

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

NORTHWEST AUSTIN MUNICIPAL UTILITY
DISTRICT NUMBER ONE,
401 W. 15th Street
Suite 850
Austin, Texas 78701,

Plaintiff,

v.

ALBERTO GONZALES,
Attorney General of the United States,
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530,

Defendant.

Civil Action No. 1:06-CV-01384
(DST, PLF, EGS)

PLAINTIFF'S MOTION FOR LEAVE TO FILE AMENDED COMPLAINT

Plaintiff Northwest Austin Municipal Utility District Number One moves the Court to for leave to file the district's First Amended Complaint. In accordance with the LCvR 7(i) and LCvR 15.1, a copy of the proposed First Amended Complaint accompanies this motion. This motion is timely and, because the proposed amendment, which clarifies and narrows the district's allegations, poses no surprise or prejudice to any party, this motion should be granted in light of the liberality required by the rules and Supreme Court precedent.

Leave to amend pleadings "shall be freely given when justice so requires." FED. R. CIV. P. 15(a). It is thus well established that amendments must be allowed absent some good reason justifying denial of leave to amend. *E.g., Forman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 230 (1962); *Firestone v. Firestone*, 76 F.3d 1205, 1209 (D.C. Cir. 1996). No such good reason exists here.

The Court's scheduling order of December 1, 2006, Docket No. 52, established February 1, 2007, as the deadline for filing motions for leave to amend pleadings. This motion is filed by that deadline and thus timely.

The changes proposed in the first amended complaint merely clarify and narrow the issues to be litigated in this action. In particular, the district has attempted to clarify the nature of its constitutional claim and has removed any wording that might have given opposing litigants the impression that the district was alleging a facial challenge to the constitutionality of §5 of the Voting Rights Act in addition to the district's allegation that §5 may be unconstitutional as applied to the district. Amendments that merely clarify or subtract allegations previously made are not likely to cause surprise and are routinely permitted. *See, e.g., Associated Musicians v. Parker Meridien Hotel*, 145 F.3d 85, 89-90 (2d Cir. 1998); *Allen v. Nat. Video, Inc.*, 610 F.Supp. 612, 621 (S.D.N.Y. 1985).

CONCLUSION

For these reasons, the Court should grant the district's motion for leave to file its First Amended Complaint.

STATEMENT OF CONFERENCE

Counsel for the district has conferred or attempted to confer with counsel for the parties. Counsel for the district conferred by telephone with T. Christian Herren, counsel for the Government, who stated that the Government has not yet taken a position on this motion. Counsel for the district conferred by telephone with Max Renea Hicks, counsel for the defendant-intervenor Travis County, who stated that Travis County has not yet taken a position on this motion. Counsel for the district has attempted to reach attorneys at Wilmer Cutler Pickering Hale and Dorr LLP, primary contact counsel for the private defendant-intervenors, and

has not yet heard back regarding whether the private defendant-intervenors take a position on this motion.

DATED: February 1, 2007

Respectfully submitted:

/s/ Gregory S. Coleman

Gregory S. Coleman

(admitted *pro hac vice*)

Christian J. Ward

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CERTIFICATE OF SERVICE

I hereby certify that I served true copies of Plaintiff's Motion for Leave to File Amended Complaint, the proposed Order granting the motion, and the proposed First Amended Complaint upon counsel for the parties indicated below through the Court's electronic filing system on February 1, 2007.

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