

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

VOTING FOR AMERICA, INC.)	
)	
PROJECT VOTE, INC.)	
)	
BRAD RICHEY)	
)	
PENELOPE MCFADDEN)	
)	CIVIL ACTION NO. 3:12-CV-00044
Plaintiffs,)	
)	
v.)	
)	
HOPE ANDRADE,)	FIRST AMENDED COMPLAINT FOR
<i>In Her Official Capacity as Texas Secretary of</i>)	DECLARATORY AND INJUNCTIVE
<i>State</i>)	RELIEF
)	
CHERYL E. JOHNSON)	
<i>In Her Official Capacity as Galveston County</i>)	
<i>Assessor and Collector of Taxes and Voter</i>)	
<i>Registrar</i>)	
)	
Defendants.		

INTRODUCTION

A developing body of state practices and provisions targeted at voter registration activities is endangering the rights of many Texas voters in violation of the Constitution, the National Voter Registration Act (“NVRA”), and state law. Population growth in Texas exceeds most other states. Notwithstanding this growth, many voter registration rolls throughout the state remain stagnant. Voter registration policies enacted or supported by the Texas Secretary of State over at least the past decade have contributed to a decline in the overall percentage of registered voters. In many cases, the voter registration provisions culpable for this decline particularly

prevent African-Americans, Latinos, Asians and other racial minorities from becoming registered voters.

Currently, rejection levels of new voter registration applications are at record highs in various counties throughout the state. Election officials have adopted novel strategies for blocking the public from viewing registration records, thereby shielding the registration process and the activities of registrars from public scrutiny. Voter registration drives, once a universally supported and accepted civic practice, are under attack by the very state officials charged with ensuring that all eligible citizens are registered. Discriminatory election practices, once the keystone of Southern politics at the polls fifty years ago, are now being implemented in a new guise at the voter registration stage. These policies contradict the minimum standards for fair and efficient voter registration set by Congress that, when enforced, should ensure equal access to voter registration for all eligible citizens.

Plaintiffs bring this action to obtain declaratory and injunctive relief prohibiting the Defendants from enforcing provisions of the Texas Election Code that violate the National Voter Registration Act of 1993 (“NVRA”), 42 U.S.C. § 1973gg *et seq.*, and the First and Fourteenth Amendments to the United States Constitution. Relying on a state statute, Defendants have denied Voting for America’s and Project Vote’s requests to inspect and copy the completed voter registration records of prospective registrants in 2010 whose applications were rejected by the Harris County Registrar’s Office. The rights of these organizations and other members of the public to inspect and to copy such records are granted by Section 8(i) of the NVRA. Defendants’ refusal to permit such access to public records is a clear violation of federal law. Defendants have also impermissibly used various provisions of the Texas Election Code to construct a state voter registration system characterized by criminal penalties and vague and unduly burdensome

requirements that subvert major tenets of the NVRA and violate the Constitution. Texas law prohibits the photocopying of applications, requires the submission of “completed” applications, and imposes a variety of restrictions on individuals known as volunteer deputy registrars (“VDRs”) who serve as a resource for prospective voters throughout the state. What is more, these VDRs face the threat of criminal prosecution for failure to abide by the state’s onerous restrictions. Galveston County has even enforced a state bill requiring voters to present photo identification, although the federal government has not cleared that regulation to become law. According to the Supremacy Clause, federal law prevents the application of this horde of regulations.

The public interest weighs strongly in favor of granting Voting for America and Project Vote access to the records at issue and invalidating those provisions of the Texas Election Code that violate federal law. As nonpartisan entities committed to voter protection and enfranchisement, Project Vote and Voting for America cannot fulfill their mission of voter advocacy in advance of the 2012 general election without access to rejected voter applications that will be submitted through their 2012 efforts to assist eligible applicants to register to vote. Defendants’ refusal to turn over the records prevents Voting for America, Project Vote, and the public from determining if the applications were lawfully rejected and whether there are any systemic election administration problems in Galveston County, Harris County, and other jurisdictions around the state. Analysis of the rejected applications from 2010 is essential to identifying and correcting any existing election administration problems in advance of the 2012 elections and ensuring that any voter registration drives that may be conducted by Voting for America, Project Vote or similar organizations during the upcoming election cycle will be successful in terms of registering the highest number of qualified applicants.

The burdensome requirements of the Texas Election Code have prevented and will continue to prevent Voting for America and Project Vote from successfully and efficiently carrying out voter registration drives. Without the participation of Voting for America, Project Vote, their employees and volunteers, and other public and private parties, many voters throughout the state of Texas will remain unaware of their importance in the electoral process and unable to exercise their right to vote. By denying Voting for America and Project Vote access to registration records and imposing a complicated web of regulations on the federal voting scheme, Defendants are denying Voting for America's and Project Vote's rights under the NVRA and the Constitution, subverting the Act's purpose, and inhibiting each organization's efforts to carry out its voter protection and election administration reform programs and activities. Contemporaneous analysis of rejected applications submitted in the future will allow Voting for America and Project Vote to address issues as they arise.

JURISDICTION AND VENUE

1. This action is brought pursuant to 42 U.S.C. § 1973gg-9(b) and 42 U.S.C. § 1983 to redress the deprivation, under color of state law, of rights secured by federal statute and the Constitution of the United States.
2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1343. It may issue a declaratory judgment and provide for further relief pursuant to 28 U.S.C. §§ 2201 and 2202.
3. Venue appropriately lies in this District and Division pursuant to 28 U.S.C. § 1391.
4. An actual and justiciable controversy exists between Plaintiffs and Defendants.

PARTIES

5. Plaintiff Project Vote is a nonprofit 501(c)(3) charitable organization existing under the laws of Louisiana, with its principal office in the District of Columbia. In an effort to broadcast its message of voter empowerment to low-income and minority citizens, Project Vote has funded and participated in voter registration drives with partner organizations since before 2004. Project Vote develops and implements comprehensive procedures to assist partner organizations in the effective and efficient administration of registration drives. Through the use of these procedures, Project Vote aims to encourage voter participation and discourage attacks on the quality and legality of registration drives. In 2012, Project Vote is funding other organizations to engage in civic engagement programs, including managing voter registration drives.
6. Plaintiff Voting for America (together with Project Vote, the “Voter Organization Plaintiffs”) is a nonprofit 501(c)(3) charitable organization existing under the laws of the District of Columbia, with its principal office in the District of Columbia. Voting for America works to empower, educate, and mobilize low-income, minority, youth, and other marginalized and underrepresented voters. Using volunteers and paid canvassers, Voting for America communicates directly with citizens to persuade them to participate in the democratic process by exercising the right to vote. To spread its message, Voting for America runs registration drives in advance of and during electoral campaigns. Voting for America canvassers urge citizens to register to vote, hand out registration applications, help citizens to complete applications, and collect and mail applications to the state officials responsible for registering voters. Voting for America is an affiliate of Project Vote.

7. Plaintiff Brad Richey is a resident and citizen of Galveston County, Texas who resides at Jamaica Beach, Galveston, Texas 77554.
8. Plaintiff Penelope McFadden is a resident and citizen of Galveston County, Texas who resides at Clear Lake Shores, Texas 77554.
9. Defendant Hope Andrade is sued in her official capacity as Texas Secretary of State. Under Texas law, Ms. Andrade's responsibilities in this capacity include serving as the Chief Election Officer for Texas, assisting county election officials and ensuring the uniform application and interpretation of election laws throughout Texas. As the head of the Elections Division of her office, Ms. Andrade is charged with administering the Texas Election Code. The Code serves as the leading Texas law for voters, elections, voting systems, candidates, and political parties. She also oversees the Elections Division's maintenance of more than 11 million voter registration records on behalf of the State. Ms. Andrade is additionally involved in the administration of Project V.O.T.E. (Voters of Tomorrow through Education), an educational curriculum designed to educate Texas K-12 students about the electoral process and to encourage them to vote in the future. She may be served at the Executive Office of the Texas Department of State, P.O. Box 12887, Austin, Texas 78711-02887.
10. Defendant Cheryl E. Johnson is sued in her official capacity as the elected Galveston County Assessor and Collector of Taxes and Voter Registrar. Ms. Johnson is the chief election official in Galveston County responsible for overseeing voter registration, elections, and deputizing and training volunteer deputy registrars. She may be served at 722 Moody Avenue, Galveston, Texas 77550.

FEDERAL STATUTORY BACKGROUND

United States Constitution - First and Fourteenth Amendments

11. The First Amendment prohibits laws abridging the freedom of speech. In general, the government may not restrict expression because of its message, ideas, subject matter, or content. Inherently expressive acts involving political speech are protected by the First Amendment even if they have a governmental effect. Although state governments may enact reasonable and not unduly burdensome time, place, and manner regulations related to the electoral process, states may not enact election laws that discriminate on the basis of content or the viewpoint expressed by election activities or that are not narrowly tailored to a compelling state interest.
12. The Due Process Clause of the Fourteenth Amendment requires criminal statutes to define offenses with sufficient definiteness that ordinary people need not guess what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement.

National Voter Registration Act

13. Congress enacted the NVRA in 1993 to, among other things, protect the integrity of the electoral process by better securing citizens' fundamental right to vote with improved voter registration procedures. Pub. L. No. 103-31, 107 Stat. 77 (1993) (codified at 42 U.S.C. § 1973gg *et seq.*). In so doing, Congress sought to remedy “discriminatory and unfair registration laws and procedures” that have “direct and damaging” effects on voter participation in federal elections and disproportionately harm voter participation among racial minorities. 42 U.S.C. § 1973gg. To this purpose, the NVRA imposes a variety of requirements on states concerning voter registration procedures and policies. 42 U.S.C. § 1973gg-6.

14. One major goal of the NVRA is ensuring that “accurate and current voter registration rolls are maintained.” 42 U.S.C. § 1973gg(b)(4). Accuracy of voter rolls is critically important to guaranteeing that eligible voters are afforded the right to vote.

15. To ensure that these rolls are accurate and current, Section 8(i) of the NVRA requires states to make voter registration records publicly available for inspection and copying:

Each State shall maintain for at least 2 years and shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purposes of ensuring the accuracy and currency of official lists of eligible voters, except to the extent that such records relate to a declination to register to vote or to the identity of a voter registration agency through which any particular voter is registered.

42 U.S.C. § 1973gg-6(i)(1) (the “Public Disclosure Provision”). The Public Disclosure Provision is essential to the NVRA’s purpose of ensuring accurate and non-discriminatory voter registration practices because it allows the public to confirm that states are abiding by the federal legislation. *See* 42 U.S.C. § 1973gg(b)(3), (4).

16. Another critical goal of the NVRA is to “establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office,” 42 U.S.C. § 1973gg(b)(1), and to execute these procedures “in a manner that enhances the participation of eligible citizens as voters in election for Federal office.” 42 U.S.C. § 1973gg(b)(2). Removing unnecessary barriers to registration and voting is vital to ensuring that all eligible voters, including minorities, are afforded the chance to participate in Federal elections.
17. To this end, the NVRA eases a voter’s burden in registering to vote by requiring that state officials accept multiple forms of delivery of registration applications, including mailed applications. *See* 42 U.S.C. § 1973gg-2(a)(2).
18. In the same vein, the NVRA requires that state officials accept a universally available federal voter registration application as a valid registration form in addition to any state-specific form. This federal form may be submitted through the mail system. 42 U.S.C. § 1973gg-4(a).
19. State election officials are also responsible for notifying every registration applicant of the disposition of his or her submitted application. *See* 42 U.S.C. § 1973gg-4(a)(2). In this way, the NVRA ensures that any applicant whose registration form is rejected as incomplete or otherwise deficient has an opportunity to remedy the issue and re-apply. The requirement also acts as a safeguard that no application is “lost” in the system and that no eligibility determination is untimely delayed.

TEXAS REGULATORY BACKGROUND

20. Texas law impedes proper implementation of the NVRA and the First and Fourteenth Amendments by imposing a variety of burdensome restrictions on public access to

records, qualifications and compensation for VDRs, and review and delivery of voter registration forms. Violation of some of these restrictions even constitutes grounds for criminal prosecution.

21. As a particularly egregious perpetrator of unfair voting practices, the Galveston County Registrar's Office attempts to prematurely enforce voting restrictions that have not been pre-cleared by the federal government and places citizens on voter suspension lists without providing state-mandated prior notice.

Texas Improperly Restricts Public Access to Records

The Law Enforcement Exception (Tex. Gov't Code § 552.108(a))

22. The "Law Enforcement Exception" to the Texas Public Information Act, Tex. Gov't Code § 552.021, prohibits the disclosure of any records that the state deems to be related to an ongoing criminal investigation. Tex. Gov't Code § 552.108(a). This exception covers voting-related records, including voter registration applications.
23. The Law Enforcement Exception directly conflicts with the Public Disclosure Provision of the NVRA and limits public access to records concerning the accuracy and currency of voter registration rolls. Texas law provides no parameters concerning to what degree a voter's registration application must be connected to a criminal investigation to be considered "related," thus giving the state significant leeway in withholding voting records from the public.

The Photocopying Prohibition (Tex. Elec. Code § 13.038)

24. Texas's barriers to public examination and retention of voting records also cover canvassers who conduct voter registration drives and help coordinate the application process. Texas law limits the activities of VDRs to receipt and distribution of voter

registration applications. Tex. Elec. Code § 13.038. Under the state’s interpretation of the relevant law, photocopying of applications falls outside this strict limit (the “Photocopying Prohibition”). *See* Letter from Ann McGeehan, Director of Elections, Elections Division, Office of the Secretary of State of Texas to Niyati Shah, Election Counsel, Voting for America (May 13, 2011) at 2, attached hereto as Exhibit A.

Although VDRs may wish to make copies of submitted applications to track their progress and determine whether and why they are accepted or rejected, Texas prohibits these attempts to verify the fairness of the application process and the reasoning for a final disposition of a particular application.

25. Consequently, neither the public nor the individuals responsible for receiving and transmitting a voter’s registration application may review rejected applications under Texas law. These records are crucial to ensuring the accuracy and currency of voter rolls, because, without access to these records, the public cannot ascertain whether individuals who *should be* on the rolls actually are.
26. Texas law therefore limits public access to records concerning the accuracy and currency of registration records to a greater degree than is permitted by the Public Disclosure Provision of the NVRA, which mandates that “all records” concerning the accuracy and currency of voter rolls be made available for public inspection and/or copying.
27. Accordingly, the Law Enforcement Exception and the Photocopying Prohibition, as interpreted by Defendants, violate and are preempted by the Public Disclosure Provision of the NVRA.

Texas Law Improperly Regulates VDRs and Associated Voter Registration Groups

The Appointment Requirement (Tex. Elec. Code § 13.031)

28. Under Texas law, no one may distribute voter registration applications to, and collect voter registration applications from, citizens unless first appointed as a VDR by a county registrar (the “Appointment Requirement”). Tex. Elec. Code § 13.031; Letter from Ann McGeehan, Exhibit A at 1.

The County Limitation (Tex. Elec. Code § 13.038)

29. A VDR may only collect or handle voter registration applications from citizens who reside in the same county in which the VDR was appointed. *See* Tex. Elec. Code §§ 13.031, 13.038; Letter from Ann McGeehan at 2. VDRs must also limit their interactions with prospective voters to only those citizens who reside in the county where the VDR is appointed (the “County Limitation”). Tex. Elec. Code § 13.038.

The Identification Requirement (Tex. Elec. Code § 13.033)

30. To become a VDR in any of Texas’s 254 counties, an individual must seek appointment in person or by mail on a county-by-county basis. Once appointed, a VDR must carry, and produce upon request, a certificate of appointment issued by the county registrar that states the county in which the person has an appointment, the person’s name, residential address, and term of appointment (the “Identification Requirement”). Tex. Elec. Code § 13.033.

The Training Requirement (Tex. Elec. Code § 13.031)

31. Newly appointed VDRs must also participate in mandatory training before exercising their duties at polling stations (the “Training Requirement”). Tex. Elec. Code § 13.031. Texas law establishes no standards about the timing or frequency of these training

sessions, leaving VDRs at the mercy of potentially inconvenient or impractical training schedules. *Id.*

The Completeness Requirement (Tex. Elec. Code § 13.039)

32. When collecting a voter registration application from an applicant, a VDR must “review it for completeness in the applicant’s presence” and return the application to the applicant if it does not include all required information (the “Completeness Requirement”). Tex. Elec. Code § 13.039. Upon acceptance of a registration application, a VDR must prepare and sign a receipt on a form provided by the relevant county’s registrar, provide the original receipt to the applicant, and submit a duplicate to the registrar, who must keep the receipt on file. Tex. Elec. Code § 13.040.

The Personal Delivery Requirement (Tex. Elec. Code § 13.042)

33. VDRs must submit completed applications to the registrar either in person or by another VDR’s personal delivery within five days of collecting the application from an applicant (the “Personal Delivery Requirement”). Tex. Elec. Code § 13.042. Texas has interpreted this provision to mean that “anyone handling an application must be a volunteer registrar or registrar.” *See* Letter from Ann McGeehan, Exhibit A, at 2.
34. Texas law provides for multiple methods of penalizing and terminating VDRs. First, a registrar may terminate the appointment of a VDR “on a determination by the registrar that the volunteer deputy failed to adequately review a registration application” as required by § 13.039 of the Texas Election Code. Tex. Elec. Code § 13.036(b). Second, the state may impose criminal penalties on VDRs for using alternative methods of delivering voter registration applications, such as the mail system. Tex. Elec. Code § 13.043. Finally, Texas law punishes knowingly falsifying a voter registration

application as a Class B misdemeanor. Tex. Elec. Code § 13.007.

The Compensation Prohibition (Tex. Elec. Code § 13.008)

35. Texas also maintains the power to bring criminal charges against voter registration groups who employ VDRs at voting drives. Specifically, these groups face criminal penalties for the use of performance-based payment methods (the “Compensation Prohibition”). Tex. Elec. Code § 13.008. This statute prohibits employees from accepting compensation “based on the number of voter registrations that [they] successfully facilitate[,]” and voter registration groups may not use “quota[s] of voter registrations to facilitate as a condition of payment or employment” or engage in any practice that causes a person’s compensation or “employment status” to be “dependent on the number of voter registrations” the person “facilitates.” *Id.* These penalties extend beyond the organization’s poll workers and create personal liability for any officer, director, or agent of the registration organization. *Id.*

The In-State Restriction (Tex. Elec. Code § 12.006(e))

36. Texas requires that all VDRs be eligible to register to vote in Texas in accordance with Section 11.002 of the Texas Election Code, essentially limiting the pool of potential VDRs to Texas residents (the “In-State Restriction”). *See Tex. Elec. Code § 12.006(e).*
37. The County Limitation, the Training Requirement, the Completeness Requirement, and the Personal Delivery Requirement impose a litany of controls that restrict a VDR’s ability to perform tasks permitted under the NVRA, which expressly regulates the method of delivering voter registration applications and the system for notification of an application’s disposition.
38. Together with the Appointment Requirement, the Compensation Prohibition, and the In-

State Restriction, these requirements also restrict political speech about voter registration in advance of and during an election by reducing the number of speakers, the size of the audience reached, and, thus, the political and social change achieved. These requirements subject voter registration groups to criminal liability for successfully helping a non-voter to apply to register to vote in any way, including by speech alone.

39. The requirements force VDRs and voter registration groups to guess what they must do to comply with the law and how different county registrars will interpret and enforce the law, while leaving county registrars with no clear guidance regarding the proper application of these criminal statutes, thus encouraging discriminatory and arbitrary enforcement.

The Galveston County Registrar Wrongfully Enforces Laws Lacking Preclearance

The Voter-ID Requirement (Texas Senate Bill 14)

40. Texas Senate Bill 14 (the “Voter-ID Requirement”) requires voters to present government-issued photo identification when appearing to vote at the polls. Voters who fail to do so may cast a provisional ballot, but that ballot will not be accepted unless the voter presents proper identification to the registrar within six days after the election.
41. Section 5 of the Voting Rights Act of 1965, 42 U.S.C. § 1973c, prohibits states from enforcing any standards, practices, or procedures with respect to voting without obtaining pre-clearance from the federal government that the proposed law is not discriminatory. The Galveston County Registrar enforces the Voter-ID Requirement despite the fact that it has not been pre-cleared.

The Galveston County Registrar Impermissibly Suspends Voters Without Prior Notice

The Suspension and Notice Provision (Tex. Elec. Code §§ 15.051-53)

42. Texas Election Code §§ 15.051-53 (the “Suspension and Notice Provision”) requires that if the registrar believes that a voter’s current residence differs from that on record, the registrar must deliver written notice to that voter along with a confirmation notice response form. If the voter fails to submit the signed response in 30 days, the voter’s registration may be subject to cancellation.
43. In violation of its own state code, Galveston County Registrar places voters with suspect addresses on a voter “suspension list” without providing them prior notice.

FACTUAL ALLEGATIONS

The Voter Organization Plaintiffs’ Mission

44. The Voter Organization Plaintiffs conduct nonpartisan voter-registration drives to strengthen American democracy by expanding the franchise and promoting civic participation in underrepresented communities. The organizations engage in voter-registration activities to inform other citizens about the importance of active political participation in a representative democracy. Moreover, they seek to convince citizens to become eligible to vote so that government institutions, elected officials, and candidates for election become responsive to the needs and concerns of low- and moderate-income families, minorities, youth, and other historically marginalized Americans. By persuading citizens to join the political process, the Voter Organization Plaintiffs seek to achieve immediate social and political change in advance of elections by creating constituencies to which elected officials and candidates for elective office can appeal and to which they will be accountable at the polls.

45. Since 1994, Project Vote has developed and run voter-registration programs in dozens of cities, counties, and states, and, by directly communicating with citizens, has persuaded more than 5.6 million Americans to become eligible to vote.
46. Voting for America intends to engage in voter-registration activities in Texas as funding becomes available to do so.
47. Project Vote intends to provide funds to organizations that would conduct voter registration activities in Texas as funding becomes available to do so.
48. Plaintiffs McFadden and Richey are citizens of the United States and are entitled to register to vote under federal law.
49. Plaintiffs McFadden and Richey are entitled to lawfully assist in and/or donate funds to voter registration drive efforts in compliance with federal law.
50. To spread its message of social change and political empowerment, the Voter Organization Plaintiffs use or fund volunteer and paid canvassers to interact with potential voters face-to-face in diverse communities across the country. These conversations take place at schools and universities, community events, religious services, workplaces, malls, conferences, and public gatherings, as well as in parking lots, train stations, transportation hubs, and on city streets. Canvassers affiliated with or funded by the Voter Organization Plaintiffs may also go from door to door to discuss the importance of political participation with citizens on their front porches and in residential centers.
51. When seeking to persuade citizens in historically marginalized communities to become registered voters, the initial hurdles that canvassers for the Voter Organization Plaintiffs must overcome are disinterestedness, political apathy, and a general sense that voting

cannot lead to political change. These canvassers must, therefore, educate non-voters not only about how political participation can lead to social change and make democratic institutions more responsive to community needs, but also how the mere act of becoming eligible to vote helps disadvantaged persons establish their political worth, standing, and right to speak at the polls—thus creating political respect for the citizen’s community and making elected officials and candidates for elective office attentive to the community’s concerns and needs.

52. The Voter Organization Plaintiffs also engage in or fund voter-registration activities to urge other citizens to associate with each other and to engage in meaningful collective action to advance shared political objectives as well as to associate with the Voter Organization Plaintiffs. After persuading citizens to become eligible to vote, the Voter Organization Plaintiffs or the organizations they fund frequently seek to recruit citizens to participate in canvassing and get-out-the-vote activities.
53. The success of the Voter Organization Plaintiffs in spreading their political message depends on its ability to speak with citizens directly and explain the voter registration process to non-voters, as well as to assist citizens in filling out voter-registration applications, to collect those applications, to review the applications for errors or omissions, to assist applicants to correct those errors or omissions, to deliver applications to the appropriate state offices, and to follow up with the state to ensure that the new voters have been added to the rolls.
54. The use of paid canvassers is essential to the success of the Voter Organization Plaintiffs’ voter registration drives. For example, in 2007, one of Voting for America’s partner organizations tried to conduct an all-volunteer registration drive with a goal of persuading

1000 citizens to complete registration applications. With great difficulty, the organization recruited 40 volunteers, who managed to convince about 100 citizens to register to vote over the course of the entire drive, or about 2.5 new registrants per canvasser. At that rate, to achieve its goal, the organization would have had to recruit 400 volunteers.

55. The Voter Organization Plaintiffs have also found that recruiting volunteers from the communities they serve can prove difficult because citizens in low- and moderate-income communities are less able to donate their time to political causes.
56. Moreover, unlike volunteers, paid staff can be held to productivity and performance standards, which are indispensable to effective cost management of voter registration drives.
57. As with any employer, the Voter Organization Plaintiffs or the organizations they fund must be able to hold their canvassers accountable for persuading a reasonable number of citizens to register to vote, to terminate those who routinely convince few, if any, citizens to complete voter-registration applications, and to reward effective and productive canvassers with higher rates of hourly pay.
58. If the Voter Organization Plaintiffs or the organizations they fund were unable to manage their workforce to achieve specific amounts of political speech by paying canvassers in relation to productivity, they would lose the advantages that paid canvassers provide. A prohibition on paying canvassers would drastically reduce the number of citizens that the Voter Organization Plaintiffs could convince to become registered voters and thereby would diminish their ability to disseminate the call for social and political involvement and responsibility.

59. All businesses in regulated industries must budget for administrative and compliance costs. Such costs are burdensome on all businesses, but they are particularly severe on charitable organizations that are not run for profit. Every dollar that the Voter Organization Plaintiffs or the organizations they fund must spend on administrative costs necessarily reduces the amount of money they can use to fund speech.
60. As not-for-profit charitable organizations, the Voter Organization Plaintiffs strive to run or fund economically efficient voter-registration drives by utilizing a centralized management team responsible for overseeing and coordinating a field force of canvassers.

The Voter Organization Plaintiffs' Requests for Records

61. By letter dated October 15, 2010, Project Vote sent a letter to Leo Vasquez, Voter Registrar of Harris County, requesting that the state make available for inspection “electronic and documentary records relating to rejected voter applications submitted to Harris County offices from January 2, 2010 through September 20, 2010” (the “Requested Records”). *See* Letter from Niyati Shah, Election Counsel, Project Vote, to Leo Vasquez, Voter Registrar, Harris County, Texas (October 27, 2010), at 1, attached hereto as Exhibit B.
62. On October 27, 2010, Project Vote renewed their request, asking that, “at a minimum,” Harris County preserve the documentary records. *See* Letter from Niyati Shah, Exhibit B, at 1. Project Vote also specifically requested the current list of rejected or pending voters, including names, addresses, application dates, and reasons for rejection. *Id.*
63. On December 7, 2010, the County Attorney for Harris County wrote to the Attorney General of Texas, copying Project Vote, asserting that the Requested Records are exempt

from disclosure under the Law Enforcement Exception to the Texas Public Information Act. *See* Letter and Memorandum from Vince Ryan, Harris County Attorney, and David Daughtery, Assistant Harris County Attorney, to the Honorable Greg Abbott, Attorney General of Texas (December 7, 2010), attached hereto as Exhibit C.

64. On September 19, 2011, Voting for America, on behalf of themselves and all others similarly aggrieved, submitted a letter informing Defendant Andrade of Texas's violations of the NVRA, thereby giving notice pursuant to Section 11(b) of the NVRA. *See* Letter from Ryan Malone, Counsel for Voting for America, to The Honorable Hope Andrade, Texas Secretary of State (Aug. 25, 2011), attached hereto as Exhibit D.
65. Specifically, Voting for America noted that the Law Enforcement Exception and the state's prohibition on photocopying registration applications violate the Public Disclosure Provision's requirement that "all records" be made available for inspection and photocopying, and that the withheld records do not fall into any of the exceptions set forth in the NVRA.
66. Voting for America further explained that the Delivery Requirement, the Training Requirement, the Completeness Requirement, and the County Limitation interfere with the registration system created under the NVRA and unduly burden implementation of that system.
67. Voting for America offered to work cooperatively with Defendant Andrade to bring the problematic provisions into compliance with federal law. *Id.*
68. To date, Defendant Andrade has not made the Requested Records available to Voting for America, Project Vote or their representatives and has not repealed or amended those sections of the Texas Election Code that violate federal law. This continued stonewalling

frustrates and hampers the Voter Organization Plaintiffs' voter registration activities and respective missions, and violates their rights under the NVRA and the Constitution.

69. The NVRA's civil enforcement provision allows for a private right of action by persons "aggrieved by a violation" after providing "written notice of the violation to the chief election official of the State involved." 42 U.S.C. § 1973gg-9(b)(1). If the violation is not corrected within 90 days after that official's receipt of such notice, the aggrieved person may bring a civil action in the appropriate district court for declaratory or injunctive relief with respect to the violation. 42 U.S.C. § 1973gg-9(b)(2). As outlined above, Defendant Andrade has failed to take remedial action within the 90-day period prescribed by 42 U.S.C. § 1973gg-9(b).
70. The Voter Organization Plaintiffs bring this suit to enforce their private rights of action under the NVRA and its rights under the NVRA and the Constitution to challenge various provisions of the Texas Election Code and their unlawful application here.

Plaintiff Richey and McFadden's Attempts to Participate in Voter Registration Activities

71. Galveston County has implemented one or more of the unlawful Texas provisions and practices outlined above.
72. Plaintiff Richey has been wrongfully placed on a voter suspension list by the Galveston County Registrar's Office.
73. Plaintiff McFadden has repeatedly struggled with both registering to vote and maintaining her registration status. Plaintiff McFadden resides on a boat and consequently receives her mail at a post office mail box. She has been consistently denied or delayed registration due to the Galveston County Registrar's unsubstantiated and unlawful conclusion that her address is not residential. Her name is also frequently

misspelled in voter records, leading to further registration difficulties.

74. At some time, Plaintiffs Richey and McFadden sought to participate as VDRs but were discouraged in light of the State of Texas and Galveston County's onerous requirements, as described previously.
75. In November of 2011, Plaintiffs Richey and McFadden went to the polls to vote in local elections, where they were informed that they were on the voter suspension list. Neither Plaintiff Richey nor Plaintiff McFadden ever received written notice prior to being placed on a suspension list.
76. Despite being in possession of voter registration certificates, Plaintiffs Richey and McFadden were required to show photo identification to verify their eligibility to vote.
77. More than 10,000 voters, many of whom have been registered for a decade or more in Galveston County, have been placed on a suspension list and/or have been required to show photo identification at the polls.

CAUSES OF ACTION

Count I: Violation of the NVRA, 42 U.S.C. § 1973gg – 1973gg-10

78. Plaintiffs repeat and reallege the preceding allegations as though fully set forth herein.
79. The Supremacy Clause of the United States Constitution, Art. VI, par. 2, states in part: "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof...shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the contrary notwithstanding."

80. The NVRA places binding requirements on the states. To the extent that any state law conflicts with, overrides, or burdens the NVRA, such law is preempted and superseded by the NVRA as a federal statute.
81. The NVRA's Public Disclosure Provision explicitly and unambiguously requires that the Requested Records be made available to the public for inspection and, where available, photocopying, because the Requested Records are "records concerning the implementation of programs or activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters." 42 U.S.C. § 1973gg-6(i).
82. To the extent that the Law Enforcement Exception, the Photocopying Prohibition, or any other statutory or regulatory provision or administrative practice of Texas prohibits the disclosure of information required to be made available for public inspection and photocopying pursuant to the Public Disclosure Provision of the NVRA, such provisions and practices subvert the purpose of the NVRA and are, therefore, invalid and unenforceable.
83. The Law Enforcement Exception provides, and Defendant Andrade asserts, that records related to an ongoing criminal investigation should be withheld from disclosure under the law enforcement exception to the Texas Public Information Act. Tex. Gov't Code § 552.108(a). Defendant Andrade has yet to offer any evidence demonstrating the Requested Records' relationship to a criminal investigation that would support their reliance on the Law Enforcement Exception in denying the Voter Organization Plaintiffs access to the Requested Records.
84. Moreover, the statute itself undermines the plain language and purpose of the NVRA. The Law Enforcement Exception and Defendant Andrade's refusal to grant Voting for

America access to the Requested Records have prevented the Voter Organization Plaintiffs and the public from inspecting those records in violation of the Public Disclosure Provision of the NVRA. Therefore, the statute is preempted by the NVRA.

85. The Photocopying Prohibition permits only the receipt and distribution of voter registration applications, and Defendant Andrade asserts that this provision precludes the photocopying of applications. *See* Letter from Ann McGeehan, Exhibit A, at 6. This limitation subverts the plain language and purpose of the NVRA by preventing VDRs from photocopying applications to monitor the Registrar’s processing of the applications once they are submitted and by precluding the photocopying of any voter registration applications sought under the Public Disclosure Provision. Because the Photocopying Prohibition prevents the Voter Organization Plaintiffs and the public from photocopying the Requested Records, that statute is preempted by the NVRA.
86. The Completeness Requirement, which directs volunteer registrars to review and return “incomplete” voter registration applications to applicants, is inconsistent with and preempted by conflicting provisions of the NVRA. The NVRA requires that states make voter registration application forms available to prospective voters, but does not require that these forms be complete before they are submitted to and accepted by a state registrar. *See* 42 U.S.C. § 1973gg-4(a). Section 13.039 of the Texas Election Code imposes a supplementary obstacle to submission of voter registration applications. Because the federal law already regulates the manner of submission for application forms, the NVRA preempts the Completeness Requirement.
87. The Completeness Requirement also conflicts with the NVRA because it shifts the burden of reviewing an application from state officials to VDRs. Section 8 of the NVRA

directs “the appropriate State election official to send notice to each applicant of the disposition of the [voter registration] application,” 42 U.S.C. § 1973gg-6(a)(2), thereby requiring state registrars to contact applicants who fail to fully include all necessary information in a registration application. Therefore, the Completeness Requirement interferes with federal law by requiring VDRs to perform a function delegated to state registrars by the NVRA. In this way, section 13.039 is preempted by the NVRA.

88. The implications of the Completeness Requirement extend beyond the burdening of federal law. Section 13.043 of the Texas Election Code goes so far as to impose significant criminal penalties on VDRs who fail to comply with the Completeness Requirement. It is unreasonable and a violation of federal law for Texas to punish VDRs for failing to perform duties delegated to state registrars under the federal law. The Completeness Requirement and accompanying penal statutes impose penalties and restrictions beyond those of the NVRA, and are therefore preempted by federal law.
89. Limiting a VDR’s method of delivering voter applications contravenes the requirements and purposes of the NVRA. The NVRA expressly regulates the method of delivery of voter registration applications by accepting mail-in forms. Texas law imposes the Personal Delivery Requirement, thereby inhibiting a VDR’s use of the mail system. To the extent the Personal Delivery Requirement expressly limits a VDR’s means of delivery to the exclusion of methods explicitly permitted by the NVRA, Texas law constrains the exercise of the federal statute in violation of the Supremacy Clause.
90. The eligibility requirements to become a VDR and handle applications also restrict the means for delivering applications.

91. The Training Requirement impedes the NVRA’s regulation over the method of delivery of voter registration applications in violation of the Supremacy Clause. Without standards outlining the frequency or scope of required training, VDRs face an ambiguous barrier to delivering the applications of prospective voters. This barrier to delivery directly conflicts with the NVRA, which requires only that registration forms be delivered by mail and postmarked. By attempting to limit a VDR’s ability to deliver registration forms through requiring training, the state law imposes on territory already regulated under federal law.
92. Similarly, the County Limitation improperly infringes on the NVRA’s regulation of delivery of registration applications. While the state law prohibits delivery of applications for prospective voters from foreign counties, the NVRA requires only that registration forms be delivered by mail and postmarked. Therefore, VDRs serving prospective voters in cities like Dallas, Texas—which spans parts of Dallas, Denton, Collin, Rockwall, and Kaufman counties—would be restricted from serving citizens in other parts of the same city. The NVRA omits any such geographical restriction, and the Supremacy Clause ensures that VDRs may provide registration assistance across county lines.
93. In addition to infringing on the text of the NVRA, the Personal Delivery Requirement, the Training Requirement, and the County Limitation offend its purposes. By broadening the available methods of casting a ballot, the federal law aims to “enhance the participation of eligible citizens as voters in elections for Federal office.” 42 U.S.C. § 1973gg(b)(2). The state’s requirements restrain this participation by limiting the means a volunteer registrar may use to convey a prospective voter’s desire to participate in

federal elections. In complying with the Texas law, VDRs face unnecessary and illegitimate hurdles to communicate this important message.

Count II:

Texas Law Governing VDRs Restricts Speech and Association Based on Content and Viewpoint in Violation of the First Amendment, Facially and as Applied to the Voter Organization Plaintiffs, and in violation of 42 U.S.C. § 1983

94. Plaintiffs repeat and reallege the preceding allegations as though fully set forth herein.
95. Face-to-face communication by canvassers with citizens involving speech that persuades non-voters to complete applications to register to vote is political speech protected by the First Amendment to the United States Constitution.
96. Taken together, the Appointment Requirement, the Compensation Prohibition, the In-State Restriction, the Personal Delivery Requirement, the Training Requirement, the County Limitation, and the Identification Requirement chill and restrict speech about voter registration that may persuade non-voters to complete voter registration applications. These statutes make voter registration activities administratively and economically impractical and inefficient, effectively limiting the amount of voter registration speech that groups like the Voter Organization Plaintiffs can engage in and the size of the audience that the speech can reach.
97. The Compensation Prohibition directly targets speech by groups like the Voter Organization Plaintiffs to non-voters about the importance of registering to vote and specifically imposes criminal penalties on effective speech that persuades non-voters to become eligible to vote. The threat of criminal penalties may arise from the mere act of talking to citizens about the electoral system, the historical importance of voting, Texas election law, and the respective missions of the Voter Organization Plaintiffs, or transporting applicants to registrar's offices to deliver applications personally, providing

applicants with pens to complete applications, or answering questions about how to complete an application.

98. The application of the Compensation Prohibition to the Voter Organization Plaintiffs' use of commonly accepted business practices, including performance evaluation, performance-based pay rates, and requiring performance as a condition of employment, severely burdens voter registration speech by denying the Voter Organization Plaintiffs and partner organizations the ability to manage their respective staffs to achieve specific amounts of persuasive political speech.
99. The Personal Delivery Requirement imposes severe burdens on voter registration activities. It limits the audience and the location of voter registration speech by canvassers and by requiring voter registration groups to incur the administrative costs of having their staff appointed as VDRs in each of Texas's 254 county registrars in order to run state-wide voter registration drives, as well as the costs associated with personal delivery of applications to registrars across Texas. For example, if a Voting for America canvasser accepts an application in Dallas county from a resident of El Paso county, Voting for America will need to transport the application roughly 640 miles (an eleven-hour trip, costing about \$75 in fuel each way)¹ within five days, or face criminal prosecution.
100. The Appointment Requirement is a content-based, viewpoint-specific prior restraint on speech and associational rights that severely restricts the amount of speech and the size of the audience that the Voter Organization Plaintiffs and partner organizations can reach by mandating that no one may engage in voter registration activities unless first deputized by

¹ Assuming 25 miles per gallon at about \$3.00/gallon for regular unleaded gasoline.

the State. This prior restraint severely limits the Voter Organization Plaintiffs' ability to add additional voices to spread its message as needed in communities across Texas in advance of an election.

101. The In-State Restriction similarly restricts the amount and range of the Voter Organization Plaintiffs' speech by preventing out-of-state individuals from becoming VDRs. Particularly in an election year, such a major limitation on the Voter Organization Plaintiffs' or a funding recipient's ability to assemble a sufficient number of VDRs to serve as their mouthpieces serves as an unfair burden on the Voter Organization Plaintiffs' speech and associational rights.
102. As an ambiguous prerequisite to becoming a VDR, the Training Requirement limits the speech and registration activities of prospective VDRs. This encumbrance on the ability of VDRs to handle and deliver applications restricts the Voter Organization Plaintiffs' ability to further its goal of enfranchisement.
103. The County Limitation also imposes significant administrative costs and burdens on the Voter Organization Plaintiffs. These organizations or the organizations they fund must spend money and time to have its canvassers and managerial staff appointed as VDRs in each Texas county. The organizations or the organizations they fund must also have at least one VDR for each of the state's 254 counties in order to be able to deliver applications to any county registrar in the state.
104. The County Limitation forces the Voter Organization Plaintiffs either to abandon large-scale efficient voter registration drives, or to develop or fund a costly infrastructure to handle applications from the residents of multiple Texas counties with whom canvassers may interact in locations such as transportation hubs and on city streets. The Limitation

renders management of a state-wide voter registration drive administratively and economically impractical, effectively reducing the number of canvassers that the Voter Organization Plaintiffs or the organizations they fund can employ to interact with citizens, and limiting the size of the audience that the Voter Organization Plaintiffs' message can reach.

105. The Identification Requirement deters voter registration speech by compelling personal—rather than professional—identification of canvassers engaged in face-to-face interactions with citizens about political and social change.
106. Moreover, the Texas Election Code already effectively prohibits and deters voter registration fraud directly without treading upon protected speech and expressive activity. Section 13.007 of the Texas Election Code directly prohibits voter registration fraud and does not inflict burdens on constitutionally-protected political activities. Section 13.040 of the Texas Election Code requires VDRs to sign a receipt when accepting a registration application, to provide the receipt to the applicant, and to submit a copy of the receipt to the registrar. In light of such targeted and effective anti-fraud measures, the Compensation Prohibition, the Personal Delivery Requirement, the County Limitation, and the Identification Requirement are not narrowly tailored to advance compelling state interests.
107. Since the Appointment Requirement, the Compensation Prohibition, the In-State Restriction, the Personal Delivery Requirement, the Training Requirement, the County Limitation, and the Identification Requirement burden political speech based on its content and viewpoint and impose severe burdens on political speech without any necessary, narrowly-tailored connection to a compelling state interest, these provisions of

Texas law violate the United States Constitution.

Count III:

Texas Law Governing VDRs Severely Burdens Voter Registration Speech and Political Association in Violation of the First Amendment and 42 U.S.C. § 1983

108. Plaintiffs repeat and reallege the preceding allegations as though fully set forth herein.
109. Even if the court were to determine that Texas laws specifically and exclusively applicable to voter registration activities are non-discriminatory, the challenged laws still impose severe burdens on voter registration activities and core political speech that are not justified by a substantial state interest.
110. The Appointment Requirement, the Compensation Prohibition, the Personal Delivery Requirement, the County Limitation, and the Identification Requirement make voter registration drives economically and administratively impractical, effectively limiting the amount of the Voter Organization Plaintiffs' speech and restricting the size of the audience that the Voter Organization Plaintiffs can persuade with its message. Therefore, the challenged laws violate the First Amendment of the United States Constitution.

Count IV:

Section 13.008 of the Texas Election Code is Unconstitutionally Overbroad and Vague in Violation of the First and Fourteenth Amendments and 42 U.S.C. § 1983

111. Plaintiffs repeat and reallege the preceding allegations as though fully set forth herein.
112. The Compensation Prohibition forecloses performance-based compensation for "facilitat[ing]" voter registrations. It also creates criminal liability for engaging in a wide range of protected political speech and expressive activities—including pure speech about voting rights, explanations of the voting process, explanation of the registration process, discussions of election law, and conversations about the importance of expanding the voting base. Given the vagueness of the undefined term "facilitates," it is

not clear what the legitimate scope of the law would be. Therefore, the statute violates the First Amendment of the United States Constitution.

113. Furthermore, the term “facilitates” is so vague as to force citizens to guess what conduct is prohibited and to give law enforcement and election officials no guidance or standards to avoid unconstitutional applications, therefore chilling the exercise of First Amendment rights and violating the Due Process Clause of the Fourteenth Amendment.

Count V:

Sections 13.036 and 13.039 of the Texas Election Code are Unconstitutionally Vague in Violation of the Fourteenth Amendment and 42 U.S.C. § 1983

114. Plaintiffs repeat and reallege the preceding allegations as though fully set forth herein.
115. By allowing registrars to terminate the appointment of a VDR upon a determination by the registrar that the VDR “failed to adequately review” a voter registration application for “completeness” without defining what either “adequately review” or “completeness” mean, the statutes force voter registration groups and workers to guess what they must do to comply with the law and avoid the termination of VDR appointments. The challenged laws also invite arbitrary, discriminatory, and inconsistent enforcement by registrars in Texas’s 254 counties. Accordingly, these statutes chill the exercise of First Amendment rights and violate the Due Process Clause of the Fourteenth Amendment.

Count VI:

The Galveston County Registrar’s Enforcement of Senate Bill 14 Violates the Equal Protection Clause of the Fourteenth Amendment

116. Plaintiffs repeat and reallege the preceding allegations as though fully set forth herein.
117. The Equal Protection Clause of the Fourteenth Amendment provides that “no state shall . . . deny to any person within its jurisdiction the equal protection of the laws.”
118. Texas Senate Bill 14 regulates voting in the state of Texas by mandating that voters

present an acceptable form of photo identification before they may cast a vote at the polls.

119. Plaintiffs Richey and McFadden, among other registered voters of Galveston County, have been required to present photo identification at the polls in order to exercise their right to vote. Voters in other Texas counties are not subject to this additional requirement.
120. The disparate treatment of Galveston County voters violates the Equal Protection Clause of the Fourteenth Amendment. The State of Texas and the Galveston County Registrar's Office cannot arbitrarily place a burden on one group of voters by enforcing a specific voting requirement in one county, while voters in other counties remain free of that burden.
121. Texas Senate Bill 14 also has an unfair and unequal impact on certain classes of voters within Galveston County. The voter-ID requirement will disproportionately affect minority, poor, disabled, and elderly voters who do not have or cannot easily afford or obtain government-issued photo identification.
122. Texas Senate Bill 14 does not serve a compelling state interest. Nor is differentiating between Galveston County voters and voters from other counties necessary to serve any legitimate state interest.

**Count VII:
Violation of Section 5 of the Voting Rights Act of 1965, 42 U.S.C. § 1973c, and 42 U.S.C. §§ 1973gg-6(b)**

123. Plaintiffs repeat and reallege the preceding allegations as though fully set forth herein.
124. Section 5 of the Voting Rights Act of 1965 requires that any state law related to voting be pre-cleared by the federal government before the state may implement and enforce it.

125. Texas Senate Bill 14 regulates voting in the state of Texas by mandating that voters present an acceptable form of photo identification before they may cast a vote at the polls. The federal government has not pre-cleared it.
126. Plaintiffs Richey and McFadden, among other registered voters of Galveston County, have been required by the Galveston County Registrar's Office to present photo identification at the polls in order to exercise their right to vote.
127. By enforcing the provisions of Texas Senate Bill 14 before receiving pre-clearance, the Galveston County Registrar has violated Section 5 of the Voting Rights Act of 1965.

**Count VIII:
Violation of Tex. Elec. Code §§ 15.051-053**

128. Plaintiffs repeat and reallege the preceding allegations as though fully set forth herein.
129. Texas Election Code §§ 15.051-053 requires voter registrars to provide written notice to voters before removing them from the list of registered voters.
130. The Galveston County Registrar has persisted in suspending voters' registration without any prior notice. Plaintiffs Richey and McFadden have been placed on the suspension list and have been harmed by this practice.
131. Defendant Johnson's failure to provide written notice before placing voters on the suspension list violates Tex. Elec. Code §§ 15.051-053.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in its favor and that the Court:

- A) Declare that Defendant is in violation of the NVRA by refusing to grant access for inspection and photocopying of the Requested Records;
- B) Declare that the NVRA preempts Tex. Gov't Code § 552.108(a), Tex. Elec. Code

- § 13.038, and any other Texas law, rule, or regulation that forecloses the right to inspect and to copy the Requested Records;
- C) Permanently enjoin Defendant from refusing to permit access to any requesting party for copy and/or inspection of voter registration applications and related records, as sought by Voting for America and Project Vote in this matter;
 - D) Declare that the NVRA preempts Tex. Elec. Code §§ 13.031, 13.038, 13.039, 13.042, and any other Texas law, rule, or regulation that constrains the proper distribution and delivery of voter registration applications under the NVRA;
 - E) Declare that Tex. Elec. Code §§ 13.008, 13.033, 13.038, and 13.042 restrict speech based on content and viewpoint in violation of the First Amendment, facially and as applied to Voting for America and Project Vote;
 - F) Declare that Tex. Elec. Code §§ 13.008, 13.033, 13.038, and 13.042 severely burden voter registration speech and political association in violation of the First Amendment of the United States Constitution;
 - G) Declare that Tex. Elec. Code § 13.008 is void because it is unconstitutionally vague in violation of the First Amendment and the Due Process Clause of the Fourteenth Amendment;
 - H) Declare that Tex. Elec. Code §§ 13.036 and 13.039 are void because they are unconstitutionally vague in violation of the Due Process Clause of the Fourteenth Amendment;
 - I) Declare that Texas Senate Bill 14 may not be enforced until such time as it receives clearance by order of the relevant federal governmental body;
 - J) Declare that the records of Plaintiffs Richey and McFadden, and all others so situated, be

corrected of any notation requiring the presentation of photo identification and otherwise be returned to full registration status. Plaintiffs Richey and McFadden are entitled to have their registration records corrected, including the omission of the improper data coding;

- K) Require Defendants to send notice as required by state law before implementing any impediment to these or other voter registration records and before placing registered voters on a suspension list. Plaintiffs Richey and McFadden and all others so situated are entitled to have their records corrected after the appropriate notice has been sent to them and all other affected voters and they have responded;
- L) Award Plaintiffs the costs incurred in pursuing this action, including attorneys' fees and reasonable expenses, as authorized by 42 U.S.C. § 1973gg-9(c), 42 U.S.C. § 1988, and other applicable provisions; and
- M) Grant such other and further relief as the Court deems proper.

This 15th day of March, 2012.

Respectfully submitted,

By: /s/ Chad W. Dunn
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