules of Civil Procedure four factors.

### A. Plaintiff is Entitled to the Entry of a Temporary Restraining Order.

11. Rule 65 of the Federal Rules of Civil Procedure requires the Court to consider the following four factors: (1) the substantial likelihood that plaintiffs will succeed on the merits; (2) the substantial threat that plaintiff will suffer irreparable injury if the temporary restraining order were

not granted; (3) the threatened injury outweighs the harm a temporary restraining order may cause the defendant; and (4) the grant of a temporary restraining order will not be a disservice the public interest. Levi Strauss & Co. v. Sunrise Int'l Trading, Inc. 51 F.3d 982, 985 (11th Cir. 1995); Nnadi v. Richter, 976 F.2d 682, 690 (11th Cir. 1992); Future Tech Int'l v. Tae Il Media, Ltd., 944 F. Supp. 1538, 1532 (S.D. Fla. 1996). As to the four factors, "no particular quantum of proof is required as to each of the four criteria." Laboratorios Roldan v. Tex Int'l, Inc., 902 F. Supp. 1555, 1565 (S.D. Fla. 1995). The four factors, which also govern the grant of preliminary injunctive relief, favor the issuance of a temporary restraining order in this case.

**B. Plaintiff Will Succeed On the Merits of The Claims.**

12. To issue preliminary injunctive relief, "a district court need not find that the evidence positively guarantees a final verdict" in favor of the movant. Levi Strauss & Co., 51 F.3d at 985. Plaintiff need only demonstrate a likelihood of success on the merits.

13. The right to vote is a "fundamental political right." Yick Wo v. Hopkins 118 U.S. 356, 370 (1886). This right is "denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise." Reynolds v. Sims, 377 U.S. 533, 554 (1964). As the Supreme Court in Reynolds noted, "The conception of political equality ... can mean only one thing - one-person, one-vote. The idea that every voter is equal to every other voter in his State, when he casts his ballot in favor of one of several competing candidates, underlies many of our decisions." Id. at 557-58 (internal citations omitted).

14. Voting is a fundamental right that cannot be subject to arbitrary or inconsistent treatment. See, e.g., Harper v. Virginia, 383 U.S. 663 (1966); Reynolds v. Sims, 379 U.S. 870 (1964).

15. It is well-established that even with respect to matters that do not involve fundamental rights, the government cannot engage in arbitrary distinctions among similarly situated citizens. City of Cleburne v. Cleburne Living Center, 473 U.S. 432 (1985). Moreover, the government cannot deny an individual's liberty or property interests through procedures that operate in a wholly arbitrary fashion. Logan v. Zimmerman Brush Co, 455 U.S. 422 (1982). These principles apply a fortiori to the exercise of a fundamental right such as voting.

**C. The Public Interest Will Be Served by Granting the Requested Relief**

16. Plaintiff seeks a temporary restraining order to prevent Defendant from recognizing members to the U.S. House of Representatives, on January 5th, 2011, and following sessions of each Congress in explicit violation of **Amend. XIV§2** as implemented by the "Reduction of representation" U.S. Code **2USC§6** and **Amend. XIV§1** as implemented by 42 U.S.C. § 1983. The fundamental purpose of Section 1983 is to protect the civil rights of the citizens of the United States. Mitchum v. Foster, 407 U.S. 225, 243 (1972); Owen v. City of Independence, 445 U.S. 622, 636 (1980). Accordingly, the federal courts have been authorized by Congress to effectuate this fundamental purpose by awarding injunctive relief against violations of Section 1983. This Court's grant of a temporary restraining order against Defendant would thus be consistent with and further the public interest in enforcing the federal civil rights laws.

17. The results of the 2010 census creates an enhanced injury to voting racial minorities by rendering the southern black populations in unbounded Southern states as inert bodies that serve as little more then political ballast to augment the political expression of the unbounded state's white population. The continuous denial of the malapportionment penalty of 2U.S.C.§6 for the

malapportionment of presidential electors portents a real possibility for public disorder and justifiable loss of confidence in the Untied States purported democracy in the aftermath of the coming 2012 Presidential election. Members of the House Representatives based on the 2010 Census predicated on the "winner-take-all" award of presidential electors in unbounded Southern states (with its historic legacy of de jure black disfranchisement) that represents the majority choice of the state's white population with de facto disfranchisement of any apportionment of presidential electors based on the majority choice of the state's black population ungrounded in either federal or state stature presents the distinct possibility that Mr. Obama, the nations first black president of the United States, could win the popular vote in 2012 by a larger margin than did Gore in 2000, but will repeat the Democratic loss in the Electoral College. This turn in events will have national and international consequences for the determination that American Democracy is hopelessly grounded in the racial bias of its constitutional origins.

18. "Winner take all" , in the Unbounded Southern States, ungrounded in either federal or state statute, which preserves and perpetuates the disproportionate racial electoral bias quotas created in the nation's constitutional origin for the former slave states is a particular egregious affront to full participatory democracy by minority voters and presidential electors, and cannot serve the *national* public interest.

## CONCLUSION

19. For the foregoing reasons, Plaintiffs respectfully request that this Court, pursuant to Rule 65, issue a temporary restraining order or, in the alternative, a preliminary injunction prohibiting the Defendant from recognizing members to the U.S. House of Representatives, on January 5th, 2011, and following sessions of each Congress in explicit violation of **Amend. XIV§2** as implemented by the "Reduction of representation" U.S. Code **2USC§6**.

20. For the foregoing reasons The plaintiffs seek this temporary restraining order and preliminary injunction at this time to constrain the Defendant from recognizing and presiding over the commencement of a Congress in standing violation of the Constitution and predicated on a "Winner Take All" electoral formula ungrounded in either state or federal law that serves no democratic purpose but to maintain racial and regional party supremacy.

**Respectfully submitted,**


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**Plaintiffs**

**UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF COLUMBIA**

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**Plaintiff**s

VS.

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Clerk of the U.S. House of Representatives
U.S. Capitol, Room H154
Washington, DC 20515–6601
(202) 225–7000

**Defendant.**

Case: 1:11-cv-0003
Assigned To: Kennedy, Henry H.
Assign. Date: 1/3/2011
Description: TRO/PI

**LOCAL RULE 65.1**

This is to certify that on the 3rd day of January 2011 A Copy (Not Served) of the Complaint / TRO / Order and supporting memorandum of law in the above captioned matter was provided to the Defendant, U.S. Attorney, and to the U.S. Attorney General by attached pdf files via e-mail to: info.clerkweb@mail.house.gov ; dc.outreach@usdoj.gov; AskDOJ@usdoj.gov.

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**UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF COLUMBIA**

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**Plaintiff**s

VS.

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Clerk of the U.S. House of Representatives
U.S. Capitol, Room H154
Washington, DC 20515–6601
(202) 225–7000

**Defendant.**

Case: 1:11-cv-00003
Assign To: Kennedy, Henry H.
Assign. Date: 1/3/2011
Description: TRO/PI

# Order for Preliminary Injunction

THIS CAUSE comes before the court upon plaintiffs' complaint for declaratory and injunctive relief and motion for a temporary restraining order and preliminary injunction to enjoin the Clerk of the U.S. House of Representatives, from recognizing pursuant to house rules elected members to the U.S. House of Representatives, in violation of **Amend. XIV§2** as implemented by the "Reduction of representation" U.S. Code **2USC§6** on **January 5th, 2011**, and in the following sessions of each Congress.

AND APPEARING BEFORE THE COURT THAT it has been recently reported in the press that the "Constitution is focus of new GOP House rules" (Thursday, December 30, 2010, Washington Post), by a reading of the Constitution aloud. The Court deems it is prudent and in the public interest that the House of Representatives henceforth is informed of the potential precarious Constitutional status of the upcoming sessions of Congress in regards to the Fourteenth Amendment to the Constitution as implemented by **2USC§6.**

ACCORDINGLY if the new House rules are to be taken seriously by Congress, the people of the United States, and indeed not to mention our federal courts of law, it would serve the public interest in this supposed enlightened climate of constitutional awareness for this court to issue a preliminary injunction to enjoin the Clerk of the House of Representatives to inform Congress in session of the Constitutional issue in question before the federal court.

THEREFORE IT IS ADJUDGED and DECREED that

The Clerk of the House of Representatives (Defendant) will read the following before Congress in session:

(1) The second section of the Fourteenth Amendment

(2) The Office of the Federal Register of the National Archives and Records Administration declaration that "Electors in these States ARKANSAS, GEORGIA, LOUISIANA, TENNESSEE, and TEXAS are not bound by State Law to cast their vote for a specific candidate".

(3) Title two United States Code section six (**2USC §6) Reduction of representation.**

**ENTER THIS: _____ (date)**

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**United States District Judge**