

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

TEXAS DEMOCRATIC PARTY; §  
BOYD L. RICHIE, in his capacity as §  
Chairman of the Texas Democratic §  
Party; HARRIS COUNTY §  
DEMOCRATIC PARTY; §  
GERALD BIRNBERG, in his capacity §  
as Chairman of the Harris County §  
Democratic Party; and §  
J. GOODWILLE PIERRE §

*Plaintiffs,*

vs.

PAUL BETTENCOURT, in his capacity §  
as Harris County Tax Assessor Collector §  
and Harris County Voter Registrar §

*Defendant.*

Cause No. 4:08-CV-3332

**PLAINTIFFS' EMERGENCY MOTION TO PRESERVE  
AND PRODUCE EVIDENCE**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Plaintiffs, TEXAS DEMOCRATIC PARTY, BOYD L. RICHIE, in his capacity as Chairman of the Texas Democratic Party, HARRIS COUNTY DEMOCRATIC PARTY, GERALD BIRNBERG, in his capacity as Chairman of the Harris County Democratic Party, and J. GOODWILLE PIERRE (hereinafter collectively referred to as "Plaintiffs"), and files this Emergency Motion to Preserve and Produce Evidence and in support thereof would show the Court as follows:

This morning, the *Houston Chronicle* reported voice messages Defendant PAUL BETTENCOURT left with Jim Harding, the Chairman of the Harris County Early Voting Ballot Board. Mr. Harding has objected that these messages were inappropriate and has requested the Harris County Attorney investigate the matter. In order to preserve the evidence, the attached letters were sent this morning by the undersigned. See Exhibits 1 & 2.

The undersigned has since learned that a deputy constable from Harris County Pct. 4 has confiscated the cell phone of Mr. Harding to deliver it to the Harris County Attorney's office. It has also been reported the deputy constable will be seizing Mr. Bettencourt's mobile phone. The Harris County Attorney's office claims the messages will be transcribed. There is no evidence a warrant was issued.

Plaintiffs request the Court order Defendant PAUL BETTENCOURT, Jim Harding and the Harris County Attorney's office preserve these original telephone recordings for examination of the parties to this suit. Furthermore the Plaintiffs request the Court order copies of the recordings to be delivered to Plaintiffs' counsel by noon Monday, November 17, 2008.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray the Court grant them the relief requested herein, and grant them such other and further relief to which they may show themselves justly entitled.

Dated this 14<sup>th</sup> day of November, 2008.

Respectfully submitted,

TEXAS DEMOCRATIC PARTY and  
BOYD L. RICHIE, in his capacity as  
Chairman of the Texas Democratic Party

By: /s/ Chad W. Dunn  
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