

COVID-19 LITIGATION UPDATE MAY 2020

Voting Rights Litigation

Texas Democratic Party v. Abbott (W.D. Texas)

This lawsuit, originally brought by the Texas Democratic Party, challenges Texas's strict excuse requirements for requesting and casting ballots by mail, which limit the availability of mail-in ballots to certain categories of voters, including those over 65 years of age or who have an illness or disability. Critically, Texas officials have said that adherence to social distancing requirements to avoid contracting or spreading COVID-19 is not an acceptable excuse to request an absentee ballot. These restrictions have a hugely disproportionate impact on Texas's Latino population— on May 11, 2020, CLC moved to intervene in the case on behalf of the League of United Latin American Citizens (LULAC) and Texas LULAC, to challenge these restrictions and highlight their disparate effects on Texas's Latino community.

Memphis A. Phillip Randolph Institute v. Hargett (M.D. Tenn.)

CLC is challenging Tennessee's strict limitations on who can vote absentee, its criminal penalties to deter people from assisting voters to obtain absentee ballots, and the inability for absentee voters to fix their ballots if they are rejected due to a perceived mismatch with their signature on file. CLC represents community organizations Memphis A. Phillip Randolph Institute, The Equity Alliance, Free Hearts, Memphis Central Labor Council, and the Tennessee State Conference of the NAACP, as well as Tennessee residents Sekou Franklin and Kendra Lee, in their efforts to extend the right to vote by mail to all voters so that Tennesseans will not have to choose between their right to vote and their health in the midst of the coronavirus pandemic. CLC's partners in this case are the Lawyers' Committee for Civil Rights Under Law and the Nashville-based law firm Sherrard, Roe, Voigt & Harbison, PLC.

Self Advocacy Solutions v. Jaeger (D.N.D.)

CLC is challenging North Dakota's policy of rejecting absentee ballots because of its error-prone signature verification process without first informing voters there is a problem with their ballot or giving them an opportunity to fix it and have their vote count. In light of COVID-19, several upcoming elections in North Dakota will be conducted entirely by mail. As more North Dakota voters rely on the state's absentee ballot system to exercise their right to vote, more of them will be at risk of being disenfranchised because the state erroneously detects issues with their signatures. CLC is representing Self-Advocacy Solutions, the League of Women Voters of North Dakota, and Maria Romo in this case seeking to ensure that North Dakota counts all validly cast absentee ballots.

MN Witness Requirement

This case is still in development. We are preparing a challenge to Minnesota's requirement that absentee ballots be signed by a witness or notary in order to be valid. This requirement imposes an unconstitutional burden on Minnesota voters in light of the COVID-19 pandemic, requiring them to risk infection or spreading COVID-19 in order to validly cast an absentee ballot—defeating the purpose of allowing voters to cast ballots remotely during the pandemic.

NJ Signature Match

This case is still in development. We are preparing a challenge to New Jersey's error-prone signature match policies, which do not provide voters with notice of problems with their ballots or give them an opportunity to fix the problems and have their vote counted.

NY Signature Match

This case is still in development. We are preparing a challenge to New York's error-prone signature match policies, which do not provide voters with notice of problems with their ballots or give them an opportunity to fix the problems and have their vote counted.

Redistricting Litigation

Sinner v. Jaeger (D.N.D.)

CLC is challenging North Dakota's onerous requirements to get North Dakota Voters First's (NDVF) proposed constitutional amendment before voters. NDVF is seeking to implement impartial legislative redistricting and instant runoff voting in North Dakota. The lawsuit asks the court to waive the requirement, for this petition, the requirement that each signatory sign the petition in the presence of the circulator, that each circulator sign an affidavit in the presence of a Notary Public swearing that each signatory signed the petition in the presence of the circulator, that the petition remain in the physical possession of the circulator at all times, and that the signature be a "wet" signature rather than an electronic one. In light of the global pandemic, these requirements make it nearly impossible for CLC's clients to access the ballot and organize in support of the proposed amendment.

Miller v. Thurston (D. Ark.)

CLC is challenging Arkansas's onerous requirements to get a ballot initiative before voters. CLC's client Arkansas Voters First (AVF) is seeking to put an independent redistricting commission on the 2020 ballot. The suit asks the court to waive witness requirements for petition signatures, delay the submission deadline beyond July 3, and allow for the submission of electronic signatures, in light of the dangers posed to in-person signature gathering by COVID-19.