MI REPUBLICANS ADMIT TO ILLEGAL FORECLOSURE SCHEME, "SURRENDER" TO DEMOCRATS

Democrats and Republicans have settled the suit seeking to prevent Michigan Republicans from using foreclosure lists to challenge voters. The MDP statement on the settlement says:

> An agreement announced today by Obama for America, the Republican National Committee, the Democratic National Committee, the Michigan Republican Party, the Michigan Democratic Party, the Macomb County Republican Party, the Macomb County Democratic Party, and plaintiffs Duane Maletski, Sharon Lopez, and Frances M. Zick protects the voting rights of foreclosure victims. **The settlement acknowledges the existence of an illegal scheme by the Republicans to use mortgage foreclosure lists to deny foreclosure victims their right to vote**. This settlement has the force of law behind it and ensures that Republicans cannot disenfranchise families facing foreclosure. [my emphasis]

In their reply to the joint motions to dismiss from the Republicans, the Democrats reminded that 6th Circuit precedent grants discovery before a suit like this can be dismissed on the jurisdictional grounds the Republicans had cited in their motions.

> Under controlling Sixth Circuit precedent, when jurisdictional challenges raise questions of fact that are intertwined with merits questions, the proper course is denial of the motion to dismiss, conduct of discovery

> in the ordinary course, and
> consideration of the issues at the
> appropriate time on summary judgment.
> And because none of the Defendants has
> answered an interrogatory or produced a
> document in response to the Court-
> ordered discovery on jurisdictional
> issues, controlling precedent bars the
> Court from granting their motions. The
> rule is simple: When a defendant
> introduces evidence of its own related
> to the merits, it cannot block the
> plaintiff from conducting full discovery
> and still prevail.

I'm guessing—though this is an outtamyarse
guess—that the Republicans weighed their
options, thought discovery was sufficiently
likely (and sufficiently damaging) that they
chose, instead, to settle. And in return, the
Democrats get to affirm that, indeed,
Republicans were planning on using foreclosure
lists to challenge voters.

Here's Michigan Democratic Party Chair Mark
Brewer on the settlement:

> Today's settlement protects the voting
> rights of all Michigan citizens and
> guarantees that Republicans cannot use
> foreclosure lists to deny or challenge
> anyone's right to vote. **It is no
> surprise the Republicans back pedaled
> when their illegal scheme was revealed,
> and their surrender today ensures that
> Republicans cannot take advantage of the
> economic crisis to deny anyone's voting
> rights**. The agreement is a win for
> Michigan families ready to vote for
> change, and we will continue to
> aggressively protect everyone's right to
> vote. [my emphasis]

I like that word, used in conjunction with
Republican schemes: "surrender." I'm hoping
we'll get to hear more of it in the near future.

Update: A couple of readers have rightly pointed out that, since we don't know what the actual settlement (which is not public) says, my headline may be inaccurate. Here's what the GOP version of events is—which states that **no proof** of the scheme existed:

> FORECLOSURE LAWSUIT DROPPED…Democratic National Committee and Obama for America today opted to drop a frivolous lawsuit against the Michigan Republican Party rather than risk having to pay defendants legal fees. The Democrats' actions confirm that no proof ever existed that Republicans planned to use foreclosure lists to challenge voters.

I suspect both parties are playing semantics—but would note the GOP focus on proof, rather on the scheme itself, is significant, particularly given the legal issuse surrounding discovery. The Dems argued that just the threat of using foreclosure lists may suppress the vote among people who have been in foreclosure. Furthermore, every Republican who commented on this noted that the lists Republicans bring into polling places to challenge voters are just the voting rolls (that is, they wouldn't bring foreclosure lists in any case, they'd bring QVFs with names pre-selected for challenge).