

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GEORGIA STATE CONFERENCE)
OF THE NATIONAL)
ASSOCIATION FOR THE)
ADVANCEMENT OF COLORED)
PEOPLE, and COALITION FOR THE)
PEOPLE'S AGENDA, and CRAIG)
MURPHY,)

Plaintiffs,)

v.)

BRIAN KEMP, IN HIS OFFICIAL)
CAPACITY AS SECRETARY OF STATE,)
and CLYDE L. REESE, III, IN HIS)
OFFICIAL CAPACITY AS)
COMMISSIONER OF THE GEORGIA)
DEPARTMENT OF HUMAN SERVICES,)

Defendants.)

CIVIL ACTION FILE
NO. 1:11-CV-1849-WBH

STATEMENT OF INTEREST OF THE UNITED STATES

I. INTRODUCTION

The United States files this Statement of Interest pursuant to 28 U.S.C. § 517, as this case may present an important question of statutory interpretation of the National Voter Registration Act of 1993 (“NVRA”), 42 U.S.C. § 1973gg *et seq.* In addition to providing a private right of action, Congress gave the Attorney General broad authority to enforce the NVRA. *See* 42 U.S.C. § 1973gg-9(a). Accordingly, the United States has a strong interest in ensuring that the NVRA is vigorously and uniformly enforced.

Defendants’ motion to dismiss the amended complaint asks this Court to decide that Georgia’s public assistance agencies may limit NVRA-mandated voter registration opportunities solely to those clients who appear at those agencies in person. *See* Dkt. 25-1 at 21. In other words, they argue that such agencies can lawfully refuse to offer voter registration to persons who apply for public assistance by remote means such as by phone, internet, or mail. *Id.* Defendants base this argument on O.C.G.A. § 21-2-222(f), a Georgia state statute passed following enactment of the NVRA. As explained below, however, Defendants’ arguments are contrary to the NVRA’s plain language and would lead to absurd results that undermine Congress’s intent that States offer

comprehensive voter registration opportunities through public assistance and disability services offices. Defendants' argument should be rejected.

In addition, and as Defendants previously conceded, *see* Dkt. 25-1 at 21 n.6, neither the legal question they pose nor its factual predicates are presented on the face of Plaintiffs' amended complaint. Accordingly, while the United States provides its views on the proper construction of the NVRA, it respectfully suggests that the Court need not resolve this issue prior to the development of a complete factual record regarding Georgia's actual practices.

II. STATUTORY FRAMEWORK

Congress passed the NVRA to "establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office." 42 U.S.C. § 1973gg(b). Congress found that the right to vote is fundamental; that Federal, State, and local governments have a duty to promote the exercise of that right; and that discriminatory and unfair registration laws and procedures can negatively affect voter participation in Federal elections and disproportionately harm voter participation by groups including the poor and persons with disabilities. *See id.* at § 1973gg(a); *Harkless v. Brunner*, 545 F.3d 445, 449 (6th Cir. 2008).

The NVRA thus requires States to provide three methods of voter registration for Federal elections: registration as part of the application or renewal form for a driver's license; registration by mail; and registration through State-designated voter registration agencies. *See* 42 U.S.C. §§ 1973gg-3 – 1973gg-5; *Young v. Fordice*, 520 U.S. 273, 275 (1997). States must “establish procedures” to provide registration through each of these methods “notwithstanding any other Federal or State law, [and] in addition to any other method of voter registration provided for under State law[.]” *Id.* at § 1973gg-2(a).¹

This case involves agency-based registration. Under Section 7 of the NVRA, States must designate as voter registration agencies (“VRAs”) all offices in the State that provide 1) public assistance, and 2) State-funded programs primarily serving persons with disabilities. 42 U.S.C. § 1973gg-5(a)(2)(A)-(B).² Congress designed the agency-based registration provisions “specifically to increase the registration of ‘the poor and persons with disabilities who do not have driver’s licenses and will not come into contact with the other principal

¹ While certain States are exempt from these requirements, *see* 42 U.S.C. § 1973gg-2(b), Georgia is not one of them.

² Although not at issue in this case, Section 7(c) mandates that Armed Forces recruitment offices of the United States also be treated as designated voter registration agencies for NVRA purposes. *See* 42 U.S.C. § 1973gg-5(c)(2).

place to register under this Act [motor vehicle agencies].” *Harkless*, 545 F.3d at 449 (quoting H.R. CONF. REP. NO. 103-66, at 19 (1993), as reprinted in 1993 U.S.C.C.A.N. 140, 144). In establishing these mandatory designations, “Congress rejected a system that would ‘permit States to restrict their agency program and defeat a principal purpose of this Act – to increase the number of eligible citizens who register to vote.’” *United States v. New York*, 700 F. Supp. 2d 186, 200 (N.D.N.Y. 2010) (quoting H.R. CONF. REP. NO. 103-66, at 19 (1993)).

Thus, Congress specifically rejected giving States the choice of whether to designate public assistance agencies and certain disability services offices, explaining that “[t]he only way to assure that no State can create an agency registration program that discriminates against a distinct portion of its population is to require that the agencies designated in each State include an agency that has regular contact with those who do not have driver’s licenses.” H.R. CONF. REP. NO. 103-66, at 19 (1993).

In addition to the designation of these “mandatory” VRAs under Section 7(a)(2), each State must designate additional offices as VRAs under Section 7(a)(3), but may decide which Federal, State, local, or non-governmental offices to select; Federal and nongovernmental offices may be designated only by agreement with those offices. *See* 42 U.S.C. § 1973gg-5(a)(3)(A)-(B); *Nat’l Coalition*

for Students with Disabilities Educ. and Legal Defense Fund v. Gilmore, 152 F.3d 283, 285-86 (4th Cir. 1998).³

The responsibilities of States generally and designated VRAs specifically are set out in NVRA Sections 4 and 7. Section 4(a), captioned, “In general,” sets out the three modes by which voter registration opportunities are expanded by the NVRA:

- (1) by application made simultaneously with an application for a motor vehicle license . . .
- (2) by mail application . . . ; and
- (3) by application in person . . .
 - (B) at a Federal, State, or nongovernmental office designated under [Section 7].

42 U.S.C. § 1973gg-2. As this paragraph’s title suggests, Section 4 does no more than identify a State’s *general* obligation to “establish procedures” for voter registration in each of the three circumstances. The NVRA’s subsequent three provisions set forth detailed requirements regarding motor-voter registration (Section 5), mail-in registration (Section 6), and agency based registration (Section 7). *Id.* at §§ 1973gg-3 - 1973gg-5.

³ Such “discretionary” VRAs may include public schools, libraries, offices of city and county clerks, marriage license bureaus, fishing and hunting license bureaus, government revenue offices, unemployment compensation offices, additional offices providing disability services not already covered by the NVRA, as well as non-governmental and Federal offices. *See* 42 U.S.C. § 1973gg-5(a)(3)(B)(i)-(ii).

Indeed, Section 7 dictates what designated voter registration agencies must actually do. Section 7(a)(4), for example, requires each VRA to distribute mail voter registration application forms, offer assistance in completing such forms, and accept and transmit completed registration forms to the appropriate State election official. 42 U.S.C. § 1973gg-5(a)(4)(A).⁴

Section 7(a)(6), however, imposes more particularized obligations on a certain subset of designated VRAs. *See* 42 U.S.C. 1973gg-5(a)(6). Under this provision, those VRAs “that provide[] service or assistance in addition to conducting voter registration” must also “distribute with each application for such service of assistance, and with each recertification, renewal or change of address . . . the mail voter registration application form” unless “the applicant

⁴ In addition to distributing, assisting with, and accepting voter registration applications “[a]t each voter registration agency,” Section 7(a)(4)(B) requires VRAs that “provide services to a person with a disability at the person’s home” to distribute, assist with and accept voter registrations at the person’s home. 42 U.S.C. § 1973gg-5(a)(4)(B). This subparagraph reflects Congress’s attention to the manner in which some VRAs provided services to clients with disabilities based on common agency practices that Congress was aware of when the NVRA was passed. This provision does not restrict a VRA’s duties when engaging in other modes of communication. Instead, it reflects the “broad scope [of the NVRA’s provisions] with regard to agency-based registration for persons with disabilities” and Congress’s explicit intention to ensure that home-bound persons with disabilities are equally served by VRAs. S. REP. 103-6, at 16 (1993).

declines in writing to register to vote.” *Id.* Section 7(a)(6) also requires those VRAs to provide a form that advises VRA clients of rights and opportunities with respect to voter registration. *Id.* Thus, “in addition to” making voter registration generally available at each voter registration agency, Section 7(a)(6) requires those VRAs that provide services or assistance to clients to also provide specific voter registration opportunities with “each” service application, renewal, or change of address.⁵ *Id.*; *cf. Valdez v. Herrera*, Civ. No. 09-668 JCH/DJS, 2010

⁵ The additional requirements in Section 7(a)(6) will not apply to all designated VRAs because not all VRAs provide “service or assistance in addition to conducting voter registration” through an application process. 42 U.S.C. § 1973gg-5(a)(6). While the requirements in Section 7(a)(6) apply to all mandatory VRAs (*e.g.*, public assistance agencies and offices providing state-funded disabilities programs), they will not apply to some discretionary VRAs. For example, many states have designated public high schools, municipal buildings, and tax collection offices as discretionary voter registration agencies. These discretionary VRAs may not conduct the types of transactions that are covered by Section 7(a)(6) (*e.g.*, applications, recertifications, renewals, and changes of address for a “service or assistance” other than voter registration). The designation of such offices nonetheless serves an important purpose because it assures that basic “registration services – [including the distribution of registration] forms and assistance in completing such forms – will be available routinely and year round in many government and private sector offices.” S. REP. 103-6, at 14. *See also id.* (“Many persons will visit a public office or facility – a public assistance office, an unemployment office, a tax office, a library – in the course of a year. Agency-based voter registration provides a method whereby citizens may easily register to vote and fulfills the requirement that government should do all it can to make registration widely and easily available.”).

U.S. Dist. LEXIS 142209 at *15 -*18 (D.N.M. Dec. 21, 2010) (describing the requirements that mandatory VRAs integrate voter registration into their benefits/service application process), appeal docketed, *Valdez v. Squire*, No. 11-2063 (10th Cir. Mar. 30, 2011). No statutory language limits Section 7(a)(6)'s application to in-person transactions only.

III. ARGUMENT

Defendants' position is inconsistent with the NVRA's plain text and structure, and would instead lead to absurd results at odds with Congressional intent. The NVRA establishes a framework through which all VRAs must offer in-person voter registration opportunities generally (in accord with Section 7(a)(4)), while those VRAs that provide services or assistance in addition to voter registration must also integrate voter registration services into "each" qualifying client transaction (in accord with Section 7(a)(6)). This Court should therefore conclude, as the statutory text provides, that Section 7(a)(6) of the NVRA applies to each covered transaction, whether in-person or remote. In the alternative, because this question is not squarely raised by the Plaintiffs' complaint, the Court should defer consideration of this question until further factual development makes it necessary.

A. Defendants misconstrue the plain text of NVRA's mandatory voter registration agency requirements.

Here, as in all statutory construction cases, the “starting point is the language of the statute itself.” *Harrison v. Benchmark Elecs. Huntsville, Inc.*, 593 F.3d 1206, 1213 (11th Cir. 2010) (citation omitted). Section 4 of the NVRA requires States to “establish procedures to register to vote . . . by application in person” at all offices designated under Section 7. 42 U.S.C. § 1973gg-2. Section 7(a)(4) applies to all VRAs and imposes direct obligations on them by requiring them to provide basic voter registration services “[a]t each voter registration agency.” *Id.* at § 1973gg-5(a)(4).

Section 7(a)(6), however, goes further by requiring those VRAs that provide “service or assistance” to do more than simply provide in-person voter registration services generally. Those VRAs – “*in addition* to conducting voter registration” generally – must also “distribute with *each* application for such service or assistance, and with *each* recertification, renewal, or change of address form relating to such service or assistance . . . the mail voter registration application form” as well as the information form that, among other things, provides the opportunity to record in writing the client’s acceptance or

declination of the opportunity to register. *Id.* at § 1973gg-5(a)(6)(A) (emphasis added).

As used here, “each” is commonly defined to mean “every (individual of a number) regarded or treated separately.” 5 OXFORD ENGLISH DICTIONARY 16 (2d ed. 1989); see *United States v. DBB, Inc.*, 180 F.3d 1277, 1281 (11th Cir. 1999) (“We assume that Congress used the words in a statute as they are commonly and ordinarily understood, and we read the statute to give full effect to each of its provisions”). Nothing in Section 7(a)(6) limits its scope to in-person transactions only. Indeed, the statute’s plain language makes clear that voter registration forms must be provided to clients with “each” covered transaction, and that such obligations are “in addition to” the in-person voter registration opportunities required by Section 4 and by Section 7(a)(4).

Thus, while Congress made clear that all VRAs are obligated to offer certain in-person voter registration services at their offices as a result of Section 4 and Section 7(a)(4), the NVRA does not limit the obligations imposed by Section 7(a)(6) according to the manner in which the qualifying transaction is conducted. There is no reference in Section 7(a)(6) to where or how covered transactions are completed – the text of the statute simply requires that voter registration services be offered with “each” covered transaction. That Congress opted to use the term

“in-person” to limit Section 4’s scope but not use that term in Section 7(a)(6) is significant. “Where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.” *Bates v. United States*, 522 U.S. 23, 29-30 (1997) (citation omitted). Accordingly, Section 7(a)(6)’s enhanced requirements target VRA clients during specific transactions and are distinct from the more general provisions in Section 4 and Section 7(a)(4).

This reading of the statute is compelled by the standard canon of statutory construction that the “the specific governs the general.” *Long Island Care at Home, Ltd. v. Coke*, 551 U.S. 158, 170 (2007). Section 4 merely proscribes a State’s “general” obligation to “establish procedures” for in-person agency registration, 42 U.S.C. § 1973gg-2, and Section 7(a)(4) embodies those procedures by broadly requiring distribution, assistance with, acceptance and transmittal of voter registration forms “[a]t each voter registration agency.” *Id.* at § 1973gg-5(a)(4). In contrast, Section 7(a)(6) imposes defined requirements – without any reference to location – that apply at specific points in time (application, recertification, renewal, and change of address) only to the subset of VRAs that carry out such qualifying transactions.

Rather than read the statute so that all requirements of Section 4 and Section 7 are given full effect, Defendants overlook Section 7(a)(6)'s "in addition to" language and its requirement that voter registration forms be distributed with "each" covered transaction. Nothing in Section 4's plain text purports to limit the additional, substantive requirements imposed directly on those VRAs subject to Section 7(a)(6). And nothing in Section 7 suggests that Congress meant something else when it imposed "addition[al]" obligations on such VRAs by requiring them to provide voter registration opportunities with "each" application for service, renewal, or change of address. *Dodd v. United States*, 545 U.S. 353, 357 (2005) (courts "must presume that [the] legislature says in a statute what it means and means in a statute what it says there.") (brackets in original, citation omitted).⁶

⁶ In their reply brief, Defendants abandon their primary reliance on Section 4 and contend that their reading is also supported by the fact that the voter information form that VRAs must distribute with each covered transaction asks the question "If you are not registered to vote where you live now, would you like to apply to register to vote here today?" See Dkt. 37 at 14-15. The language in the information form - "here today" - merely focuses on the applicant's opportunity to register at the time he or she is in contact with the VRA. It does not restrict the specific requirements imposed on VRAs by Section 7(a)(6). See 42 U.S.C. § 1973gg-5(a). Likewise, Section 7(a)(7), which states that "no information relating to a declination to register to vote in connection with an application made at an office described in paragraph (6) may be used for any purpose other than voter

B. To the extent it conflicts with the NVRA, Georgia law must yield.

The dispute here results not from a limitation in Section 7 but in Georgia state law. O.C.G.A. § 21-2-222(f) states that mandatory VRAs must offer voter registration opportunities only when an “application, recertification, renewal, or change of address [for public assistance] is made in person.” This limitation, however, undermines the NVRA’s text, structure, and purpose and thus must yield.

Under the Elections Clause of the U.S. Constitution, State governments have the initial responsibility to regulate the mechanics of Federal elections and Federal voter registration, “but only so far as Congress declines to preempt state legislative choices.” *Foster v. Love*, 522 U.S. 67, 69 (1997) (citation omitted).

Likewise, under Article VI’s Supremacy Clause, “state laws that ‘interfere with, or are contrary to the laws of congress, made in pursuance of the constitution’

registration,” *id.* at § 1973gg-5(a)(7), is directed to Congress’s concern that VRA clients not be subject to “intimidation or coercion” in deciding whether and how to register to vote. H.R. CONF. REP. NO. 103-66, at 19. It would be incongruous to read this provision as protecting only those who engage in qualifying transactions at VRA offices but not those who interact remotely. Just as Congress would surely have intended these protections to apply to disability clients who interact with VRAs in their homes as a result of Section 7(a)(4)(B), this provision should be read as protecting all VRA clients regardless of where they complete the information form.

are invalid.” *Wisconsin Pub. Intervenor v. Mortier*, 501 U.S. 597, 604 (1991) (quoting *Gibbons v. Ogden*, 22 U.S. 1, 9 (1824)). As the Eleventh Circuit has held in rejecting certain State-imposed voter registration restrictions, where the NVRA sets out specific requirements, it “overrides state law inconsistent with its mandates.” *Charles H. Wesley Educ. Found. v. Cox*, 408 F.3d 1349, 1354 (11th Cir. 2005); see also *Charles H. Wesley Educ. Found. v. Cox*, 324 F. Supp. 2d 1358, 1366 (N.D. Ga. 2004) (“If Georgia law is inconsistent with the NVRA, the former must give way to the latter.”).

Here, Section 7(a)(6) of the NVRA specifically requires that voter registration opportunities must be provided with “each” covered transaction. The in-person restriction in O.C.G.A. § 21-2-222(f) must accordingly be overridden because it “stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.” *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941).

C. Defendants’ position leads to absurd results in light of the statutory structure for agency registration and Congress’s intent in adopting that structure.

Defendants’ argument also leads to absurd results when the statute is viewed as a whole. See *Durr v. Shinseki*, 638 F.3d 1342, 1349 (11th Cir. 2011) (“Because the legislature is presumed to act with sensible and reasonable

purpose, a statute should, if at all possible, be read so as to avoid an unjust or absurd conclusion.”) (citation omitted).

Section 7(a)(2) requires “all offices in the State that provide public assistance” and “all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities” to be designated as mandatory VRAs. 42 U.S.C. § 1973gg-5(a)(2)(A)-(B). The statute does not link a State’s obligation to designate public assistance and disability services offices as VRAs to the method by which they receive applications for benefits and services. Defendants’ reading thus significantly undermines the mandatory designation structure that Congress adopted. Functionally, Defendants’ position is that, by adopting remote methods to interact with clients, States can simply exempt themselves from the voter registration requirements in Section 7(a)(6) that otherwise apply to all mandatory VRAs. But Congress specifically rejected giving States this sort of discretion. In reconciling the versions of Section 7 that were initially passed in the House and Senate, the Conference Committee flatly rejected a Senate amendment which would have eliminated the mandatory designation of public assistance and disability services organizations. The conference report explains that

The conference is concerned that the Senate amendment would permit States to restrict their agency program and defeat a principal purpose of this Act—to increase the number of eligible citizens who register to vote. If a State does not include either public assistance, agencies serving persons with disabilities, or unemployment compensation offices in its agency program, it will exclude a segment of its population from those for whom registration will be convenient and readily available—the poor and persons with disabilities who do not have driver’s licenses and will not come into contact with the other principle place to register under this Act. *It is important that no State be permitted to so restrict its agency registration program.* To eliminate the mandatory agency program altogether will not accomplish the objectives of this Act, since the States are already free to establish agency registration. The only way to assure that no State can create an agency registration program that discriminates against a distinct portion of its population is to require that the agencies designated in each State include an agency that has regular contact with those who do not have driver’s licenses.

H.R. CONF. REP. NO. 103-66, at 19 (emphasis added). Defendants’ position cannot be squared with Congress’s insistence that public assistance and disability services agencies *must* be given significant voter registration responsibilities and that discriminatory voting registration practices must end. *See Estate of Wallace v. Commissioner*, 965 F.2d 1038, 1045 (11th Cir. 1992) (“Indications of congressional intent in a conference committee report deserve great deference by courts because the conference report represents the final statement of terms agreed to by both houses, [and] next to the statute itself it is the most persuasive evidence of congressional intent.”) (brackets in original, citation omitted); *see also* 42 U.S.C.

§ 1973gg(a)(3) (noting harm caused by “discriminatory and unfair registration laws and procedures”). Nor does it cohere with the statute’s plain language, which imposes heightened obligations on public assistance and disability offices when they interact with clients.

The absurd effects that Defendants’ reading of the statute would have in thwarting Congress’s intentions are not hypothetical. According to a 2011 survey by the Center on Budget and Policy Priorities, thirty-nine States now accept internet applications for at least one of the following forms of public assistance: the Supplemental Nutrition and Assistance Program, the Temporary Aid to Needy Families program, Medicaid, the Children’s Health Insurance Program, and other child care assistance programs.⁷ Although the plain language of the statute supports the United States’ position in any event, Congress could not have foreseen the now widespread use of internet-based public assistance applications when it passed the NVRA in 1993. Such technological change should not be allowed to thwart a central purpose of the NVRA. *See* 42 U.S.C. § 1973gg(b) (stating that the Act was enacted to “establish procedures . . . [to] increase the number of eligible citizens who register to vote in

⁷ *See* <http://www.cbpp.org/cms/index.cfm?fa=view&id=1414> (last visited September 1, 2011).

elections for Federal office"); *cf. Local Union 36, IBEW v. NLRB*, 631 F.3d 23, 27 (2d Cir. 2010) (giving effect to broad Congressional purposes, rather than the literal words of the statute, in interpreting the requirement imposed by 28 U.S.C. § 2112(a)(2) to file a petition for review “stamped . . . with the date of filing” in light of the adoption of electronic filing systems).

In short, Section 7(a)(6)’s additional obligations apply to “each” covered transaction, whether conducted in person or remotely. VRAs simply may not deny NVRA-mandated voter registration opportunities to clients who conduct covered transactions remotely rather than in person.

D. This dispute need not be resolved at the motion to dismiss stage.

While the Defendants’ legal position is incorrect, the Court need not resolve that question now. All that Plaintiffs’ amended complaint asserts as to this dispute is that “Section 7’s voter registration requirements . . . apply both to public assistance clients whose application for public assistance, renewals or recertification, or changes of address are processed entirely or in part through in-person transactions at DHS offices, and to those clients whose applications for public assistance, renewals or recertifications, or changes of address are processed entirely through remote transactions (e.g., telephone, mail, or internet).” Dkt. 20, Am. Compl. at ¶ 18. Defendants’ disagreement with

Plaintiffs' statement of law does not give rise to a proper ground for dismissal of the amended complaint. "Well-pleaded facts, not legal theories or conclusions, determine the adequacy of the complaint." *Clemons v. Crawford*, 585 F.3d 1119, 1124 (8th Cir. 2009).

Here, Plaintiffs have pled facts related to a single claim – that Defendants have failed “to provide the voter information and registration opportunities and assistance required by Section 7 of the National Voter Registration Act.” Am. Compl. at ¶ 62. The amended complaint does not, nor can it, detail the exact procedures employed by Georgia’s public assistance offices with respect to receiving applications, renewals, recertifications, and changes of address. This is presumably because such facts have yet to be developed through discovery. Until such facts are properly adduced and asserted, there is no need for the Court to resolve what otherwise remains an abstract legal dispute.

IV. CONCLUSION

For the foregoing reasons, the United States respectfully requests that if and when this question is reached, the Court conclude that under Federal law, VRAs providing services and assistance must provide voter registration opportunities with each application, recertification, renewal, or change of

address, regardless of whether such transactions are conducted in person or remotely.

Date: October 5, 2011

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CERTIFICATE OF COMPLIANCE

The undersigned counsel certifies that the foregoing document was prepared in Book Antiqua 13-point font, in compliance with L.R. 5.1.C.

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CERTIFICATE OF SERVICE

This is to certify that I have on this day electronically filed the foregoing STATEMENT OF INTEREST OF THE UNITED STATES with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all parties in this matter via electronic notification or otherwise.

This 5th day of October, 2011.

_____/s/_____

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