





In each instance when the tellers declared "The Certificate of the Electoral Vote of the state of (*Unbounded Southern State*) seems to be regular in form and authentic and it appears therefrom that John McCain received (x) votes for president and that Sarah Palin received (x) votes for vice president", the Defendant demurred from informing the assembled body that the award of all of the electoral votes on a "winner-take-all basis" for the *Unbounded Southern State* was untethered from either state or federal election law.

At the conclusion of the reading of certificates, the Defendant directed the tellers to deliver the results of the count. The Defendant then announced the certified election results for the positions of President and Vice President of the United States - officially announcing Barack Obama the President-Elect and Joe Biden the Vice-President-Elect.

The Defendant concluded the proceedings without any definitive offer to entertain any outstanding objections, and confirmed his singularly unique role as the sole federal official that could finalize without any option for review the *mal-apportionment* of presidential electors in the electoral count of "The Certificates of Vote" by declaring:

"This announcement of the state of the vote by the president of the Senate shall be deemed a sufficient declaration of the persons elected President and Vice-President of the United States, each beginning for the term beginning January 20th 2009, and shall be entered together with the list of the votes on the journals of the Senate and the House of Representatives. The purpose of the joint session having been concluded, pursuant to Senate concurrent resolution number one , 111th Congress, the chair declares the joint session dissolved."

Pursuant to no federal or state statute, the Defendant Richard B. Cheney's bias presentation for tabulation in the Hall of the House of Representatives, on January 8, 2009 of majority polled presidential electors from *unbounded southern states* ungrounded in either state or federal law , constituted a discriminatory abridgment of the voting rights of minority polled presidential electors based on race and/or party affiliation in violation of the *mal-apportionment penalty clause* pursuant to the United States Constitution (Amend. XIV§2) and statutory Code (2U.S.C.§6).

## II. ARGUMENT

### PLAINTIFF'S AUGMENTED STATEMENT OF MATERIAL FACT AS TO WHICH THERE IS NO GENUINE DISPUTE

#### A. There are no genuine issues of material fact.

Plaintiff avers and requests that this court take judicial notice that the Defendant has failed to advance any argument that *disputes* "There are no genuine issues of material fact", as delineated in Plaintiff's Motion For Summary Judgment. See MSJ at 4-5.

In addition to the material facts 1-5. See MSJ at 4-5. The following material fact is presented in support of the MSJ.

#6. The Defendant Richard B. Cheney, acting in his capacity as the President of the Senate, and presiding officer over the Senate and House of Representatives meeting in the Hall of the House of Representatives for the presenting and counting of the certificates of electoral votes on January 8, 2009, effected the exclusive tabulation of only majority polled presidential electors from the *Unbounded Southern States* of ARKANSAS, GEORGIA, LOUISIANA, TENNESSEE, and TEXAS wherein the submitted "certificates of electoral votes" cited no state or federal statute as a basis for the exclusion of the counting of minority polled presidential electors.

#### B. Plaintiff is entitled to judgment as a matter of law.

*"No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined. Our Constitution leaves no room for classification of people in a way that unnecessarily abridges this right."*

- US Supreme Court Justice Black - Wesberry v. Sanders, 376 U.S. 1, 17-18 (1964)

The Constitution of the United States of America (Amend. XIV§2) and the U.S. Code (2USC §6) is a *de jure* mandate, by its plain textual language, to assess a *mal-apportionment penalty* on a state for the *de facto* abridgment of citizens of the United States right to vote at any election for the choice of electors for President and Vice-President of the United States.

### **III. Conclusion**

Logic dictates that the only way to comply with a proportional penalty, is to effect proportional representation. This action fulfills the *text* and *intent* of section 2 of the Fourteenth Amendment to the Constitution.

The foregoing undisputed facts in this action and the clear text of the governing United States Code 2USC§6 warrants summary judgment for a court order for proportional apportionment of presidential electors from *Unbounded Southern States*.

For the foregoing reasons, the Court is respectfully requested to enter summary judgment for the plaintiff.

Respectfully submitted,

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January 23<sup>rd</sup>, 2009

**CERTIFICATE OF SERVICE**

I hereby certify that on January 23<sup>rd</sup>, 2009, a copy of "**PLAINTIFF'S AUGMENTED MOTION FOR SUMMARY JUDGMENT**" was filed with the Court and served via first class mail on the following:

YULE KIM  
Special Assistant U.S. Attorney  
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January 23<sup>rd</sup>, 2009

