

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; J. GOODWILL PIERRE;	§	
ALEXANDRA GIBBS; JEFFREY T.	§	CAUSE NO. 4:08-CV-03332
VANSCHOONHOVEN; BONI SUE	§	
LESZCZUK; and ERIC J. GALLOWAY	§	
Plaintiffs.	§	
	§	
	§	
vs.	§	
	§	
LEO VASQUEZ, in his capacity as Harris	§	
County Tax Assessor Collector and Harris	§	
County Voter Registrar	§	

**DWAYNE BOHAC AND CAMPAIGN DATA SYSTEMS, L.L.C.’S**  
**MOTION TO QUASH**

DWAYNE BOHAC and CAMPAIGN DATA SYSTEMS, L.L.C, nonparties in the above-referenced matter, respectfully request that this Court enter an order quashing two (2) subpoenas for deposition by written questions and two (2) subpoenas to produce documents, attached hereto as Exhibits A and B. In support of this motion, DWAYNE BOHAC and CAMPAIGN DATA SYSTEMS, L.L.C. state as follows:

1. Following the election in November of 2008, Plaintiffs filed the instant lawsuit against the Harris County Tax Assessor Collector and Voter Registrar. Plaintiffs allege that Defendant has violated Section 5 of the Voting Rights Act as a result of particular standards, practices and procedures that Plaintiffs allege were never pre-cleared by the Department of Justice, yet should have been. Plaintiffs also claim that Defendant

has violated and is continuing to violate federal law because he is limiting voter registration as a result of non-material “error[s] or omission[s] on a record or paper relating to any application, registration, or other act requisite to voting.” See Plaintiffs’ First Amended Original Complaint on file with the Court.

2. Dwayne Bohac is an elected Texas State Representative for District 138, while Campaign Data Systems, L.L.C. is a private company owned in part by Dwayne Bohac. Campaign Data Systems, LLC, is a Texas based political data and software company, providing services to customers, such as Republican and Non-partisan candidates and elected officials, and various organizations.<sup>1</sup> Neither Dwayne Bohac, nor Campaign Data Systems, L.L.C. are parties to this litigation, and do not have information that is relevant or likely to lead to relevant information in this matter.

3. The right of discovery is limited to disclosure regarding matters "relevant to any party's claim or defense." *Fed. R. Civ. P. 26(b)(1)*. Discovery should be denied when there is insufficient evidence that the requested discovery is relevant or material or that it will lead to relevant and material evidence which is admissible at trial. *Haroco, Inc. v. American Nat’l Bank & Trust Co.*, 38 F.3d 1429, 1439 (7<sup>th</sup> Cir. 1994).

4. Plaintiffs are seeking information that is irrelevant to this lawsuit. By way of example, Plaintiffs are asking for documents concerning campaign related activities in relation to Dwayne Bohac, correspondence passing between Dwayne Bohac and various other “elected or appointed Republican office holder[s],” as well as copies of financial statements showing income received from Campaign Data Systems, a company owned in part by Dwayne Bohac. These requests have nothing to do with the claims alleged by Plaintiffs in the lawsuit. The requests are completely irrelevant and immaterial to

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<sup>1</sup> Attached hereto as Exhibit C is an affidavit by Dwayne Bohac in support of this Motion to Quash.

whether certain voting procedures were or should have been pre-cleared or whether Defendant incorrectly discarded voter applications due to allegedly non-material errors or omissions. As such, Plaintiffs are not entitled to these documents. Additionally, there is no indication in the record that Dwayne Bohac or Campaign Data Systems, L.L.C. have knowledge of any matter relevant to the claim or defense of any party to this suit or that deposing either of them could lead to relevant admissible evidence. Therefore, the requested discovery is beyond the scope of discovery as defined in Rule 26(b)(1).

5. Further, the subpoenas call for the production of documents containing information whose privacy and confidentiality are absolutely essential to Campaign Data System, L.L.C., and the compulsory disclosure of which would cause Campaign Data System, L.L.C. serious and irreparable injury. These requests are vague, overly broad and unduly burdensome. Specifically, Plaintiffs ask for all financial information concerning Campaign Data Systems, L.L.C. for the past 6 years. They also seek the name of every client, how much each client was charged, financial statements, as well as all proposals, bids, invoices and documents showing services provided to particular clients presumably since the business started, as they do not specify a particular date. Dwayne Bohac and Campaign Data Systems, L.L.C. object to each request as they seek to discover confidential and proprietary information, including, but not limited to, trade secrets and other intangible property rights.

6. In regard to the subpoena issued to Campaign Data Systems, bullet points one through six and eight request confidential and proprietary information that are trade secrets and must be protected from unwarranted disclosure, as discussed above. The fifth bullet point is protected by the legislative privilege. Texas and federal courts have

recognized that individuals acting in a legislative capacity are immune from liability for those actions. This immunity derives largely from the Speech and Debate Clauses of the Texas and federal constitutions. The legislative immunity doctrine recognizes that our scheme of government does not allow a court to inquire into the motives of legislators. *In re Perry*, 60 S.W.3d 857, 861 (Tex. 2001). Legislative immunity encompasses an evidentiary and testimonial privilege. Legislators are shielded not only from liability, but also from being required to testify about their legislative activities. *Id.* at 60. Additionally, the eighth bullet point requests information that is protected by the constitutional, statutory and common-law right to privacy. Further, the seventh bullet point requests information that is publicly available to anyone. Plaintiffs can find this information on the Texas Ethics Commission website.

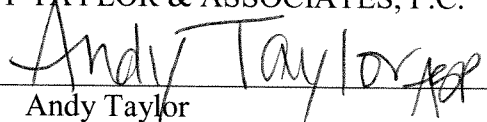
7. In regard to the subpoena issued to Dwayne Bohac, four of the five categories of documents are protected information. Specifically, the second and fifth bullet points are confidential and proprietary information that are trade secrets and must be protected from unwarranted disclosure, as discussed above. The second, third and fourth bullet points are protected by the legislative privilege. Texas and federal courts have recognized that individuals acting in a legislative capacity are immune from liability for those actions. This immunity derives largely from the Speech and Debate Clauses of the Texas and federal constitutions. The legislative immunity doctrine recognizes that our scheme of government does not allow a court to inquire into the motives of legislators. *In re Perry*, 60 S.W.3d 857, 861 (Tex. 2001). Legislative immunity encompasses an evidentiary and testimonial privilege. Legislators are shielded not only from liability, but also from being required to testify about their legislative activities. *Id.* at 60.

Additionally, the fifth bullet point requests information that is protected by the constitutional, statutory and common-law right to privacy. Further, the first bullet point requests information that is publicly available to anyone. Plaintiffs can find this information on the Texas Ethics Commission website.

WHEREFORE PREMISES CONSIDERED, for the above stated reasons Dwayne Bohac and Campaign Data Systems, L.L.C. respectfully request this Court to enter an order quashing all subpoenas for deposition on written questions and production of documents.

Respectfully Submitted,

ANDY TAYLOR & ASSOCIATES, P.C.

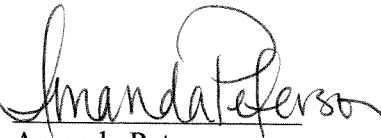
BY: 

Andy Taylor  
State Bar No. 19727600  
Amanda Peterson  
State Bar No. 24032953  
405 Main Street, Suite 200  
Houston, Texas 77002  
713-222-1817 (telephone)  
713-222-1855 (facsimile)

ATTORNEYS FOR DWAYNE BOHAC  
AND CAMPAIGN DATA SYSTEMS,  
INC.

Certificate of Conference

I spoke with Chad Dunn on August 26, 2009, and we were unable to reach an agreement regarding the issues in this Motion to Quash.

  
Amanda Peterson


Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing Motion to Quash has been served *via CM,RRR* on the following counsel of record on this 26<sup>th</sup> day of August, 2009.

Chad W. Dunn  
General Counsel  
Texas Democratic Party  
Brazil & Dunn  
4201 FM 1960 West, Suite 530  
Houston, TX 77068

F. Clinton Gambill, II  
Sr. Assistant County Attorney  
1019 Congress, 15<sup>th</sup> Floor  
Houston, TX 77002

Mike Prather  
Preis & Roy  
24 Greenway, Ste 2050  
Weslayan Tower  
Houston, TX 77046

  
Amanda Peterson

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; J. GOODWILL PIERRE; §  
ALEXANDRA GIBBS; JEFFREY T. §  
VANSCHOONHOVEN; BONI SUE §  
LESZCZUK; and ERIC J. GALLOWAY §  
Plaintiffs. §

CAUSE NO. 4:08-CV-03332

vs. §

LEO VASQUEZ, in his capacity as Harris §  
County Tax Assessor Collector and Harris §  
County Voter Registrar §

**ORDER**

This Court has considered Dwayne Bohac and Campaign Data Systems, L.L.C.'s Motion to Quash and is of the opinion that both subpoenas should be quashed.

IT IS THEREFORE ORDERED that the subpoena directed to Dwayne Bohac is quashed.

IT IS FURTHER ORDERED that the subpoena directed to Campaign Data Systems, L.L.C. is quashed.

Signed this \_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Judge Presiding

**U.S. LEGAL SUPPORT INC.**  
 363 N. SAM HOUSTON PARKWAY E., SUITE 900  
 HOUSTON, TX 77060  
 PHONE: (713) 653-7100 FAX: (713) 653-7171

August 13th, 2009

DWAYNE BOHAC, STATE REPRESENTATIVE  
 2600 GESSNER, SUITE 212  
 HOUSTON, TX 77080

**RUSH**

**Attn: Any & All Records**

Records pertaining to: **ALL RECORDS AS DESCRIBED ON THE ATTACHED EXHIBIT 'A'**

Dear Sir/Madam:

U.S. Legal Support Inc. is a records retrieval service company that provides litigation support to the legal and insurance industry. Our attorney/client has requested that we locate records specified in the enclosed legal documents, *within 14 days*.

Please provide all requested documentation and complete each document accurately and completely. If the cost of providing the records exceeds \$50.00, please contact us BEFORE copying. Please check that all copies are legible, and that no information is omitted. Texas law requires a physician/hospital/medical clinic to furnish a patient's records within 30 days after a request is received (Tex. Rev. Civ. Stat. Ann., Article 4495b, §5.08(k)). Enclosed is a **SUBPOENA WITH A DEPOSITION BY WRITTEN QUESTIONS AND/OR AFFIDAVIT**. Please assist us by:

1. Answering **ALL** questions.
2. **SIGN** the deposition by written questions and/or affidavit.
3. Have the signatures **NOTARIZED**.
4. Return all completed documents with a legible copy of the records to:

**U.S. LEGAL SUPPORT, INC.**  
**RECORDS DIVISION**  
 363 N. Sam Houston Parkway E., Suite 900  
 Houston, TX 77060  
 Phone: (713) 653-7100 Fax: (713) 653-7171

**IF AFTER A THOROUGH SEARCH YOU FIND NO RECORDS OF THIS PERSON, PLEASE MAKE THIS STATEMENT ON ALL DOCUMENTS, SIGN, AND HAVE THEM NOTARIZED.**

If you have questions or comments as you complete this request, please feel free to contact us at (713) 653-7100 or (800) 567-8757.

\*\*\*\*Please reference the following number when calling: 07-23499-003 \*\*\*\*

Thank you very much for your cooperation and assistance.

Best regards,

US Legal Support

Order No. 07-23499-003

**Exhibit A**

**United States District Court  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

TEXAS DEMOCRATIC PARTY, ET AL  
vs.  
LEO VASQUEZ, IN HIS CAPACITY  
AS HARRIS COUNTY TAX ASSESSOR  
COLLECTOR AND HARRIS COUNTY  
VOTER REGISTRAR

Civil Action No.: 4:08-CV-3332

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS  
OR TO PERMIT INSPECTION OF PREMISES**

TO: Custodian of Records for: **DWAYNE BOHAC, STATE REPRESENTATIVE  
2600 GESSNER, SUITE 212  
HOUSTON, TX 77080 (713) 460-2800**

**Production:** YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:  
  
any and all records as described on the attached Exhibit 'A'

PLACE: <b>DWAYNE BOHAC, STATE REPRESENTATIVE 2600 GESSNER, SUITE 212 HOUSTON, TX 77080 (713) 460-2800</b>	DATE AND TIME <b>INSTANTER</b>
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**Inspection of Premises:** YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

PLACE:	DATE AND TIME
--------	---------------

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45(d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 8/12/09

CLERK OF COURT

\_\_\_\_\_  
(Signature of Clerk or Deputy Clerk)

OR

Chad W. Dunn  
(Attorney's signature)  
by JB

The name, address, e-mail, and telephone number of the attorney representing the Plaintiff, who issues or requests this subpoena, are:

**CHAD W. DUNN  
BRAZIL & DUNN  
4201 FM 1960 WEST, SUITE 530, HOUSTON, TX 77068 (281) 580-6310**

<sup>1</sup> If action is pending in district other than the district of issuance, state district under case number.

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the subpoena on the individual at *(place)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or

I left the subpoena at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the subpoena to *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or

I returned the subpoena unexecuted because \_\_\_\_\_; or

other *(specify)*:

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

\_\_\_\_\_

**Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)****(c) Protecting a Person Subject to a Subpoena.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

**(d) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) Contempt.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

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

TEXAS DEMOCRATIC PARTY, ET AL	§	
	§	
vs.	§	CIVIL ACTION NO. 4:08-CV-3332
	§	
LEO VASQUEZ, IN HIS CAPACITY AS HARRIS	§	
COUNTY TAX ASSESSOR COLLECTOR AND	§	
HARRIS COUNTY VOTER REGISTRAR	§	

NOTICE OF INTENTION  
TO TAKE DEPOSITION BY WRITTEN QUESTIONS

To Defendant by and through their attorney(s) of record: F. CLINTON GAMBILL, II  
To other party/parties by and through their attorney(s) of record: MIKE PRATHER

You will please take notice that fourteen (14) days from the service of a copy hereof with attached questions, a deposition by written questions will be taken of Custodian of Records for:

DWAYNE BOHAC, STATE REPRESENTATIVE (Any & All)

before a Notary Public for U.S. Legal Support Inc. (713) 653-7100 Fax (713) 653-7171  
363 N. Sam Houston Parkway E., Suite 900, Houston, TX 77060

or its designated agent, which deposition with attached questions may be used in evidence upon the trial of the above-styled and numbered cause pending in the above named court. Notice is further given that request is hereby made as authorized under Rule 45, Federal Rules of Civil Procedure, to the officer taking this deposition to issue a subpoena duces tecum and cause it to be served on the witness to produce any and all records as described on the attached Exhibit 'A' and to turn all such records over to the officer authorized to take this deposition so that photographic reproductions of the same may be made and attached to said deposition.

CHAD W. DUNN  
BRAZIL & DUNN  
4201 FM 1960 WEST, SUITE 530  
HOUSTON, TX 77068  
(281) 580-6310 Fax (281) 580-6362  
Attorney for Plaintiff  
SBA # 24036507

*Chad W. Dunn by JB*  
CHAD W. DUNN

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded to all Counsel of Record by \_\_\_ hand delivery;  FAX; \_\_\_ certified mail, return receipt requested; \_\_\_ UPS with signature required, on this day.

Dated: 8/12/09

by Jennifer Burns  
CHAD W. DUNN

Should you desire copies of the so obtained, contact our firm.  
(713) 653-7100

Order No. 07-23499-003

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

**TEXAS DEMOCRATIC PARTY, ET AL**

**vs.**

**LEO VASQUEZ, IN HIS CAPACITY AS HARRIS  
COUNTY TAX ASSESSOR COLLECTOR AND  
HARRIS COUNTY VOTER REGISTRAR**

§  
§  
§  
§  
§  
§  
§

**CIVIL ACTION NO. 4:08-CV-3332**

**ATTORNEYS OF RECORD:**

CHAD W. DUNN  
BRAZIL & DUNN  
4201 FM 1960 WEST, SUITE 530  
HOUSTON, TX 77068 (281) 580-6310 Fax (281) 580-6362  
Attorney for Plaintiff

F. CLINTON GAMBILL, II  
F. CLINTON GAMBILL, II, SENIOR ASSISTANT ATTORNEY  
1019 CONGRESS, 15TH FLOOR  
HOUSTON, TX 77002 (713) 755-4985 Fax (713) 755-8924  
Attorney for Defendant

MIKE PRATHER  
PREIS & ROY  
24 GREENWAY, SUITE 2050;  
WESLAYAN TOWER  
HOUSTON, TX 77046 (713) 355-6062 Fax (713) 572-9129  
Attorney for Plaintiff

## EXHIBIT 'A'

Dwayne Bohac, State Representative

- Produce true and correct copies of any and all Texas Ethics Commission, Federal Election Commission, or any other reports or filings concerning campaign related activities in relation to Dwayne Bohac or any political action committee associated therewith.
- Produce true and correct copies of any and all documents, correspondence, or emails between Dwayne Bohac, Campaign Data Systems, the Harris County Tax Assessor Collectors Office, the Texas Secretary of State, Jared Woodfill, members of the Harris County Commissioner's Court, Paul Bettencourt, Ed Johnson, David Moise, Decide Consulting, District Attorney Pat Lykos, Rep. Michael McCaul or any other elected or appointed Republican office holder or party official as they concern voter registration or the business of Campaign Data Systems.
- Produce true and correct copies of any and all documents, including internal memoranda, emails, communications, letters received or sent, and legislative documents related to HB 1268 of the 79<sup>th</sup> Regular Session, HB 1448 of the 81<sup>st</sup> Regular Session, or any other legislation affecting or dealing with voter registration since your election.
- Produce true and correct copies of any and all documents related to measures considered by the Texas Legislature to require additional identification in order to vote.
- Produce true and correct copies of any and all W2, K1, or any other financial statement showing income received from Campaign Data Systems.

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

TEXAS DEMOCRATIC PARTY, ET AL	§	
	§	
vs.	§	
	§	CIVIL ACTION NO. 4:08-CV-3332
LEO VASQUEZ, IN HIS CAPACITY AS HARRIS	§	
COUNTY TAX ASSESSOR COLLECTOR AND HARRIS	§	
COUNTY VOTER REGISTRAR	§	

**DIRECT QUESTIONS TO BE PROPOUNDED TO  
CUSTODIAN OF RECORDS FOR:**

DWAYNE BOHAC, STATE REPRESENTATIVE (Any & All)

1. Please state your full name, address, telephone number, occupation and official title.  
ANSWER \_\_\_\_\_
2. I am the custodian for \_\_\_\_\_  
(Please insert facility or practitioner name.)
3. Have you been served with a subpoena duces tecum for the production of those documents listed in question number four?  
ANSWER \_\_\_\_\_
4. Are you among those who have possession, custody, control of, or access to any and all records as described on the attached Exhibit 'A'?  
ANSWER \_\_\_\_\_
5. Were the aforementioned records made in the regular course of business of your employer?  
ANSWER \_\_\_\_\_
6. Was it in the regular course of business of the above listed for a person with knowledge of the act, event, condition, opinion, or diagnosis recorded to make the record or to transmit information thereof to be included in such record?  
ANSWER \_\_\_\_\_
7. State whether these records were made at the time or shortly after the time of the transactions recorded?  
ANSWER \_\_\_\_\_
8. Were these records kept as described in the preceding questions?  
ANSWER \_\_\_\_\_
9. Does the source of the information, and the method and circumstance of its preparation, establish the trustworthiness of the records?  
ANSWER \_\_\_\_\_
10. Please release exact duplicates of the records as requested in the subpoena duces tecum or the originals thereof for photocopying for attachment to this deposition. Have you done as requested? If not, why not?  
ANSWER \_\_\_\_\_
11. Are there any records, documents, papers, correspondence or tangible matters of any kind pertaining to ALL RECORDS AS DESCRIBED ON THE ATTACHED EXHIBIT 'A' that you have not provided to the notary public taking your deposition?  
ANSWER \_\_\_\_\_
12. Please describe all papers, documents, records, correspondence, or tangible matters of any kind that you have not provided to the notary public taking your deposition and explain why you have not provided them.  
ANSWER \_\_\_\_\_

- 13. Are you aware that it may be necessary to subpoena you or your employer to court at the time of the trial of this case, if you have not provided to the notary public taking your deposition all papers, documents, records, correspondence, or tangible matters of any kind pertaining to ALL RECORDS AS DESCRIBED ON THE ATTACHED EXHIBIT 'A'?

ANSWER \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 WITNESS (Custodian of Records)

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_, custodian of records for the above listed, known to me to be the person whose name is subscribed to the foregoing instrument in the capacity therein stated, who being first duly sworn, stated upon his/her oath that the answers to the foregoing questions are true and correct. I further certify that the records attached hereto are exact duplicates of the original records.

SWORN TO AND SUBSCRIBED before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
 NOTARY PUBLIC

**U.S. LEGAL SUPPORT INC.**  
 363 N. SAM HOUSTON PARKWAY E., SUITE 900  
 HOUSTON, TX 77060  
 PHONE: (713) 653-7100 FAX: (713) 653-7171

August 13th, 2009

CAMPAIGN DATA SYSTEMS, L.L.C.  
 2600 GESSNER, SUITE 212  
 HOUSTON, TX 77080

**RUSH**

**Attn: Any & All Records**

Records pertaining to: **ALL RECORDS AS DESCRIBED ON THE ATTACHED EXHIBIT 'A'**

Dear Sir/Madam:

U.S. Legal Support Inc. is a records retrieval service company that provides litigation support to the legal and insurance industry. Our attorney/client has requested that we locate records specified in the enclosed legal documents, *within 14 days*.

Please provide all requested documentation and complete each document accurately and completely. If the cost of providing the records exceeds \$50.00, please contact us BEFORE copying. Please check that all copies are legible, and that no information is omitted. Texas law requires a physician/hospital/medical clinic to furnish a patient's records within 30 days after a request is received (Tex. Rev. Civ. Stat. Ann., Article 4495b, §5.08(k)). Enclosed is a **SUBPOENA WITH A DEPOSITION BY WRITTEN QUESTIONS AND/OR AFFIDAVIT**. Please assist us by:

1. Answering **ALL** questions.
2. **SIGN** the deposition by written questions and/or affidavit.
3. Have the signatures **NOTARIZED**.
4. Return all completed documents with a legible copy of the records to:

**U.S. LEGAL SUPPORT, INC.**  
**RECORDS DIVISION**  
 363 N. Sam Houston Parkway E., Suite 900  
 Houston, TX 77060  
 Phone: (713) 653-7100 Fax: (713) 653-7171

**IF AFTER A THOROUGH SEARCH YOU FIND NO RECORDS OF THIS PERSON, PLEASE MAKE THIS STATEMENT ON ALL DOCUMENTS, SIGN, AND HAVE THEM NOTARIZED.**

If you have questions or comments as you complete this request, please feel free to contact us at (713) 653-7100 or (800) 567-8757.

**\*\*\*\*Please reference the following number when calling: 07-23499-002 \*\*\*\***

Thank you very much for your cooperation and assistance.

Best regards,

US Legal Support

Order No. 07-23499-002

**Exhibit B**

**United States District Court  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

TEXAS DEMOCRATIC PARTY, ET AL  
vs.  
LEO VASQUEZ, IN HIS CAPACITY  
AS HARRIS COUNTY TAX ASSESSOR  
COLLECTOR AND HARRIS COUNTY  
VOTER REGISTRAR

)  
)  
)  
)  
)  
)

Civil Action No.: 4:08-CV-3332

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS  
OR TO PERMIT INSPECTION OF PREMISES**

TO: Custodian of Records for: CAMPAIGN DATA SYSTEMS, L.L.C.  
2600 GESSNER, SUITE 212  
HOUSTON, TX 77080 (713) 460-2800

**Production:** YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

any and all records as described on the attached Exhibit 'A'

PLACE: CAMPAIGN DATA SYSTEMS, L.L.C. 2600 GESSNER, SUITE 212 HOUSTON, TX 77080 (713) 460-2800	DATE AND TIME  INSTANTER
---	--------------------------------

**Inspection of Premises:** YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

PLACE:	DATE AND TIME
--------	---------------

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45(d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 8/12/09

CLERK OF COURT

\_\_\_\_\_  
(Signature of Clerk or Deputy Clerk)

OR

Chad W. Dunn by JB  
(Attorney's signature)

The name, address, e-mail, and telephone number of the attorney representing the Plaintiff, who issues or requests this subpoena, are:

CHAD W. DUNN  
BRAZIL & DUNN  
4201 FM 1960 WEST, SUITE 530, HOUSTON, TX 77068 (281) 580-6310

<sup>1</sup> If action is pending in district other than the district of issuance, state district under case number.

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the subpoena on the individual at *(place)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_ ; or

I left the subpoena at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the subpoena to *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_ ; or

I returned the subpoena unexecuted because \_\_\_\_\_ ; or

other *(specify)*:

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)**

**(c) Protecting a Person Subject to a Subpoena.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

**(d) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.**

These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) Contempt.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

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

TEXAS DEMOCRATIC PARTY, ET AL	§ § § § § § § § § §	CIVIL ACTION NO. 4:08-CV-3332
vs.		
LEO VASQUEZ, IN HIS CAPACITY AS HARRIS COUNTY TAX ASSESSOR COLLECTOR AND HARRIS COUNTY VOTER REGISTRAR		

**NOTICE OF INTENTION  
TO TAKE DEPOSITION BY WRITTEN QUESTIONS**

To Defendant by and through their attorney(s) of record: **F. CLINTON GAMBILL, II**  
To other party/parties by and through their attorney(s) of record: **MIKE PRATHER**

You will please take notice that fourteen (14) days from the service of a copy hereof with attached questions, a deposition by written questions will be taken of Custodian of Records for:  
**CAMPAIGN DATA SYSTEMS, L.L.C. (Any & All)**

before a Notary Public for **U.S. Legal Support Inc. (713) 653-7100 Fax (713) 653-7171**  
**363 N. Sam Houston Parkway E., Suite 900, Houston, TX 77060**

or its designated agent, which deposition with attached questions may be used in evidence upon the trial of the above-styled and numbered cause pending in the above named court. Notice is further given that request is hereby made as authorized under Rule 45, Federal Rules of Civil Procedure, to the officer taking this deposition to issue a subpoena duces tecum and cause it to be served on the witness to produce any and all records as described on the attached Exhibit 'A' and to turn all such records over to the officer authorized to take this deposition so that photographic reproductions of the same may be made and attached to said deposition.

**CHAD W. DUNN**  
**BRAZIL & DUNN**  
**4201 FM 1960 WEST, SUITE 530**  
**HOUSTON, TX 77068**  
**(281) 580-6310 Fax (281) 580-6362**  
Attorney for Plaintiff  
SBA # 24036507

*Chad W. Dunn by JB*  
\_\_\_\_\_  
**CHAD W. DUNN**

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded to all Counsel of Record by \_\_\_hand delivery;  FAX; \_\_\_certified mail, return receipt requested; \_\_\_UPS with signature required, on this day.

Dated: 8/12/09

by Jennifer Burns  
CHAD W. DUNN

Should you desire copies of the so obtained, contact our firm.  
(713) 653-7100

Order No. 07-23499-002

**EXHIBIT 'A'**

## Campaign Data Systems, L.L.C.

- Produce true and correct copies of any and all transactions, checks, ledgers, statements, or other financial information concerning any business of the company from 2003 to the present.
- Produce true and correct copies of any and all client materials, including client contracts, client communications, request for proposals, bids, invoices, or other documents reflecting services provided to clients of Campaign Data Systems.
- Please list each and every client of your organization, the date services were provided to that client, and the amount charged.
- Make available for inspection any and all documents, data, data bases, lists, or spreadsheets, containing information about registered voters in Harris County, Texas.
- Produce true and correct copies of any and all correspondence by, between, or among Campaign Data systems, the Harris County Tax Assessor Collectors Office, the Texas Secretary of State, Jared Woodfill, members of the Harris County Commissioner's Court, Paul Bettencourt, Dwayne Bohac, Members of Dwayne Bohac's official staff, Ed Johnson, David Moise, Decide Consulting, District Attorney Pat Lykos, Rep. Michael McCaul or any other elected or appointed Republican office holder or party official as they concern voter registration or the business of Campaign Data Systems.
- State with specificity any information Ed Johnson obtained from the Harris County Tax Assessor Collector's Office, Secretary of State's office, and Texas Department of Public Safety office that has been used for Campaign Data System's business including all payment information.
- Produce true and correct copies of any and all Texas Ethics Commission, Federal Election Commission, or any other reports or filings concerning campaign related activities
- Produce true and correct copies of any and all W2, K1, or any other financial statement showing payments to Dwayne Bohac, Ed Johnson, David Moise or any other employees.

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

TEXAS DEMOCRATIC PARTY, ET AL
vs.
LEO VASQUEZ, IN HIS CAPACITY AS HARRIS
COUNTY TAX ASSESSOR COLLECTOR AND HARRIS
COUNTY VOTER REGISTRAR
CIVIL ACTION NO. 4:08-CV-3332

DIRECT QUESTIONS TO BE PROPOUNDED TO
CUSTODIAN OF RECORDS FOR:

CAMPAIGN DATA SYSTEMS, L.L.C. (Any & All)

- 1. Please state your full name, address, telephone number, occupation and official title.
ANSWER
2. I am the custodian for
(Please insert facility or practitioner name.)
3. Have you been served with a subpoena duces tecum for the production of those documents listed in question number four?
ANSWER
4. Are you among those who have possession, custody, control of, or access to any and all records as described on the attached Exhibit 'A'?
ANSWER
5. Were the aforementioned records made in the regular course of business of your employer?
ANSWER
6. Was it in the regular course of business of the above listed for a person with knowledge of the act, event, condition, opinion, or diagnosis recorded to make the record or to transmit information thereof to be included in such record?
ANSWER
7. State whether these records were made at the time or shortly after the time of the transactions recorded?
ANSWER
8. Were these records kept as described in the preceding questions?
ANSWER
9. Does the source of the information, and the method and circumstance of its preparation, establish the trustworthiness of the records?
ANSWER
10. Please release exact duplicates of the records as requested in the subpoena duces tecum or the originals thereof for photocopying for attachment to this deposition. Have you done as requested? If not, why not?
ANSWER
11. Are there any records, documents, papers, correspondence or tangible matters of any kind pertaining to ALL RECORDS AS DESCRIBED ON THE ATTACHED EXHIBIT 'A' that you have not provided to the notary public taking your deposition?
ANSWER
12. Please describe all papers, documents, records, correspondence, or tangible matters of any kind that you have not provided to the notary public taking your deposition and explain why you have not provided them.
ANSWER

- 13. Are you aware that it may be necessary to subpoena you or your employer to court at the time of the trial of this case, if you have not provided to the notary public taking your deposition all papers, documents, records, correspondence, or tangible matters of any kind pertaining to ALL RECORDS AS DESCRIBED ON THE ATTACHED EXHIBIT 'A'?

ANSWER \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 WITNESS (Custodian of Records)

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_, custodian of records for the above listed, known to me to be the person whose name is subscribed to the foregoing instrument in the capacity therein stated, who being first duly sworn, stated upon his/her oath that the answers to the foregoing questions are true and correct. I further certify that the records attached hereto are exact duplicates of the original records.

SWORN TO AND SUBSCRIBED before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
 NOTARY PUBLIC

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; J. GOODWILL PIERRE; §  
ALEXANDRA GIBBS; JEFFREY T. §  
VANSCHOONHOVEN; BONI SUE §  
LESZCZUK; and ERIC J. GALLOWAY §  
Plaintiffs. §

CAUSE NO. 4:08-CV-03332

vs. §

LEO VASQUEZ, in his capacity as Harris §  
County Tax Assessor Collector and Harris §  
County Voter Registrar §

**AFFIDAVIT OF DWAYNE BOHAC**

STATE OF TEXAS

COUNTY OF HARRIS

Before me, the undersigned authority, personally appeared Dwayne Bohac, who, being by me duly sworn, deposed as follows:

“My name is Dwayne Bohac. I am of sound mind and capable of making this affidavit. I have personal knowledge of all of the facts stated herein and each of these facts is true and correct:

The data and software sought by Plaintiffs in the subpoenas to both Dwayne Bohac and Campaign Data Systems, L.L.C. (hereinafter “Campaign Data Systems”) is confidential and proprietary information that is used to obtain business advantages over its competitors who do

not know or use the information. This information constitutes confidential and proprietary information that are trade secrets and must be protected from unwarranted disclosure. Specifically, bullet points one through six and eight of the Campaign Data Systems subpoena and bullet points two and five of the Dwayne Bohac, State Representative subpoena request documents that fall into this category.

Dwayne Bohac is an elected Texas State Representative for District 138, while Campaign Data Systems, L.L.C. is a private company owned in part by Dwayne Bohac. Campaign Data Systems, LLC, is a Texas based political data and software company, providing services to customers, such as Republican and Non-partisan candidates and elected officials, and various organizations. The majority of the Plaintiffs in this federal lawsuit are Democrats and/or Democratic organizations.

The trade secrets that these documents contain consists of, but is not limited to: (1) pricing information and rates Campaign Data Systems charges for services in connection with its election business; (2) terms of confidential negotiations between Campaign Data Systems and its clients; (3) Campaign Data Systems' internal market strategy and financial data; (4) Campaign Data Systems' internal data regarding its marketplace and competitors; and (5) proprietary database and information regarding confidential relationships that Campaign Data Systems enjoys with its client base.

Additionally, any raw data that Plaintiffs are seeking regarding registered voters in Harris County is data that is available to the public. It is not privileged information. Therefore, to the extent that Plaintiffs are seeking this data, they can obtain the data at their own expense, just as Campaign Data Systems purchased this data. However, the analysis of the raw data which Campaign Data Systems has performed is valuable, proprietary information that Campaign Data

Systems uses to evaluate its products and services. Dissemination of that analyzed data would reveal to our competitors our marketing and business strategies and could cause us to lose our competitive advantage in the marketplace. Therefore, this data is privileged and confidential trade secret information.

The extent to which the trade secrets contained in the requested documents are known outside of Campaign Data Systems is extremely limited. This type of information (especially contract rates and pricing information, internal market strategy and financial data, proprietary market database, and internal data regarding competition) is generally not shared. Naturally, contract rates and pricing information, contractual rights and obligations, and the terms of confidential negotiations that Campaign Data Systems had with their clients are known to the parties to those contracts and negotiations. Campaign Data Systems, however, has not shared the information with other parties, nor does it know of any disclosure of the information by the other parties to those contracts and negotiations. Likewise, the confidential business relationships that Campaign Data Systems enjoys is known to those entities with whom Campaign Data Systems has the relationships, but no others. Also, Campaign Data Systems has not disclosed its internal market strategy data or internal data to its competitors.

It is Campaign Data Systems' policy and aim to keep the trade secrets contained in the requested documents private and confidential and out of the hands of its competitors. In order to guard the privacy of this information, Campaign Data Systems takes all necessary precautions. For example, confidentiality agreements are routinely required by and between Campaign Data Systems and its clients in order to protect the privacy and confidentiality of all information passing between them.

The trade secrets contained in the requested documents are highly valuable to Campaign Data Systems. The information is central to Campaign Data Systems' continued ability to remain competitive in this crowded industry. Furthermore, the information is highly valuable to Campaign Data Systems' ability to assess its competition in the marketplace and ability to compete for new and continued business. Without this information, Campaign Data Systems would be unable to accurately ascertain the advantages and strengths that it enjoys over its competitors, and formulate rates, prices, and other contractual terms that would be sustainable for Campaign Data Systems' operations. These trade secrets, including pricing information and rates contained in the requested documents, are what keep Campaign Data Systems consistently competitive in the marketplace for business.

These trade secrets are highly valuable to any of Campaign Data Systems' competitors. If any of Campaign Data Systems' competitors knew these trade secrets, they could use the information for their own economic advantage and to the detriment of Campaign Data Systems. Disclosing this information to any competitor of Campaign Data Systems, would severely impact Campaign Data Systems' ability to maintain its competitive advantage in the marketplace, which could lead to devastating financial losses.

Campaign Data Systems has spent substantial effort in developing and maintaining the confidentiality of this information, and therefore has a distinct interest in maintaining its confidentiality. Because of its limited distribution, it would be difficult for others to acquire or duplicate Campaign Data Systems' confidential and proprietary information.


In regard to the subpoena issued to Campaign Data Systems, bullet points one through six and eight request confidential and proprietary information that are trade secrets and must be protected from unwarranted disclosure, as discussed above. The fifth bullet point is protected by

the legislative privilege. Texas and federal courts have recognized that individuals acting in a legislative capacity are immune from liability for those actions. This immunity derives largely from the Speech and Debate Clauses of the Texas and federal constitutions. The legislative immunity doctrine recognizes that our scheme of government does not allow a court to inquire into the motives of legislators. *In re Perry*, 60 S.W.3d 857, 861 (Tex. 2001). Legislative immunity encompasses an evidentiary and testimonial privilege. Legislators are shielded not only from liability, but also from being required to testify about their legislative activities. *Id.* at 60. Additionally, the eighth bullet point requests information that is protected by the constitutional, statutory and common-law right to privacy. Further, the seventh bullet point requests information that is publicly available to anyone. Plaintiffs can find this information on the Texas Ethics Commission website.

In regard to the subpoena issued to Dwayne Bohac, four of the five categories of documents are protected information. Specifically, the second and fifth bullet points are confidential and proprietary information that are trade secrets and must be protected from unwarranted disclosure, as discussed above. The second, third and fourth bullet points are protected by the legislative privilege. Texas and federal courts have recognized that individuals acting in a legislative capacity are immune from liability for those actions. This immunity derives largely from the Speech and Debate Clauses of the Texas and federal constitutions. The legislative immunity doctrine recognizes that our scheme of government does not allow a court to inquire into the motives of legislators. *In re Perry*, 60 S.W.3d 857, 861 (Tex. 2001). Legislative immunity encompasses an evidentiary and testimonial privilege. Legislators are shielded not only from liability, but also from being required to testify about their legislative activities. *Id.* at 60. Additionally, the fifth bullet point requests information that is protected by

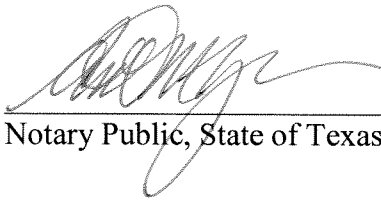
the constitutional, statutory and common-law right to privacy. Further, the first bullet point requests information that is publicly available to anyone. Plaintiffs can find this information on the Texas Ethics Commission website.”

Further Affiant sayeth not.



\_\_\_\_\_  
Dwayne Bohac

Subscribed and sworn to before me, by the said Affiant, on this the 26th day of August, 2009.



\_\_\_\_\_  
Notary Public, State of Texas

