

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

TEXAS LEAGUE OF UNITED LATIN
AMERICAN CITIZENS,

and

NATIONAL LEAGUE OF UNITED LATIN
AMERICAN CITIZENS,

and

JULIE HILBERG, individually and on behalf of
others similarly situated,

Plaintiffs,

v.

DAVID WHITLEY, in his official capacity as
Secretary of State for the State of Texas,

and

KEN PAXTON, in his official capacity as
Attorney General for the State of Texas,

Defendants.

Civil Action

Case No. 5:19-cv-00074-FB

CLASS ACTION

PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

INTRODUCTION AND STATEMENT OF THE CASE

Plaintiffs respectfully move this Court to enter an order certifying this case as a class action pursuant to Federal Rule of Civil Procedure 23(a) and 23(b)(2). Defendant Whitley, the Secretary of State (“Secretary Whitley” or “the Secretary”), has implemented a voter purge program based on a methodology that guarantees that tens of thousands of newly naturalized citizens—eligible, registered voters—will be wrongly targeted for removal based upon outdated citizenship information the Secretary admits constitutes weak evidence. The source—driver license and identification card applications—is unreliable. Texas driver licenses are valid for six years, and between 50,000 and 65,000 Texas residents become newly naturalized citizens each year. If just 27 percent of these newly naturalized citizens over the past six years had driver licenses at the time of naturalization and registered to vote following their naturalization, the Secretary’s entire list would be inaccurate. These eligible voters will be required to respond to a mailed notice within 30 days or have their registration canceled. And Defendants have exacerbated this unconstitutional voter purge program by loudly trumpeting unfounded claims of voter fraud and threatening criminal investigations. The Secretary’s voter purge program is a discriminatory and unconstitutional burden on the proposed class’s right to vote, and Defendants’ public statements constitute unlawful voter intimidation prohibited by the Voting Rights Act.

Named Plaintiff Julie Hilberg seeks to represent a class of eligible Texas voters who appear on the Secretary’s list of 95,000 registered voters and those who will appear on the Secretary’s planned future monthly lists. Hilberg is originally from the United Kingdom and is married to a United States citizen and former Navy officer. Ex. A (Hilberg Dec.) ¶ 2. She renewed her Texas driver license in 2014 and it expires in 2020. *Id.* ¶ 3. She became a naturalized U.S. citizen on April 16, 2015, later registering to vote and voting in subsequent elections. *Id.* ¶¶ 4-6. After the

Secretary announced his voter purge program, Hilberg became concerned she was included on the Secretary's "list" and could have her registration canceled. *Id.* ¶ 7. She visited the Atascosa County Elections Administrator, who confirmed her name was listed but was unable or unwilling to provide Hilberg any information or assurances about her registration given her presence on the Secretary's list. *Id.* ¶ 8.

For the reasons described herein, Plaintiff's class claims are well suited for class treatment and satisfy the requirements of Federal Rule of Civil Procedure 23. Plaintiffs thus respectfully request that the Court certify these claims as a class action.

ARGUMENT

The Court should certify this case for class treatment pursuant to Federal Rule of Civil Procedure 23(a) and (b)(2). To have a suit certified as a class action, Plaintiff must satisfy the requirements of Rule 23(a) as well as the additional requirements of one of three categories of class actions. Rule 23(a) has four requirements: (1) numerosity, (2) commonality, (3) typicality, and (4) adequacy of representation. *See* Fed. R. Civ. P. 23(a)(1)–(4). A class action may be maintained pursuant to Rule 23(b)(2) when "the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole." Fed. R. Civ. P. 23(b)(2). In assessing whether a suit satisfies Rule 23(a)'s requirements, courts should err on the side of favoring class treatment, particularly in civil rights suits. "[I]t is important to remember that Rule 23(a) must be read liberally in the context of civil rights suits. This is especially true when the class action falls under Rule 23(b)(2)." *Jones v. Diamond*, 519 F.2d 1090, 1099 (5th Cir. 1975); *see also McClain v. Lufkin Indus., Inc.*, 187 F.R.D. 267, 277 (E.D. Tex. 1999) ("[C]ivil rights cases against parties charged with unlawful, class-based discrimination are prime examples' of

suits properly brought under 23(b)(2).” (quoting *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 614 (1997))).

As discussed below, Plaintiff clearly satisfies the requirements of Rule 23(a) and thus class certification is appropriate under Rule 23(b)(2). Plaintiff’s motion for class certification should be granted.

I. Proposed Class Definition

An order certifying a class action must define the class. *See* Fed. R. Civ. P. 23(c)(1)(B).

Plaintiff proposes a class defined as:

All eligible Texas registered voters who appear on Defendant Whitley’s list of approximately 95,000 alleged non-citizens and all eligible Texas registered voters who may appear on the forthcoming monthly lists to be prepared pursuant to the voter purge program announced in Advisory 2019-02 (“Advisory”).

The plaintiff class members are easily identifiable—Defendant Whitley created the list, in some cases class members have already provided proof of citizenship when they registered to vote, and the listed individuals can identify themselves as eligible citizens. The proposed class definition relies upon objective criteria and can be easily administered, thus satisfying the requirement for a class certified under Rule 23(b)(2).¹

¹ In any event, where injunctive and declaratory relief is sought under Rule 23(b)(2), rather than monetary damages under Rule 23(b)(3), the requirements of definiteness and ascertainability of class members do not apply. *See* Fed. Judicial Ctr., *Manual for Complex Litigation*, § 21.222 (4th ed. 2004) (“[B]ecause individual damage claims are likely, Rule 23(b)(3) actions require a class definition that will permit identification of individual class members, while Rule 23(b)(1) or (b)(2) actions may not.”); *Jones*, 519 F.2d at 1100 (“[I]t is not necessary that the members of the [23(b)(2)] class be so clearly identified that any member can be presently ascertained”); *Shelton v. Bledsoe*, 775 F.3d 554, 563 (3d Cir. 2015); *Shook v. El Paso Cty.*, 386 F.3d 963, 972 (10th Cir. 2004); Fed. R. Civ. P. 23 advisory committee’s note to 1966 amendment (providing “[i]llustrative” examples of (b)(2) classes as “various actions in the civil-rights field where a party is charged with discriminating unlawfully against a class, usually one whose members are incapable of specific enumeration”).

II. The Proposed Plaintiff Class Satisfies Rule 23(a) Criteria.

A. Numerosity

The proposed plaintiff class easily meets the numerosity requirement of Rule 23(a)(1). To be maintained as a class action, the class must be “so numerous that joinder of all members is impracticable.” Fed. R. Civ. P. 23(a)(1). In assessing numerosity, “district courts must not focus on sheer numbers alone but must instead focus ‘on whether joinder of all members is practicable in view of the numerosity of the class and all other relevant factors.’” *Pederson v. La. State Univ.*, 213 F.3d 858, 868 n.11 (5th Cir. 2000). The Fifth Circuit has observed, however, that “100 to 150 members” would “generally satisfy[y] the numerosity requirement.” *Mullen v. Treasure Chest Casino, LLC*, 186 F.3d 620, 624 (5th Cir. 1999). Where “the class includes unknown, unnamed future members,” the Court should weigh that fact “in favor of certification.” *Pederson*, 213 F.3d at 868 n.11.

The numerosity requirement is plainly met here. Defendant Whitley has identified a list of 95,000 registered voters who, for a period going back twenty-three years, were not citizens when they obtained driver licenses or identification cards. *See* Advisory. But 50,000 to 65,000 Texans become naturalized citizens each year. *See* U.S. Dep’t of Homeland Sec., *Profiles on Naturalized Citizens* (Feb. 2, 2019), <https://www.dhs.gov/profiles-naturalized-citizens>. The Census Bureau reports that naturalized citizens register to vote 61.7 percent of the time. U.S. Census Bureau, *Voting and Registration in the Election of November 2016*, Table 11 (2017), <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-580.html>. At that rate, over 30,000 newly naturalized citizens register to vote in Texas each year; if just 0.5% of those newly registered, naturalized citizens had previously obtained a driver license, the class would satisfy the 100-150 range approved in *Mullen*. And Texas driver licenses are valid

for six years, meaning that roughly 180,000 newly naturalized citizens likely registered to vote in Texas over the past six years.

Indeed, we know the number of potential class members are magnitudes beyond 100-150. Reports show that 20,000 of the 95,000 persons initially identified through this voter purge program were found to be eligible citizens mere days after the Secretary's announcement, including all 366 of the identified McLennan County registered voters.² When Florida designed a materially identical program in 2012 resulting in an initial list of 180,000 voters, only 85 ended up being actionable.³ It is likely that the vast majority of the 95,000 registered voters on the Secretary's list are citizens eligible to vote and would thus be class members; the currently known number far exceeds what is required to satisfy numerosity. Given the vast numbers and the geographic spread throughout the entire state of Texas, numerosity is easily met.

B. Commonality

Plaintiff also satisfies the requirement that “there [be] questions of law or fact common to the class.” Fed. R. Civ. P. 23(a)(2). “Commonality requires the plaintiff to demonstrate that the class members ‘have suffered the same injury.’” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 349–50 (2011) (quoting *Gen. Tel. Co. of Sw. v. Falcon*, 457 U.S. 147, 157 (1982)). “[F]or purposes of Rule 23(a)(2), [e]ven a single [common] question will do.” *Id.* at 359 (internal quotation marks omitted; first bracket added). The commonality requirement is satisfied if the question “is capable of classwide resolution—which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.” *Id.* at 350.

² See Anna M. Tinsley, *List of Suspect Texas Voters Shrinks by 20,000 by Some Estimates*, Star-Telegram (Feb. 1, 2019), <https://www.star-telegram.com/news/politics-government/state-politics/article225395560.html>.

³ Steve Bousquet & Amy Sherman, *Florida Suspends Non-Citizen Voter Purge Efforts*, Miami Herald (March 27, 2014), <https://www.miamiherald.com/news/politics-government/article2087729.html>.

The commonality requirement is satisfied. Common questions include (1) whether the class members are included on the Secretary's list, (2) whether the class members were citizens at the time they registered to vote and voted, (3) whether the Secretary's voter purge program and 30-day period response requirement is an unconstitutional, undue burden on the right to vote, (4) whether the Secretary's voter purge program discriminates against newly naturalized citizens, (5) whether the class members were the target of voter intimidation by the statements of Defendants, and (6) whether injunctive relief is appropriate to remedy Defendants' violations of law. These issues are common to the named Plaintiff and the unnamed class members. In this case, class treatment has the capacity "to generate common *answers* apt to drive the resolution of the litigation." *Wal-Mart*, 564 U.S. at 350 (emphasis in original) (quoting Richard A. Nagareda, *Class Certification in the Age of Aggregate Proof*, 84 N.Y.U. L. Rev. 97, 132 (2009)). Injunctive and declaratory relief will resolve all class members' claims "in one stroke." *Id.* Plaintiff easily satisfies the commonality requirement.

C. Typicality

The third requirement of Rule 23(a) is that "the claims or defenses of the representative parties are typical of the claims or defenses of the class." Fed. R. Civ. P. 23(a)(3). For the same reasons that Plaintiff's claims meet the commonality requirement, they also meet the typicality requirement. Indeed, the Supreme Court has noted that the typicality, adequacy of representation, and commonality requirements "tend[] to merge." *Amchem*, 521 U.S. at 626 n.20. "[T]he test for typicality is not demanding," and "focuses on the similarity between the named plaintiffs' legal and remedial theories and the theories of those whom they purport to represent." *Mullen*, 186 F.3d at 625 (quoting *Lighbourn v. Cty. of El Paso*, 118 F.3d 421, 426 (5th Cir. 1997)).

The named Plaintiff's claims are typical of the class members. She is identified on the Secretary's list but is an eligible citizen who faces unconstitutional burdens on account of the Secretary's voter purge program and has been the subject of Defendants' voter intimidation. Plaintiff Hilberg's claims are aligned with the class, and the injunctive and declaratory relief she seeks will resolve all the class members' injuries.

D. Adequacy of Representation

The final requirement of Rule 23(a) is that "the representative parties will fairly and adequately protect the interests of the class," Fed. R. Civ. P. 23(a)(4), and this inquiry overlaps with the inquiries into commonality and typicality, *see Amchem*, 521 U.S. at 626 n.20. "The adequacy inquiry under Rule 23(a)(4) serves to uncover conflicts of interest between named parties and the class they seek to represent." *Id.* at 625. "[A] class representative must be part of the class and possess the same interest and suffer the same injury as the class members." *Id.* at 625-26 (internal quotation marks omitted). "Differences between named plaintiffs and class members render the named plaintiffs inadequate representatives only where those differences create conflicts between the named plaintiffs' and the class members' interests." *Berger v. Compaq Comput. Corp.*, 257 F.3d 475, 480 (5th Cir. 2001).

Plaintiff Hilberg is an adequate representative. She possesses the same interest and suffers the same injury as the class, has no known conflicts with the class members, and is committed to taking an active role to ensure the class member's interests are protected and to vigorously pursue the claims of the class. *See* Ex. A (J. Hilberg Dec.) ¶ 9.

Plaintiff's counsel similarly meet this requirement. "The adequacy [requirement] also factors in competency and conflicts of class counsel." *Amchem*, 521 U.S. at 626 n.20. Class counsel in this case easily meet the adequacy requirement of Rule 23(a)(4). "The adequacy of counsel

prong of Rule 23(a)(4) asks whether counsel are qualified, experienced and generally able to conduct the litigation and whether counsel will vigorously prosecute the interests of the class.” William B. Rubenstein, *1 Newberg on Class Actions* § 3:72 (5th ed. 2018) (internal quotation marks and footnote omitted); *see also Jones v. Singing River Health Servs. Found.*, 865 F.3d 285, 294 (5th Cir. 2017) (noting that adequacy inquiry looks to “zeal and competence of the representative’s counsel”).

Plaintiff Hilberg is represented by counsel with substantial experience in election law and voting rights litigation, civil rights litigation generally, and class action representation. *See* Ex. B (Vera Dec.); Ex. C (Hicks Dec.); Ex. D (Dunn Dec.); Ex. E (Richards Dec.); Ex. F (Gaber Dec.).

For these reasons, as demonstrated in counsel’s declarations, class counsel also satisfy the requirements of Rule 23(g), which requires that the Court appoint class counsel at the time of certification, and that in doing so the Court consider (1) “the work counsel has done in identifying or investigating potential claims in the action,” (2) “counsel’s experience in handling class actions, other complex litigation, and the types of claims asserted in the action,” (3) “counsel’s knowledge of the applicable law,” and (4) “the resources that counsel will commit to representing the class.” Fed. R. Civ. P. 23(g)(1)(A)(i)-(iv).

Plaintiffs are represented by experienced voting rights, civil rights, and class action attorneys based in Texas and Washington, D.C. Plaintiffs’ counsel Luis Vera, the General Counsel for LULAC, has substantial experience litigating voting rights and civil rights cases nationwide and in Texas. Ex. B (Vera Dec.) ¶¶ 2-3. Plaintiffs’ counsel Chad Dunn is likewise an experienced voting rights and civil rights litigator. Ex. D (Dunn Dec.) ¶ 2. Plaintiffs’ counsel Renea Hicks is likewise an experienced election law, voting rights, and civil rights litigator who has served as

class counsel on two occasions. Ex. C (Hicks Dec.) ¶¶ 2-4. And Plaintiffs’ counsel David Richards is a longtime, well known voting rights and civil rights litigator. Ex. E (Richards Dec.) ¶¶ 2-3.

Plaintiffs’ counsel Campaign Legal Center is a preeminent national nonpartisan, nonprofit election law organization with decades of experience litigating voting rights matters. Recent examples of such litigation includes cases addressing Georgia’s “exact match” voter registration system, North Dakota’s “residential address” requirement as applied to Native Americans living on reservations, Ohio’s law precluding eligible, late-jailed voters from voting absentee, and Texas’s photo ID requirement. *See* Ex. F (Gaber Dec.) ¶¶ 3-4. Plaintiffs’ counsel Mark Gaber has significant experience on these and other voting rights and civil rights matters, as well as litigating complex commercial cases, and has experience litigating putative and certified class actions, including having been found to be adequate class counsel in the past in a case challenging Virginia’s marriage ban. *See id.* ¶ 3. Mr. Gaber is currently counsel in putative class actions in Ohio and Alabama. *See id.* Plaintiffs’ counsel Danielle Lang likewise has years of experience litigating voting rights and civil rights matters and is also counsel in putative class actions in Ohio and Alabama. *See id.* ¶ 4. Plaintiffs’ counsel are committed to dedicating time and resources to litigating this matter, and doing so with zeal, *id.* ¶ 5; *see* Exs. B-F (counsel declarations).

As the attached declarations make clear, Plaintiff Hilberg has satisfied her burden to demonstrate the adequacy of class counsel.

III. Class Certification Is Appropriate Under Rule 23(b)(2).

The Court should certify the classes pursuant to Rule 23(b)(2). A class action may be maintained pursuant to Rule 23(b)(2) when “the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.” Fed. R. Civ. P. 23(b)(2). The

Supreme Court has noted that certification under Rule 23(b)(2) is particularly appropriate in “[c]ivil rights cases against parties charged with unlawful, class-based discrimination.” *Amchem*, 521 U.S. at 614. “The key to the (b)(2) class is ‘the indivisible nature of the injunctive or declaratory remedy warranted—the notion that the conduct is such that it can be enjoined or declared unlawful only as to all of the class members or as to none of them.’” *Wal-Mart*, 564 U.S. at 360.

This is exactly the type of civil rights action that Rule 23(b)(2) was created to foster. All of the citizens wrongly included on the Secretary’s list are affected in the same manner and face the same undue burden of proving their eligibility in 30 short days, face the same threat of unfounded criminal investigations, and the same intimidation. There is no substantive difference among the class members, and therefore injunctive and declaratory relief is “appropriate respecting the class as a whole.” Fed. R. Civ. P. 23(b)(2).⁴

CONCLUSION

For the foregoing reasons, this case should be certified as a Rule 23(b)(2) class.

⁴ Pursuant to Local Rule Appendix A, Plaintiffs’ counsel make the following statements. After this case was filed, another case challenging the Secretary’s voter purge program was filed as an individual action—not as a class action. *See Garibay, et al. v. Whitley, et al.*, No. 19-cv-00040 (S.D. Tex. (Corpus Christi) Feb. 2, 2019). Another challenge by several organizational plaintiffs was filed today. *See MOVE Tex. Civic Fund, et al., v. Whitley, et al.*, No. 3:19-cv-00041 (S.D. Tex. (Galveston) Feb. 4, 2019). Plaintiffs’ counsel have discussed and thoroughly explained to the Named Plaintiff the potential advantages and disadvantages of proceeding as a class action, rather than individually. Plaintiffs note that because the class is proposed pursuant to Rule 23(b)(2), notice to the class members is unnecessary. There have been no settlement negotiations and settlement with the Named Plaintiff on an individual basis is unlikely.

February 4, 2019

Respectfully submitted

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Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served on February 4, 2019 on the following counsel for Defendants via electronic mail and is available to counsel of record via CM/ECF.

Adam Bitter
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/s/ Luis Roberto Vera, Jr.
Luis Roberto Vera, Jr.

DECLARATION OF JULIE HILBERG

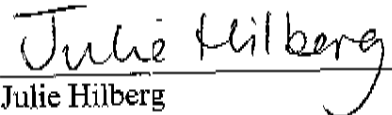
I, Julie Hilberg, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am a 54-year-old resident of Poteet, Texas in Atascosa County.
2. I am originally from the United Kingdom. I am married to a United States citizen and retired U.S. Navy officer.
3. I most recently renewed my Texas driver license in 2014, when I was still a legal permanent resident. My driver license does not expire until 2020.
4. I became a United States citizen at a naturalization ceremony in Bexar County on April 16, 2015. I completed a voter registration form after the ceremony, and I was told that my voter registration form would be sent to my registrar in Atascosa County.
5. In June 2015, I had not yet received a voter registration card. I went to my local voter registrar's office in the city of Jourdanton in Atascosa County to re-register. I showed the election official at the office my naturalization certificate and completed a voter registration form.
6. I became a registered voter in Texas on June 26, 2015. Since becoming a registered voter, I have voted in primary, general, and special elections in 2016 and 2018.
7. After Secretary of State David Whitley issued Election Advisory No. 2019-02, I became concerned that my name might appear on the list of alleged noncitizens and could be removed from the voter registration list. I was also concerned that the advisory warned that illegal voting is a second-degree felony and that he was going to turn this list over to the Attorney General for investigation and potential prosecution. That scared me.
8. On January 31, 2019, I visited the Atascosa County Elections Administrator's office. I spoke to Janice Ruple, Atascosa County's Elections Administrator, who confirmed that my name was on the list provided by Secretary Whitley to Atascosa County pursuant to the Advisory. Although Ms. Ruple knows me personally and is aware of my citizenship status, she

was unable to give me any information or assurances about whether my voter registration status would be in jeopardy as a result of my name appearing on Secretary Whitley's list.

9. I understand that Secretary Whitley's list includes tens of thousands of eligible Texan voters. I am committed to taking on an active role in pursuing this litigation with my attorneys, ensuring that the class members' interests are protected, and vigorously pursuing the class claims. I have retained counsel who are experienced in election law and voting rights litigation, civil rights litigation generally, and class action representation.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this Declaration was signed in New Braunfels, Texas on February 4, 2019.


Julie Hilberg

DECLARATION OF LUIS ROBERTO VERA, JR.

I, Luis Roberto Vera, Jr., hereby declare as follows:

1. I am counsel for plaintiffs in this case, and serve as General Counsel for LULAC.

The testimony set forth in this Declaration is based on first-hand knowledge, about which I could and would testify competently in open Court if called upon to do so. This Declaration is submitted in support of plaintiffs' Motion for Class Certification.

2. I have considerable experience as a civil rights litigator, including substantial experience litigating voting rights and redistricting cases.

3. My dockets of civil rights and voting rights cases includes, but not limited to, *LULAC v. Arizona* (a putative class action challenging Arizona SB1070), *LULAC v. Perry*, 548 U.S. 399 (2006), a challenge to the 2000 round of Texas redistricting, *LULAC v. Abbott*, challenging the 2013 Texas redistricting, *Veasey v. Abbott* challenging the Texas photo ID law, and *City of El Cenizo v. Texas*, challenging SB 4.

4. I have attached my vitae below, which further details my experience and qualifications.

5. I am dedicated to litigating this case and vigorously representing its clients and the plaintiff class in this matter. Together with my co-counsel, I am committed to devoting the necessary financial and other resources necessary to zealously litigate this mater on behalf of the plaintiffs and the class.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this Declaration was prepared in San Antonio, Texas on February 4, 2019.

/s/ Luis Roberto Vera, Jr.
Luis Roberto Vera, Jr.

VITAE

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PROFESSION: * Attorney and Counselor at Law
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 * Past Adjunct Professor of Political Science - St. Mary's University
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EDUCATION: Western New England College School of Law (Massachusetts)
 Saint Mary's University - graduate studies in political science.
 Saint Mary's University - undergraduate studies in political science.

PROFESSIONAL LICENSE: United States Supreme Court
 United State Court of Appeals (DC Circuit)
 Federal District Courts (Dist. of Columbia) – Wash. DC
 United States Court of Appeals (5th Circuit)
 Federal District Courts (Western Dist. of Texas, Southern
 Dist. of Texas, Eastern Dist. Of Texas, and Northern Dist.
 Of Texas)
 Supreme Court of Texas
 Pro-Hac Vice Admittance in several States and Fed. courts.

PROFESSIONAL ASSOCIATIONS: American Bar Association
(Past and Present) National Association of Criminal Defense Lawyers
 Texas Association of Criminal Defense Lawyers
 Texas Trial Lawyers Association
 San Antonio Trial Lawyers Association
 Mexican American Bar Association
 College of the State Bar

DIRECTORSHIPS: University Hospital System - Board of Managers (past)
 Texas Air Life / San Antonio Air Life - Board of Directors (past)
 Community First (HMO) - Board of Directors (past)
 Alamo Community College Dist. Bond Committee 2007, 2017, 2018
 Alamo Community College Dist. Bond Oversight Committee 2018 - 2019

OTHER INTEREST: League of United Latin American Citizens - Council 4625, President.
 League of United Latin American Citizens – National General Counsel

Luis Roberto Vera, Jr. litigates civil rights cases, pursuant to 42 USC §1983 and other federal and state laws. This has earned Luis Vera designations and honors in Texas and at the national level as an advocate and protector of civil rights. He has been named attorney of the

year by the League of United Latin American Citizens (1998), received the Azteca Award for his work in civil rights at the national convention of LULAC in Washington, D.C. (2000), the Harlandale Independent School District Hall of Fame (2001), the Texas Diabetic Institute Wall of Honor (2002) and the La Prensa Foundation (Hispanic Heritage Award 2004). Luis Vera has been a guest speaker at High Schools, Universities, Law Schools and organizations in and out of Texas. He has been a frequent speaker on both local and national news issues. As general counsel for LULAC, Luis Vera litigates education, discrimination, and civil rights issues throughout the country. Saint Mary's University has honored Luis Vera with induction into the President's and Adela societies and has added his name to the wall of honor. Upon his completion of law school Luis was honored with the prestigious Deans Award during his graduation ceremony. Luis most significant cases include; Attorney in charge for LULAC in *LULAC v. Perry* (2006 US Sup.Ct.) Helped litigate *LULAC v. Arizona*, (the AZ SB1070 case), *LULAC vs. Perry* (2011 Texas redistricting), *LULAC vs. Abbott* (2013 Texas redistricting), *Domonique Ramirez vs. MBCO* (2011 Miss San Antonio / Miss America case), *Veasey vs. Abbott* (2014 – Texas voter ID case), *Sen. Wendy Davis vs. Perry* (2012 TX Senate redistricting case) and currently the lead attorney in the *City of El Cenizo vs. Texas* (2017 – the SB4 litigation), the harshest attack on Mexican immigrants and the Latino people in modern times.

In July 2017, the government of Mexico bestowed on Luis Roberto Vera, Jr. its highest award, the “Ohtli”. This award by the Government of Mexico, is awarded to an individual who lives outside of Mexico and whose life work has been dedicated to the protection and betterment of all Mexicans and those of Mexican descent.

DECLARATION OF RENEA HICKS

I, Renea Hicks, hereby declare as follows:

1. I am a solo practitioner based in Austin, Texas, and counsel for plaintiffs in this case. The testimony set forth in this Declaration is based on first-hand knowledge, about which I could and would testify competently in open Court if called upon to do so. This Declaration is submitted in support of plaintiffs' Motion for Class Certification.

2. I have considerable experience with trial litigation and appeals, particularly in the areas of election law, constitutional issues, and complex federal litigation. I have worked as a solo practitioner since 1999. From 1993-1995, I served as the State Solicitor in the Texas Attorney General's Office, where I served as lead counsel for all phases of the 1990s round of redistricting litigation and counsel in other major litigation on behalf of the State of Texas. From 1983 to 1993 I was Special Assistant Attorney General and Assistant Attorney General for the State of Texas, working on matters including environmental law, water law, and voting and civil rights.

3. I served as lead counsel for a party in a number of major cases, including many election law cases. Among these are *City of Cleburne v. Cleburne Living Center* (1985); *Texas v. New Mexico* (1987); *Brown v. Texas* (1980); *Abbott v. Perez* (2018); *Perez v. Perry* (2012); *NW Austin MUD No. 1 v. Holder* (2009); *LULAC v. Perry* (2006); *Houston Lawyers Ass'n v. A.G. of Texas* (1991). I have presented nearly forty oral arguments in the Fifth Circuit.

4. I served as plaintiff's counsel in the following two class actions in the Western District of Texas: *Boos v. AT&T, Inc.*, No. 5:07cv1727 (2007), and *Stoffels v. SBC Communications, Inc.*, No. 5:05cv0233 (2005).

5. I have attached my resume below, which further details my experience and qualifications.

6. I am dedicated to litigating this case and vigorously representing its clients and the plaintiff class in this matter. Together with my co-counsel, I am committed to devoting the necessary financial and other resources necessary to zealously litigate this matter on behalf of the plaintiffs and the class.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this Declaration was prepared in Austin, Texas on February 4, 2019.

/s/ Renea Hicks
Renea Hicks

Renea Hicks
P.O. Box 303187
Austin, Texas 78703
(512) 480-8231
rhicks@renea-hicks.com

WORK:

1999-present

LAW OFFICE OF RENEA HICKS (solo practice) – litigation and appeals, including water, elections, constitutional issues, and complex federal civil litigation – also, served as ADJUNCT PROFESSOR, University of Texas School of Law, 1999-2003 (seminar in *Suing and Defending the Government*)

1995-1999

GEORGE & DONALDSON, L.L.P. [*now*, GEORGE BROTHERS KINKAID & HORTON, L.L.P.] (associate and partner) – litigation firm handling complex cases, especially in areas of technology, media defense, environment, and land use

1993-1995

State Solicitor, TEXAS ATTORNEY GENERAL'S OFFICE – responsible for variety of civil appellate matters; lead counsel in all phases of 1990s round of redistricting litigation; lead counsel in other major litigation (*e.g.*, Edwards Aquifer litigation, judicial selection)

1983-1993 (and 1977-80)

Served as Special Assistant Attorney General and Assistant Attorney General, TEXAS ATTORNEY GENERAL'S OFFICE – handled litigation and appeals in various areas, including environment, water (interstate compact), voting rights, and civil rights – also, member of upper-level review team for Attorney General Opinions

1980-83

Attorney, ADVOCACY, INC. – public interest litigation in field of disability rights; served as litigation director

1976-77

Law Clerk, U.S. District Judge Sarah T. Hughes (Dallas)

1969-70 (and 1972-74)

Budget analyst, U.S. OFFICE OF EDUCATION – responsible programs included desegregation education assistance, education of handicapped, Indian education, and monitoring appropriation impoundments

1970-71

U.S. ARMY

EDUCATION:

1974-76

University of Texas School of Law – honors graduate

1965-69

University of Texas at Austin/Plan II (liberal arts program) – honors graduate

MEMBERSHIPS, BAR ASSOCIATIONS, ETC. :

Member: State Bar of Texas—Admitted: Bars of Supreme Court of United States, U.S. Courts of Appeals for 1st, 5th, 6th, 9th, 10th, and D.C. Circuits, the four federal districts in Texas, and U.S. Court of Claims

Fellow, Texas Bar Foundation—Member, Bar Association of Fifth Federal Circuit and Austin Bar Association—Board Certified (Texas Board of Legal Specialization) in Civil Appellate Law—Texas Super Lawyer-appellate (as noted in *Texas Monthly*), 2003-2018—Martindale-Hubbell Bar Register of Preeminent Lawyers, 2004 (appellate)—AV-rated, Martindale-Hubbell—CLE speaker

SAMPLE OF SIGNIFICANT REPORTED CASES (SERVED AS LEAD COUNSEL FOR PARTY):

U.S. Supreme Court: *City of Cleburne v. Cleburne Living Center* (1985); *Texas v. New Mexico* (1987); *Brown v. Texas* (1980); *Abbott v. Perez* (2018); *Perez v. Perry* (2012); *NW Austin MUD No. 1 v. Holder* (2009); *LULAC v. Perry* (2006); *Houston Lawyers Ass'n v. A.G. of Texas* (1991)

Selected others: *AAID v. Parker* (5th Cir. 2017); *Zimmerman v. City of Austin* (5th Cir. 2018); *Texas Workers Compensation Comm'n v. Garcia* (Tex. 1995); *City of Austin v. Whittington* (Tex. 2012); *FM Properties Operating Co. v. City of Austin* (5th Cir. 1996); *LULAC v. Clements* (5th Cir. 1994); *SWTCWD v. City of Austin* (Austin Ct. App. 2000); *City of San Marcos v. TCEQ* (Austin Ct. App. 2004); *Guitar Holding Co. v. Hudspeth County UWCD No. 1* (Tex. 2008 & El Paso Ct. App. 2006); *Bexar Met. Water Dist. v. City of San Antonio* (Austin Ct. App. 2007); *Sierra Club v. City of San Antonio* (5th Cir. 1997)

DECLARATION OF CHAD W. DUNN

I, Chad W. Dunn, hereby declare as follows:

1. I have been a trial attorney with Brazil & Dunn since 2006. The testimony set forth in this Declaration is based on first-hand knowledge, about which I could and would testify competently in open Court if called upon to do so. This Declaration is submitted in support of plaintiffs' Motion for Class Certification.

2. I have substantial experience as a litigator, and particularly in the area of civil rights, voting rights, and election law. I have served as first chair trial counsel in over two dozen jury trials and over three dozen bench trials and arbitrations. I have argued more than a dozen cases in the Fifth Circuit, including the challenge to Texas's photo ID law. I regularly present teaching and training in the area of voting rights and election law. Among my recent voting rights and election law cases are *Veasey v. Abbott*, the challenge to Texas's photo ID law, *Perez v. Abbott*, the challenge to the 2011 and 2013 Texas redistricting, *Texas v. United States*, successfully opposing judicial preclearance of Texas's 2011 redistricting plans, and *Harding v. Dallas County*, successfully defending Dallas County's commissioner court redistricting.

3. I have served as counsel in three putative class actions that were resolved prior to the issue of class certification being decided.

4. I have attached my resume below, which further details my experience and qualifications.

5. I am dedicated to litigating this case and vigorously representing its clients and the plaintiff class in this matter. Together with my co-counsel, I am committed to devoting the necessary financial and other resources necessary to zealously litigate this matter on behalf of the plaintiffs and the class.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this Declaration was prepared in Austin, Texas on February 4, 2019.

/s/ Chad W. Dunn
Chad W. Dunn

Chad W. Dunn

3303 Northland Dr., Suite 205 | Austin, Texas 78731
T (512) 717-9822; F (512) 515-9355; chad@brazilanddunn.com

Education

- › **South Texas College of Law**, Houston, Texas
Doctor of Jurisprudence, 2002
- › **University of Texas at Austin**, Austin, Texas
Bachelor of Arts in Government, 1999
- › **University of Houston**, Houston, Texas
Candidate*for PhD. in Political Science, 2002-2004
**did not complete degree requirements*

Licenses and Certifications

- › **State Jurisdictions**
Licensed to practice law in all state courts in Texas, Florida, District of Columbia and North Carolina
- › **Federal Appellate Jurisdictions**
Licensed to practice law in the United States Supreme Court and the United States Courts of Appeals for the District of Columbia, Fifth Circuit, Tenth Circuit and Eleventh Circuit
- › **Federal Trial Courts**
Licensed to practice law in the United States District Courts for all of Texas, Florida and District of Columbia
- › **Texas Board of Legal Specialization**
 - Board Certified in Personal Injury Trial Law
 - Certified to take the exam for board certification in Appellate Law

Select Awards and Recognitions

- › Nominee for Texas Attorney of the Year, *Texas Lawyer*, 2016
- › Top 1% of Attorneys, National Association of Distinguished Counsel, 2015
- › Texas Super Lawyer, *Texas Monthly*, 2013, 2014, 2015, 2016, 2017
- › Texas Top Lawyer, *H-Texas Monthly*, 2008, 2009, 2010, 2011, 2012, 2015, 2016, 2017
- › Top 25 Texas Lawyers Under the Age of 40, *Texas Lawyer*, 2013
- › Rising Star Lawyer, *Texas Monthly*, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013
- › Top Ten Most Powerful Texas Democrats Who Are Not Elected or Running for Office, *Michael Hailey's Capitol Inside*, 2012
- › Top Rated Professional, *H-Texas Monthly*, 2008, 2009, 2010, 2011
- › Top 10 Most Powerful Texas Democrats, *Michael Hailey's Capitol Inside*, 2010
- › Lawyer on the Fast Track, *H-Texas Monthly*, 2004, 2005, 2006

Memberships

- › American Board Of Trial Advocates (ABOTA)
- › Texas Bar Association
- › District of Columbia Bar Association
- › Florida Bar Association
- › North Carolina Bar Association

Memberships (continued)

- › Houston Bar Association
- › Montgomery County Bar Association
- › Houston Northwest Harris County Bar Association
- › Greater Houston Heights Bar Association, Founder, President 2006
- › Phi Delta Phi Legal Honors Fraternity
- › Eligible for Million Dollar Advocates Forum
- › Center Serving Persons with Mental Retardation, Board Member, 2003-2007

Select Teaching Experience

- › **University of California, Los Angeles.** Lecturer: Civil Rights Litigation 2018 – present
- › **Congressional Committee on House Administration.** Speaker: “Listening Session on Voting Rights and Elections” Brownsville, TX, February 4, 2019
- › **13th Annual Advanced Texas Administrative Law Seminar.** Keynote Speaker: “Title X: Lessons From an Emerging Area of Law” Austin, TX, August 2018
- › **Voting Rights Institute Training hosted by American Constitution Society for Law and Policy.** “Election Administration Law Training” Houston, TX; February 2018
- › **Election Administration Law Training.**
- › **Politics of Race, Immigration, and Ethnicity Consortium (PRIEC).** Keynote Speaker: “On the Frontlines of Voting Rights Battles” Arizona State University, Phoenix, AZ; February 2018
- › **Progressive Judiciary Seminar.** “Progressive Issues in Criminal Justice Reform” University of Houston College Democrats and Harris County Democratic Party; Houston, TX; January 2018
- › **American Constitution Society.** “Gill v. Whitford case, the Efficiency Gap, and Challenges Associated With Bringing Gerrymandering Claims” University of Houston Law Center, Houston, TX; October, 12, 2017
- › **American Constitution Society.** “A Conversation with Chad Dunn on Voting Rights and Voter Registration Laws” Houston, TX; October 5, 2017
- › **Harris County Civil Judicial Education Conference.** “Voting Rights Litigation Update” Houston, TX; August 7, 2017
- › **Texas Chapter of American Board of Trial Advocates, Santa Fe Roundup.** “Title IX: Sex Discrimination Claims Against Institutions of Higher Education and the Fallout at Baylor University” Santa Fe, NM; June 2017
- › **Harris County Democratic Lawyers.** “The Efficiency Gap” Houston, TX; April 2017
- › **Get in the Way: The Journey of John Lewis.** Member of post-screening panel for Museum of Fine Arts Houston movie. Houston, TX; October 2016
- › **Kirk Watson Campaign Academy.** “Voting Rights Litigation Update” Austin, TX; June 2016
- › **Voting Rights Institute Training hosted by American Constitution Society for Law and Policy.** “Voting Rights Act Litigation” Houston, TX; May 2016
- › **Latino Summit-Expanding the Latino/a Policy Agenda.** “Pending Litigation Affecting our Community” Austin, TX; October 2015
- › **Voting Rights Institute.** “Voting Rights Litigation Training” Georgetown University Law Center in Washington, DC; September 2015
- › **Voting Rights Institute.** “Voting Rights Litigation Training” American University in Washington, DC; March 2015
- › **Biennial Convention of the League of Women Voters – Texas Lobby Days.** “Texas Voting Rights Act Litigation – Redistricting and Voter Photo ID” Austin, TX; February 2015
- › **Harris County Democratic Lawyers Luncheon.** “Texas Photo Voter ID Trial and Appeal” Houston, TX; January 2015
- › **American Constitution Society and the Campaign Legal Center.** “Voting Rights Litigation Training” Miami FL; October 2014

› **Texas Chapter of American Board of Trial Advocates, Santa Fe Roundup.** “Texas Pending Voting Rights Act Litigation – Redistricting and Voter Photo ID” Santa Fe, NM; June 2014

Select Teaching Experience (continued)

- › **Harris County Democratic Lawyers.** “Shelby County and the Upcoming Statewide Redistricting and Voter ID Trial” Houston, TX; October 2013
- › **University of Washington School of Law.** “Latinos and the Voting Rights Act” University of Washington in Seattle, WA; September 2013
- › **Voting Rights Institute.** “Voting Rights Litigation Training” American University in Washington, DC; June 2013
- › **Houston Federal Bar Association.** “Pending Redistricting and Voting Litigation” Houston, TX; March 2012
- › **Texas Tribune Festival.** “Does Texas Still Need the Voting Rights Act” Austin, TX; September 2012

Select Publications and Papers

- › **“Don’t Fall for the Misinformation Campaign Against Title IX Reforms.”** *Washington Post*, August 24, 2017. Op-Ed
- › **“It is Time for A Nonpartisan Elections Official.”** *Houston Chronicle*, September 21, 2012. Editorial.
- › **“Courthouse Steps.”** *Houston/Heights Tribune*. Monthly general legal information column. 2002 to 2004.
- › **“Playing by the Rules: The Need for Constitutions to Define the Boundaries of the Legislative Game with a One-Subject Rule.”** 35 UWLA L. Rev. 129, University of West Los Angeles Law Review, 2002-2003
- › **“The Sophisticated Doctrine of Consideration.”** 9 Geo. Mason L. Rev. 99, George Mason Law Review, Fall, 2000 by Professor Val D. Ricks. (Received footnote credit for research assistance.)

Media Appearances

Mr. Dunn routinely provides print, radio, and television media appearances including these outlets: MSNBC, FOX News, FOX Sports, CNN, ABC News, Good Morning America, New York Times, Wall Street Journal, Washington Post, Chicago Tribune, Miami Herald, Houston Chronicle, Dallas Morning News, Austin American Statesman and many others.

Professional Experience

Mr. Dunn has taken more than 300 depositions and tried more than 50 cases.

Brazil & Dunn (2006-present)

Trial Attorney: Litigate and try civil and criminal cases in a variety of disciplines. First chair trial counsel in over two dozen jury trials. First chair trial counsel in over three dozen bench trials and arbitrations including multiple trials before three-judge Voting Rights Act courts. Secured multiple multi-million dollar verdicts/awards and have secured numerous injunctions. Has argued more than a dozen cases at the Fifth Circuit, including the recent voter ID arguments before a three-judge panel and the en banc court. Argues before the Texas Supreme Court and multiple state courts of appeals. Handles numerous cases before other circuit courts. Serves as Counsel of Record on numerous matters before the U.S. Supreme Court. At any given time, prosecuting a dozen or more high-intensity, high public interest, civil rights cases including those related to redistricting, voter ID and voter qualifications, voter registration, First Amendment, Title IX and police misconduct.

Texas Democratic Party (2003-present)

General Counsel: Attend to legal responsibilities as directed by party needs. Handle election and constitutional cases before all state and federal courts. Handle appeals for state courts, the United States Court of Appeals for the Fifth Circuit and the United States Supreme Court. Assist with fundraising by leveraging litigation successes. Pursue aggressive litigation strategy to protect minority voting rights and fair election procedures.

Riddle & Brazil, L.L.P. (2002-2006)

Trial Attorney: Performed all duties required by a personal injury/civil litigation practice; participated in or conducted trial and mediation of causes.

O’Quinn, Laminack and Pirtle, Houston, Texas (2001-2002)

Law Clerk/Attorney: Assisted in litigation and trial of large damage and multiple party litigation. Conducted research, drafted motions and other pleadings, prepared for and attended hearings and trial.

State Senator Rodney Ellis, Austin, Texas (2001-77th Legislature)

Policy Advisor: Reviewed and prepared summaries and voting suggestion for bills in the Jurisprudence, Health and Human Services, Education, and Natural Resources Committees; developed ideas for legislation; drafted language for bills and speeches; met with constituents, lobbyists, public officials; delivered speeches; prepared press releases and talking points; followed legislation through committees and floor debate.

South Texas College of Law, Houston, Texas (2000)

Research Assistant, Professor Val Ricks: Conduct research on potential scholarly publications; edit draft law review submissions; check citation forms and improve footnotation.

Select Decisions

Thompson v. Florida Department of Corrections. Lead counsel. Prevailed in a First and Eight Amendment lawsuit and jury trial concerning prison conditions.

Romano v. City of San Marcos, 2017 WL 3996427 (WDTX 2017) (Lead counsel in Fourth Amendment challenge to unwarranted police search)

Veasey v. Abbott, --- F.3d ---, 2017 WL 3866562 (5th Cir. 2017)

Veasey v. Abbott, --- F.Supp.3d ---, 2017 WL 3620639 (SDTX 2017) (Lead plaintiff counsel in Voting Rights Act intentional discrimination challenge to statewide voter identification law)

Doe 1 v. Baylor University, --- F.R.D. ---, 2017 WL 3470943 (WDTX 2017) (Lead counsel in Title IX post-reporting and heightened risk of sexual assault claim on behalf of ten plaintiffs)

Gil Ramirez Group, L.L.C. v. Houston Independent School District, 2017 WL 3236110 (SDTX 2017) (Lead counsel in six-week jury trial of RICO and tortious interference case against school district and board president for bribery scheme)

King Street Patriots v. Texas Democratic Party, 521 S.W.3d 729 (Tex. 2017) (Arguing and lead briefing counsel defending First Amendment challenge to state campaign finance laws)

Recording of Oral Argument: <http://www.texasbarcle.com/CLE/SCPlayer.asp?sCaseNo=15-0320>

Simon v. Taylor, --- F.Supp.3d ---, 2017 WL 2297174 (NM 2017) (Lead counsel in due process and tort claims involving official result of 2007 All American Futurity after positive banned substance test)

Doe 1 v. Baylor University, 2017 WL 1628994 (WDTX 2017) (Lead counsel in Title IX post-reporting and heightened risk of sexual assault claim on behalf of ten plaintiffs)

Veasey v. Abbott, --- F.Supp.3d --- 2017 WL 1315593 (SDTX 2017) (Lead plaintiff counsel in Voting Rights Act intentional discrimination challenge to statewide voter identification law)

Veasey v. Abbott, --- F.Supp.3d --- 2017 WL 1209822 (SDTX 2017) (Lead plaintiff counsel in Voting Rights Act intentional discrimination challenge to statewide voter identification law)

Texas v. United States, --- F.Supp.3d ---, 2017 WL 1194159 (DC 2017) (Attorney fee award challenge in preclearance Voting Rights Act case against Texas regarding statewide redistricting plans)

Veasey v. Abbott, 2017 WL 1092307 (SDTX 2017) (Lead plaintiff counsel in Voting Rights Act intentional discrimination challenge to statewide voter identification law)

Doe 1 v. Baylor University, 240 F.Supp.3d 646 (WDTX 2017) (Lead counsel in Title IX post-reporting and heightened risk of sexual assault claim on behalf of ten plaintiffs)

Abbott v. Veasey, 137 S.Ct. 612 (January 23, 2017) (Counsel of record in appeal of en banc decision in Voting Rights Act intentional discrimination challenge to statewide voter identification law)

The Gil Ramirez Group, L.L.C. v. Houston Independent School District, 2017 WL 201371 (SDTX 2017) (Lead counsel in six-week jury trial of RICO and tortious interference case against school district and board president for bribery scheme)

Harding v. County of Dallas, 2016 WL 7426127 (NDTX 2017) (Lead counsel for Dallas County in Voting Rights Act challenge by Anglo voters against county redistricting plan)

Evenwel v. Abbott, 136 S.Ct. 1120 (2016) (Counsel of Record for Amicus: Texas Democratic Senators)

Select Decisions (continued)

Gil Ramirez Group, L.L.C. v. Houston Independent School District, 2016 WL 4775688 (SDTX 2016) (Lead counsel in six-week jury trial of RICO and tortious interference case against school district and board president for bribery scheme)

Veasey v. Abbott, 2016 830 F.3d 216 (5th Cir. 2016) (Arguing counsel in Voting Rights Act intentional discrimination challenge to statewide voter identification law)

Marshall v. Gil Ramirez Group, 16A344 (U.S. 2016) (Counsel of Record successfully defeating emergency request for stay to delay jury trial concerning RICO bribery scheme)

Veasey v. Abbott, 2016 815 F.3d 958 (5th Cir. 2016) (Arguing counsel in Voting Rights Act intentional discrimination challenge to statewide voter identification law)

Texas v. Davis, 136 S.Ct. 981 (2016) (Counsel of Record for Texas Democratic Party in petition for writ of certiorari of attorney fee dispute cornering districts for Texas Senate)

Cass v. City of Abilene, 814 F.3d 721 (5th Cir. 2016) (Arguing counsel in excessive force and First Amendment retaliation claim against police officer who shot and killed citizen)

Recording of Oral Argument: http://www.ca5.uscourts.gov/OralArgRecordings/14/14-11134_8-4-2015.mp3

In re Reed, 2016 WL 233400 (Tex.App.--Austin 2016) (Lead counsel in case challenging eligibility of candidate for election to office of district attorney)

Cascos v. Tarrant County Democratic Party, 473 S.W.3d 780 (Tex. 2017) (Lead counsel in suit for attorneys fees under state law reimbursement lawsuit)

Texas v. United States, ---F.3d 1108, --- 2015 WL 4910078 (D.C. Cir. 2015) (Attorney fee award challenge in preclearance Voting Rights Act case against Texas regarding statewide redistricting plans)

Veasey v. Abbott, 15A999 (U.S. 2015) (Counsel of Record for Veasey, et al. successfully defending against state's effort to stay circuit en banc ruling)

Veasey v. Abbott, 2015 796 F.3d 487 (5th Cir. 2015) (Arguing counsel in Voting Rights Act intentional discrimination challenge to statewide voter identification law)

Recording of Oral Argument: http://www.ca5.uscourts.gov/OralArgRecordings/14/14-41127_4-28-2015.mp3

McKee v. James, 2015 WL 4660646 (Bus. Ct. NC 2015) (Lead trial and appellate counsel in shareholder derivative suit concerning management of closely held corporation)

Harding v. County of Dallas, 2015 WL 11121002 (NDTX 2015) (Lead counsel for Dallas County in Voting Rights Act challenge by Anglo voters against county redistricting plan)

Gil Ramirez Group, L.L.C. v. Houston Independent School District, 2015 786 F.3d 400 (5th Cir. 2015) (Arguing counsel in RICO and tortious interference case against school district and board president for bribery scheme)

Recording of Oral Argument: http://www.ca5.uscourts.gov/OralArgRecordings/13/13-20753_2-4-2015.MP3

Perry v. Perez, 565 U.S. 388 (2012) (Counsel of Record for Texas Democratic Party in merits appeal of statewide redistricting challenge)

Simon v. Taylor, 2015 WL 2225653 (NM 2015) (Lead counsel in due process and tort claims involving official result of 2007 All American Futurity after positive banned substance test)

Gonzalez v. Harris County, 2015 601 Fed.Appx 255 (5th Cir. 2015) (Lead plaintiff trial counsel and appeal arguing counsel in Voting Rights Act challenge against county redistricting plan)

McKee v. James, 2014 WL 7534078 (NC 2014) (Lead trial and appellate counsel in shareholder derivative suit concerning management of closely held corporation)

King Street Patriots v. Texas Democratic Party, 459 S.W.3d 631 (Tex.App.--Austin 2014) (Arguing and lead briefing counsel defending First Amendment challenge to state campaign finance laws)

Simon v. Taylor, --- F.Supp.3d ---, 2014 WL 6633917 (NM 2014) (Lead counsel in due process and tort claims involving official result of 2007 All American Futurity after positive banned substance test)

Berry v. Texas Democratic Party, 449 S.W.3d 633 (Tex.App.—Austin 2014) (Lead counsel in suit for attorneys fees under state law reimbursement lawsuit)

Select Decisions (continued)

Veasey v. Perry, 769 F.3d 890 (5th Cir. 2014) (Arguing counsel in Voting Rights Act intentional discrimination challenge to statewide voter identification law)

Veasey v. Perry, 71 F.Supp.3d 627 (SDTX 2014) (Lead plaintiff counsel in Voting Rights Act intentional discrimination challenge to statewide voter identification law)

Cass v. City of Abilene, 2014 WL 12642572 (NDTX 2014) (Arguing counsel in excessive force and First Amendment retaliation claim against police officer who shot and killed citizen)

Recording of Oral Argument: http://www.ca5.uscourts.gov/OralArgRecordings/14/14-11134_8-4-2015.mp3

Gil Ramirez Group, L.L.C. v. Houston Independent School District, WL 4185742 (SDTX 2014) (Lead counsel in six-week jury trial of RICO and tortious interference case against school district and board president for bribery scheme)

Texas v. Holder, 63 F.Supp.3d 54 (DC 2014) (Attorney fee award request in Preclearance Voting Rights Act case against Texas regarding voter identification law)

Veasey v. Perry, 577 Fed.Appx. 261 (5th Cir. 2014) (Lead Plaintiff counsel in Voting Rights Act intentional discrimination challenge to statewide voter identification law)

Cass v. City of Abilene, WL 12642541 (NDTX 2014) (Arguing counsel in excessive force and First Amendment retaliation claim against police officer who shot and killed citizen)

Simon v. Taylor, 2014 WL 3563268 (NM 2014) (Lead counsel in due process and tort claims involving official result of 2007 All American Futurity after positive banned substance test)

Perez v. Perry, 2014 WL 3359324 (WDTX 2014) (Lead counsel in Section 2 Voting Rights Act challenge against statewide redistricting plans)

Veasey v. Perry, 29 F.Supp.3d 896 (SDTX 2014) (Lead Plaintiff counsel in Voting Rights Act intentional discrimination challenge to statewide voter identification law)

Texas v. United States, 49 F.Supp.3d 27 (DC 2014) (Attorney fee award challenge in preclearance Voting Rights Act case against Texas regarding statewide redistricting plans)

Cass v. City of Abilene, 2014 WL 12642540 (NDTX 2014) (Arguing counsel in excessive force and First Amendment retaliation claim against police officer who shot and killed citizen)

Cisneros v. Pasadena Independent School District, 2014 WL 1668500 (SDTX 2014) (Lead Plaintiff counsel in challenge to single member districts of public school district board)

Veasey v. Perry, 2014 WL 1340077 (SDTX 2014) (Lead Plaintiff counsel in Voting Rights Act intentional discrimination challenge to statewide voter identification law)

Saravia v. Benson, 433 S.W.3d 658 (Tex.App.--Houston (2014) (Lead plaintiff counsel in wrongful foreclosure case)

Ficke v. Ratliff, 2014 WL 857212 (Tex.App.--Austin 2014) (Lead Plaintiff counsel in claim of wrongful discharge of police officer)

Cass v. City of Abilene, 2014 WL 12642539 (NDTX 2014) (Arguing counsel in excessive force and First Amendment retaliation claim against police officer who shot and killed citizen)

Tarrant County Democratic Party v. Steen, 434 S.W.3d 188 (Tex.App.--San Antonio 2014) (Lead counsel in suit for attorneys fees under state law reimbursement lawsuit)

Davis v. Perry, 991 F.Supp.2d 809 (NDTX 2014) (Lead counsel for party in challenge to statewide redistricting plans for state senate)

Petteway v. Henry, 738 F.3d 132 (5th Cir. 2013) (Lead plaintiff counsel in Section 5 Voting Rights Act case against county redistricting plan)

Recording of Oral Argument: http://www.ca5.uscourts.gov/OralArgRecordings/12/12-40856_9-6-2013.wma

Gil Ramirez Group, L.L.C. v. Houston Independent School District, 2013 WL 12137786 (SDTX 2013) (Lead counsel in six-week jury trial of RICO and tortious interference case against school district and board president for bribery scheme)

Gil Ramirez Group, L.L.C. v. Houston Independent School District, 2013 WL 6079517 (SDTX 2013) (Lead counsel in six-week jury trial of RICO and tortious interference case against school district and board president for bribery scheme)

Select Decisions (continued)

Cargill v. Ballesteros, 2013 WL 6002833 (Tex.App.--Austin 2013) (Lead counsel for party in election contest appeal)

Simon v. Taylor, 981 F.Supp.2d 1020 (NM 2013) (Lead counsel in due process and tort claims involving official result of 2007 All American Futurity after positive banned substance test)

In re Rodriguez, 2013 WL 5775494 (Tex.App.--Beaumont 2013) (Lead counsel for majority minority school board defending against challenge by Anglo community to take control of the board)

Thornton v. Henkels & McCoy, Inc., 2013 WL 5676026 (Tex.App.--Corpus Christi--Edinburg 2013) (Lead counsel in appeal involving engineering malpractice)

Rodriguez v. Beaumont Independent School District, 413 S.W.3d 524 (Tex.App.--, Beaumont 2013) (Lead counsel for majority minority school board defending against challenge by Anglo community to take control of the board)

Voting for America, Inc. v. Steen, 732 F.3d 382 (5th Cir. 2013) (Arguing counsel in appeal including First Amendment challenge to newly enacted voter registration procedures)
Recording of Oral Argument: http://www.ca5.uscourts.gov/OralArgRecordings/12/12-40914_9-6-2012.wma

Simon v. Taylor, 2013 WL 5934420 (NM 2013) (Lead counsel in due process and tort claims involving official result of 2007 All American Futurity after positive banned substance test)

In re Neil, 2013 WL 3961206 (Tex.App.--Beaumont 2013) (Lead counsel for majority minority school board defending against challenge by Anglo community to take control of the board)

In re Rodriguez, 409 S.W.3d 178 (Tex.App.--Beaumont 2013) (Lead counsel for majority minority school board defending against challenge by Anglo community to take control of the board)

Rodriguez v. Harris County, Tex., 964 F.Supp.2d 686 (SDTX 2013) (Arguing counsel in Voting Rights Act challenge to county redistricting map)
Recording of Oral Argument: http://www.ca5.uscourts.gov/OralArgRecordings/13/13-20491_12-4-2014.mp3

Hengel v. Buffalo Wild Wings, Inc., 2013 WL 3967941 (EDKY 2013) (Lead Plaintiff counsel in dram shop claim)

Hengel v. Buffalo Wild Wings, Inc., 2013 WL 3973167 (EDKY 2013) (Lead Plaintiff counsel in dram shop claim)

Hengel v. Buffalo Wild Wings, Inc., 2013 WL 3970154 (EDKY 2013) (Lead Plaintiff counsel in dram shop claim)

McKee v. James, 2013 WL 389340 (NC 2013) (Lead trial and appellate counsel in shareholder derivative suit concerning management of closely held corporation)

Gil Ramirez Group, L.L.C. v. Houston Independent School District, 2013 WL 3229682 (SDTX 2013) (Lead counsel in six-week jury trial of RICO and tortious interference case against school district and board president for bribery scheme)

Beaumont Independent School District v. United States, 944 F.Supp.2d 23 (DC 2013) (Lead counsel for school district in Section 5 preclearance suit to avoid effort by Anglo community to take control of board)

Texas Renegade Construction. Co., Inc. v. Hartford Lloyd's Ins. Co., 546 Fed.Appx. 400 (5th Cir. 2013) (Arguing counsel in first party business insurance coverage dispute)
Recording of Oral Argument: http://www.ca5.uscourts.gov/OralArgRecordings/12/12-20461_4-2-2013.wma

In re Escarent Entities, L.P., 519 Fed.Appx. 895 (5th Cir. 2013) (Arguing counsel in bankruptcy court case challenging extent of jurisdiction for non-Article III courts)

In re Judd, 2013 WL 812057 (Tex.App.--Austin 2013) (Lead counsel in challenge by prison inmate to ballot access rules)

In re Hays County Sheriff's Department, 2012 WL 6554815 (Tex.App.--Austin 2012) (Lead counsel in mandamus action concerning wrongful discharge of police officer)

In re Judd, WL 6097294 (Tex.App.--Austin 2012) (Lead counsel in challenge by prison inmate to ballot access rules)

Gil Ramirez Group, L.L.C. v. Houston Independent School District, WL 5633880 (SDTX 2012) (Lead counsel in six-week jury trial of RICO and tortious interference case against school district and board president for bribery scheme)

Peterson v. Islamic Republic of Iran, WL 4485764 (SDTX 2012) (Lead counsel in judgment collection case for damages caused by terrorist acts)

Select Decisions (continued)

Voting for America, Inc. v. Andrade, 488 Fed.Appx. 890 (5th Cir. 2012) (Arguing counsel in appeal including First Amendment challenge to newly enacted voter registration procedures)

Recording of Oral Argument: http://www.ca5.uscourts.gov/OralArgRecordings/12/12-40914_9-6-2012.wma

In re Oliver, 2012 WL 4033501 (Tex.App.--Houston 2012) (Lead counsel in challenge to the ballot application for candidate for Harris County district attorney)

Harris County Department of Education v. Harris County, 2012 WL 3886427 (SDTX 2012) (Lead counsel in challenge to election of school board member)

Oliver v. Lewis, 2012 WL 3779909 (SDTX 2012) (Lead counsel in challenge to the ballot application for candidate for Harris County District Attorney)

Texas v. United States, 887 F.Supp.2d 133 (DC 2012) (Lead counsel in preclearance Voting Rights Act case against Texas regarding statewide redistricting plans)

Voting for America, Inc. Andrade, 2012 WL 12888577 (SDTX 2012) (Lead counsel in First Amendment claim against new state procedures for voter registration)

Voting for America, Inc. v. Andrade, 888 F.Supp.2d 816 (SDTX 2012) (Lead counsel in First Amendment claim against new state procedures for voter registration)

Petteway v. Galveston, County, 2012 WL 12877651 (SDTX 2012) (Lead plaintiff counsel in Section 5 Voting Rights Act case against county redistricting plan)

Texas v. United States, 279 F.R.D. 176 (DC 2012) (Lead counsel in Preclearance Voting Rights Act case against Texas regarding statewide redistricting plans)

Simon v. Taylor, 2011 WL 5977104 (5th Cir. 2011) (Lead counsel in due process and tort claims involving official result of 2007 All American Futurity after positive banned substance test)

Petteway v. Henry, WL 6148674 (SDTX 2011) (Lead plaintiff counsel in Section 5 Voting Rights Act case against county redistricting plan)

Dallas County v. Texas Democratic Party, 565 U.S. 801 (2011) (Counsel of Record for Texas Democratic Party successfully obtaining dismissal on direct appeal from three-judge court concerning challenge to electronic voting equipment)

DuBose v. Hisey, 2011 WL 5977104 (WDTX 2011)

Davis v. Perry, 2011 WL 6207134 (WDTX 2011) (Lead counsel in constitutional challenge to retaliation by county employed physician)

Perez v. Perry, 835 F.Supp.2d 209 (WDTX 2011) (Lead counsel in Voting Rights Act challenge to statewide redistricting plans)

In re Judd, 2011 WL 5604717 (Tex.App.--Austin 2011) (Lead counsel in challenge by prison inmate to ballot access rules)

Rodriguez v. Perry, 2011 WL 3209075 (NDTX 2011) (Lead counsel in Voting Rights Act challenge to county redistricting plan)

Dallas County v. Texas Democratic Party, 565 U.S. 801 (2011) (Counsel of Record for Texas Democratic Party successfully obtaining remand to circuit of appeal of attorney fee award)

LULAC of Texas v. Texas Democratic Party, 428 Fed.Appx. 460 (5th Cir. 2011) (Lead counsel in case defending presidential primary election procedures from federal claim challenge)

Recording of Oral Argument: http://www.ca5.uscourts.gov/OralArgRecordings/10/10-50399_4-28-2011.wma

Humble Emergency Physicians, P.A. v. Memorial Hermann Healthcare System, Inc., 2011 WL 15848 (Tex.App.--Houston 2011) (Appeal counsel in challenge to medical negligence laws)

Texas Democratic Party v. Dallas County, WL 5141352 (NDTX 2010) (Lead counsel in preclearance challenge against county for voting technology equipment)

Texas State University-San Marcos v. Bonnin, 2010 WL 4367013 (Tex.App.--Austin 2010) (Lead counsel in claim for wrongful death resulting from engineering malpractice)

Select Decisions (continued)

In re Cullar, 320 S.W.3d 560 (Tex.App.--Dallas 2010) (Lead counsel in challenge to eligibility of state senator to hold office after having voted in Virginia elections)

Sachtleben v. Bennett, 2010 WL 3168395 (Tex.App.--Houston 2010) (Lead counsel in challenge to ballot application of candidate)

Texas State University-San Marcos v. Bonnin, 314 S.W.3d 912 (Tex. 2010) (Lead counsel in claim for wrongful death resulting from engineering malpractice)

LULAC of Texas v. Texas, 2010 WL 9435141 (NDTX 2010) (Lead counsel in case defending presidential primary election procedures from federal claim challenge)

PMK Interests v. Malmgren, 2009 WL 3199712 (Tex.App.--Beaumont 2009) (Lead jury trial and appeal counsel defending homeowner from contractor claims)

LULAC of Texas v. Texas Democratic Party, 651 F.Supp.2d 700 (NDTX 2009) (Lead counsel in case defending presidential primary election procedures from federal claim challenge)

Simon v. Taylor, 2009 WL 10680135 (NDTX 2009) (Lead counsel in due process and tort claims involving official result of 2007 All American Futurity after positive banned substance test)

William Marsh Rice University v. Coleman, 291 S.W.3d 43 (Tex.App.--Houston 2009) (Appeal counsel in wrongful discharge claim)

Texas Democratic Party v. Andrade, 555 U.S. 1100 (2009) (Counsel of Record for Texas Democratic Party challenging undervote caused by electronic voting system)

Kucinich v. Texas Democratic Party, 563 F.3d 161 (5th Cir. 2009) (Arguing counsel in challenge against loyalty oath as prerequisite to appearing on party primary ballot)

Recording of Oral Argument: http://www.ca5.uscourts.gov/OralArgRecordings/08/08-50038_10-6-2008.wma

Jackson v. Carlson, WL 638848 (Tex.App.--Austin 2009) (Lead counsel in multiple state cases concerning large real estate transaction)

LULAC of Texas v. Texas, 318 Fed.Appx. 261 (5th Cir. 2009) (Lead counsel in case defending presidential primary election procedures from federal claim challenge)

Recording of Oral Argument: http://www.ca5.uscourts.gov/OralArgRecordings/08/08-50581_2-4-2009.wma

Kucinich v. Texas Democratic Party, 552 U.S. 116 (2008) (Counsel of Record for Democratic Party defending party oath against emergency stay request)

Atlin v. Mendes, 2009 WL 306173 (NDTX 2009) (Lead counsel for plaintiff asserting sexual assault claims)

American Academy of Emergency Medicine v. Memorial Hermann Healthcare System, Inc., 285 S.W.3d 35 (Tex.App.--Houston 2009) (Appeal counsel in challenge to laws affecting medical negligence)

Atlin v. Mendes, WL 5422871 (NDTX 2008) (Lead counsel for plaintiff asserting sexual assault claims)

Texas State University--San Marcos v. Bonnin, 315 S.W.3d 58 (Tex.App.—Austin 2008) (Lead counsel in claim for wrongful death resulting from engineering malpractice)

Brimer v. Maxwell, 265 S.W.3d 926 (Tex.App.—Dallas 2008) (Arguing counsel in challenge to eligibility of candidate for election to state senate)

Coleman v. State, 2008 WL 4092911 (Tex.App.—Texarkana 2008) (Lead counsel in challenge to ballot application of candidate)

Atlin v. Mendes, 2008 WL 3874693 (NDTX 2008) (Lead counsel for plaintiff asserting sexual assault claims)

Texas Democratic Party v. Williams, 285 Fed.Appx. 194 (5th Cir. 2008) (Arguing counsel in challenge to state voting equipment under Equal Protection clause)

Recording of Oral Argument: http://www.ca5.uscourts.gov/OralArgRecordings/07/07-51064_7-9-2008.wma

In re Brown, 2008 WL 2725833 (Tex.App--San Antonio 2008) (Lead counsel in claim against the ballot application for candidate for appellate court judge)

Select Decisions (continued)

Sartin v. Serum Products, L.L.C., 2008 WL 782645 (NDTX 2008) (Lead counsel in dispute concerning airplane sale)

In re Wilson, 2007 WL 1040565 (SDTX 2007) (Lead counsel in trial concerning the wrongful takeover of baseball camp organized by former major league player)

In re Wilson, 355 B.R. 600 (SDTX 2006) (Lead counsel in trial concerning the wrongful takeover of baseball camp organized by former major league player)

Pisc Intern., Inc. v. Woolslayer Companies, Inc., 2006 WL 3358729 (SDTX 2006) (Appeal counsel in contract claims between petroleum development companies)

Texas Democratic Party v. Benkiser, 459 F.3d 582 (5th Cir. 2006) (Arguing counsel in challenge to Tom Delay's effort to illegally withdraw from primary election ballot)

Texas Democratic Party v. Benkiser, 2006 WL 1851295 (WDTX 2006) (Lead trial counsel in challenge to Tom Delay's effort to illegally withdraw from primary election ballot)

In re Angelini, 186 S.W.3d 558 (Tex. 2006) (Lead counsel in challenge to sufficiency of ballot application for candidate for election to appellate court)

In re Sharp, 186 S.W.3d 556 (Tex. 2006) (Lead counsel in challenge to sufficiency of ballot application for candidate for election to appellate court)

Miller v. Gibraltar Savings Association, 2005 WL 1719702 (SDTX 2005) (Lead Plaintiff counsel in claim against financial institution for wrongfully withholding property deeds)

PISC Intern., Inc. v. Woolslayer Companies, Inc., 2005 WL 1155063 (SDTX 2005) (Trial counsel in contract claims between petroleum development companies)

DECLARATION OF DAVID RICHARDS

I, David Richards, hereby declare as follows:

1. I am Senior Counsel at Richards Rodriguez & Skeith, and counsel for plaintiffs in this case. The testimony set forth in this Declaration is based on first-hand knowledge, about which I could and would testify competently in open Court if called upon to do so. This Declaration is submitted in support of plaintiffs' Motion for Class Certification.

2. I have over 50 years of experience in law practice, have been an adjunct professor at the University of Texas Law School, and previously served as an attorney with the U.S. Commission on Civil Rights. From 1982 to 1985, I was Executive Assistant Attorney General of Texas supervising the State's litigation. Prior to that, I was General Counsel of Texas AFL-CIO.

3. I have substantial experience in election law and voting rights, civil rights, labor and employment law, education law, environmental law, and constitutional litigation. Among my voting rights and redistricting work, I served as counsel in *White v. Regester*, 412 U.S. 755 (1973), *Robinson v. Commissioners Court*, 505 F.2d 674 (5th Cir. 1975), *Whatley v. Clark*, 482 F.2d 1230 (5th Cir. 1973), *Seamon v. Upham*, 456 U.S. 37 (1982), *Rangel v. Morales*, 8 F.3d 242 (5th Cir. 1993), and *David v. Garrison*, 553 F.2d 923 (5th Cir. 1977). I also serve as plaintiffs' counsel in the challenge to the 2011 and 2013 Texas redistricting, *Perez v. Abbott*.

4. I have attached an overview of my experience and notable cases below, which further details my experience and qualifications.

5. I am dedicated to litigating this case and vigorously representing its clients and the plaintiff class in this matter. Together with my co-counsel, I am committed to devoting the necessary financial and other resources necessary to zealously litigate this matter on behalf of the plaintiffs and the class.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this Declaration was prepared in Austin, Texas on February 4, 2019.

/s/ David Richards
David Richards



Richards Rodriguez & Skeith^{LLP}
Attorneys at Law

David Richards

Senior Counsel

Email: davidrichards@rrsfirm.com (mailto:davidrichards@rrsfirm.com)

Phone: 512-476-0005

David Richards has broad experience in civil litigation at trial and appellate levels in state and federal courts. In addition to his 50 plus years of law practice, he has been an adjunct professor of law at the University of Texas Law School and served as an attorney with the U.S. Commission on Civil Rights. From 1982 to 1985, he was Executive Assistant Attorney General of Texas supervising the State's litigation.

Before that public service, he was General Counsel for the Texas AFL-CIO. Over his lengthy private practice, he has developed expertise in the fields of labor and employment law, ERISA issues, civil rights, education law, environmental law, election law/voting rights, constitutional law and governmental regulation along with a variety of related issues.

David has handled a number of appellate cases at the U.S. Supreme Court, the Texas Supreme Court, and intermediate federal and state appellate courts. Among the more notable of these cases was *White v. Regester*, 412 U.S. 755 (1973) which established single member legislative districts for the Texas Legislature, *Dyson v. Stein*, 401 U.S. 200 (1971), declaring the Texas obscenity statute unconstitutional, and *State v. Durham*, 860 S.W. 2d 63 (Tex. 1993) recovering multi million dollars of oil royalty for the State of Texas, *Edgewood*

v. Kirby, 777 S.W. 2d 391 (Tex. 1989), declaring unconstitutional Texas public school funding.

Professional Licenses, Memberships, Honors and Awards

- State Bar of Texas, 1957
- Admitted to practice before the U.S. Supreme Court and U.S. 5th Circuit Court of Appeals
- U.S. District Courts: Northern, Southern, Western and Eastern Districts of Texas and District of New Mexico

Reported Opinions & Appellate Cases

Voting Rights

- *White v. Regester*, 412 U.S. 755 (1973) – successful challenge to Texas-at-large legislative districts
- *Robinson v. Commissioners Court*, 505 F. 2d 674 (5th Cir. 1975) – successful challenge to racial gerrymander
- *Whatley v. Clark*, 482 F.2d 1230 (5th Cir. 1973) – successful challenge to exclusion of student voters
- *Seamon v. Upham*, 456 U.S. 37 (1982) – partially successful challenge to congressional redistricting
- *Rangel v. Morales*, 8 F.3d 242 (5th Cir. 1993) – unsuccessful challenge to judicial election procedures
- *David v. Garrison*, 553 F.2d 923 (5th Cir. 1977) – challenge to city election procedure

First Amendment Litigation

- Board of Regents of the University of Texas System v. New Left Education Project, 404 U.S. 541 (1972) – successful challenge to restrictions on underground newspaper
- Dyson v. Stein, 401 U.S. 200 (1971) – partially successful attack on Texas obscenity statute
- James v. Gilmore, 389 U.S. 572 (1969) – successful challenge to Texas loyalty oath
- Barlow v. Gallant, 410 U.S. 948 (1973) – successful challenge state vagrancy statute
- Allaire v. Rogers, 658 F.2d 1055 (5th Cir. 1981) – challenge to salary reprisals

Labor and Employment

- Connell Construction Company v. Plumbers and Steamfitters Local Union No. 100, 421 U.S. 616 (1974) – unsuccessful defense of labor anti-trust claim
- Schattman v. Texas Employment Commission, 459 F.2d 32 (5th Cir. 1972) – unsuccessful attack on maternity policy
- Schadler v. Anthem Life Insurance Company, 147 F.3d 388 (5th Cir. 1998) – successful ERISA suit
- Neuhoﬀ Bros., Packers v. Acosta, 327 S.W.2d 434 (Tex. 1959) – wage and hour litigation
- Cedar Crest Hats, Inc. v. United Hatters, Cap and Millinery Workers Intern. Union, 362 F.2d 322 (5th Cir. 1966) – labor antitrust
- Dallas Bldg. and Const. Trades Council v. N. L. R. B., 396 F.2d 677 (D.C. Cir. 1968) – labor recognition picketing

- Clements v. Valles, 620 S.W.2d 112 (Tex. 1981) – successful challenge to legislative apportionment
- Spring Branch I.S.D. v. Stamos, 695 S.W.2d 556 (Tex. 1985) – successful defense of no pass no play
- Edgewood I.S.D. v. Kirby, 777 S.W.2d 391 (Tex. 1989) – successful challenge to constitutionality of funding of public education
- Edgewood I.S.D. v. Kirby, 804 S.W.2d 491 (Tex. 1991) – second round of challenge to constitutionality of funding of public education
- Sears v. Bayoud, 786 S.W.2d 248 (Tex. 1990) – successful challenge to eligibility of candidate for Texas Supreme Court
- White v. Sturns, 651 S.W.2d 372 (Tex. Civ. App. – Austin 1983) – defense of senate power of confirmation

Other Appellate Decisions of Note

- State of Texas v. Durham, 860 S.W.2d 63 (Tex. 1993) – suit on behalf of land commissioner to recover oil royalties
- Graves v. Barnes, 700 F.2d 220 (5th Cir. 1983) – recovery of attorney's fees
- Local Union 59, Intern. Broth. Of Elec. Workers, AFL-CIO v. Green Corp., 725 F.1d 264 (5th Cir. 1984) – successful enforcement of arbitration award
- Abbott v. Local Union No. 142 of United Associations of Journeymen and Apprentices of the Pipe Fitting Industry of the United States and Canada, 429 F.2d 786 (5th Cir. 1970) – successful defense of local unions
- Encina v. Tony Lama Boot Company, 448 F.2d 1264 (5th Cir. 1971) – successful defense of employer
- Thompson v Calvert, 489 S.W.2d 95 (Tex. 1972) – successful challenge to state administrative regulation

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- McDowell v. State of Texas, 465 F.2d 1342 (5th Cir. 1971) – public employment litigation
 - El Paso Bldg. and Const. Trades Council v. El Paso Chapter Associated General, 376 F.2d 797 (5th Cir. 1967) – arbitration litigation
 - Southern Conference of Teamsters v. Red Ball Motor Freight, Inc., 374 F.2d 932 (5th Cir. 1967) – arbitration litigation
 - Dallas General Drivers, Warehousemen and Helpers, Local Union No. 745, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America v. National Labor Relations Board, 355 F.2d 842 (D.C. Cir. 1967) – LMRA litigation
 - Friedrich v. Local No. 780, IUE-AFL-CIO-CLC, 515 F.2d 225 (5th Cir. 1967) – arbitration litigation
 - Smith v. Local No. 25, Sheet Metal Workers Intern. Ass'n, 500 F.2d 741 (5th Cir. 1974) – defense of local union

Practice Areas

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DECLARATION OF MARK P. GABER

I, Mark P. Gaber, hereby declare as follows:

1. I am Director of Trial Litigation at the Campaign Legal Center (“CLC”) and counsel for plaintiffs in this case. The testimony set forth in this Declaration is based on first-hand knowledge, about which I could and would testify competently in open Court if called upon to do so. This Declaration is submitted in support of plaintiffs’ Motion for Class Certification.

2. CLC is a leading nonpartisan, nonprofit organization specialized in election law, including voting rights, redistricting, campaign finance, and government ethics. In that capacity, CLC has gained considerable expertise in litigating voting rights cases aimed at expanding the franchise and working to eliminate the barriers to voter participating in democracy.

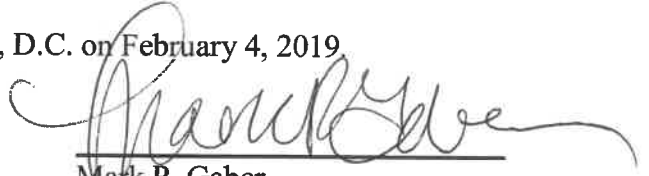
3. I have experience litigating cases across CLC’s issue areas, including voting rights, redistricting, campaign finance, and government ethics. Prior to joining CLC, I was an Associate at Jenner & Block LLP in Washington D.C., where I was a member of the firm’s Appellate & Supreme Court, Election Law & Redistricting, and Media & First Amendment practice groups. I have worked on a number of election law and civil rights matters, including as counsel in Texas’s statewide redistricting case, *Perez v. Abbott*, in *Alabama Legislative Black Caucus v. Alabama*, and *North Carolina v. Covington*. In addition, I serve as counsel for a putative class of plaintiffs challenging Alabama’s felony disenfranchisement scheme in *Thompson v. Alabama*, for a putative class challenging Ohio’s law precluding late-jailed voters from accessing absentee ballots, for plaintiffs challenging Texas’s photo ID law in *Veasey v. Abbott*, and plaintiffs challenging North Dakota’s residential address identification requirements in *Spirit Lake v. Jaeger*. I was counsel for *amici* in *Evenwel v. Abbott*, and served as counsel in a case involving the redistricting of Albuquerque’s city council districts. I have experience in complex class action cases as both plaintiffs’ and defendants’ counsel. I represented plaintiffs in a class action challenging Virginia’s

ban on same-sex marriage, where the court concluded I was adequate class counsel, *See Harris v. Rainey*, 299 F.R.D. 486, 492 (W.D. Va. 2014), and represented internet service providers in defending against a putative consumer class action related to behavioral advertising in 2011. I am experienced and familiar with the obligations and role of class counsel. From 2011 to 2012, I clerked for Judge Judith W. Rogers of the U.S. Court of Appeals for the District of Columbia Circuit. I am a 2010 graduate of Stanford Law school, and a 2005 graduate of St. Norbert College.

4. CLC's team also includes Danielle Lang. I am familiar with her experience and qualifications as my colleague. Ms. Lang is Co-Director of Voting Rights & Redistricting at CLC. She has experience litigating voting rights, redistricting, and other civil rights cases. Ms. Lang, *inter alia*, represents a putative class of plaintiffs challenging Alabama's felony disenfranchisement scheme in *Thompson v. Alabama* and a putative class challenging Ohio's law precluding late-jailed voters from accessing absentee ballots, and represented plaintiffs challenging Texas's photo ID law in *Veasey v. Abbott*, and plaintiffs challenging North Dakota's residential address identification requirements in *Spirit Lake v. Jaeger*. She also maintains an active *amicus* practice in voting rights and redistricting cases before the Supreme Court and U.S. Courts of Appeals. Prior to joining CLC, Ms. Lang was a Skadden Fellow in the Employment Rights Project of Bet Tzedek Legal Services in Los Angeles, where she represented immigrant workers in wage and hour matters, including federal class actions, and human trafficking cases. From 2012 to 2013, Ms. Lang clerked for Judge Richard A. Paez on the U.S. Court of Appeals for the Ninth Circuit. She is a 2012 graduate of Yale Law School and a 2008 graduate of New York University.

5. CLC is dedicated to litigating this case and vigorously representing its clients and the plaintiff class in this matter. CLC has, and will continue to, devote the necessary financial and employee resources to zealously litigating this matter on behalf of plaintiffs and the class.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this Declaration was prepared in Washington, D.C. on February 4, 2019.



Mark P. Gaber