



1. As the Court is aware, this case concerns the constitutionality, as applied to Plaintiff, of the preclearance requirement of Section 5 of the Voting Rights Act of 1965, which was reauthorized by the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006, Public Law 109-246 (VRARA). Also at issue in this case is whether Plaintiff may “bail out” of the Section 5 preclearance requirement under the criteria set forth in Section 4 of the Voting Rights Act. The issues of law in this case are complex and require an extended analysis of prior decisions of the Supreme Court that have addressed Section 5, as well as the Court’s decision in *City of Boerne v. Flores*, 521 U.S. 507 (1997) and its decisions following *City of Boerne*.

Central to the constitutional question before the Court is the nature of the record on which Congress based its decision to reauthorize Section 5. The record documenting the evidence in the hearings immediately leading up to the passage of the VRARA in 2006 alone comprise more than 17,000 pages. In addition, the records on which Congress based the initial passage of the Voting Rights Act in 1965, as well as the reauthorizations of Section 5 in 1970, 1975, and 1982, bear upon the legal analysis in this case.

2. The Parties respectfully submit that initial briefs of not longer than 90 pages would permit the Parties to adequately address the issues before the Court. At the same time, Defendants are keenly aware of the Court’s Order of November 28, 2006, directing all parties to take steps to avoid duplication of efforts and reduce redundant filings. To that end, Private Defendant-Intervenors have conferred and anticipate that not more than two opening briefs will be filed on their collective behalf. An Order granting this motion to exceed the page limitation set by Local Civil Rule 7(e) will facilitate the integration of

Private Defendant-Intervenors' arguments within a joint filing to the maximum extent possible. If this motion is granted, only one of the two briefs filed on behalf of Private Defendant-Intervenors would exceed 45 pages, and the other brief would be within the 45-page limit. Defendant-Intervenor Travis County intends to file a separate brief within the 45-page limit.

3. In addition, Private Defendant-Intervenors, together with Travis County, anticipate filing a Joint Statement of Material Facts, in accordance with Local Civil Rules 7(h) and 56.1, that will set forth, among other things, the evidence in the legislative record (with citations to the legislative record) that Private Defendant-Intervenors and Travis County believe supports the constitutionality of the reauthorization of Section 5. That Joint Statement of Material Facts may be quite lengthy (perhaps exceeding 300 pages), but should be helpful to the Court as a summary of the legislative record.<sup>1</sup> The Joint Statement of Material Facts will also avoid duplication of filing of statements of material facts by the various Defendant-Intervenors. Plaintiff and Defendant Attorney General Gonzales each intend to file a separate Statement of Material Facts.

4. Further, for the Court's ease of reference, Private Defendant-Intervenors, together with Travis County, intend to provide the Court with a DVD set containing electronic copies of the legislative records for the 1975, 1982 and 2006 congressional reauthorizations of the Voting Rights Act.

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<sup>1</sup> This Court's Local Rules do not provide a page limit for the summary judgment movant's Statement of Material Facts required by Local Civil Rules 7(h) and 56.1, nor do they provide a page limit for the separate statement of genuine issues setting forth material facts as to which it is contended there exists a genuine issue necessary to be litigated, which is required to be filed by the party opposing summary judgment. In any event, Defendant-Intervenors in their Joint Statement of Material Facts will endeavor to avoid burdening the Court with unnecessary material.

5. The Parties have conferred and Defendants have consented to Plaintiff receiving leave to file an over-length memorandum of points and authorities in opposition to the Defendants' motions for summary judgment, so long as the total number of requested pages in such a request is equal to or less than the total number of pages that are filed by Defendants collectively in Defendants' opening memoranda in support of Defendants' motions for summary judgment.

WHEREFORE, The Parties jointly request that the Court enter the accompanying proposed Order allowing:

- opening briefs in support of motions for summary judgment in excess of 45 pages, but not to exceed 90 pages, to be filed by (a) Plaintiff, (b) Defendant Attorney General Gonzales, and (c) one consolidated group of Private Defendant-Intervenors, in addition to briefs within the 45-page limit to be filed by (a) Travis County; and (b) another individual Private Defendant-Intervenor or group of Private Defendant-Intervenors; and
- a brief by Plaintiff in opposition to the Defendants' motions for summary judgment, in excess of 45 pages and up to the number of pages equal to or less than the total number of pages that are filed by Defendants collectively in Defendants' opening memoranda in support of Defendants' motions for summary judgment.

Dated: May 2, 2007

Respectfully submitted,

/s/ Gregory S. Coleman

Gregory S. Coleman

Christian J. Ward

Yetter & Warden LLP

221 West Sixth Street, Ste. 750

Austin, TX 78701

(512) 533-0150

(512) 533-0120 (fax)

*Counsel for Plaintiff Northwest Austin Municipal Utility District Number One*

Wan J. Kim  
Assistant Attorney General  
Civil Rights Division

Jeffery A. Taylor  
United States Attorney

John K. Tanner (D.C. Bar #318873)  
Chief, Voting Section

/s/ T. Christian Herren Jr.

H. Christopher Coates  
Principal Deputy Chief  
T. Christian Herren Jr.  
Richard Dellheim  
Sarah E. Harrington  
Christy A. McCormick  
Attorneys

Civil Rights Division  
UNITED STATES DEPARTMENT OF JUSTICE  
Room 7254 - NWB  
950 Pennsylvania Ave., N.W.  
Washington, DC 20530  
Phone: (800) 253-3931  
Fax: (202) 307-3961

*Counsel for Defendant Attorney General*

/s/ J. Gerald Hebert

J. Gerald Hebert

5019 Waple Lane

Alexandria, VA 22304

Telephone: (703) 628-4673

Facsimile: (202) 736-2222

Max Renea Hicks

1250 Norwood Tower

114 West 7th Street

Austin, TX 78801

Telephone: (512) 480-8231

Facsimile: (512) 480-9105

*Counsel for Defendant-Intervenors Travis County, Texas*

/s/ Seth P. Waxman

Seth P. Waxman (D.C. Bar No. 257337)  
John A. Payton (D.C. Bar No. 282699)  
Paul R.Q. Wolfson (D.C. Bar No. 414759)  
Ariel B. Waldman (D.C. Bar No. 474429)  
Michael J. Gottlieb (admitted *pro hac vice*)  
Daniel A. Zibel (D.C. Bar No. 491377)  
WILMER CUTLER PICKERING HALE and  
DORR LLP  
1875 Pennsylvania Ave. N.W.  
Washington, D.C. 20006  
Telephone: (202) 663-6000  
Facsimile: (202) 663-6363

Jon M. Greenbaum (D.C. Bar No. 489887)  
Benjamin J. Blustein (D.C. Bar No. 418930)  
Jonah H Goldman (D.C. Bar No. 497507)  
LAWYERS' COMMITTEE FOR CIVIL  
RIGHTS UNDER LAW  
1401 New York Avenue, NW, Suite 400  
Washington, D.C. 20005  
Telephone: 202-662-8600  
Facsimile: 202-628-2858

Dennis C. Hayes (admitted *pro hac vice*)  
General Counsel  
NATIONAL ASSOCIATION FOR THE ADVANCEMENT  
OF COLORED PEOPLE, INC.  
NAACP National Office  
4805 Mt. Hope Drive  
Baltimore, MD 21215  
Telephone: (410) 580-5777  
Facsimile: (410) 358-9350

*Counsel for Defendant-Intervenors  
Texas State Conference of NAACP Branches and Austin Branch of the NAACP*

/s/ Debo P. Adegbile

Debo P. Adegbile

/s/ Norman J. Chachkin

Norman J. Chachkin (D.C. Bar No.235283)

Theodore Shaw

President and Director-Counsel

Jacqueline A. Berrien

Ryan P. Haygood

Jenigh J. Garrett

NAACP LEGAL DEFENSE AND  
EDUCATIONAL FUND, INC.

99 Hudson Street, Suite 1600

New York, New York 10013

(212) 965-2200

Kristen M. Clarke

NAACP LEGAL DEFENSE AND  
EDUCATIONAL FUND, INC.

1444 Eye Street, N.W., 10th Floor

Washington, D.C. 20005

(202) 682-1300

Samuel Spital

HOLLAND & KNIGHT

195 Broadway, 24th Floor

New York, NY 10007

(212) 513-3454

*Counsel for Defendant-Intervenors*

*Rodney and Nicole Louis; Winthrop and Yvonne Graham;*

*Wendy Richardson, Jamal Richardson, and Marisa Richardson*

/s/ Laughlin McDonald

Moffatt Laughlin McDonald  
Neil Bradley  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION, INC.  
2600 Marquis One Tower  
245 Peachtree Center Avenue  
Atlanta, GA 30303-1227  
Telephone: (404) 523-2721

Arthur B. Spitzer  
AMERICAN CIVIL LIBERTIES UNION  
1400 20th Street, NW, Suite 119  
Washington, DC 20036  
Telephone: (202) 457-0800  
Facsimile: (202) 452-1868

Michael J. Kator  
KATOR, PARKS & WEISER, PLLC  
1020 19th Street, NW, #350  
Washington, DC 20036-6101  
Telephone: (202) 898-4800  
Facsimile: (202) 289-1389

Jeremy Wright  
KATOR, PARKS & WEISER, PLLC  
812 San Antonio Street, Suite 100  
Austin, Texas 78701

Lisa Graybill  
Legal Director  
ACLU FOUNDATION OF TEXAS  
1210 Rosewood Avenue  
Austin, Texas 78702

*Counsel for Defendant-Intervenor Nathaniel Lesane*

*/s/ David J. Becker* \_\_\_\_\_

David J. Becker (D.C. Bar No. 496318)

PEOPLE FOR THE AMERICAN WAY FOUNDATION

2000 M Street NW, Suite 400

Washington, DC 20036

Telephone: (202) 467-4999

*Counsel for Defendant-Intervenor People for the American Way*

/s/ Jose Garza

Jose Garza  
Judith A. Sanders-Castro  
George Korbel  
TEXAS RIOGRANDE LEGAL AID, INC.  
1111 N. Main Street  
San Antonio, Texas 78212  
210-212-3700  
210-212-3772 (fax)

Alpha Hernandez  
Eloy Padilla  
(Local Rule 83.2(g) certificates to be filed)  
TEXAS RIOGRANDE LEGAL AID, INC.  
309 Cantu Street  
Del Rio, Texas 78840  
830-775-1535  
830-768-0997 (fax)

/s/ Michael T. Kirkpatrick

Michael T. Kirkpatrick (DC Bar No. 486293)  
Brian Wolfman (DC Bar No. 427491)  
PUBLIC CITIZEN LITIGATION GROUP  
1600 20th Street NW  
Washington, DC 20009  
202-588-7728  
202-588-7795 (fax)  
mkirkpatrick@citizen.org

*Counsel for Defendant-Intervenors Angie Garcia, Jovita Casarez, Ofelia Zapata*

/s/ Nina Perales

Nina Perales  
MEXICAN AMERICAN LEGAL DEFENSE &  
AND EDUCATIONAL FUND  
Texas State Bar No. 240054046  
110 Broadway, Suite 300  
San Antonio, Texas 78205  
(210) 224-5476 (telephone)  
(210) 224-5382 (facsimile)  
nperales@maldef.org

/s/ Joseph E. Sandler

Joseph E. Sandler  
D.C Bar # 255919  
Sandler Reiff & Young PC  
50 E St SE # 300  
Washington, D.C. 20003  
Tel: (202) 479 1111  
Fax (202) 479-1115  
sandler@sandlerreiff.com

*Counsel for Defendant-Intervenors Lisa Diaz, David Diaz and Gabriel Diaz*

**CERTIFICATE OF SERVICE**

I hereby certify that on May 2, 2007, I caused to be served a copy of the foregoing JOINT MOTION OF ALL PARTIES FOR LEAVE TO FILE OVERLENGTH MEMORANDA OF POINTS AND AUTHORITIES IN SUPPORT OF MOTIONS FOR SUMMARY JUDGMENT to all counsel of record via the Court's CM/ECF filing system.

*/s/ Daniel A. Zibel*  
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Daniel A. Zibel