

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:08-cv-2321-JLK-KMT

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,

v.

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

Defendant.

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MOTION FOR ENLARGEMENT OF TIME TO FILE REPLY BRIEF IN  
SUPPORT OF MOTION TO DISMISS AMENDED COMPLAINT

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Pursuant to Fed. R. Civ. P. 6(b)(1)(A), Defendant Bernie Buescher, in his  
official capacity as Secretary of State for the State of Colorado, by and through  
undersigned counsel, hereby moves for an 8 day enlargement of time, through and  
including August 14, 2009, in which to file his reply brief in further support of his  
Motion to Dismiss.

AS GROUNDS THEREFORE, the Secretary states:

1. Pursuant to D.C.COLO.LCivR 7.1(A), counsel for the Secretary certify that they conferred with Plaintiffs regarding this Motion. On August 4, 2009, counsel for the Secretary conferred with Plaintiffs' counsel and requested an enlargement of time until and including August 20, 2009. On August 5, 2009, Plaintiffs' counsel responded that Plaintiffs would agree to an enlargement of time until and including August 10, 2009. The Secretary's counsel called Plaintiffs' counsel again on August 5, 2009 to request that the Plaintiffs agree to an extension until and including either August 13 or 14<sup>th</sup>. Plaintiffs object to an enlargement of time to either August 13 or 14<sup>th</sup>.

2. Pursuant to this Court's Order dated July 17, 2009, the Secretary's reply brief in further support of his Motion to Dismiss is currently due on August 6, 2009.

3. On July 27, 2009, Plaintiffs' counsel sent a letter to counsel for the Secretary outlining a proposed settlement of one of the claims raised in the Amended Complaint. Counsel for the Secretary have not had adequate time to finish the reply brief or to fully consider the proposed resolution, as counsel and key staff for the Secretary have been focused on responding to Plaintiffs' first set of interrogatories and requests for production (due August 4, 2009). These

discovery responses have required the review at least 75,000 documents, and required counsel and staff for the Secretary to work well into the evenings and through the weekends. While necessary, this work has precluded adequate time to complete the reply brief or to give sufficient consideration to Plaintiffs' proposed settlement offer.

The Secretary respectfully requests an enlargement of time in which to file his reply brief in order to continue both internal discussions as well as potentially fruitful discussions with Plaintiffs regarding Plaintiffs' proposed resolution of this claim. The Secretary requests 8 days in order to have sufficient time both to complete the reply brief and work out the details of any potential resolution of the particular claim in Plaintiffs' proposed settlement. Should the parties be able to reach a resolution, the Secretary will not need to burden the Court with additional briefing on that particular claim; if not, then the Secretary will file his Reply outlining his rebuttal arguments regarding that claim.

5. The Plaintiffs will not be prejudiced by the requested relief. The discovery will continue and the ultimate goal of a quick and timely resolution can still be met even with a short enlargement. The Secretary has agreed to several enlargements of time that have not detrimentally impacted the forward movement of this matter. For instance, the Secretary did not oppose Plaintiffs' motions to

enlarge time to file their Amended Complaint by April 13, 2009, and their request for more than a month enlargement of time to file their Response to the Secretary's Motion to Dismiss (from June 11 to July 15), and again to enlarge that to July 16<sup>th</sup>. These enlargements have not impacted the forward movement of this case; this short enlargement also will not do so either.

6. In the alternative, the Secretary requests the Court permit an enlargement of time to and include August 10, 2009. Plaintiffs do not object to an enlargement to August 10, 2009.

WHEREFORE, the Secretary therefore respectfully requests an 8-day enlargement of time, through and including August 14, 2009, in which to file his reply brief in support of his motion to dismiss Plaintiffs' Amended Complaint.

Dated: August 5, 2009.

JOHN W. SUTHERS  
Attorney General

*s/Melody Mirbaba*

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## CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2009, I served a true and complete copy of the within MOTION FOR ENLARGEMENT OF TIME TO FILE REPLY BRIEF IN FURTHER SUPPORT OF MOTION TO DISMISS AMENDED COMPLAINT upon all parties by the method indicated below:

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*s/ Melody Mirbaba*

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