Exhibit 13 to Davis Intervenors’ Opposition to Plaintiff State of Texas’ Motion for Summary Judgment

Sworn Declaration of Sen. Rodney Ellis
DECLARATION OF HARRIS COUNTY SENATOR RODNEY ELLIS

Pursuant to 28 U.S.C. 1746, I, Rodney Ellis declare that:

1. My name is Rodney Ellis, and I am an African American resident of Houston, Texas who has served as a Texas State Senator representing District 13 since 1991. Prior to my election to the State Senate, I served on the Houston City Council and prior to that served as Chief of Staff to Congressman Mickey Leland. Throughout my long history in public service, I have worked hard and successfully to understand the needs and concerns of minority voters in my region and throughout Texas.

2. Texas Senate districts have been redrawn three times since I was first elected to the State Senate in 1990. In my view, the process that produced the currently pending 2011 map was badly flawed and purposefully discriminatory.

3. The discriminatory process employed by State leaders resulted in a map that reduced the number of majority minority districts where African American and Hispanic voters can elect their candidate of choice from 12 to 11. Specifically, the State’s plan converts Fort Worth-based District 10 from a majority minority district where African American and Hispanic voters form an effective coalition to elect their candidate of choice to one that is majority Anglo and would be controlled by Anglo voters.

4. A number of Senators representing minority opportunity districts voted in support of the State’s plan on final passage. It is important to note, however, that those voting for the plan did so to avoid the near certainty that the map would be even worse if the Senate deadlocked and the plan was ultimately drawn by the Texas Legislative Redistricting Board.

5. Under the Texas Constitution, if the Legislature fails to adopt a Senate redistricting plan, the responsibility falls to a board made up of the Lt. Governor, Speaker of the House, State Attorney General, State Comptroller and State Land Commissioner. Many Senators feared, with justification, that this harshly partisan body of statewide elected officials would dismantle not only District 10 but other minority opportunity districts as well.

6. It is important to note that all 12 Senators who represent minority opportunity districts voted in support of the alternative Senate plan offered by Wendy Davis that was tabled by the Anglo majority. Moreover, every minority opportunity district Senator joined in signing an official statement entered into the Senate record expressing strong opposition to the discriminatory process used and the retrogressive map adopted (attached). Without a majority vote and burdened by
a discriminatory process, Senators are looking to the enforcement of the Voting Rights Act to restore the minority voting opportunity destroyed in the State’s plan.

7. On July 5, 2011 shortly after the adoption of the pending Senate plan, I wrote to Attorney General Eric Holder to express my opposition to the retrogressive State Senate plan and the discriminatory process employed (attached).

8. During consideration of the Senate plan, a number of Senators representing Anglo districts were allowed full participation in the configuration of not only their own districts but their regions and the state overall. Meanwhile, Senators representing minority opportunity districts were shut out from the process. Many were not even allowed to view the boundaries of their own districts much less the layout of the entire map until less than 48 hours before the plan was presented and adopted by the Redistricting committee. The exclusive process denied Texas minority voters, and those of us who represent them in the Senate, from fair and equal participation in a crucial electoral decision.

9. The State’s flawed and discriminatory process resulted in a map that dismantled District 10 as a majority minority district in which African American and Hispanic voters had reached sufficient size, strength and unity to elect their candidate of choice. Their ability to elect a candidate of their choice was demonstrated in 2008 when African American and Hispanic voters mounted a strong, vigorous, united and successful campaign to elect Wendy Davis to the State Senate.

10. State leaders were clearly determined to prevent minority voters in District 10 from demonstrating their ability to elect the candidate of their choice in future elections. The State’s adopted map carefully targets and removes African American and Hispanic neighborhoods from District 10 – attaching some to a rural district with no community of interest with Fort Worth urban voters and attaching others to suburban and exurban districts controlled by Anglo voters.

11. Texas has a long and sad history of preventing minority voters from exercising their right to participate in the political process. Certainly Texas Senators who represent minority opportunity districts in Texas were prevented from exercising their right to defend and protect minority citizens during the 2011 redistricting process.

12. Minority voters in District 10, who had realized and exercised their opportunity to elect their candidate of choice in 2008, have had that opportunity to elect taken from them by the State’s pending redistricting plan.

13. Such an overtly discriminatory process and such a cynical and deliberate retrogression of minority voting opportunity in District 10 are exactly the type of actions the Voting Rights Act is in place to prevent.
I declare under penalty of perjury that the foregoing is true and correct.

Dated this 19th day of October, 2011.

Rodney Ellis

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RODNEY ELLIS
May 17, 2011

For the record regarding CSSB 31:

Each of us represent majority minority districts where minority citizens have demonstrated the ability to elect their candidate of choice. We recognize and accept our special responsibility to protect the voting rights of the minority citizens we represent as well as minority citizens in every part of Texas. In light of this, we want to make clear that any vote by any of us to suspend rules or a vote in support of CSSB 31, either on passage to engrossment or on final passage, should not be interpreted as endorsement of the process used to develop the plan or the configuration of the plan in all parts of our state.

Some Senators enjoyed ongoing participation as the plan was developed. They were allowed to view and respond to draft proposals throughout the process. Other Senators - many of whom represent minority opportunity districts - were not allowed to see even their own districts in isolation, much less the broader context of the map - until less than 48 hours before it was laid out in committee. The concerns of these Senators and the voters they represent were neither solicited nor given fair consideration.

More specifically, we believe that the map violates the Voting Rights Act in its configuration of Senate District 10 in north Texas. The current District 10 has evolved over the last decade, as the State predicted when it sought Voting Rights Act approval for the district back in 2001, into a majority minority district where minority citizens have demonstrated the ability to elect their candidate of choice. Under the new plan, the voting strength of minority citizens in District 10 is rolled back dramatically, and Anglos are returned as a strong controlling majority in the district. Not only would minority voters in SD10 no longer have an effective opportunity to elect a candidate in the district, they would have no voice at all. There are reasonable alternatives that recognize the voting strength of racial/ethnic minorities without retrogressing their ability to effectively participate in the political process.

The concomitant effect of retrogression in District 10 is that there is also retrogression of minority voting strength statewide. Under the current statewide senate map, 15 districts have majority minority populations, and in 12 of these districts, including District 10, minority citizens have demonstrated the ability to elect their candidate of choice. Under the proposed senate plan, only 12 districts would have majority minority populations and only 10 would provide minority citizens the opportunity to elect their candidate of choice.
We all know that most of the business of the Senate is conducted under a two-thirds rule, where at least 21 of the 31 Members must agree to allow debate on a bill before it can be considered. By reconfiguring District 10 as an Anglo controlled district, the ability of Senators who represent minority opportunity districts to form a coalition to block retrogressive provisions harmful to our constituents would be reduced. At the same time, the clout of Senators representing Anglo controlled districts would be enhanced.

We support the decision to retain Senate District 14 as an effective coalition district where minorities can combine with like-minded Anglos to elect their candidate of choice. We are disappointed, though, that the overall minority percentage in the district was reduced and that some minority neighborhoods were unnecessarily separated into an adjoining district that runs a great distance through Texas, creating a district that is not compact and where the constituents have disparate interests.

Unfortunately, Texas has a long history of denying minority citizens their rights under the Voting Rights Act. We are saddened that any support for this plan must be qualified by our concern that this history could be extended by the process used to construct the plan and by the racially discriminatory purpose and impact of the plan on minorities in parts of our state.

Sincerely,

Wendy Davis, SD - 10
Mario Gallegos, SD - 6
Eddie Lucio Jr., SD - 27
Carlos Uresti, SD - 19
Kirk Watson, SD - 14
John Whitmire, SD - 15
Rodney Ellis, SD - 13
Juan "Chuy" Hinojosa, SD - 20
José Rodríguez, SD - 23
Letica Van de Putte, SD - 26
Royce West, SD - 23
Judith Zaffirini, SD - 21
July 5, 2011

The Honorable Eric Holder
Attorney General of the United States

Mr., Tom Perez
Assistant Attorney General, Civil Rights Division

U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Gentlemen:

I am writing to express my serious objections to the retrogressive redistricting plans adopted by the Texas Senate and the Texas House and the discriminatory process that produced them. The 2011 redistricting process is the third - and the worst - decennial redistricting cycle I have participated in while representing a diverse African American opportunity district, District 13 in Harris and Ft. Bend Counties.

As a Member of the Senate, the primary focus of my objections is the adoption of a retrogressive Senate plan that will be submitted to you or the District Court in the District of Columbia for Section 5 preclearance. At that time, you will be provided more detailed data and legal points regarding the deficiencies of this plan, but the brazen nature of a plan that denies electoral opportunity to Latinos and African Americans responsible for almost all of Texas population growth compels me to call attention to the flaws in this plan immediately.

My objections focus on six major concerns.
1. Statewide Retrogression and Proportionality
2. Packing and Retrogression in the Harris County area.
3. Retrogression, Cracking and the Elimination of a Majority Minority District in the Dallas Ft. Worth Area
4. Elimination of a Majority Minority District in Travis County
5. An Unfair, Exclusive Redistricting Process
6. Similar Texas House and Texas Senate Processes Produced Similarly Flawed Plans

Statewide Retrogression and Proportionality
Between 2000 and 2010, at least 89% of Texas' dramatic population growth was attributable to non-Anglos, and 65% was attributable to explosive Latino population growth. Today, Texas is a
“majority minority” state, where Anglos comprise only 45% of the population, but the plan adopted for the Texas Senate defiantly reduces the number districts where African Americans and Latinos would have the opportunity to elect their preferred candidate of choice. In the current Senate plan under which I was elected, 15 of the 31 districts are “majority-minority” according to the 2010 census, and 12 of them have effectively provided African Americans and Latinos an opportunity to elect their candidate of choice. The retrogressive Senate map that was recently enacted includes only 12 majority-minority districts, only ten of which would elect the minority candidate of choice. Alternate plans were presented that would have maintained and enhanced the number of effective minority opportunity districts. These plans won the support of Senators who represent Latino and African American opportunity districts, but were rejected by the Senate majority.

Retrogression and Packing in the Harris and Fort Bend Counties
Minority population growth in Harris County and neighboring Ft. Bend County had been phenomenal, but the new Senate map fails to provide appropriate opportunity for that burgeoning minority population because my District 13 is illegally packed while the minority population in adjoining majority minority Districts 15 and 17 is diluted.

In the last decade, Harris County grew by almost 700,000 residents. The Anglo population actually declined by over 82,000 persons. Meanwhile, the Hispanic population increased by almost 552,000 and the African American population increased by over 134,000. Today, Harris County is only 33% Anglo, and neighboring Ft. Bend County, with a population of over 585,000, is only 38% Anglo.

As it exists today, the District 13 that I represent is a Minority Opportunity District has a population that is only 17% Anglo and 20.3% Anglo VAP, providing an effective opportunity for African American voters to elect their candidate of choice. Under the new plan, District 13 is packed to the point that it is only 10.5% Anglo and 12% Anglo VAP, making it an 89.5% minority district. This packing is clearly illegal because Anglo communities I have always represented are shifted to neighboring majority minority District 17 as part of a partisan effort that increases its Anglo population from 37.8% Anglo and 41.2% Anglo VAP to 49.3% Anglo and 52.5% Anglo VAP. Although District 17 has not proven to be effective yet, minority voters came very close to electing their candidate of choice in 2008, and alternative plans were introduced that would have maintained and enhanced the minority population in District 17 by adding areas of minority population growth without impacting the effectiveness of exiting minority opportunity districts. By contrast, the map adopted by the Legislature dilutes District 17 by 11% and transforms it into a district with a majority Anglo VAP. Likewise, the minority population in the effective majority minority District 15 is diluted by 5%, due in large part to the shifting of other Anglo precincts from District 13. Although I am confident District 15 would remain an effective district, I believe this pattern of packing and dilution in the Harris County is clearly retrogressive and violates Section 5.

Retrogression, Cracking and the Elimination of a Majority Minority District in the Dallas Ft. Worth Area
The combined population of Dallas and Tarrant Counties is very similar to the population of Harris County. Over 2.1 million Latinos and African Americans reside in the two counties - a 52% majority of the population. Only 41.2% is Anglo, but under the new Senate map, only one of seven - or 14.3% - of the Senate Districts that include parts of Dallas and Tarrant Counties would provide an effective electoral opportunity for African American and Hispanic voters.

Between 2000 and 2010, the Anglo population in Dallas and Tarrant Counties decreased by 156,742 while the African American and Hispanic population increased by almost 600,000. The Senate plan enacted reduces the number of majority minority Districts from two to one, pointing to another violation of Section 5.

The current Tarrant County District 10, which this plan eliminates as a majority minority district, was described by the state, in its 2001 submission seeking Department of Justice preclearance, as one that "contains significant minority communities that essentially are kept intact within these districts. The voting strength of these minority communities in the future will depend on the cohesion within and between Black and Hispanic voters and the ability of such voters to form coalitions with other racial or ethnic groups in support of their preferred candidates."

Since 2001, those cohesive coalitions were formed and Senate District 10, which is now only 47.6% Anglo, has become an effective majority-minority district. However, the new Senate map increases the Anglo population in District 10 to 54.5%.

The demolition of District 10 was achieved by cracking the African American and Hispanic voters into three other districts that share few, if any, common interests with the existing District’s minority coalition. The African American community in Ft. Worth is "exported" into rural District 22 – an Anglo-controlled District that stretches over 120 miles south to Falls Co. The Hispanic Ft. Worth North Side community is placed in Anglo suburban District 12, based in Denton County, while the growing South side Hispanic population remains in the reconfigured majority Anglo District 10.

Two alternative plans were presented as amendments in the Senate and these plans won the support of every Senator who represents an effective majority-minority district. Both plans created two effective Districts without disrupting or diluting the existing District 23, which is an effective African American Opportunity District.

Recognizing the rapidly growing population of 1.4 million Latino’s that reside in Dallas and Tarrant Counties, one alternative plan created a 63.3% Latino Opportunity District with a combined 80.9% minority population. This plan, which was rejected by the Senate majority, also united the minority population in Ft. Worth that is cracked in the Senate plan that was adopted. Another alternative plan created a 69% minority opportunity District wholly in Tarrant County. With a non-Anglo population of almost 2.4 million, there is clearly sufficient minority
population to draw at least two effective minority districts in Dallas and Tarrant Counties, as demonstrated by these alternative plans.

Elimination of a Majority Minority District 14 in Travis County
Today, District 14 is a majority minority district that is only 48.3% Anglo, located contained wholly in Travis County, where Latinos, African Americans and like-minded Anglos have formed cohesive coalitions to elect their candidate of choice. Under the new Senate plan, District 14 is made 52.8% Anglo, primarily by placing the Hispanic population in Southeast Travis County into District 21, which is based hundreds of miles to the south in Laredo. This District 21 configuration is similar to one of the Texas congressional Districts that was drawn in 2003 and before they were changed in response to ruling by the United States Supreme Court, which noted that the District ran hundreds of miles from Austin to the Rio Grande. Although District 14 does not contain a majority Hispanic voting age population, Hispanic voters in Travis County effectively engage in coalitions to elect the candidate of their choice. By removing part of the Hispanic community from District 14, this plan reduces the District’s Hispanic population by 4% and converts it into a majority Anglo district.

An Unfair, Exclusive Redistricting Process
Each of the twelve Senators who represent majority-minority districts where minority citizens have demonstrated the ability to elect their candidate of choice signed and submitted a letter (attached) into the Senate record that expressed not only our objections to the retrogressive Senate plan, but also to the process that was used to adopt it.

During the development of the plan, the Senate record will clearly reflect that some Senators were involved in ongoing consultation and participation as the plan was being developed. These Senators were allowed to view and respond to proposed plans throughout the process. I was one of many Senators, most of whom represent minority opportunity districts, who were not given the opportunity to see or respond to proposals for even our own districts - much less how they fit into a proposed statewide plan - until less than 48 hours before the plan was presented in Senate committee. In this time frame, we had inadequate opportunity to review plans with constituents, arrange for witnesses to take off their jobs to travel to Austin for a midweek hearing, and address our concerns. Simply put, our interests were not fair consideration, and that exclusive process mirrors the retrogressive nature of the plan itself.

Similar Texas House and Texas Senate Processes Produce Similarly Flawed Plans
I will not go into detail about the Texas House redistricting plan, but I want to mention the House plan and process because it is similar in so many ways to the Senate’s plan and process, which reveals a pattern of discriminatory purpose and retrogressive effect on the part of the State of Texas.

Like the Senate plan, the House plan reduced the number of effective minority opportunity districts and majority minority districts, despite the overwhelming growth of the minority population in Texas. Like the Senate process, the House process was open to ongoing participation by some Members, but closed until the last minute to others, and especially those Members who represent minority opportunity districts. Plans were laid out just 48 to 72 hours
before they were considered in committee and both members and the few witnesses who could travel to Austin on short notice complained about the lack of time to develop information to place in the record.

In the House, like the Senate, alternative plans were offered that demonstrated that it was possible to preserve existing districts and create additional districts that provide effective electoral opportunity for minority voters, but those plans were rejected by the Anglo majority.

Another similarity involves Harris County and two House Districts that overlap part of my Senate District. When discussing the Senate plan, I noted the tremendous minority population growth in Harris County. However, the Texas House plan that was passed actually eliminates an effective multi-ethnic coalition district, District 149, that is less than 30% Anglo, while diluting the Latino VAP in neighboring District 137 by 4.4% - from 59.8% to 55.5%. Adding insult to injury, the incumbents who represent these two effective majority minority districts are paired in the House plan.

Two thirds of the Harris County population is non-Anglo, but when the House adopted a plan that eliminated one district in Harris County, they chose to eliminate a majority minority district and rejected an alternative plan that would have preserved all 12 existing effective majority minority districts in Harris County and created two more.

I trust that will give these concerns much greater consideration than they were given in the Texas Legislature.

Sincerely,

Rodney Ellis
Senator Rodney Ellis
District 13, Texas

cc Senator Judith Zaffirini