

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

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ASA GORDON, )  
 )  
 ) **Plaintiff,** )  
 )  
 ) **v.** ) **Civil Action 08-1294 (HHK)**  
 )  
 ) **RICHARD B. CHENEY, Vice President** )  
 ) **of the United States** )  
 )  
 ) **Defendant** )  
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**PLAINTIFF'S PRESIDENTIAL ELECTION DATA EXHIBITS IN SUPPORT OF  
MOTION TO PRESENT ORAL ARGUMENTS FOR SUMMARY JUDGMENT**

The Plaintiff submits to the court herein recent presidential election data exhibits in the form of attached tables in support of the Plaintiff's Motion for Summary Judgment (PD-MSJ). All data presented in this pleading are derived from the CNN ElectionCenter2008 web site reports on the 2008 Presidential Election results. { <http://edition.cnn.com/ELECTION/2008/results/president/> }. The Data presented is derived from the Dates of Nov. 6th and Nov. 20th.

**I. INTRODUCTION**

*The true measure of a democracy is not in counting how many votes are cast, but in how many of those votes that are cast truly count.* By this measure, American democracy does not measure up. This failure of American democracy is grounded in America's allocation of electoral college votes for the President of the United States on a "winner take all" basis. By awarding all electoral votes in each state to the candidates who win the most popular votes in that state, the "winner-take-all" or 'general ticket' system effectively disenfranchises everyone who voted for other candidates.

"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 presidential electors.

## **II. "Winner Take All" vs Proportionate Apportionment of Presidential Electors.**

### **A. Exhibit A Illustrates the Bias in the Allocation of Presidential Electors.**

Barack Obama's election is both an historic realization of our egalitarian ideals and an ironic testament to our enduring undemocratic legacy. The wide disparity between Obama's popular vote majority and the percentage gap in his lead in the electoral college highlights the undemocratic bias inherent in the nation's "Winner-Take-All" allocation of presidential electors. Obama leads McCain by 53% to 47% in the popular vote, but under "Winner-Take-All" rules, this 6% margin of victory translates into an exaggerated allocation of 364 to 174 electors, with a distorted 36% majority of electors awarded to Obama in the electoral college. A table of votes cast by states reveals a striking comparison between the "Winner-Take -All" method and the proportional apportionment of presidential electors predicated on the popular vote split. This more democratic method would result in an electoral count of 286 to 252, with a percentage electoral advantage of 53% to 47% that matches Obama's popular vote majority.

See Exhibit A Table: Apportionment of Presidential Electors

### **B. Exhibit B Supports Summary Judgment as a Matter of Law.**

See Exhibit B Table of Winner Take All vs Proportional Allocation of Presidential Electors for the *Unbounded Southern States*. This table's data is taken from the CNN ElectionCenter2008 web site as of November 20th, 2008. Under the rule of *Winner Take All* McCain is awarded all of the 75 Presidential electors allocated to these States, i.e. 100%. Under the more democratic rule of proportionate apportionment, Obama would be allocated 33 presidential electors i.e. ~ 44% of the total electors. This is consistent with Obama's 44% portion of the total popular votes cast in these states. Under the *Winner Take All* rule nearly 8 million votes that are cast in these states for presidential electors pledged to the democratic candidate Obama are not counted for participation in the electoral college. Absent a proportional

apportionment of presidential electors for the *Unbounded Southern States*, the fourteenth amendment 's mal-apportionment penalty presents a *de jure* mandate for "reduction of representation" (2U.S.C.§6) of: Arkansas-2; Georgia-7; Louisiana-4; Tennessee-5; and Texas-15. The Defendant's exclusive selection of only majority polled presidential electors from the aforementioned *Unbounded Southern States* constitutes an abridgment of voting rights for minority polled presidential electors in violation of the mal-apportionment penalty clause pursuant to the United States Constitution (Amend. XIV§2) and statutory Code (2U.S.C.§6)

### **III. Conclusion**

The foregoing election data results along with the attached exhibits within the context of the clear text of the governing United States Code 2USC§6 manifests that a summary judgment for a court order for proportional apportionment of presidential electors for *Unbounded Southern States* is warranted in this action.

For the foregoing reasons and in consideration of the entire record herein, the Court should grant the Plaintiff's Motion For Oral Argument For Summary Judgment.

Respectfully submitted,

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November 24th, 2008

## CNN ElectionCenter2008\_11/06/08 / Apportionment of Presidential Electors / Election of Nov. 4, 2008

State	Proportional Allocation		2000	Winner Take All		Democratic	Republican	Total Votes	McCain	Obama	Dem
	McCain	Obama	Total	McCain	Obama						minus
			Electors			REPUB					
Alabama ....	5.481	3.519	9	9		811,510	1,263,741	2,075,251	60.90%	39.10%	-21.79%
Alaska .....	1.888	1.112	3	3		80,340	136,348	216,688	62.92%	37.08%	-25.85%
Arizona .....	5.434	4.566	10	10		850,900	1,012,572	1,863,472	54.34%	45.66%	-8.68%
Arkansas ...	3.614	2.386	6	6		416,906	631,330	1,048,236	60.23%	39.77%	-20.46%
California ..	20.689	34.311	55		55	6,125,805	3,693,865	9,819,670	37.62%	62.38%	24.77%
Colorado ....	4.190	4.810	9		9	1,105,693	963,318	2,069,011	46.56%	53.44%	6.88%
Connecticut	2.740	4.260	7		7	942,705	606,268	1,548,973	39.14%	60.86%	21.72%
Delaware ...	1.140	1.860	3		3	247,386	151,667	399,053	38.01%	61.99%	23.99%
Florida .....	13.172	13.828	27		27	4,103,638	3,908,736	8,012,374	48.78%	51.22%	2.43%
Georgia .....	7.913	7.087	15	15		1,811,198	2,022,409	3,833,607	52.75%	47.25%	-5.51%
Hawaii .....	1.083	2.917	4		4	298,621	110,848	409,469	27.07%	72.93%	45.86%
Idaho .....	2.521	1.479	4	4		235,219	400,989	636,208	63.03%	36.97%	-26.06%
Illinois .....	7.874	13.126	21		21	3,293,340	1,975,801	5,269,141	37.50%	62.50%	25.00%
Indiana .....	5.447	5.553	11		11	1,367,264	1,341,101	2,708,365	49.52%	50.48%	0.97%
Iowa .....	3.489	3.511	7		7	638,517	634,373	1,272,890	49.84%	50.16%	0.33%
Kansas .....	3.470	2.530	6	6		499,979	685,541	1,185,520	57.83%	42.17%	-15.65%
Kentucky ...	4.664	3.336	8	8		751,515	1,050,599	1,802,114	58.30%	41.70%	-16.60%
Louisiana ..	5.355	3.645	9	9		780,981	1,147,603	1,928,584	59.50%	40.50%	-19.01%
Maine .....	1.643	2.357	4		4	390,426	272,066	662,492	41.07%	58.93%	17.87%
Maryland ..	3.826	6.174	10		10	1,409,150	873,320	2,282,470	38.26%	61.74%	23.48%
Massachusetts	4.424	7.576	12		12	1,891,083	1,104,284	2,995,367	36.87%	63.13%	26.27%
Michigan ...	7.075	9.925	17		17	2,867,680	2,044,405	4,912,085	41.62%	58.38%	16.76%
Minnesota	4.477	5.523	10		10	1,573,246	1,275,456	2,848,702	44.77%	55.23%	10.45%
Mississippi	3.416	2.584	6	6		517,899	684,475	1,202,374	56.93%	43.07%	-13.85%
Missouri ....	5.511	5.489	11	11		1,436,745	1,442,613	2,879,358	50.10%	49.90%	-0.20%
Montana ....	1.553	1.447	3	3		220,401	236,513	456,914	51.76%	48.24%	-3.53%
Nebraska ...	2.909	2.091	5	5		315,913	439,421	755,334	58.18%	41.82%	-16.35%
Nevada .....	2.182	2.818	5		5	531,884	411,988	943,872	43.65%	56.35%	12.70%
New Hampshire	1.798	2.202	4		4	361,638	295,193	656,831	44.94%	55.06%	10.12%
New Jersey	6.394	8.606	15		15	2,073,934	1,540,907	3,614,841	42.63%	57.37%	14.75%
New Mexico	2.120	2.880	5		5	454,291	334,298	788,589	42.39%	57.61%	15.22%
New York ..	11.510	19.490	31		31	4,357,360	2,573,368	6,930,728	37.13%	62.87%	25.74%
North Carolina	7.475	7.525	15		15	2,123,334	2,109,281	4,232,615	49.83%	50.17%	0.33%
North Dakota	1.633	1.367	3	3		141,113	168,523	309,636	54.43%	45.57%	-8.85%
Ohio .....	9.604	10.396	20		20	2,702,991	2,496,943	5,199,934	48.02%	51.98%	3.96%
Oklahoma	4.595	2.405	7	7		502,286	959,645	1,461,931	65.64%	34.36%	-31.28%
Oregon .....	2.922	4.078	7		7	831,603	595,924	1,427,527	41.75%	58.25%	16.51%
Pennsylvania	9.407	11.593	21		21	3,185,991	2,585,480	5,771,471	44.80%	55.20%	10.40%
Rhode Island	1.425	2.575	4		4	275,488	152,502	427,990	35.63%	64.37%	28.74%
South Carolina	4.361	3.639	8	8		849,852	1,018,418	1,868,270	54.51%	45.49%	-9.02%
South Dakota	1.629	1.371	3	3		170,884	203,016	373,900	54.30%	45.70%	-8.59%
Tennessee	6.340	4.660	11	11		1,093,213	1,487,564	2,580,777	57.64%	42.36%	-15.28%
Texas .....	19.014	14.986	34	34		3,521,164	4,467,748	7,988,912	55.92%	44.08%	-11.85%
Utah .....	3.240	1.760	5	5		301,771	555,497	857,268	64.80%	35.20%	-29.60%
Vermont ....	0.962	2.038	3		3	202,907	95,822	298,729	32.08%	67.92%	35.85%
Virginia .....	6.208	6.792	13		13	1,791,526	1,637,476	3,429,002	47.75%	52.25%	4.49%
Washington	4.534	6.466	11		11	1,119,081	784,798	1,903,879	41.22%	58.78%	17.56%
West Virginia	2.834	2.166	5	5		301,438	394,278	695,716	56.67%	43.33%	-13.34%
Wisconsin ..	4.296	5.704	10		10	1,670,474	1,258,181	2,928,655	42.96%	57.04%	14.08%
Wyoming ...	1.999	1.001	3	3		80,496	160,639	241,135	66.62%	33.38%	-33.24%
DC	0.197	2.803	3		3	210,403	14,821	225,224	6.58%	93.42%	86.84%
	McCain	Obama				Democratic	Republican		McCain	Obama	
<b>Total .....</b>	<b>251.677</b>	<b>286.323</b>	<b>538</b>	<b>174</b>	<b>364</b>	<b>63,839,182</b>	<b>56,411,972</b>	<b>120,251,154</b>	<b>46.91%</b>	<b>53.09%</b>	<b>100.00%</b>
	46.780%	53.220%	100%	32%	68%	53.088%	46.912%				

Allocation of Presidential Electors "Unbounded Southern States".

Table of *Winner Take All vs Proportional Allocation* of Presidential Electors for the *"Unbounded Southern States"*. This table's data is taken from the CNN ElectionCenter2008 web site as of November 20th, 2008.

CNN ElectionCenter2008 11/20/08 UNBOUNDED SOUTHERN STATES PRESIDENTIAL ELECTORS											
State	Proportional Allocation		2000 Total Electors	Winner Take All		Democratic	Republican	Total Votes	McCain	Obama	Dem minus REPUB
	McCain	Obama		McCain	Obama				McCain	Obama	REPUB
Arkansas ...	3.613	2.387	6	6		418,049	632,672	1,050,721	60.21%	39.79%	-20.43%
Georgia .....	7.895	7.105	15	15		1,843,452	2,048,244	3,891,696	52.63%	47.37%	-5.26%
Louisiana ..	5.355	3.645	9	9		780,981	1,147,603	1,928,584	59.50%	40.50%	-19.01%
Tennessee	6.340	4.660	11	11		1,093,213	1,487,564	2,580,777	57.64%	42.36%	-15.28%
Texas .....	19.014	14.986	34	34		3,521,164	4,467,748	7,988,912	55.92%	44.08%	-11.85%
	McCain	Obama				Democratic	Republican		McCain	Obama	
Total .....	42.218	32.782	75	75	0	7,656,859	9,783,831	17,440,690	56.10%	43.90%	100.00%
	56.290%	43.710%	100%	100%	0%	43.902%	56.098%				

**CERTIFICATE OF SERVICE**

I hereby certify that on November 24th, 2008, a copy of "PLAINTIFF'S PRESIDENTIAL ELECTION DATA EXHIBITS IN SUPPORT OF MOTION TO PRESENT ORAL ARGUMENTS FOR SUMMARY JUDGMENT" was filed with the Court and served via first class mail on the following:

YULE KIM  
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Respectfully submitted,

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November 24th, 2008