

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

|  |   |                          |
|--|---|--------------------------|
| STEVEN WAYNE FISH, et al.,                     | ) |                          |
|  | ) |                          |
| Plaintiffs,                                    | ) |                          |
|  | ) |                          |
| v.   | ) | Case No. 16-2105-JAR-JPO |
|  | ) |                          |
| KRIS KOBACH, in his official capacity as       | ) |                          |
| Secretary of State for the State of Kansas, et | ) |                          |
| al.,   | ) |                          |
|  | ) |                          |
| Defendants.                                    | ) |                          |
| _____  | ) |                          |

**JOINT STATUS REPORT RELATING TO SEPTEMBER 29, 2016 ORDER**

On September 29, 2016, this Court issued an order requiring the parties to update the Court on where Defendants are in relation to the items listed in that order. Dkt. 226. The following paragraphs correspond directly to those points in the Court’s order to explain steps that have been completed or are near completion.

1. Defendant Kobach has sent out instructions to the county election officials to send out new notices. The notice to be sent is the notice that this Court instructed Defendant to send at the conference call with the Court. The instructions to the county election officers will be separately e-mailed to the Court and counsel in compliance with this Court’s subsequent minute entry. Dkt. 236.
  
2. Defendant has instructed the counties that covered voters will not use provisional ballots, but instead vote in the same manner as other individuals who appear on the poll book. That information is also included in the instructions e-mailed to the Court.
  
3. The “Voter View” website has been updated as required.

4. The source codes in the Electronic Voter Information System remain the same, delineating individuals who are covered by this Court's order.

5. Defendant has been working with our ELVIS vendors and electronic poll book vendors to ensure that counties with electronic poll books will not issue provisional ballots to covered voters. This process will be completed prior to the start of advanced voting which begins next Wednesday. Defendant has also instructed county election officials that use paper poll books to have a list of covered voters so that those individuals will not be required to vote a provisional ballot. That information is included in the instructions to the counties as well.

6. Defendant believes that all of the above fully complies with what was required to be done for this Joint Status submission. Defendant recognizes that there are some disagreements with Plaintiffs about the content of what discussed and ordered under the subsequent teleconference and the minute entry. Defendant has read the transcript and the Court's minute order. It is Defendant's understanding that Defendants were to make changes and e-mail the Court that the changes had been made in accordance with this Court's order. Out of an abundance of caution, deference to this Court, and in response to communications with Plaintiffs, Counsel for Defendants provided Plaintiffs' counsel with the notices. Plaintiffs' counsel suggested additional changes to the notices. Defendants also identified where language had been updated on the websites.

7. Defendant's counsel has conferred with Plaintiffs' counsel on their proposed revisions, have agreed to some of the revisions, but many of the revisions Defendants do not believe are addressed by any order of this Court as they go into issues regarding links on websites that are unrelated to the applying to register to vote at the Division of Vehicles and are not part of the updated notices to which this Court was addressed. Additionally, the

disagreements from Plaintiffs involve how they would style the notice or what additional information they would like to include. The current modifications to the websites and in the notices do not give incorrect information related to applying to register to vote at the Division of Vehicles (or applying using the Federal Form, even though issues related to the contents of the Federal Form is currently being litigated in a different case in Washington, DC) and they do not give incorrect information about individuals' current registration status or voting in the upcoming election. Additionally, Defendant's position is that it is important to give voters more information as opposed to less so that they fully understand their current status.

8. Plaintiffs' Position:

9. Although progress has been made regarding portions of the Interim Agreement, Defendant has not complied with this Court's Order to correct the Secretary of State's website information regarding voter registration requirements by October 7, 2016. Dkt. 236. As detailed in the attached correspondence, Plaintiffs requested but did not receive a summary of Defendant's revisions to notice and website information until 6:00pm ET on October 12, 2016. Plaintiffs believe that during the October 5, 2016 teleconference, the Court clearly directed Defendant to remove website information indicating that documentary proof of citizenship is necessary in order to register to vote. But the revised website information Defendant proposes continues to list documentary proof of citizenship as a requirement for voter registration. Defendant's proposal also fails to clearly communicate to readers that an individual may register to vote without documentary proof of citizenship via motor-voter or Federal Form registration.

10. Plaintiffs attach as Exhibit A a proposed redline modification of the Secretary of State's public website information on voter registration. Plaintiffs believe these proposed changes would more clearly communicate that individuals may register without documentary

proof of citizenship at a Department of Motor Vehicle Office or via the Federal Form. Plaintiffs also attach as Exhibit B correspondence between the parties outlining their respective position on revisions to website information.

11. Plaintiffs also object to language in Defendant's proposed website notice letter and DMV receipt information. Plaintiffs believe it is confusing and unnecessary to advise registrants that they may be "deregistered" at a later date if a subsequent judicial decision reverses this Court's Preliminary Injunction. Plaintiffs believe that it is preferable and clearer to advise individuals that they will be fully registered to vote "subject only to further official notice." Plaintiffs attach as Exhibit C proposed revisions to the DMV receipt and website notice letter.

Respectfully submitted this 12th day of October, 2016.

/s/ GARRETT ROE  
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**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that, on the 12th day of October, 2016, I electronically filed the above and foregoing document using the CM/ECF system, which automatically sends notice and a copy of the filing to all counsel of record.

/s/ GARRETT ROE

Garrett Roe, Bar No. 26867

Attorney for Defendant Kris Kobach

# Exhibit A

GOT VOTERID Main webpage.

<http://www.gotvoterid.com/main.html>

**If you're a registered voter, bring one of these to the polls:**

Driver's License, Nondriver ID Card, Concealed Carry Handgun License, U.S. Passport, Government Employee ID, U.S. Military ID, Kansas College ID, Government Public Assistance ID or Indian Tribe ID. (See [List of IDs](#) for more detailed descriptions.)

~~Due to recent court rulings, if you have applied to register to vote at a Kansas Division of Motor Vehicles office or if you have applied to register to vote using the "Federal Form" voter registration application (as opposed to the standard 'state form') and have not yet provided proof of citizenship, you are registered to vote for the November 8, 2016, general election. Your name will appear on the poll book for your voting location and you will be given a standard ballot. There is nothing further you need to provide for the November 8, 2016, general election.~~

**Changes in Kansas Voting Law**

On April 18, 2011, Kansas Governor Sam Brownback signed the Kansas [Secure and Fair Elections](#) (S.A.F.E.) Act ([Español](#)) into law. Sponsored by the Office of the Kansas Secretary of State, this website contains information every voter should know about changes impacting elections under the S.A.F.E. law.

**Starting January 1, 2012:**

1. Kansas voters must show photographic identification when casting a vote in person; and
2. Kansas voters must have their signature verified and include a copy of an acceptable form of photographic identification or provide a full Kansas driver's license or nondriver ID number when voting by mail.

**Starting January 1, 2013:**

Persons registering to vote for the first time in Kansas must [produce a document demonstrating prove](#) U.S. citizenship when registering to vote [unless they register at a Kansas Division of Motor Vehicles Office or using the Kansas national mail voter registration application \(Federal Form\)](#).

Comment [OD1]: Hyperlinked to [https://www.eac.gov/assets/1/Documents/Federal%20Voter%20Registration\\_1209\\_en8242012.pdf](https://www.eac.gov/assets/1/Documents/Federal%20Voter%20Registration_1209_en8242012.pdf)



GOT VOTERID "Evidence" webpage.

<http://www.gotvoterid.com/main.html>

## Evidence Required

An individual who applies to register to vote at a Kansas Division of Motor Vehicles Office or using the Kansas national mail voter registration application (Federal Form) may register WITHOUT producing a document proving United States citizenship.

Individuals ~~Any person~~ registering to vote in Kansas for the first time through another method will be required to provide a document demonstrating satisfactory evidence of United States citizenship. Individuals registered to vote in Kansas as of the effective date of this requirement are deemed to have submitted proof of citizenship and are exempt from the requirement as long as they remain on the voter registration list. Moving from one place to another within Kansas or modifying one's registration records does not require the person to re-submit proof of citizenship. If a voter's registration is canceled, the person must submit a citizenship document when re-registering unless he or she registers to vote at a DMV office or using the Federal Form.

If a citizenship document is not provided at the time the person submits his or her voter registration application, it may be submitted at a later time. Such person may (1) mail or deliver the document to the county election office by the close of business on the day before the election, or (2) submit it electronically by midnight the day before the election. "Electronically" means fax, email or other electronic means approved by the Secretary of State.

For the purposes of the November 8, 2016, General Election, a person who has applied to register to vote at a Kansas Division of Motor Vehicles Office or who has applied to register to vote in Kansas national mail voter registration application (Federal Form) and has not yet provided proof of citizenship is considered registered to vote for federal, state, and local elections. These rulings cover only the November 8, 2016, General Election.

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## Valid Citizenship Documents

Here is a list of citizenship documents that are acceptable required for individuals who do not register to vote at a DMV office or using a Federal Form application: as evidence of United States citizenship for voter registration purposes:

- Birth certificate that verifies United States citizenship

Comment [OD2]: Hyperlinked to [https://www.eac.gov/assets/1/Documents/Federal%20Voter%20Registration\\_1209\\_en8242012.pdf](https://www.eac.gov/assets/1/Documents/Federal%20Voter%20Registration_1209_en8242012.pdf)

- United States passport or pertinent pages of the applicant's valid or expired United States passport identifying the applicant and the applicant's passport number
- United States naturalization documents or the number of the certificate of naturalization
- Other documents or methods of proof of United States citizenship issued by the federal government pursuant to the Immigration and Nationality Act of 1952
- Bureau of Indian Affairs card number, tribal treaty card number or tribal enrollment number
- Consular report of birth abroad of a citizen of the United States
- Certificate of citizenship issued by the United States Bureau of Citizenship and Immigration Services
- Certification of report of birth issued by the United States Department of State
- American Indian card, with KIC classification, issued by the United States Department of Homeland Security (Note: This document applies only to a small Texas band of the Kickapoo tribe with slightly more than 50 members.)
- Final adoption decree showing the applicant's name and United States birthplace
- United States military record of service showing applicant's place of birth in the United States
- Extract from a United States hospital record of birth created at the time of the applicant's birth indicating the applicant's place of birth in the United States
- Only if the agency indicates on the applicant's driver's license or nondriver's identification card that the person has provided satisfactory proof of United States citizenship, then a driver's license or nondriver's identification card issued by the Kansas Division of Vehicles or the equivalent governmental agency of another state within the United States

#### [FAQs about Citizenship Verification](#)

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#### **Unsatisfactory Citizenship Documents**

If a citizenship document submitted by a voter registration applicant is deemed unsatisfactory due to an inconsistency between the citizenship document and the (1) name or (2) sex indicated on the applicant's voter registration application, the applicant may sign a [Form CDU \(Español\)](#) (Affidavit of Evidence of U.S. Citizenship) explaining the inconsistency.

The applicant must state the nature of the inconsistency, the reason for it, and must swear under oath that, despite the inconsistency, the applicant is the individual reflected in the citizenship document.

A properly executed affidavit should result in the applicant being granted full registration status unless it is denied for another reason.

The date of birth on the citizenship document must match the date of birth on the voter registration application.

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## No Citizenship Documents

Applicants who cannot meet the citizenship verification requirement because they do not possess any of the documents listed above to prove their U.S. citizenship may:

- [Apply to register to vote at a DMV office or fill out a \*\*Federal Form\*\* application](#)
- if born in Kansas, apply for a free birth certificate using [Form BCA \(Español\)](#), (Affidavit of Person Requesting Free Certified Copy of Birth Certificate) and [Form VS-235 10/09](#) (Application for Certified Copy of Kansas Birth Certificate), or
- if not born in Kansas, instructions for obtaining a birth certificate in another state or territory may be found at the [National Center for Health Statistics](#) website, or
- appeal to the state election board for consideration of the registration application by submitting [Form RCD \(Español\)](#) (Request for Consideration of U.S. Citizenship Documents by State Election Board of Kansas).

Comment [OD3]: Hyperlinked to [https://www.eac.gov/assets/1/Documents/Federal%20Voter%20Registration\\_1209\\_en8242012.pdf](https://www.eac.gov/assets/1/Documents/Federal%20Voter%20Registration_1209_en8242012.pdf)

"Register to Vote" Link from Secretary of State Homepage -

<https://www.kdor.ks.gov/Apps/VoterReg/Default.aspx>

## ONLINE VOTER REGISTRATION APPLICATION

To register to vote online, you must have a valid Kansas driver's license or non-driver's identification card. If you do not have either of these documents, you may register to vote using the [paper form](#). (link will open in new window.) You must re-register each time you change your name, address, or party affiliation for voting.

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**If you register to vote at a Kansas Division of Motor Vehicles Office or using the Kansas national mail voter registration application (Federal Form), you DO NOT NEED TO PRODUCE A DOCUMENT PROVING United States citizenship**

Comment [OD4]: Hyperlinked to [https://www.eac.gov/assets/1/Documents/Federal%20Voter%20Registration\\_1209\\_en8242012.pdf](https://www.eac.gov/assets/1/Documents/Federal%20Voter%20Registration_1209_en8242012.pdf)

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If you are registering for the first time in Kansas through another method, you must submit a document proving your ~~evidence of~~ US citizenship.

[A list of 13 acceptable citizenship documents is found here](#). (link will open in new window.)

*Do not submit* a Kansas driver's license or non-driver's identification card, because neither proves citizenship at this time.

After completing the online application, you may either:

- 1) Upload your scanned citizenship document in PDF format. An Upload feature is available at the end of the application process. The file size must not exceed 4MB.
- Or
- 2) [Mail, fax, email or hand deliver a copy of your citizenship document to your county election office. Contact information is found here](#). (link will open in new window.)

These are the steps you must complete in the online voter registration process:

- 1) Verify your voting eligibility.
- 2) Verify that you have a valid driver's license or non-driver's identification card.
- 3) Enter your personal information.
- 4) Review and submit your information.

Allow time for processing. Your county election officer will notify you that your voter registration was completed successfully or that further action is needed.

# Exhibit B

## Orion Danjuma

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**From:** Roe, Garrett [KSOS] <Garrett.Roe@ks.gov>  
**Sent:** Wednesday, October 12, 2016 10:59 PM  
**To:** Orion Danjuma; Sophia Lakin  
**Cc:** Kobach, Kris [KSOS]; Dale Ho; Liu, Angela; Steiner, Neil  
**Subject:** RE: Magistrate O'Hare's order and compliance status report  
**Attachments:** WEBSITE NOTICE-Plaintiff revisions\_Defendants subsequent revisions.docx; DMV VR APPLICATION RECEIPT - JUDGE ROBINSON VERSION-Plaintiff revisions\_Defendants subsequent revisions.docx

Orion,

1(a): We understand your concern. That can be easily addressed with an asterisk that directs the reader to the paragraph on the website which is in compliance with what Judge Robinson ordered.

1(b): We will not placing a hyperlink to the Federal Form. That was not part of her order (or even part of this case) and goes well beyond any relief Plaintiffs have been granted or sought. There is currently a preliminary injunction in this case related to the DMV process.

1(b): Regarding the next red provision. Again, the sentences can remain as they are on the website with another asterisk as explained in paragraph 1(a).

1(b): I'm confused by your concern here. The Evidence Required section already states you do not need proof of citizenship to register to vote. But to ensure that yet again people are aware, we will again have an asterisk explaining that individuals who have applied to register to vote at the DMV or utilizing the Federal Form do not need to provide this information to be registered to vote for federal, state, and local elections at this time.

1(b): Regarding "No Citizenship Documents section." We will not do your suggestion. It is not part of the Judge's order to include links to the Federal Form and is not part of this case. It is also not what that section is about. The webpage also will already have stated twice what the Court ordered us to do.

1(c): As we discussed on the phone, we have already updated this website in compliance with what Judge Robinson ordered. It states as follows:

**Due to recent court rulings, if you have applied to register to vote at a Kansas Division of Motor Vehicles office or if you have applied to register to vote using the "Federal Form" voter registration application (as opposed to the standard 'state form') and have not yet provided proof of citizenship, you are registered to vote for the November 8, 2016, general election. Your name will appear on the poll book for your voting location and you will be given a standard ballot. There is nothing further you need to provide for the November 8, 2016, general election.**

Additionally, Judge Robinson never instructed this office to hyperlink to the Federal Form and it is not part of this case.

1(d): We will take the Voter ID kit off of the website until changes can be made. It will come off the website in the morning until the pamphlet can be updated.

1(e): I honestly cannot understand your position that we are not complying with the Court's order here. The instructions on that webpage is how to register to vote online using that specific link. The Kansas Secretary of State's homepage expressly states "Register to vote using the online voter registration application." The instructions themselves is on that page is regarding how "To register to vote online." Thus, to use *that link* to register to vote, the

online voter registration application is correct. Additionally, to use the Kansas voter registration form, you have to provide documentary proof of citizenship.

Again, I will reiterate that *this case* is a preemption case about the DMV registration application process only. We have agreed to make changes regarding notices including information about those registering to vote using the Federal Form and we have ensured that any notices regarding the Federal Form is correct. However, your suggested change is not covered by Judge Robinson's order and it makes a change that is incorrect. This page is involves registering to vote online or registering to vote using the Kansas voter registration form.

2: We will change this to: Notice Regarding Voter Registration Status. It fits on one line like everything else and its more specific.

3: Please see my edits. On the DMV notice, what you are suggesting is a disservice to anybody who applies to register to vote at the DMV. We want to ensure that the individual knows that they do not have to do anything more at this juncture to vote in the November election. However, we also want to ensure that they know if a subsequent court rules it is unclear what their status will be. I have modified the notice to be verbatim what Judge Robinson already approved on the mail notices. I also moved what was the second paragraph to the third paragraph.

4: I do not believe that anything we have discussed has a Spanish language version. Regardless, we need a final English version so that we can have an accurate Spanish version if it did.

I need to e-mail Judge Robinson and I need to go home. If you still disagree, I will e-mail her the multiple versions along with these e-mails so she knows our positions.

Garrett Roe  
Deputy Assistant Secretary of State, Legal Services  
785-296-8473

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**From:** Orion Danjuma [mailto:odanjuma@aclu.org]  
**Sent:** Wednesday, October 12, 2016 8:51 PM  
**To:** Roe, Garrett [KSOS] <Garrett.Roe@ks.gov>; Sophia Lakin <slakin@aclu.org>  
**Cc:** Kobach, Kris [KSOS] <Kris.Kobach@ks.gov>; Dale Ho <dho@aclu.org>; Liu, Angela <Angela.Liu@dechert.com>; Steiner, Neil <neil.steiner@dechert.com>  
**Subject:** RE: Magistrate O'Hare's order and compliance status report

Garrett,

We have reviewed the materials you forwarded to us this evening and have certain objections. You just contacted me via phone about a half hour ago and we discussed some of Plaintiffs' concerns.

- 1) Our first concern is that the website revisions do not comply with Judge Robinson's directions from the Oct. 5 hearing. Some websites do not appear to have been updated at all. The current changes to website information are certain to engender greater confusion rather than eliminate it as the judge directed. You have stated that the we have highlighted certain websites for the first time in this email correspondence but that is not correct. We explicitly noted the GotVoterID website and Secretary of State's website information during the Oct. 5 telephonic. More importantly, Judge Robinson required you to change all public website information, whether or not Plaintiffs had identified them. Oct. 5, 2016 Transcript at p. 14. ("So, Mr. Kobach, what I'd ask you to do is forthwith make these changes on the Secretary of State website, the vote-- My Vote Info, etcetera, website, any other websites you're utilizing, even county election offices.")
  - a. GotVoter ID (evidence) <http://www.gotvoterid.com/proof-of-citizenship.html#evidence>.  
The first sentence of the Got Voter ID evidence website currently says inaccurately, "Any person

registering to vote in Kansas for the first time will be required to provide satisfactory evidence of United States citizenship.” Later in this section, the website states that “For the purposes of the November 8, 2016, General Election, a person who has applied to register to vote at a Kansas Division of Motor Vehicles Office or who has applied to register to vote in Kansas national mail voter registration application (Federal Form) and has not yet provided proof of citizenship is considered registered to vote for federal, state, and local elections. These rulings cover only the November 8, 2016, General Election.” This section is inaccurate, confusing, and grammatically incoherent (in addition, there is no explanation of what “rulings” are being referenced).

- b. The text of the section needs to be modified in the following manner:

Full Evidence required section:

“An individual who applies to register to vote at a Kansas Division of Motor Vehicles Office or using the Kansas national mail voter registration application (Federal Form) ([hyperlink--https://www.eac.gov/assets/1/Documents/Federal%20Voter%20Registration\\_1209\\_en8242012.pdf](https://www.eac.gov/assets/1/Documents/Federal%20Voter%20Registration_1209_en8242012.pdf)) may register ***WITHOUT*** producing a document proving United States citizenship.

Individuals registering to vote for the first time **through another method will be required to provide a document demonstrating that he or she is a United States citizen.** Individuals registered to vote in Kansas as of the effective date of this requirement are deemed to have submitted proof of citizenship and are exempt from the requirement as long as they remain on the voter registration list. Moving from one place to another within Kansas or modifying one's registration records does not require the person to re-submit proof of citizenship. If a voter's registration is canceled, the person must submit a citizenship document when re-registering **unless he or she registers to vote at a DMV office or using the Federal Form application.**

If a citizenship document is not provided at the time the person submits his or her voter registration application, it may be submitted at a later time. Such person may (1) mail or deliver the document to the county election office by the close of business on the day before the election, or (2) submit it electronically by midnight the day before the election. "Electronically" means fax, email or other electronic means approved by the Secretary of State.”

Valid citizenship documents section:

[First sentence] Here is a list of **citizenship** documents that are required for individuals **who do not register to vote at a DMV office or using a Federal Form application.**

No citizenship document section:

Applicants who cannot meet the citizenship verification requirement because they do not possess any of the documents listed above to prove their U.S. citizenship may:

[first bullet] **Apply to register to vote at a DMV office or fill out a Federal Form application (available at: [https://www.eac.gov/assets/1/Documents/Federal%20Voter%20Registration\\_1209\\_en8242012.pdf](https://www.eac.gov/assets/1/Documents/Federal%20Voter%20Registration_1209_en8242012.pdf)).**

- c. On the GotVoterID homepage (<http://www.gotvoterid.com/main.html>), the text needs at the bottom needs to be modified in the following manner:

Starting January 1, 2013:

Persons registering to vote for the first time in Kansas must **produce a document demonstrating U.S. citizenship** when registering to vote unless they **register to vote at a Kansas Division of Motor Vehicles Office or using the Kansas national mail voter registration application (Federal Form) ([hyperlink--https://www.eac.gov/assets/1/Documents/Federal%20Voter%20Registration\\_1209\\_en8242012.pdf](https://www.eac.gov/assets/1/Documents/Federal%20Voter%20Registration_1209_en8242012.pdf)).**

When we spoke on the phone, you mentioned that you had just recently added a new paragraph to the webpage reading “due to recent court rulings...” We think that paragraph should be omitted in favor of the paragraph above. The issue of citizenship documentation should be addressed when that issue is raised.



- d. The voter registration Kit pdf (<http://www.gotvoterid.com/pdf/Kansas-Voter-Registration-Kit.pdf>) needs to be changed in a manner consistent with the revisions above. I understand from our phone conversation that you will need to reformat the document consistent with any changes. We would ask that this be done as soon as possible.
  - e. Voter registration instructions on the Kansas Secretary of State's website. In the Oct 5, 2016 teleconference Judge Robinson was specifically examining the "register to vote" link on the Secretary of State's homepage. (<https://www.kdor.ks.gov/Apps/VoterReg/Default.aspx>). I understand that your position is that online registration, even though it is a DMV-hosted and administered website, is not subject to the NVRA. We do not agree with your position. But regardless of that disagreement, ***the instructions*** for registration need to be updated as soon as possible. The sentence in the second paragraph should be revised to read:  
"If you are registering for the first time in Kansas, you must submit a document demonstrating US citizenship unless you register to vote at a Kansas Division of Motor Vehicles Office or using the Kansas national mail voter registration application (Federal Form) ([hyperlink--https://www.eac.gov/assets/1/Documents/Federal%20Voter%20Registration\\_1209\\_en8242012.pdf](https://www.eac.gov/assets/1/Documents/Federal%20Voter%20Registration_1209_en8242012.pdf)).
- 2) On the Secretary of State's homepage, you list the notice to covered voters in the "Quick Links" section as "Notice to Voters." We are concerned that this will be ignored as currently posted; indeed our office did not see this link at all. We would ask that the name of the link be changed to say "Important Notice Regarding Voter Registration Status." I know you were concerned that that might not fit on one line. But it looks to me like it may fit.
  - 3) You appear to have taken the position that covered voters are only registered "for purposes of the Nov. 8, 2016 general election." We don't agree with that characterization of either Judge Robinson or Judge Hendrick's orders. There is no time limit or time frame to Judge Robinson's preliminary injunction, which the Tenth Circuit has now affirmed. Judge Hendricks Order states that his injunction is "extended until such time as this Court issues its ruling on the Plaintiffs' Motion for Permanent Injunction, including up through the general election scheduled for November 8." There are a few changes to the language in web notice and DMV receipt I have made in track changes to address these concerns (attached).
  - 4) Judge Robinson requested that the changes should be made to both the Spanish and English versions of the website. Has that been completed?

Given the timing, please call my cell phone to let us know if you agree or disagree with our position so that we can revise the status update accordingly. (917) 364-0484.

Orion

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**From:** Roe, Garrett [KSOS] [<mailto:Garrett.Roe@ks.gov>]  
**Sent:** Wednesday, October 12, 2016 6:02 PM  
**To:** Orion Danjuma; Sophia Lakin  
**Cc:** Kobach, Kris [KSOS]; Dale Ho; Liu, Angela; Steiner, Neil  
**Subject:** RE: Magistrate O'Hare's order and compliance status report

Orion,

Attached please find the status update. Everything listed within Judge Robinson's Order has been entirely complied with except the electronic poll book issue which simply takes time. It will be done prior to advanced voting which begins next Wednesday.

Regarding your e-mail today:

Got Voter ID website has now been updated in two separate locations.

--On the home page which you identified. <http://www.gotvoterid.com/main.html>

--It is also changed here: <http://www.gotvoterid.com/proof-of-citizenship.html#evidence>

The voter kit, which has never been addressed before this afternoon is not as easily updated. It is a PDF and we have to actually redesign the whole pamphlet. It will be updated by the end of the week even though it was never brought up until a few hours ago.

I am confused by your wanting to redesign our News feed. This likewise has never been raised. What was raised was putting a notice on our website. We have put a notice on the website in the place where such notice would typically be found—under the “Quick Links.” We made sure it was the first link under that section as well.

The revised notice was drafted by Judge Robinson and will be included to the Court as she instructed in the conference call and the subsequent minute order. It is attached.

The DMV notice was also ordered to be e-mailed to her and to counsel with assurances that all Kansans applying to register to vote at the DMV will receive the notice regardless of whether they provided documentary proof of citizenship. That notice language will also be provided in a subsequent e-mail pursuant to counsel and to Judge Robinson pursuant to her minute entry. It is attached.

The instructions to the counties have already gone out and are being sent to you as well as Judge Robinson as indicated in the conference call and the court’s minute entry order. They are attached.

Garrett Roe  
Deputy Assistant Secretary of State, Legal Services  
785-296-8473

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**From:** Orion Danjuma [<mailto:odanjuma@aclu.org>]

**Sent:** Wednesday, October 12, 2016 4:05 PM

**To:** Roe, Garrett [KSOS] <[Garrett.Roe@ks.gov](mailto:Garrett.Roe@ks.gov)>; Sophia Lakin <[slakin@aclu.org](mailto:slakin@aclu.org)>

**Cc:** Kobach, Kris [KSOS] <[Kris.Kobach@ks.gov](mailto:Kris.Kobach@ks.gov)>; Dale Ho <[dho@aclu.org](mailto:dho@aclu.org)>; Liu, Angela <[Angela.Liu@dechert.com](mailto:Angela.Liu@dechert.com)>; Steiner, Neil <[neil.steiner@dechert.com](mailto:neil.steiner@dechert.com)>

**Subject:** RE: Magistrate O'Hare's order and compliance status report

Hello Garret,

I tried to reach you via phone about an hour ago and have not yet heard back.

Just to clarify and reiterate, we must file a status report on cm/ecf pursuant to the 9/29 Order. Judge Robinson’s minute order asks that, in addition to that requirement, you email her a copy of the revised notice reflecting the Court’s revisions during the October 5, 2016 hearing. But that doesn’t change the status report on your compliance.

In short, we are definitely planning to file something if you do not. If I don’t hear from you in the next 30 minutes, we will prepare an independent filing regarding these issues in lieu of the joint status report.

Feel free to give me a call at 212-549-2563 or on my cell phone 917-364-0484 to discuss further.

Thanks,  
Orion

**R. Orion Danjuma**

Staff Attorney, Equality Center  
American Civil Liberties Union  
125 Broad St., New York, NY 10004

■ [212.549.2563](tel:212.549.2563)

■ [odanjuma@aclu.org](mailto:odanjuma@aclu.org)

[www.aclu.org](http://www.aclu.org)



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**From:** Orion Danjuma  
**Sent:** Wednesday, October 12, 2016 2:55 PM  
**To:** 'Roe, Garrett [KSOS]'; Sophia Lakin  
**Cc:** Kobach, Kris [KSOS]; Dale Ho; Liu, Angela; Steiner, Neil  
**Subject:** RE: Magistrate O'Hare's order and compliance status report

Hello Garret,

The deadline is in the last sentence of the Judge Robinson's 9/29 order:

The Court further directs the parties to **FILE A STATUS REPORT** regarding compliance with these steps by October 12, 2016.

To clarify, each of the points we identified are issues the court identified and ordered. I am engaged in a separate meeting but am happy to discuss further after 3:10pm.

Orion

---

**From:** Roe, Garrett [KSOS] [<mailto:Garrett.Roe@ks.gov>]  
**Sent:** Wednesday, October 12, 2016 2:23 PM  
**To:** Orion Danjuma; Sophia Lakin  
**Cc:** Kobach, Kris [KSOS]; Dale Ho; Liu, Angela; Steiner, Neil  
**Subject:** RE: Magistrate O'Hare's order and compliance status report

Orion,

I saw you took the position that we had a joint status report due today. I honestly am not finding where you got that from, unless I missed an order. I re-read the transcript and read the subsequent order by Judge Robinson.

This was the text of the Court's minute entry:

TELEPHONIC STATUS CONFERENCE

This case comes before the Court for a telephone status conference. Plaintiff Fish appears by Orion Danjuma, Dale Ho, Doug Bonney, Sophia Lakin and Angela Lieu; Defendant Kobach appears on his behalf and by Garret Roe. The Court discusses the revised official notice that will be provided to Kansas Voter Registration Applicants. The parties agree on modifications to the notice. Defendant Kobach to provide the Court with confirmation next week via email that he has complied with the Court's instructions.

Nothing in her order or in the transcript indicated a joint status report or filing anything on the Court's ECF system like that. Having said that, I intend to e-mail you today an update on where we are.

Finally, I would point out that it is highly unusual in my experience to have opposing counsel ask for something from the court, the court issue an order, and then opposing counsel proceed to claim that more needs to be done to comply because they have found additional things that they believe should be changed that has never been raised before.

Garrett Roe  
Deputy Assistant Secretary of State, Legal Services  
785-296-8473

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**From:** Orion Danjuma [<mailto:odanjuma@aclu.org>]  
**Sent:** Wednesday, October 12, 2016 1:00 PM  
**To:** Sophia Lakin <[slakin@aclu.org](mailto:slakin@aclu.org)>; Roe, Garrett [KSOS] <[Garrett.Roe@ks.gov](mailto:Garrett.Roe@ks.gov)>  
**Cc:** Kobach, Kris [KSOS] <[Kris.Kobach@ks.gov](mailto:Kris.Kobach@ks.gov)>; Dale Ho <[dho@aclu.org](mailto:dho@aclu.org)>; Liu, Angela <[Angela.Liu@dechert.com](mailto:Angela.Liu@dechert.com)>; Steiner, Neil <[neil.steiner@dechert.com](mailto:neil.steiner@dechert.com)>  
**Subject:** RE: Magistrate O'Hare's order and compliance status report

Dear Garrett,

I know that you are coordinating with Sophia today on the proposed pretrial order.

As Sophia mentioned, we also have a joint status report due today regarding our Interim Agreement. We have not yet heard from your office regarding your compliance although I certainly appreciate that we are all working on multiple matters simultaneously.

In the interests of proactively addressing potential differences, we wanted to note that various online materials published by your office continue to advise voters that documentary proof of citizenship is required for voter registration, without also making clear that there are several methods by which voters can successfully register to vote without providing documentary proof of citizenship (i.e., during the driver's license application/renewal process, and by using the Federal Form). In addition, the revised text that now appears on the Got Voter ID? website (<http://www.gotvoterid.com/proof-of-citizenship.html#evidence>) is confusing and insufficient. That text currently reads under the third paragraph: "For the purposes of the November 8, 2016, General Election, a person who has applied to register to vote at a Kansas Division of Motor Vehicles Office or who has applied to register to vote in Kansas national mail voter registration application (Federal Form) and has not yet provided proof of citizenship is considered registered to vote for federal, state, and local elections. These rulings cover only the November 8, 2016, General Election." We don't think this is accurate or clear. And as currently formatted, it contradicts the prior text. I am happy to propose revised text and/or discuss with you further on the phone. But we need to know by 3:00pm Central time whether you are amenable to proposed changes or whether we will file our own objections on the docket (or in the joint status report).

Some additional issues that need to be addressed:

- Other online materials that need to be updated---
  - The Kansas Secretary of State's website link to "Register to Vote" (<http://www.kssos.org/> linking to <https://www.kdor.ks.gov/Apps/VoterReg/Default.aspx> )
  - The SOS News column needs a link to the revised notice letter.

- The bottom of the landing page on the GotvoterID website which states “Starting January 1, 2013: Persons registering to vote for the first time in Kansas must prove U.S. citizenship when registering to vote.” <http://www.gotvoterid.com/main.html>
  - The Kansas Voter Registration Kit document at (<http://www.gotvoterid.com/pdf/Kansas-Voter-Registration-Kit.pdf>)
- We need to review the revised version of the notice letter with the changes ordered by Judge Robinson in the October 5, 2016 teleconference.
  - We need to review the notice letter that DMV/Federal Form registrants will now receive when registering to vote going forward.
  - We need to see revised instructions the Secretary of State’s office is disseminating to county election officials regarding compliance with the Interim Agreement and judicial orders from Judge Robinson and Judge Hendricks.

Please respond by 3:00pm Central time to let us know where things stand on these matters.

Thanks very much,  
Orion

**R. Orion Danjuma**

Staff Attorney, Equality Center  
American Civil Liberties Union  
125 Broad St., New York, NY 10004

■ [212.549.2563](tel:212.549.2563)

■ [odanjuma@aclu.org](mailto:odanjuma@aclu.org)

[www.aclu.org](http://www.aclu.org)



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**From:** Sophia Lakin  
**Sent:** Tuesday, October 11, 2016 2:54 PM  
**To:** Roe, Garrett [KSOS]  
**Cc:** Kobach, Kris [KSOS]; Dale Ho; Liu, Angela; Steiner, Neil; Orion Danjuma  
**Subject:** RE: Magistrate O'Hare's order and compliance status report

Garrett:

Attached is a draft of the Plaintiffs’ sections and proposed language and stipulations for the joint sections for the pre-trial order in the *Fish* case. Please add in the Defendant’s sections and note any changes to the joint sections in tracked changes. For the fact stipulations and exhibit stipulations, please use comment bubbles to identify any stipulations with

which you disagree and note the basis for disagreement. In order to facilitate your request to finalize this document by tomorrow evening, we will need all of this information back from you by tomorrow at noon CT at the latest so that we have time to meet and confer about any disputes and incorporate any changes.

As you are aware, we also have a draft status report due to the court tomorrow regarding the steps that your office has taken to comply with the preliminary injunction. We have yet to receive any information from you regarding the status of your compliance efforts. Please send us a description of those efforts and/or a draft of the report before filing it with the court.

Sophia

---

**From:** Roe, Garrett [KSOS] [<mailto:Garrett.Roe@ks.gov>]  
**Sent:** Tuesday, October 11, 2016 10:54 AM  
**To:** William Lawrence; Dale Ho; Sophia Lakin; Johnson, Mark P.; Paul Davis; Liu, Angela; Steiner, Neil; Orion Danjuma  
**Cc:** Kobach, Kris [KSOS]  
**Subject:** Magistrate O'Hare's order

Counsel,

Given Magistrate O'Hare's order this morning only giving counsel until Thursday at 4 p.m. to file a pre-trial order, we will have to have these orders finished by tomorrow evening, unless Plaintiffs' counsel wants to seek reprieve from Magistrate O'Hara.

Defense counsel will be in Washington, DC all day on Thursday for a 2 p.m. EST hearing. We fly out of Kansas City Thursday morning and fly back into Kansas City Thursday evening. It is unclear at this time how long the hearing will last. I am not certain that I will have access to the internet due to travel and the hearing to timely file an order on Thursday at all, let alone discuss any further issues.

I will do my best to finish the State's sections this evening. If Plaintiffs' counsel wants to ask for reconsideration from Magistrate O'Hara asking him to grant an extension until Friday afternoon or evening, we would consent to such motion.

Garrett Roe  
Deputy Assistant Secretary of State, Legal Services  
785-296-8473

# Exhibit C

## **RULES CONCERNING VOTER REGISTRATION APPLICATIONS SUBMITTED WITHOUT PROOF OF CITIZENSHIP**

This notice covers persons who have applied to register to vote and have not yet provided proof of citizenship. Due to recent court rulings, if you have applied to register to vote at a Kansas Division of Motor Vehicles office or if you have applied to register to vote using the "Federal Form" voter registration application (as opposed to the standard 'state form') and have not yet provided proof of citizenship, you are registered to vote for the November 8, 2016, general election. Your name will appear on the poll book for your voting location and you will be given a standard ballot. There is nothing further you need to provide ~~subject only to further official notice for the November 8, 2016, general election.~~

~~For elections that take place after the November 8, 2016, general election, it is at this time unknown whether you will be registered to vote depending on subsequent court rulings and should provide an acceptable form of proof of citizenship to your local county election office or to the Secretary of State to ensure future registration. For a complete list of acceptable forms of proof of citizenship, visit [www.gotvoterid.com](http://www.gotvoterid.com).~~

If you have questions concerning your eligibility or this notice you may contact your local county election office or the Secretary of State's office at (800) 262-8683.



**KANSAS DEPARTMENT OF REVENUE DIVISION OF VEHICLES  
KANSAS SECRETARY OF STATE**

THANK YOU FOR APPLYING TO REGISTER TO VOTE. YOUR VOTER REGISTRATION APPLICATION WILL BE SENT TO YOUR COUNTY ELECTION OFFICE FOR PROCESSING.

~~IF YOU SUBMITTED A DOCUMENT PROVING THAT YOU ARE A CITIZEN OF THE UNITED STATES TO THE DIVISION OF MOTOR VEHICLES, DURING THIS TRANSACTION, OR IF YOU HAVE PREVIOUSLY BEEN REGISTERED TO VOTE IN THE STATE OF KANSAS, YOU ARE NOT REQUIRED TO PROVIDE ADDITIONAL DOCUMENTATION TO COMPLETE YOUR VOTER REGISTRATION.~~

~~DUE TO RECENT COURT RULINGS, IF YOU HAVE NOT YET PROVIDED PROOF OF CITIZENSHIP, YOU WILL BE ~~ARE~~ DEEMED FULLY REGISTERED AND ELIGIBLE TO VOTE FOR ALL OFFICES – FEDERAL, STATE, AND LOCAL – WHETHER OR NOT YOU PROVIDED A DOCUMENT DEMONSTRATING UNITED STATES CITIZENSHIP. FOR THE NOVEMBER 8, 2016, GENERAL ELECTION. YOU DO NOT NEED TO PROVIDE ADDITIONAL DOCUMENTS TO COMPLETE YOUR VOTER REGISTRATION SUBJECT ONLY TO FURTHER OFFICIAL NOTICE FOR THE NOVEMBER 8, 2016, GENERAL ELECTION.~~

A NOTICE WILL BE MAILED TO YOU WHEN YOUR VOTER REGISTRATION APPLICATION HAS BEEN PROCESSED. IF YOU HAVE QUESTIONS ABOUT YOUR APPLICATION, PLEASE CALL YOUR COUNTY ELECTION OFFICE OR THE KANSAS SECRETARY OF STATE AT 1-800-262-8683.

**KANSAS DEPARTMENT OF REVENUE DIVISION OF VEHICLES  
KANSAS SECRETARY OF STATE**

THANK YOU FOR APPLYING TO REGISTER TO VOTE. YOUR VOTER REGISTRATION APPLICATION WILL BE SENT TO YOUR COUNTY ELECTION OFFICE FOR PROCESSING.

THIS NOTICE IS TO INFORM YOU THAT DUE TO RECENT COURT RULINGS, YOU ARE DEEMED FULLY REGISTERED AND ELIGIBLE TO VOTE FOR ALL OFFICES—FEDERAL, STATE, AND LOCAL. THIS MEANS THAT YOU ARE REGISTERED AND MAY VOTE IN THE NUMBER 8, 2016 GENERAL ELECTION. YOU DO NOT NEED TO PROVIDE ADDITIONAL DOCUMENTS TO COMPLETE YOUR VOTER REGISTRATION AT THIS TIME.

~~DUE TO RECENT COURT RULINGS, IF YOU HAVE NOT YET PROVIDED PROOF OF CITIZENSHIP, YOU WILL BE ARE DEEMED FULLY REGISTERED AND ELIGIBLE TO VOTE FOR ALL OFFICES—FEDERAL, STATE, AND LOCAL—WHETHER OR NOT YOU PROVIDED A DOCUMENT DEMONSTRATING UNITED STATES CITIZENSHIP. FOR THE NOVEMBER 8, 2016, GENERAL ELECTION. YOU DO NOT NEED TO PROVIDE ADDITIONAL DOCUMENTS TO COMPLETE YOUR VOTER REGISTRATION SUBJECT ONLY TO FURTHER OFFICIAL NOTICE FOR THE NOVEMBER 8, 2016, GENERAL ELECTION.~~

IF YOU SUBMITTED A DOCUMENT PROVING THAT YOU ARE A CITIZEN OF THE UNITED STATES TO THE DIVISION OF MOTOR VEHICLES, DURING THIS TRANSACTION, OR IF YOU HAVE PREVIOUSLY BEEN REGISTERED TO VOTE IN THE STATE OF KANSAS, YOU WILL ARE NOT BE REQUIRED TO PROVIDE ADDITIONAL DOCUMENTATION TO COMPLETE YOUR VOTER REGISTRATION UNDER ANY CIRCUMSTANCES IN THE FUTURE.

A NOTICE WILL BE MAILED TO YOU WHEN YOUR VOTER REGISTRATION APPLICATION HAS BEEN PROCESSED. IF YOU HAVE QUESTIONS ABOUT YOUR APPLICATION, PLEASE CALL YOUR COUNTY ELECTION OFFICE OR THE KANSAS SECRETARY OF STATE AT 1-800-262-8683.

**RULES CONCERNING VOTER REGISTRATION APPLICATIONS SUBMITTED WITHOUT PROOF OF CITIZENSHIP**

This notice covers persons who have applied to register to vote and have not yet provided proof of citizenship. Due to recent court rulings, if you have applied to register to vote at a Kansas Division of Motor Vehicles office or if you have applied to register to vote using the “Federal Form” voter registration application (as opposed to the standard ‘state form’) and have not yet provided proof of citizenship, you are registered to vote for the November 8, 2016, general election. Your name will appear on the poll book for your voting location and you will be given a standard ballot. There is nothing further you need to provide ~~subject only to further official notice for the November 8, 2016, general election.~~

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If you have questions concerning your eligibility or this notice you may contact your local county election office or the Secretary of State’s office at (800) 262-8683.