

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

Plaintiffs,

vs.

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

Defendant.

Cause No. 4:08-CV-03332

PLAINTIFFS' FIRST SET OF INTERROGATORIES TO DEFENDANT

TO: DEFENDANT, PAUL BETTENCOURT, BY AND THROUGH HIS
ATTORNEY OF RECORD, MIKE STAFFORD, HARRIS COUNTY
ATTORNEY, AT 1019 CONGRESS, 15TH FLOOR, HOUSTON, TX
77002.

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

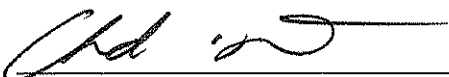
Chairman of the Harris County Democratic Party; J. GOODWILLE PIERRE; ALEXANDRA GIBBS; JEFFREY T. VAN SCHOONHOVEN; BONI SUE LESZCZUK; and ERIC J. GALLOWAY respectfully (hereinafter referred to as “Plaintiffs”), and file the following Interrogatories addressed to Defendant PAUL BETTENCOURT, in his capacity as Harris County Tax Assessor Collector and Harris County Voter Registrar. (hereinafter referred to as “Defendant”).

You are notified that your answers to these Interrogatories must be answers made under oath and properly sworn under oath, that your sworn answers must be filed in separate paragraphs in writing, and that these sworn answers must be made and filed within thirty days from the date upon which you receive a copy of this pleading. You are further notified that you are under a continuing duty to reasonably amend your answers if you obtain information on the basis of which (a) you know that the answer was incorrect when made, or (b) you know that the answer though correct when made, is no longer true, and the circumstances are such that failure to amend the answer is in substance a knowing concealment.

Dated this 24th day of December 2008.

Respectfully submitted,

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

By: 
Chad W. Dunn – Attorney In Charge
State Bar No. 24036507
Southern District of Texas No. 33467
General Counsel
TEXAS DEMOCRATIC PARTY
BRAZIL & DUNN
K. Scott Brazil
State Bar No. 02934050
Southern District of Texas No. 2585
4201 FM 1960 West, Suite 530
Houston, Texas 77068
Telephone: (281) 580-6310
Facsimile: (281) 580-6362


FABREGA, HOOD & FASS, L.L.P.
Mike Prather
State Bar No. 24034634
Southern District of Texas No. 31743
815 Walker, Suite 740
Houston, Texas 77002-5701
Telephone (713) 228-2322
Facsimile (713) 228-0088

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been directed to all counsel of record and/or all interested parties, as listed below, by facsimile transmission, by certified mail, return receipt requested, and/or by regular U.S. first class mail on this the 24th day of December, 2008.

Mike Stafford
F. Clinton Gambill, II
Harris County Attorney
1019 Congress, 15th Floor
Houston, Texas 77002
(Attorneys for Defendant)


Chad W. Dunn

INSTRUCTIONS AND DEFINITIONS

In responding to any of the Interrogatories contained herein, you are instructed as follows:

1. All information which is not privileged that is in your possession or that of your attorneys, investigators, agents, employees, representatives or others under your control is to be divulged.

2. Where an individual Interrogatory calls for an answer that involves more than one part, each part of the answer shall be clearly set out so that it is understandable.

3. If the space provided after each Interrogatory is insufficient, you may supplement any answer on a separate sheet of paper.

4. If you determine to refuse to answer any Interrogatory contained herein or a part thereof, please state with specificity the reason for your refusal and any claim of privilege or right.

5. These questions are continuing in nature and require supplementation in the event that you or your attorneys become aware of further information between the time the answers are given and the time of trial.

6. "You," "your" and/or "Defendant" shall mean PAUL BETTENCOURT, his successor or assign, and all agents, staff, experts,

investigators, consultants, employees, attorneys, or any other person or entity acting by or on behalf of PAUL BETTENCOURT or the Harris County Tax Assessor.

7. “Document” and “documents” include, but are not limited to, all paper material of any kind, whether written, typed, printed, punched, filmed or marked in any way, including photographs, videotapes and all non-identical copies; and all data stored by, in or on mechanical, electronic or chemical forms or media, including films, transcripts, graphic depictions and other data compilations in the possession, custody or control of the party upon whom a request is made.

8. “Tangible things” shall include everything that is not a document.

9. “Person” means a corporation, partnership, organization, association, entity, a natural person and any government or governmental body, commission, board or agency.

10. “Identify” or “identification” when in reference to a document means to state the date, the author (and if different, the signer or signers), the addressee, type of document (*e.g.*, letter, memorandum, telegram, chart, data compilation, etc.), and any other means of identifying it with sufficient particularity to meet the requirements for its inclusion in a request for production. If any such document

was but is no longer in your possession or subject to your control, state what disposition was made of it and the reason for such disposition.

11. “Identify” or “identification” when referring to a person means to state information sufficient to enable the requesting party to locate such person, including but not limited to, that person’s full name, present or last known residential address and telephone number, and last known employer or business affiliation, including its address and telephone number. If the person to be identified is an entity other than a natural person, “identify” or “identification” means to state the entity’s full name, the type of entity (*e.g.* corporation, partnership, proprietorship, organization, etc.) and the present or last known telephone number and address of its principal office or place of doing business.

FIRST SET OF INTERROGATORIES

INTERROGATORY NO. 1:

Please state the full legal name, title, current address, phone number, and date of birth of the person(s) answering or assisting in answering these Interrogatories or person(s) compiling the data necessary to answer these Interrogatories.

ANSWER:

INTERROGATORY NO. 2:

Please provide the total number of voter registration applications rejected during the period of January 1, 2007 to November 4, 2008. Break down the number of rejections by month. The rejections should include those applications subsequently accepted after sending a letter requesting clarification. Also include the number of applications rejected during the entire month of November 2008. Of the number of rejected applications, how many were accepted after notice was provided to the voter?

ANSWER:

INTERROGATORY NO. 3:

For the total number of rejections listed above, please list the number of rejections by reason (i.e., failure to provide driver's license number, failure to provide Social Security number, mismatch with driver's license database, failure to check the box stating they were a United States citizen, failing to check a box stating they were over the age of 18, or any other reason for rejection).

ANSWER:

INTERROGATORY NO. 4:

List the name, last known contact information and dates of employment for every employee who performed voter registration functions from January 1, 2006 to the present.

ANSWER:

INTERROGATORY NO. 5:

Please state the total countywide population of Harris County as you believe or estimate it to be. State the gross population of the county and also state the population of the county that is likely eligible to vote as you believe or estimate it to be.

ANSWER:

INTERROGATORY NO. 6:

How does your office process a voter registration application that appears as follows: All the information on the application is complete except the applicant fails to check the box indicating he is over the age of 18 but their date of birth reveals they are 18 years of age or older? How many such applications were rejected during 2008?

ANSWER:

INTERROGATORY NO. 7:

How does your office process a voter registration application that appears as follows: The application is complete but the applicant has provided the last four digits of their Social Security number, no driver's license or state i.d., and they

have failed to check a box in Section 8 of the attached voter registration form? How many such applications were rejected during 2008?

ANSWER:

INTERROGATORY NO. 8:

How does your office process a voter registration application that appears as follows: The application is otherwise complete but the applicant has provided the last four digits of their Social Security number, no driver's license or state i.d., they have checked the box in Section 8 on the attached voter registration form stating they do not have a driver's license or state i.d., but a review of the state driver's license database reveals the person maintains a state-issued identification number or driver's license? How many such applications were rejected in 2008?

ANSWER:

INTERROGATORY NO. 9:

How does your office process a voter registration application that appears as follows: The application is otherwise complete and the applicant provides a Social Security number and a driver's license number but does not check a box in Section 8 in the attached application form? How many such applications were rejected in 2008?

ANSWER:

INTERROGATORY NO. 10:

Please describe by name, and compiling authority, each database employed by your office to review, process, grant, or reject voter registration applications from July 1, 2008 to the present. For each database, state what authority compiles same.

ANSWER:

INTERROGATORY NO. 11:

If you use a database that allegedly reports commercial addresses, state how often the database is compiled and by whom. Also state if that database is used to remove names from the voter registration list after the voter registration application has been granted.

ANSWER:

INTERROGATORY NO. 12:

Has your office used foreclosure information, hurricane evacuee information, or FEMA lists, in determining whether to grant a voter registration application to remove a registered voter whose application had already been granted? If so, please state when and how many voters were rejected or removed from each list.

ANSWER:

INTERROGATORY NO. 13:

Please state how many voter applications were rejected from January 1, 2007 through November 4, 2008 because the address offered by the applicant was believed to be a commercial address. What investigation does your office undertake to confirm an applicant does not reside at a commercial address before rejecting their application or removing them from the voter registration list?

ANSWER:

INTERROGATORY NO. 14:

How many voter registration applications from January 1, 2007 through November 4, 2008 were rejected because the information in the application provided did not match the State driver's license database? When your office receives notice that information on a voter registration application does not match the Texas state identification and driver's license database, what steps and in what order, do you undertake to deal with the mismatch?

ANSWER:

INTERROGATORY NO. 15:

How soon after your office receives a voter registration application is it processed and a decision is made as to whether or not the application will be granted or rejected? Once a decision has been made to grant or reject an application, how long is it before notice is sent to the applicant? How many total applications received timely from March 1, 2008 for the November 4, 2008 General Election were not acted upon within the deadlines set by state law. Why were the deadlines not complied with?

ANSWER:

INTERROGATORY NO. 16:

How many voter registration applications were timely filed but not yet finally acted upon as of the first day of early voting in October 2008? For each of the days of early voting, state how many such applications were finally acted upon, how many were rejected, and how many were granted.

ANSWER:

INTERROGATORY NO. 17:

How many voter registration applications timely received by your office before the November 4, 2008 General Election were not processed until after early voting concluded? How many were not processed until after election day? What was the reason for the delay in processing these applications?

ANSWER:

INTERROGATORY NO. 18:

With regard to provisional ballot voter affidavits, please provide the following information:

(a) Total number of provisional ballots cast in the November 4, 2008 General Election.

(b) The number of provisional ballot affidavits, and the date and approximate time they were received by your office for processing after election day. If the provisional ballot affidavits were received in multiple shipments, please state the number in each delivery with the date and approximate time.

(c) Please provide the number of provisional ballot affidavits processed and released by your office by stating the approximate date and time.

(d) When provisional ballot affidavits were released by your office, to whom were they provided?

(e) Please provide the name and contact information of each person who was involved in the processing of provisional ballots for your office.

(f) Why were the provisional ballots not processed prior to the Friday, November 7, 2008 deadline?

(g) How many total provisional ballot affidavits were processed by your office?

ANSWER:

INTERROGATORY NO. 19:

Describe by date and approximate time each and every communication you had with a member of the Harris County Early Voting Ballot Board on any day after November 4, 2008 but before December 25, 2008. Describe the person(s) to whom you spoke, the date and time of the communication(s) and the subject of the communication(s).

ANSWER:

INTERROGATORY NO. 20:

Do you contend the Early Voting Ballot Board improperly approved for tabulation provisional ballots? If so, approximately how many provisional ballots do you believe were inappropriately approved by the Early Voting Ballot Board and state the reasons for your conclusion?

ANSWER:

INTERROGATORY NO. 21:

Please identify by date, subject matter and attorneys involved, each time Harris County has sought pre-clearance under Section 5 of the Voting Rights Act for election procedures from January 1, 2000 to the present that in any way pertain to voter registration.

ANSWER:

INTERROGATORY NO. 22:

For each of the voter registration activities complained of in Plaintiffs' most recent Original Complaint, describe when you contend they were pre-cleared under the Voting Rights Act. If you rely upon the pre-clearance of these procedures by another county, state office or agency, please so state and provide the date of such approval. Please also provide the Department of Justice file number for the approval.

ANSWER:

INTERROGATORY NO. 23:

Please describe when and under what circumstances you or members of your office used "white-out," correction tape, or correction fluid on election records during the November 4, 2008 election. State how such materials were used on provisional ballot affidavits processed by your office. Did the use of these materials comply with office policy?

ANSWER:

INTERROGATORY NO. 24:

From November 2006 until November 4, 2008, how many systematic deletions or suspensions of registered voters or “purges” were performed on the Harris County Voter Registration database? Please list the date for each event and the number of voters removed or suspended. Break down the number of names deleted or suspended from the voter registration list by the reason for such action.

ANSWER:

INTERROGATORY NO. 25:

How many voter registration applications were received in 2008 that were recorded in registration books used by deputy registrars? How many of these applications were granted and how many were rejected?

ANSWER:

INTERROGATORY NO. 26:

For the Voter Registration Application books used by deputy registrars, describe the information requested on the mail-in Voter Registration Application that is not required for registration with the books?

ANSWER:

INTERROGATORY NO. 27:

How many registration books were used by deputy registrars during the six months leading up to the November 4, 2008 general election? What were their serial numbers and who were the persons who used each book?

ANSWER:

INTERROGATORY NO. 28:

For each change to election practices or procedures that relate to voter registration from the year 2000 to the present, describe each change, the effective date of the change, by whom the change was directed, and when the change was – pre-cleared by the Department of Justice or the United States District Court for the District of Columbia under the Voting Rights Act?

ANSWER:

INTERROGATORY NO. 29:

How many persons were denied registration simply because they provided an address which the tax-assessor's office had listed as commercial on its street guide file? How many of those persons ultimately registered using the same address? For how many of those denied did the office do any further investigation to determine whether the address could have been the person's legal residence? How many persons currently on the rolls are at an address that is marked as commercial on the street guide?

ANSWER:

INTERROGATORY NO. 30:

How many persons were denied due to failure to match with the Secretary of State's drivers' license file check? How many of those originally marked as mismatches by SOS were sent letters advising the applicant of a mismatch? How

many responses to those letters were received, and how many of those responses resulted in applicants registrations being accepted?

ANSWER:

INTERROGATORY NO. 31:

How many persons were removed for being felons using a procedure other than matching with DPS records? For those who were identified as felons by a procedure other than matching with DPS records, what additional verification was used to determine why a person had been marked to be rejected but did not have a DPS felony record?

ANSWER: