

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

TEXAS DEMOCRATIC PARTY; §
BOYD L. RICHIE, in his capacity as §
Chairman of the Texas Democratic §
Party; FRANK JOSEPH; and BRETT §
ROSENTHAL §

Plaintiffs, §

vs. §

Cause No. 08-CV-02117-P

DALLAS COUNTY, TEXAS; and §
BRUCE SHERBET, in his capacity as §
Election Administrator for Dallas §
County, Texas, §

Defendants. §

PLAINTIFFS' MOTION FOR LEAVE
TO FILE AMENDED PLEADING

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW TEXAS DEMOCRATIC PARTY, BOYD L. RICHIE, in his capacity as Chairman of the Texas Democratic Party, FRANK JOSEPH and BRETT ROSENTHAL (hereinafter collectively referred to as "Plaintiffs") Plaintiffs in the above entitled and numbered cause and files this their request for leave of Court to file an Amended Pleading, a First Amended Original Complaint.

I. INTRODUCTION

Plaintiffs claim Defendants are instituting election practices not pre-cleared under the Voting Rights Act.

II. ARGUMENT

Unless the opposing party can show prejudice, bad faith, or undue delay, a court should grant leave to file an amended pleading. See *Foman v. Davis*, 371 U.S. 178 (1962). Leave to amend should be freely given when justice so requires. See *Fed. R. Civ. P.* 15(a) and *Walton v. Mental Health Ass'n.*, 168 F.3d 661, 665 (3rd Cir. 1999).

The Court should allow the filing of Plaintiff's First Amended Original Pleading because it eliminates issues pertaining to the 2008 election. All relief now requested pertains to future elections.

The Amendment focuses the legal and factual issues in the case, and will facilitate the case's resolution.

Defendants will not be prejudiced by this amended pleading because discovery has not yet begun in this case and the Pre-trial Conference has not yet occurred. No depositions have been taken and no written discovery has been responded to. Furthermore, the Court has not ruled on any substantial motions or appointed the three-judge panel.

III. CONCLUSION

For these reasons, Plaintiffs asks the Court to grant leave to file the amended pleading.

Dated this 19th day of December, 2008.

Respectfully submitted,

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

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CERTIFICATE OF CONFERENCE

The undersigned has corresponded by e-mail with Leon Carter and Wade Emmert, counsel for Defendants and they are unopposed to this Motion.

/s/ Chad W. Dunn

Chad W. Dunn

CERTIFICATE OF SERVICE

I hereby certify that on December 19, 2008, I electronically filed the foregoing document with the Clerk of the United States District Court, Northern District of Texas, Dallas Division, using the electronic case filing system of the Court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means:

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