

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 §

Cause No. 4:08-CV-03332

Plaintiffs,

vs.

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

Defendant.

PLAINTIFFS' MOTION TO EXPAND
THE NUMBER OF INTERROGATORIES

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Plaintiffs, TEXAS DEMOCRATIC PARTY, BOYD L. RICHIE, in his capacity as Chairman of the Texas Democratic Party, HARRIS COUNTY DEMOCRATIC PARTY, GERALD BIRNBERG, in his capacity as Chairman of the Harris County Democratic Party, J. GOODWILLE PIERRE, ALEXANDRA GIBBS,

JEFFREY T. VANSCHOONHOVEN, BONI SUE LESZCZUK, and ERIC J. GALLOWAY (hereinafter collectively referred to as “Plaintiffs”), and files this this their Motion to Expand the Number of Interrogatories and in support thereof would show the following:

I.

Plaintiffs claim numerous violations of federal law relating to the manner in which the Defendant performs his official function as the voter registrar of Harris County. The complaints Plaintiffs make are diverse. Defendant, in past elections, has failed to process voter registration applications timely, has failed to process provisional ballot affidavits timely, and has rejected numerous voter registration applications through procedures and practices that violate federal law. Plaintiffs have alleged violations of numerous federal laws including the Materiality Provision of the Voting Rights Act and provisions of the National Voter Registration Act. Plaintiffs have also alleged that Defendant’s practices and procedures have not been properly pre-cleared under Section 5 of the Voting Rights Act.

In order to limit the expense, attorneys fees, and duration of discovery, Plaintiffs have propounded to the Defendant 31 interrogatories. These interrogatories were served on December 24, 2008 and are attached hereto and incorporated herein as Exhibit “A.”

II.

ARGUMENT

Typically, each party is limited to 25 written Interrogatories. *See* Fed. R. Civ. Pro. 33(a)(1). However, the Court can expand this number by Court order. *See id.* and 26(b)(2)(A). It is within the Court's discretion to extend the number of interrogatories when the circumstances of the case permit it. *See Atkinson v. Denton Publ'g*, 84 F.3d 144, 147-48 (5th Cir. 1996).

Expanding the number of interrogatories in this case is necessary. Unlike other civil litigation matters, the majority of the evidence for the Court to consider is held by the Defendant. Only the Defendant and his officers can testify as to the practices and procedures in that office. Furthermore, because a number of employees serve various functions, the most efficient manner to obtain this information is through written interrogatories addressed to the officer. Interrogatories are the most convenient form of discovery for much of this information; otherwise Plaintiffs would be forced to take numerous depositions of Defendant's employees to discover the practices and procedures, as well as the historical practices and procedures. Depositions will be required and the interrogatory responses will assist the parties in limiting these depositions and saving all parties from unnecessary expenses.

Each of the interrogatories has been carefully constructed and are not unreasonably cumulative or duplicative. There are a number of claims alleged, each with

differing factual components, as well as numerous factual issues that must be explored in discovery. All precautions have been taken to limit the interrogatories. They have been limited by time and date when possible. They have also been constructed in such a way that, if thoroughly answered, limited document production will be required. The interrogatories are not propounded to annoy and the expense of responding is limited.

In the interest of justice and in order to facilitate expedited, yet reasonable, discovery, Plaintiffs request the Court grant them leave to propound additional interrogatories. Plaintiffs hereby seek leave to serve the 31 interrogatories in the attached Exhibit "A" as well as an additional ten (10) interrogatories to be propounded in the future on follow-up issues and newly discovered matters.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray the Court grant this Motion to Expand the Number of Interrogatories and grant them

Dated this 31st day of December 2008.

Respectfully submitted,

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

By: /s/ Chad W. Dunn

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 CONFERENCE

The undersigned has attempted to contact counsel for the Defendant, but has been unsuccessful. Counsel for the Defendant has been enjoying a holiday vacation. It is unknown whether the Defendant is opposed to the relief sought herein.

/s/ Chad W. Dunn
Chad W. Dunn

CERTIFICATE OF SERVICE

I hereby certify that on December 31, 2008, I electronically filed the foregoing document with the Clerk of the United States District Court, Southern District of Texas, Houston 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:

F. Clinton Gambill, II
Senior Assistant City Attorney
1019 Congress, 15th Floor
Houston, TX 77002
(Attorneys for Defendant)

/s/ Chad W. Dunn
Chad W. Dunn