

UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

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COMMON CAUSE OF COLORADO, on behalf of itself :
and its members; MI FAMILIA VOTA EDUCATION :
FUND; and SERVICE EMPLOYEES INTERNATIONAL :
UNION, on behalf of itself and its members, :
Plaintiffs, :

Civil No. 08-cv-02321-JLK

vs. :

BERNIE BUESCHER, in his official capacity as Secretary :
of State for the State of Colorado, :
Defendant. :

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NOTICE OF CORRECTION

Plaintiffs Common Cause of Colorado, Mi Familia Vota Education Fund, and Service Employees International Union, note the following corrections (shown underscored below)of errata (shown in [brackets] below) in Plaintiffs’ Brief in Support of Partial Summary Judgment filed December 10, 2009.

**ERRATA BY PARAGRAPH IN
STATEMENT OF UNDISPUTED MATERIAL FACTS**

1. In paragraph 16, “Active – 20 day” registrants appear on the registration rolls at polling places, with no distinction made among types of “active” voters. Ex. 2, Rudy Dep. at 36:3-8; Ex. 8 at SOS-000670-672 [replaces: SOS-000371] (screenshot of poll book).”
2. In paragraph 40, “Once the paperwork associated with a provisional ballot is filled out, it is reviewed by an election judge. Ex. 1, Hrg. Tr. (Rudy direct) at 53:18-24.” [replaces 52:18-24]

3. In paragraph 61, “Provisional ballots cast by some voters placed in ‘Cancelled – Failed-20 Day’ status before county voter registration data was transferred to SCORE were not reviewed under the standards and procedures set forth in the Stipulated Preliminary Injunction. Ex. 21, October 29, 2008 Order.” [replaces October 19, 2008 Order]
4. In paragraph 85, “On or about October 9, Webb began conducting this work from her office in Los Angeles, and on October 20, she traveled to Colorado, where she worked from Common Cause’s offices and at the Just Vote Colorado call center on Election Day 2008. Ex. 38, Webb Dep. [replaces Ex. 34, Webb Dep.] at 15:22-17:2, 19:25-20:3, 20:22-24; Ex. 30, Ury Dep. at 60:13-19, 68:24-69:4; Ex. 37, Exhibit 7 to Ury Dep. (email from Flanagan to Nunez).”
5. In paragraph 89, “These efforts were to include assessing the SCORE system; addressing (with the help of Webb) the shortage of polling sites and voting booths in parts of Colorado; creating mobile poll monitoring teams to address issues at specific sites (also with Webb’s assistance); and addressing the significant confusion concerning how and where to drop off mail-in ballots (again utilizing Webb). Ex. 20, Flanagan Supp. Decl. ¶ 41; Ex. 34, Flanagan Dep. at 58:19-59:3, 113:7-14, 121:7-18, 152:5-16, 176:6-17; Ex. 38, Webb Dep. at 18:6-19:1, 19:2-8, 54:22-56:3; Ex. 37, Ex. 7 to Ury Dep.; Ex. 30, Ury Dep. at 51:15-24, 52:2-8, 87:7-23. 88:13-89:5; Ex. 63, Correspondence from Susannah Goodman, Jenny Flanagan and Elena Nunez to Joanne Wright; Ex. 52, Just Vote Colorado Steering Committee Meeting Notes [replaces Ex. 64, Just Vote Colorado Steering Committee Meeting Notes]; Ex. 43, Draft of Just Vote Colorado Mission Statement and 2008 Agenda.” [replaces Ex. 41, Draft of Just Vote Colorado Mission Statement and 2008 Agenda]
6. In paragraph 147, “Under this VRD, MFV registered approximately 2500 voters, including Marion Anderson [replaces Marian Anderson], Janine Legare Low, Zayatona Ahmed, and Ivan A. Valverde.”
7. In paragraph 165, “For example, SEIU member Rudy Puente, registered to vote on February 2, 2008, and on May 7, 2008 his registration was cancelled under the 20-day rule. Ex. 50, Supe Decl. ¶¶ 4-8; Ex. 57, SOS-004654.” [replaces Ex. 57, SOS-004657]
8. In paragraph 167, “Timnit Twolde, another SEIU member, registered to vote on November 4, 2008 and on March 10, 2009 was cancelled under the 20-day rule, and remains in cancelled status. Ex. 49, Supe Supp. Decl., ¶ 5 [replaces Ex. 49, Supe Supp. Decl., ¶ 51]; Ex. 61, SOS-006035-SOS-006042.”
9. In paragraph 168, “In the November 2008 election, Twolde cast a provisional ballot as ‘Timmit Twolde.’” [deletes bracketed text “[while in cancelled 20-day status,]”]

ERRATA BY PAGE IN ARGUMENT

10. On page 45, “Approximately 268 voters who had been cancelled by operation of the 20-day prior to Election Day 2008 rule cast provisional ballots in the 2008 primary or general elections. Ex. 51, Naifeh Decl. ¶16.” [replaces Ex. 51, Naifeh

Decl. ¶ 6]

11. On page 48, “To find out if their vote was counted, provisional voters must wait 14 days and then log on to a Secretary of State website or call a hotline. Ex. 1, Hrg. Tr. (Rudy direct) at 52:18-24.” [replaces Ex. 1, Hrg. Tr. (Rudy direct) at 53:25-54:10]
12. On pages 54-55, “Furthermore, Plaintiffs have submitted uncontroverted evidence that Defendant’s past and ongoing purge of eligible voters will continue to impair SEIU’s and Mi Familia Vota’s voter registration efforts and efforts to engage the communities they serve in the electoral process through education, outreach and get-out-the vote programs, both because voters who are not registered cannot effectively participate in the political process and because Mi Familia Vota and SEIU will be required to expend greater time and resources to persuade voters to participate in the political process. Ex. 53, Salazar Decl. ¶ 17 [replaces Ex. 53, Salazar Decl. ¶ 7]; Ex. 27, Lopez Ramirez Dep. at 17:13-19:5 (Low income Latinos are ‘wary of government in general. . . . [T]hey felt comfortable with us. But the purging undermines that relationship.’)”
13. On pages 66-67, “In fact, this real concern was borne out by the functioning of the Stipulated Preliminary Injunction in practice: Out of 268 [replaces 297] provisional ballots cast by failed 20-day voters, 51, or nearly 20%, [replaces over 20%] were found on review by the Secretary of State to have been erroneously rejected by the counties, despite the heightened standard the counties were required to apply. Ex. 2, Rudy Dep. at 51:4-52:10.”

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Respectfully submitted by:

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