

**STATEMENT OF KRISTEN CLARKE
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**U.S. HOUSE COMMITTEE ON ADMINISTRATION
SUBCOMMITTEE ON ELECTIONS
HEARING ON
“VOTING RIGHTS AND ELECTION ADMINISTRATION IN AMERICA”**

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Chairwoman Fudge, Ranking Member Davis, and Members of the Subcommittee on Elections of the U.S House of Representatives Committee on House Administration, my name is Kristen Clarke and I serve as the President and Executive Director of the Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee"). As a former attorney at the U.S. Department of Justice, I handled countless cases under the Voting Rights Act, including matters that arose under Section 5, and presented argument for the court in the *Shelby County v. Holder* litigation. Thank you for the opportunity to testify today on voting rights and election administration in America; not only is this issue central to our democracy, but it is vital to ensuring equality and equal justice for African Americans, Latinos, and other people of color in this country.

The Lawyers' Committee for Civil Rights Under Law, the organization that I lead, has been at the forefront of the battle for equal rights since it was created in 1963 at the request of President John F. Kennedy to enlist the private bar's leadership and resources in combating racial discrimination. Simply put, our mission is to secure equal justice under the rule of law. To accomplish its mission, the Lawyers' Committee has been a leader in many of the most important voting rights cases litigated over more than the last half century.

We spearheaded the National Commission on the Voting Rights Act, which made the largest contribution to the record supporting the 2006 reauthorization of the Act, and participated in the legal defense of the two cases challenging the constitutionality of the reauthorization. In 2014, we organized the National Commission on Voting Rights which issued a report documenting ongoing voting discrimination.¹ The Lawyers' Committee has also led Election Protection, the largest and longest-running non-partisan voter protection program in the U.S., since its creation 18 years ago. To this day, the Lawyers' Committee's docket of significant voting rights litigation is among the most comprehensive and far-reaching—both geographically and in terms of the issues raised—as any in the nation.

Broadly, we are in a period of retrenchment against nearly all civil rights and liberties, but the threats to the right to vote challenge the very foundation of our democracy and our decades-long march towards equality. Voting is the right that is "preservative of all rights,"² because it empowers people to elect candidates of their choice, who will then govern and legislate to advance other rights. As voting rights were guaranteed under law and enforced by the federal government, the makeup of state and local legislatures, and Congress changed significantly, and legal protections have been increasingly expanded for marginalized groups—especially people of color. But, voting rights have always been contested in this country, with gains in turnout and representation by people of color often met with an inevitable backlash that sought to suppress our electoral power.³

In important ways, we are farther away from victory in this battle than we were less than a

¹ NATIONAL COMMISSION ON VOTING RIGHTS, PROTECTING MINORITY VOTERS: OUR WORK IS NOT DONE (2014), <http://votingrightstoday.org/ncvr/resources/discriminationreport>.

² *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).

³ ARI BERMAN, GIVE US THE BALLOT: THE MODERN STRUGGLE FOR VOTING RIGHTS IN AMERICA (2015).



decade ago. Before 2013, we had the protections of Section 5 of the Voting Rights Act, which established a bulwark against state and local action in those states with a long and documented history of racial discrimination in voting. Under Section 5, covered jurisdictions—jurisdictions with a statutorily defined and demonstrated history of racial discrimination in voting—had to show federal authorities that a proposed voting change did not have a discriminatory purpose or the discriminatory effect of diminishing the ability of minority voters to vote or to elect their preferred candidates of choice. That protection is gone.

In *Shelby County v. Holder*, Chief Justice Roberts wrote that “things have changed dramatically” in the South since passage of the Voting Rights Act in 1965, and that “[b]latantly discriminatory evasions of federal decrees are rare.”⁴ Unfortunately, that has proven to be an overly optimistic view of the state of voting rights in this country.

Of course, some “things” have changed—we no longer have literacy tests or direct poll taxes, and people understand that discrimination is illegal and actionable. But, the “[b]latantly discriminatory evasions” of decades past have been replaced by subtler, but equally pernicious discrimination. At a time when the country is progressing towards becoming majority people of color,⁵ access to the franchise is under threat by both overt and covert voter suppression laws and tactics, (1) including making voter registration more difficult and restricting organizations from helping people register, (2) voter purges of eligible voters, (3) unduly restrictive photo ID laws, (4) polling place closures and polling place relocations to sites deemed hostile by voters of color, (5) ineffective language assistance for voters with limited English proficiency, (6) long lines at polling places due to insufficient staffing and poll locations, (7) improper handling of absentee ballots, (8) faulty technology, particularly in minority communities, that risks votes not being properly counted and exposes the machines to the risk of tampering, and (9) vote dilution that undermines the ability of people of color to elect candidates of their choice.

Prior to *Shelby*, covered jurisdictions had to provide notice to the federal government—which meant notice to the public—before they could implement changes in their voting practices or procedures. Such notice is of paramount importance, because the ways that the voting rights of minority citizens are jeopardized are often subtle. They range from the consolidation of polling places so as to make it less convenient for minority voters to vote, to the curtailing of early voting hours that makes it more difficult for low-income people of color to vote, to the disproportionate purging of minority voters from voting lists under the pretext of “list maintenance.” As Congressman John Lewis said after the *Shelby* decision was handed down, the Supreme Court “struck a dagger in the heart of the Voting Rights Act.”⁶

Nor do we have the protections of a Department of Justice committed to the core

⁴ *Shelby Cty., Ala. v. Holder*, 570 U.S. 529, 531 (2013).

⁵ William H. Frey, *The US will become ‘minority white’ in 2045, Census projects*, The Brookings Institution (Oct. 15, 2019, 1:22 PM), <https://www.brookings.edu/blog/the-avenue/2018/03/14/the-us-will-become-minority-white-in-2045-census-projects/>.

⁶ Press Release, Rep. John Lewis, Rep. John Lewis Calls Court Decision “A Dagger” in the Heart of Voting Access (June 25, 2013), <https://johnlewis.house.gov/media-center/press-releases/rep-john-lewis-calls-court-decision-dagger-heart-voting-access>.



constitutional mandate of equal justice under law for all. Before 2017, we had in the Department of Justice a partner in the fight for civil rights, and—importantly— one with the capacity and resources which civil rights organizations could not match. Today, the Department is not only sitting on the sidelines in this crucial battle, but it is also taking affirmative stands against positions that would further equal justice—positions it had previously fought for.

Although Section 2 of the Voting Rights Act remains a viable weapon in the fight against racial discrimination in voting, it is nowhere near as potent a weapon as was Section 5. Where Section 5 protected against discriminatory changes in voting, against an easily applied standard of whether minority voters would be worse off as a result of the change, Section 2 requires plaintiffs to bear the burden of complex and costly protracted litigation to show that an existing or newly instituted policy or practice is discriminatory. Where, under Section 5, the Department of Justice would necessarily bear the relatively modest costs of defending against the jurisdiction's claim that the change in voting practices was not retrogressive, Section 2 places those costs on resource-strapped private litigants.

Nevertheless, organizations like the Lawyers' Committee have continued to fight the fight, made even more essential by the vacuum left by the evisceration of Section 5 of the Voting Rights Act and the Department of Justice's decision to go AWOL from its historic role of protecting civil rights. Since *Shelby County*, the Lawyers' Committee has been involved in 41 cases relating to discriminatory practices in voting or adverse effects on the voting rights of minority voters, summarized in Appendices A and B to this testimony.

Twenty-four of these actions were filed since January 20, 2017—which is twenty-four more cases than instituted by the current administration's Department of Justice. Not including the four cases where we sued the federal government, in twenty-nine of the thirty-seven (78.3%) cases we have been opposed by state or local jurisdictions that were covered by Section 5, even though far less than half of the country was covered by Section 5. Importantly, we have achieved substantial success—measured by final judgment, advantageous settlement, or effective injunctive relief in three-quarters of these cases.

The voting rights cases we handle run the gamut of the voting process: from registration to the casting of the vote to ensuring that a minority voter's vote has an equal chance to be effective as that cast by a white voter. The breadth and scope of the cases we have handled in just the last few years highlights dramatically the problems still faced by voters from communities of color. These cases are but some of the Lawyers' Committee entire docket of cases from just over the past half-decade. Moreover, they represent even a smaller fraction of the many cases brought by our brother and sister organizations. I will note that mounting these litigation efforts have come at great expense and required significant diversion of resources.

In my testimony, I will outline the modern forms of voting discrimination—which can be subtle, but no less pernicious than first generation barriers to the ballot—through highlights of our active and substantial voting rights litigation. I will also provide an overview of Election Protection, which provides a front-line defense for voters against discrimination and election administration errors in real time, as the nation's largest and longest-running non-partisan voter protection program.



Obstacles to Voter Registration

There are significant obstacles to voter registration, some natural, some technological, and some man-made. In 2016, Chatham County, Georgia, was hard hit by Hurricane Matthew, just days before the close of voter registration. Chatham County has over 200,000 voting age citizens, of whom more than 40 percent are African American. Almost half of its residents lost electrical power during the storm, and the county had been subject to mandatory evacuation. Yet Governor Nathan Deal and then Secretary of State Brian Kemp refused to extend the deadline. We sought and obtained emergency relief extending the deadline to register, allowing over 1400 predominately African American and Latino citizens to vote.⁷ That same year, we sought and obtained similar relief, extending the voter registration deadline, in Virginia, after its online voter registration system crashed. Over 28,000 voters were able to register as a result of the court order.⁸

With our partner civil rights organizations, we have also brought actions to enforce Sections 5 and 7 of the National Voter Registration Act's requirements that states make assistance to register to vote available to people who visit motor vehicle and public assistance agencies. One such case, against North Carolina, settled in 2018 with substantial improvements made at both state department of motor vehicles and social service agencies in how voter registration applications are offered and processed.⁹

In 2017, the Lawyers' Committee successfully challenged Georgia's runoff election voter registration scheme, which violated Section 8 of the National Voter Registration Act, because it required Georgians to register to vote approximately three months before a federal runoff election, while the NVRA set the deadline at 30 days.¹⁰

In addition to NVRA violations, a number of jurisdictions continue to impose a proof of citizenship requirement during voter registration, which not only weighs disproportionately and heavily on persons of color, but also violates federal law. The Lawyers' Committee has twice sued to stop such practices, first intervening on behalf of the Inter Tribal Council of Arizona, Inc. to successfully defeat an attempt by the states of Arizona and Kansas to modify the state-specific instructions of the federal mail voter registration form to require applicants residing in Kansas and Arizona to submit proof-of-citizenship documents in accordance with state law,¹¹ and, second, obtaining a preliminary injunction against a decision of the Election Assistance Commission's Executive Director to include a proof of citizenship requirement on federal form instructions used by Alabama, Georgia, and Kansas.¹²

⁷ *Georgia Coalition for the Peoples' Agenda, et al., v. John Nathan Deal, et al.* (S.D. Ga., No. 4:16-cv-0269-WTM-GRS, October 12, 2016).

⁸ *New Virginia Majority Education Fund, et al. v. Virginia Department of Elections, et al.*, No. 1:16-cv-01319 (E.D.Va. 2016), .

⁹ *Action NC, et al. v. Kim Westbrook Strach, et al.*, No. 1:15-cv-01063 (M.D.N.C. 2018).

¹⁰ *Georgia State Conference NAACP v. Georgia*, No. 1:17-CV-1397 (N.D. Ga. May 4, 2017).

¹¹ *Kobach v. U.S. Election Assistance Commission*, 772 F. 3d 1183 (10th Cir. 2015).

¹² *League of Women Voters of United States v. Newby*, 838 F.3d 1 (D.C. Cir. 2016).



Arizona created a two-tier voter registration process in the wake of the Supreme Court's decision in *ITCA v. Arizona*,¹³ a case the Lawyers' Committee successfully litigated, which held that Arizona's documentary proof of citizenship requirement was preempted by the National Voter Registration Act (NVRA) as applied to federal elections. Confusion ensued when the state limited voters using the federal form to voting in federal elections, even if the state had information in its possession confirming the applicant was a United States citizen. The Lawyers' Committee and other civil rights organizations sued, alleging that the state's two-tier registration process constituted an unconstitutional burden on the right to vote, and obtained a settlement that allows the state to continue to require proof of citizenship to register to vote in state, but requires the state to treat federal and state registration forms the same and to check motor vehicle databases for citizenship documentation before limiting users of the federal registration form to voting in federal elections.¹⁴

Later, the Lawyers' Committee again intervened on behalf of the Inter Tribal Council of Arizona, Inc. to successfully defeat an attempt by the states of Arizona and Kansas to modify the state-specific instructions of the federal mail voter registration form to require applicants residing in Kansas and Arizona to submit proof-of-citizenship documents in accordance with state law.¹⁵

In January 2016, then-U.S. Election Assistance Commission Executive Director Brian Newby, acting without input from the EAC Commissioners, issued notice to Alabama, Georgia, and Kansas that the federal registration form instructions would be amended to allow these states to require citizenship documents from applicants who use the federal registration form. Plaintiffs, represented by a number of civil rights organizations, including the Lawyers' Committee, filed suit to enjoin Newby's action and the United States Court of Appeals for the District of Columbia Circuit preliminarily enjoined the EAC from changing the federal voter registration form after the District Court for the District of Columbia denied Plaintiffs' motion for a preliminary injunction.¹⁶ The case is pending final decision.

The Lawyers' Committee, working with partner civil rights organizations, has also sued the State of Georgia three times to stop its "exact match" practice in voter registration, which required information on voter registration forms to exactly match information about the applicant on Social Security Administration (SSA) or the state's Department of Driver's Services (DDS) databases. Ultimately, the Georgia legislature amended the "exact match" law in 2019 to permit applicants who fail the "exact match" process for reasons of identity to become active voters, but the Legislature chose not to enact any remedial legislation to reform the "exact match" process that continues to inaccurately flag United States citizens as non-citizens.¹⁷

¹³ 570 U.S. 1 (2013).

¹⁴ *League of United Latin Am. Citizens Arizona v. Reagan*, No. CV17-4102, 2018 WL 5983009 (D. Ariz. Nov. 14, 2018).

¹⁵ *Kobach v. U.S. Election Assistance Commission*, 772 F. 3d 1183 (10th Cir. 2015).

¹⁶ *League of Women Voters of United States v. Newby*, 838 F.3d 1 (D.C. Cir. 2016).

¹⁷ *Third Sector Development, et al. v. Kemp, et al.*, No. 2014CV252546, 2014 WL 5113630 (Fulton Cty. Super. Ct. Ga. Oct. 10, 2014); *Georgia State Conference of NAACP, et al., v. Brian Kemp, et al.*, No. 2:16-cv-00219 (N.D. Ga. Sept. 14, 2016); *Georgia Coal. for People's Agenda, Inc. v. Kemp*, 347 F. Supp. 3d 1251 (N.D. Ga. 2018).



In addition to burdens placed on individuals registering to vote, just this spring the State of Tennessee passed a law that imposes severe restrictions on voter registration activity by community groups and third parties—including criminal and civil penalties for failures to comply with the law. The law was enacted in the wake of successful large-scale voter registration initiatives in the state in 2018 which targeted minority and underserved communities. Last month, the court issued a preliminary injunction, at the request of the Lawyers' Committee, representing several civil rights organizations who work to register voters, which stayed implementation of the law, on the basis that we had proved a probability of success on our claims that the law violated the First Amendment and the right to vote.¹⁸

Obstacles to Remaining on the Voter Rolls: Voter Purges

Once an eligible voter is registered, we work to ensure that they stay on the rolls. We have been forced to sue jurisdictions large and small to combat unlawful voter purges.

In 2015, the Board of Elections and Registration in Hancock County, Georgia, changed its process to initiate a series of “challenge proceedings” to voters, all but two of whom were African American, that resulted in the removal of 53 voters from the register. Later that year, the Lawyers' Committee, representing the Georgia State Conference of the NAACP and the Georgia Coalition for the Peoples' Agenda and individual voters, challenged this conduct as violating the VRA and the National Voter Registration Act (NVRA), and obtained a preliminary injunction, which resulted in the ordering of the wrongly-removed voters back on the register. Ultimately plaintiffs and the Hancock County Board agreed to the terms of a Consent Decree to remedy the violations, and subject the County to monitoring its compliance with federal law for five years.¹⁹ But the damage of denying African Americans an equal voice and fair chance at representation was already done: after the purge and prior to the court order, Sparta, a predominantly African American city in Hancock County, elected its first white mayor in four decades, and at least one illegally removed voter died while the litigation was pending, and before she could exercise her franchise.

On November 3, 2016, the Lawyers' Committee and another civil rights organization filed suit alleging that the New York City Board of Elections (NYCBOE) had purged voters from the rolls in violation of the NVRA. Earlier in the year, the NYCBOE had confirmed that more than 126,000 Brooklyn voters were removed from the rolls between the summer of 2015 and the April 2016 primary election. After entry of the State of New York and the U.S. Department of Justice in the case, the NYCBOE agreed to place persons who were on inactive status or removed from the rolls back on the rolls if they lived at the address listed in their voter registration file and/or if they had voted in at least one election in New York City since November 1, 2012 and still lived in the city. Subsequently, the parties negotiated a Consent Decree, under which the NYCBOE agreed

¹⁸ *Tennessee State Conference of the N.A.A.C.P. v. Hargett*, No. 3:19-cv-00365 (M.D. Tenn. 2019).

¹⁹ *Georgia State Conference of NAACP v. Hancock Cty. Bd. of Elections & Registration*, No. 5:15-CV-00414 (CAR) (M.D. Ga. 2015).



to comply with the NVRA before removing anyone from the rolls, and to subject itself to a four-year auditing and monitoring regimen.²⁰

More recently, in January 2019, David Whitley, then-Secretary of State of Texas, sent Texas counties a list containing 95,000 registered voters and directing the counties to investigate their voting eligibility. The list was based on DMV data that the state knew was flawed and would necessarily sweep in thousands of citizens who completed the naturalization process after lawfully applying for a Texas drivers' license. Voting rights advocates, including the Lawyers' Committee, filed lawsuits challenging the purge and obtained a preliminary injunction, enjoining the removal of voters from the rolls based upon this flawed process. The case settled immediately thereafter, with Texas abandoning the process.²¹

Obstacles to Voting: Unduly Restrictive Voter ID

On June 25, 2013, the day *Shelby County* was decided, Texas announced it was going to immediately implement its photo ID law, known as SB 14, which had failed to obtain pre-clearance from the Attorney General or the federal court in accordance with Section 5 of the Voting Rights Act. Several civil rights organizations, including the Lawyers' Committee, and the Department of Justice, challenged the Texas voter ID law under Section 2 of the VRA and the U.S. Constitution.

After years of litigation, the Fifth Circuit Court of Appeals, sitting *en banc*, affirmed the district court's finding that SB 14 had a discriminatory effect on the voting rights of African-American and Latino voters, because they were two to three times less likely to possess the required ID than were white voters, and that it was two to three times more difficult for them to get the ID than it was for white voters.²² The Fifth Circuit also ruled that there were sufficient facts in the record to support the district court's finding that SB 14 had been passed with discriminatory intent, remanding that issue for further fact-finding.

The district court then reconfirmed its finding of discriminatory intent, and the Texas Legislature passed a new law that substantially incorporated the terms of an interim remedial order agreed to by the parties and approved by the Court, which allowed any eligible voter who did not possess the required ID to cast a regular ballot upon execution of a declaration of reasonable impediment. Ultimately, the Fifth Circuit ordered the case dismissed on the basis that the new law provided all the relief to which plaintiffs were entitled.²³

Obstacles to Casting the Vote: Polling Place Locations

Of course, getting and keeping voters on the rolls does not end the story. Voters must be able to get to the polls, and, when at the polls, must be able to vote. In recent years, we have

²⁰ *Common Cause/New York v. Board of Elections in City of New York*, No. 1:16-cv-06122 (E.D.N.Y. 2017).

²¹ *Texas League of United Latino American Citizens v. Whitley*, No. 5:19-cv-00074 (W.D. Tex. Feb. 27, 2019).

²² *Veasey v. Abbott*, 830 F.3d 216 (5th Cir. 2016) (en banc).

²³ *Veasey v. Abbott*, 888 F.3d 792 (5th Cir. 2018).



witnessed the erection of obstacles by closing polling places that are more easily accessible to minority communities, and the prevalence of technological and other malfunctions that lead to long lines, discouraging voters from casting their ballots.

Some of these problems have been resolved without litigation, such as in 2016 when Macon-Bibb County, Georgia attempted to shift a polling place from a location accessible to the African-American community to the Sheriff's office. Because of fears that this decision would reduce turnout among African-American voters, the Lawyers' Committee worked with the Georgia State Conference of NAACP Branches, the Georgia Coalition for the People's Agenda, and New Georgia Project, to organize a successful petition drive that required the Board of Elections to reverse the relocation decision under Georgia law.²⁴ Just this month, the Lawyers' Committee, working with these same organizations, have put Jonesboro, Georgia, on notice that the city's decision to move its only polling place to the police station will have an intimidating effect on African-American voters, and violate their rights under the Voting Rights Act.

Other situations have required litigation, such as the 2014 decision by San Juan County, Utah, to switch to all-mail balloting, but allowing in-person early voting at a single location only, easily accessible to the white population, but three times less accessible to the sizable Navajo population, who had to drive on average three hours to get to the polling place. The matter settled with the establishment of three polling locations on land of the Navajo Nation.²⁵

Obstacles to Casting the Vote: Ineffective Language Assistance

Section 203 of the Voting Rights Act requires jurisdictions with at least five percent of its citizens as members of a single-language minority group to provide effective language assistance at the polls.²⁶ In the San Juan County, Utah, case described above, plaintiffs also alleged that the County failed to meet this standard as to its Navajo language speakers. The settlement we and our partner organizations achieved requires the County to provide in-person language assistance on the Navajo reservation for the 28 days prior to each election through the 2020 general election, and to take additional action to ensure quality interpretation of election information and materials in the Navajo language.²⁷

Obstacles to Casting the Vote: Long Lines

Long lines on election day also pose a barrier to voting, which disproportionately impacts people of color and low-income voters. Casting a ballot necessitates arranging for transportation to the polling place, and often taking time off from work, which can be challenging even when the polling place is nearby and adequately staffed. However, waiting in long lines—often for hours—

²⁴ Stanley Dunlap, *Macon-Bibb Polling Location OK'd After Sheriff's Precinct Nixed*, The Telegraph (May 16, 2016), <http://www.macon.com/news/local/article77929442.html>.

²⁵ *Navajo Nation Human Rights Comm'n v. San Juan County*, 216CV00154, 2017 WL 3976564, at *1 (D. Utah Sept. 7, 2017).

²⁶ 52 U.S.C. § 10503(b)(2).

²⁷ *Navajo Nation Human Rights Comm'n v. San Juan County*, 216CV00154, 2017 WL 3976564, at *1 (D. Utah Sept. 7, 2017).



at polling places can result in people being forced to leave before they are able to vote, denying them the exercise of the franchise. Long lines can result from the closure of polling places, particularly in communities of color, as well as having inadequate staffing and too few machines at the polls.

For instance, the Lawyers' Committee sued Maricopa County in 2016, after the County slashed the number of polling places from 211 in 2012 to 60 “mega-centers” in 2016, resulting in one polling place for every 21,000 voters, compared to one for every 1,500 elsewhere in the state. Sixty percent of Arizona’s minority voters reside in the County. The parties settled the case with an agreement that required Maricopa County to create a comprehensive wait-time reduction plan and a mechanism to address wait times at the polls that exceed 30 minutes.²⁸

On Election Day 2018, technology failures in precincts with large African-American populations in Fulton County, Georgia, caused extraordinary long lines. Plaintiffs, working with the Lawyers' Committee's Election Protection program, obtained hours' long extensions at two of these precincts in order to enable more people to vote that day.²⁹

Obstacles to Casting the Vote: Improper Handling of Absentee Ballots

On October 23, 2018, the Lawyers' Committee joined lawsuits challenging Georgia's practices of 1) rejecting absentee ballots based upon election officials' untrained conclusion that the voter's signature on the absentee ballot envelope did not match the voter's signature on file with the registrar's office, and 2) rejecting absentee ballots for immaterial errors or omissions on the ballot envelope. Georgia had an extraordinarily high rate of absentee ballot rejections generally, but the rejection rate in Gwinnett County was almost 3 times that of the state and absentee ballots cast by voters of color were rejected by Gwinnett County at a rate between 2 and 4 times the rejection rate of absentee ballots cast by white voters. Plaintiffs were granted preliminary relief before the November 2018 mid-term election. Subsequently, Georgia enacted remedial legislation and the lawsuits were voluntarily dismissed in 2019.³⁰

Obstacles to the Vote Counting: Faulty Technology

The Lawyers' Committee and co-counsel represented the Coalition for Good Governance and individual plaintiffs in a suit challenging Georgia's use of electronic ballot machines system, alleging that the vulnerability of the machines to tampering and their failure to have a paper back-up so voters can verify their votes violate the constitutional right to vote. Part of plaintiffs' proofs were an unexplained disparity in the votes by African Americans, when using the electronic ballot system, compared to their use of paper absentee ballots.

²⁸ *Huerena v. Reagan*, Superior Court of Arizona, Maricopa County, CV2016-07890 (D. Ariz. July 7, 2016).

²⁹ *Georgia State Conference of NAACP, et al. v. Fulton County Bd. of Reg. & Elections* (Fulton Cty. Super. Ct. Ga. Nov. 6, 2018).

³⁰ *Martin v. Kemp*, No. 18-14503-GG (N.D. Ga. 2018).



On August 9, 2019, the district court preliminarily enjoined the state's use of its direct-recording electronic voting machines for all elections after December 31, 2019. The court further directed that, if the state is unable to implement completely a new system beginning January 2020, it must be ready to use paper ballots. The court also ordered that the state ensure that all polling places have paper back-ups for their electronic polling books.³¹

Obstacles to a Vote Counting Equally: Vote Dilution

Section 2 of the Voting Rights Act prohibits not only the discriminatory denial of vote, as in the Texas Photo ID case, but also the discriminatory dilution of votes, such as where the way election district lines are drawn curtail the ability of voters of color to elect candidates of their preference. The Lawyers' Committee has brought several successful suits challenging such practices.

In Emanuel County, Georgia, the Lawyers' Committee represented plaintiffs who alleged that the district boundaries for seven School Board districts impermissibly diluted the voting strength of African American voters by "packing" them into one district. African Americans comprise 81 percent of the voting-age population in one of the districts and a minority in all of the other six. Although African Americans made up one-third of the county's voting-age population and close to half of the students in Emanuel County, and although African American candidates had run in other districts, there had never been more than one African American member on the School Board at one time. After suit was filed, the parties negotiated a settlement, resulting in the creation of two majority-minority single-member districts.³²

Similarly, in Jones County, North Carolina, plaintiffs, represented by the Lawyers' Committee, challenged the at-large scheme of electing members to the Jones County, NC Board of Commissioners, to which no African American had ever been elected since 1998, despite African Americans comprising 30 percent of the population. The parties settled the matter with an agreement that the Board of Commissioners would implement a seven single-member district electoral plan, including two single-member districts in which African American voters constitute a majority of the voting-age population.³³

Most recently, Black Mississippi voters filed a challenge to the districting plan for Mississippi State Senate District 22 under Section 2 of the Voting Rights Act. Plaintiffs, represented by the Lawyers' Committee and Mississippi Center for Justice contended that the plan diluted the voting strength of Black voters and, combined with racially polarized voting, prevented them from electing candidates of their choice to the Senate District 22 seat. Plaintiffs prevailed at trial and the trial court gave the Legislature an opportunity to re-draw the district to comply with the court's decision. After failing to obtain a stay of the court's order, the Legislature redrew the district to create a district with a sufficiently large Black voting population to give Black voters an equal opportunity to elect candidates of their preference. The Fifth Circuit affirmed the district

³¹ *Donna Curling, et al. v. Brian Kemp, et al.* No. 1:17-cv-02989-AT (N.D. Ga. Aug. 8, 2017).

³² *Georgia State Conference of NAACP, et al., v. Emanuel County Board of Commissioners, et al.*, No. 6:16-cv-021 (S.D. Ga. Feb. 23, 2016).

³³ *Hall v. Jones Cty. Bd. of Commissioners*, No. 4:17-cv-00018 (E.D.N.C. Aug. 23, 2017).



court's decision.³⁴ Last month, the Fifth Circuit issued an order, *sua sponte*, accepting the matter for review before the Fifth Circuit, sitting *en banc*.³⁵

Proactively Protecting the Vote Through Election Protection

In our role as leader of Election Protection, the Lawyers' Committee convenes a growing network of more than 200 national, state and local coalition partners, over 100 law firms and thousands of trained legal volunteers to provide front-line assistance to an average of over a hundred thousand voters each election year. This support is provided through the 866-OUR-VOTE hotline which operates year-round, the deployment of grassroots organizers and volunteers to hot spots across the country, and legal advocacy, intervention and litigation to help disrupt the most significant voting barriers that emerge across the country. Without question, this work has intensified and increased.

In coordination with coalition partners, we recruit, train and deploy thousands of volunteer poll monitors around the country each year. Examples of large entities that promote and rely on and partner with Election Protection include the ACLU, the NAACP, Common Cause, AAJC, Rock the Vote, and many others. However, we also have great resonance with local grassroots organizations as well such as Democracy North Carolina, the Arizona Advocacy Network, the Milwaukee Area Labor Council, Georgia Coalition for the People's Agenda, One Voice—Mississippi, the Virginia Civic Engagement Table, Philadelphia Public Interest Law Center and more.

Our program has a track record of proven success and impact, staffed by well-trained individuals and anchored by a strong infrastructure. We work year-round to remove barriers to voting through voter education, advocacy, and, when necessary, litigation.

In 2018, our Election Protection call center fielded traffic mirroring the 2016 presidential election cycle. Our data show that our national, nonpartisan assistance to voters helped hundreds of thousands of voters cast a ballot that count in 2018. On Election Day 2018, the Election Protection hotlines received around 31,000 calls, and in the three days after the midterms, the 866-OUR-VOTE hotline continued to receive several thousand calls from voters who had short time lines to cure issues with affidavit ballots, had concerns with run-off elections and more. Overall, we received more than 78,000 calls to the hotlines (and texts) in 2018. While some calls reflected individualized problems, many reflected problems that were systemic in scope and dimension—giving us the opportunity to address problems impacting voters in entire cities, counties, and states.

Since the Election Protection program is housed within the Lawyers' Committee, we use rapid response litigation and maintain an active docket of cases that are responsive to voter suppression efforts uncovered through our vast Election Protection network. Without the full protections of the Voting Rights Act, we expect that the strains and burdens placed on our Election Protection program will increase in the road ahead.

³⁴ *Thomas v. Bryant*, 919 F.3d 298 (5th Cir. 2019).

³⁵ *Joseph Thomas, et al. v. Phil Bryant, et al.*, No. 19-60133 (5th Cir. Sept. 23, 2019).



Conclusion

Our nation is at a critical juncture in the battle—as long as the history of this nation—to ensure true equality of voting rights for all. People of color continue to be disproportionately targeted by voter suppression tactics, some of which are modern and more subtle forms of discrimination, but no less effective in denying access to the franchise or diminishing the electoral power of communities of color. Restoring the full protections of the Voting Rights Act and reinvigorating its enforcement by the Department of Justice is essential to achieving equal access to the ballot and equal representation. As long as access to the ballot continues to be contested, vigilance is required, and I urge this Committee and this Congress to act with increased rigor to fulfill the promises of our Constitution and protect the equal opportunity to cast a vote and participate in our democracy.

APPENDIX A

CASES THE LAWYERS' COMMITTEE FOR CIVIL RIGHTS' VOTING RIGHT PROJECT HAS PARTICIPATED IN SINCE *THE SHELBY COUNTY V. HOLDER* DECISION¹

Alabama

Section 2 Vote Dilution Challenge to At-Large Election to State High Courts:

On September 7, 2016, the Lawyers' Committee, on behalf of the Alabama NAACP, filed a vote dilution lawsuit under Section 2 of the Voting Rights Act (VRA) in the Middle District of Alabama challenging the state's at-large method of electing justices and judges of the Alabama Supreme Court, the Court of Criminal Appeals, and the Court of Civil Appeals. The case was tried in November 2018 and the parties are awaiting a decision. Despite African Americans comprising more than one-quarter of Alabamians, none sit on any of these 3 courts, and none have been elected to any of these courts in a quarter of a century. The matter has been tried and is awaiting decision. *Alabama State Conference of NAACP v. Alabama*, 264 F. Supp. 3d 1280 (M.D. Ala. 2017)

Defense of Suit Challenging Congressional Apportionment and Distribution of Electoral College Votes: The State of Alabama and Congressman Morris J. Brooks, Jr. of Alabama sued the Department of Commerce and others, alleging that the inclusion of undocumented immigrants in the total population count for congressional apportionment and Electoral College votes violates the Fourteenth Amendment, the Census Clause, and the Enumeration Clause of the U.S. Constitution, and the Administrative Procedures Act. The Lawyers' Committee successfully moved to intervene as defendants on behalf of affected local jurisdictions. The matter is pending. *State of Alabama, et al. v. U.S. Dept. of Commerce, et al.*, No. 2:18-cv-0772-RDP (N.D. Ala., May 21, 2018).

Arizona

Challenge to At-Large Election System: Prior to the *Shelby County* decision, the Arizona legislature passed a law that applied only to the Maricopa County Community College District and added two at-large members to what was previously a five-single district board. The legislature had submitted the change for Section 5

¹ Lawyers' Committee staff served as counsel in all of these cases except for certain cases filed on Election Day where staff worked with local counsel, who filed the case.

preclearance. The Department of Justice issued a more information letter based on concerns that in light of racially polarized voting in Maricopa County, the addition of two at-large members, would weaken the electoral power of minority voters on the board. After receiving the more information letter, Arizona officials did not seek to implement the change. Only after the *Shelby County* decision did they move forward. Because it would not be possible to meet the first *Gingles* precondition, a Section 2 suit could not be brought, so the Lawyers' Committee and its partners sued in state court alleging that the new law violated Arizona's constitutional prohibition against special laws because the board composition of less populous counties was not changed. Reversing the intermediate court of appeal, the Arizona Supreme Court rejected the plaintiffs' argument, holding that the special laws provision of the state constitution was not violated. ***Gallardo v. State*, 236 Ariz. 84, 336 P.3d 717 (2014).**

Challenge to Long Waiting Lines Caused by Polling Place Consolidation: The Lawyers' Committee's lawsuit challenged the reduction of polling places in Maricopa County after severe cut-backs disenfranchised voters in the 2016 presidential preference primary because of extremely long lines, hours-long wait-times and a host of election administration problems. Maricopa County is Arizona's most populous county and was a covered jurisdiction under Section 5 of the VRA with approximately 60 percent of the state's minority voters residing in the county. In February 2016, the county slashed the total number of polls from 211 in 2012 to only 60. With this reduction, there was approximately one polling place for every 21,000 voters in Maricopa County as compared to one polling place for every 1,500 voters in the rest of the state. The parties settled the case with an agreement that required Maricopa County to create a comprehensive wait-time reduction plan and a mechanism to address wait times at the polls that exceed 30 minutes. ***Huerena v. Reagan*, Superior Court of Arizona, Maricopa County, CV2016-07890 (D. Ariz. July 7, 2016).**

Suit to Enjoin State's Two-Tier Voter Registration Process: Arizona created a two-tier voter registration process in the wake of the Supreme Court's decision in *ITCA v. Arizona*, which held that Arizona's documentary proof of citizenship requirement was preempted by the National Voter Registration Act (NVRA) as applied to federal elections. Confusion ensued when the state limited voters using the federal form to voting in federal elections, even if the state had information in its possession confirming the applicant was a United States citizen. The Lawyers' Committee and other civil rights organizations sued, alleging that the state's two-tier registration process constituted an unconstitutional burden on the right to vote. The parties settled the matter with an agreement that allows the state to continue to require proof of citizenship to register to vote in state elections, but requires the state

to treat federal and state registration forms the same and to check motor vehicle databases for citizenship documentation before limiting users of the federal registration form to voting in federal elections. ***League of United Latin Am. Citizens Arizona v. Reagan***, No. CV17-4102 PHX DGC, 2018 WL 5983009 (D. Ariz. Nov. 14, 2018).

Election Day Suit Seeking Extensions of Polling Hours in Maricopa County:

On Election Day, November 6, 2018, Plaintiffs, in coordination with the Lawyers' Committee's Election Protection program, filed an emergent action, seeking an extension of the voting hours at all of Maricopa County's mega voting centers, which had suffered technology problems leading to the sites being closed for significant periods of time. The state court denied the request for emergency relief. ***Arizona Advocacy Network v. Maricopa Co. Bd. of Supervisors, et al.***, No. cv-20-8-013943 (Superior Court of Ariz., County of Maricopa, Nov. 6, 2018).

California

Successful Challenge to Decision by Secretary of Commerce to Add Citizenship Question to 2020 Census:

On April 17, 2018, the City of San Jose and the Black Alliance for Just Immigration, represented by the Lawyers' Committee and other counsel, filed a Complaint in the Northern District of California under the Enumeration Clause of the Constitution and the Administrative Procedure Act seeking an injunction against the March 26, 2018 decision by Secretary of Commerce Wilbur Ross to add a citizenship question to the 2020 Census questionnaire. The decision was made, ostensibly, in response to a request by the Department of Justice, which professed a need for the question in order to allow it to prosecute actions under Section 2 of the Voting Rights Act. The Complaint alleged that the addition of the question would diminish the quality and accuracy of the Census count, further decrease the undercount of minority and immigrant populations, and was arbitrary and capricious and contrary to law. After trial, on March 6, 2019, the District Court ruled that the Secretary's decision was arbitrary and capricious under the APA and violated the Enumeration Clause. On June 27, 2019, in a companion case, *U.S. Dept. of Commerce v. Ross*, the Supreme Court issued a decision affirming the finding that the Secretary had violated the APA because he had contrived false reasons for his decision, leading to entry of final judgment in the California case, permanently enjoining Ross from adding the question to the Census. ***City of San Jose, et al. v. Wilbur Ross, et al.*** (N.D. Ca., No. 3:18-cv-2279-RS).

Florida

Suit Seeking Extension of Registration Deadline for Counties Affected by Hurricane Michael: In the wake of the devastation wreaked by Hurricane Michael, plaintiffs sought an emergency extension of the voter registration deadline in counties that had been particularly affected; the application was denied. *New Florida Majority Educ. Fund, et al. v. Detzner*, No. 4:18-cv-00466-RH-CAS (N.D. Fla., October —, 2018).

Georgia

Challenge to Georgia’s Electronic Ballot System as Insecure and Not Allowing Voters To Check Their Vote: The Lawyers’ Committee and co-counsel represented the Coalition for Good Governance and individual plaintiffs in a suit challenging Georgia’s use of electronic ballot machines system, alleging that the vulnerability of the machines to tampering and their failure to have a paper back-up so voters can verify their votes violate the constitutional right to vote. On August 9, 2019, the district court preliminarily enjoined the state’s use of their direct-recording electronic voting machines for all elections after December 31, 2019. The court further directed that, if the state is unable to implement completely a new system beginning January 2020, it must be ready to use paper ballots. The court also ordered that the state ensure that all polling places have paper back-ups for their electronic polling books. Plaintiffs have filed a Supplemental Complaint challenging the proposed new system as not meeting constitutional standards. *Donna Curling, et al. v. Brian Kemp, et al.* No. 1:17-cv-02989-AT (N.D. Ga., August 8, 2017).

First State Challenge to Georgia’s “Exact Match” Law Which Disproportionately Disenfranchises African American, Latino and Asian American Voters: The Lawyers’ Committee brought this action in state court, seeking a writ of mandate compelling county registrars to process voter registration applications submitted by its client the New Georgia Project. The state had been cancelling voter registration applications which failed to exactly match Social Security or Georgia Driver’s Service Records, unless the applicants contacted their county registrars to resolve the non-match within 40 days. Compounding the problem, county registrars would stop processing all voter registration applications for 90 days from the close of voter registration for state primary elections at the end of April until runoffs were over in August, the height of voter registration drives. As a result, the controverted applications were not appearing on any active or pending voter registration lists. After the county registrars starting processing the applications again in August, registrants began seeing their applications cancelled right before the close of voter registration for the general election on Election Day.

The court denied the petition for a writ of mandate, ruling that state law did not require counties to process voter registration forms on any particular deadline other than by Election Day. *Third Sector Development, et al. v. Kemp, et al., Fulton County Superior Court*, Case No. 2014CV252546, 2014 WL 5113630 (October 10, 2014)

First Federal Challenge to Georgia’s “Exact Match” Law Which Disproportionately Disenfranchises African American, Latino and Asian American Voters: This suit, brought by the Lawyers’ Committee and a coalition of civil rights organizations, alleged that Georgia’s “exact match” voter registration process, which required information on voter registration forms to exactly match information about the applicant on Social Security Administration (SSA) or the state’s Department of Driver’s Services (DDS) databases, violated Section 2 of the VRA, the NVRA, and imposed an unconstitutional burden on the right to vote in violation of the First and Fourteenth Amendments. Under the “exact match” process, more than 40,000 applicants were in “pending” status in 2016 because the information on their voter registration applications did not exactly match the DDS or SSA database information. The suit was settled when the State agreed to allow all such persons to vote, upon showing acceptable voter ID at polling places. *Georgia State Conference of NAACP, et al., v. Brian Kemp, et al.* (N.D. Ga. No. 2:16-cv-00219-WCO, September 14, 2016).

Second Challenge to Georgia’s “Exact Match” Law Which Disproportionately Disenfranchises African American, Latino and Asian American Voters and Naturalized Citizens: This is the second challenge to Georgia’s “exact match” practice. After the Georgia legislature passed a statute again establishing an “exact match” system, the Lawyers’ Committee and a coalition of civil rights organizations filed suit in the U.S. District Court for the Northern District of Georgia against then Georgia Secretary of State, Brian Kemp, alleging that Georgia’s “exact match” voter registration process, violated Section 2 of the VRA, the NVRA, and imposed an unconstitutional burden on the right to vote in violation of the First and Fourteenth Amendments. Under the “exact match” process, more than 53,000 applicants were in “pending” status in 2018 because the information on their voter registration applications did not exactly match the DDS or SSA database information or because the process inaccurately flagged United States citizens as potential non-citizens. On November 2, 2018, the Court partially granted Plaintiffs’ motion for preliminary relief, ordering that Georgians inaccurately flagged as non-citizens could vote using a regular ballot if they provided proof of citizenship to a poll manager rather than a deputy registrar (who might not be at the polling station), when voting

at the polls for the first time. The Georgia legislature subsequently amended the “exact match” law in 2019 to permit applicants who fail the “exact match” process for reasons of identity to become active voters, but the Legislature chose not to enact any remedial legislation to reform the “exact match” process that continues to inaccurately flag United States citizens as non-citizens. The litigation is pending. ***Georgia Coal. for People’s Agenda, Inc. v. Kemp*, 347 F. Supp. 3d 1251 (N.D. Ga. 2018).**

Challenge to Georgia’s Rejection of Absentee Ballots Based upon Alleged Signature Matching and Immaterial Errors or Omissions: On October 23, 2018, the Lawyers’ Committee joined lawsuits challenging the state’s practices of 1) rejecting absentee ballots based upon election officials’ untrained conclusion that the voter’s signature on the absentee ballot envelope did not match the voter’s signature on file with the registrar’s office, and 2) rejecting absentee ballots for immaterial errors or omissions on the ballot envelope. Georgia had an extraordinarily high rate of absentee ballot rejections generally, but the rejection rate in Gwinnett County was almost 3 times that of the state and absentee ballots cast by voters of color were rejected by Gwinnett County at a rate between 2 and 4 times the rejection rate of absentee ballots cast by white voters. Plaintiffs were granted preliminary relief before the November 2018 mid-term election. Subsequently, Georgia enacted remedial legislation and the lawsuits were voluntarily dismissed in 2019. ***Martin v. Kemp*, No. 18-14503-GG (N.D. Ga. 2018).**

Challenge to Georgia’s Unlawful Registration Scheme Relating to Federal Runoff Elections: In this case, the Lawyers’ Committee challenged Georgia’s runoff election voter registration scheme as a violation of NVRA. Under Georgia law, eligible Georgians were required to register to vote on the fifth Monday before a general or primary election in order to be eligible to vote in a runoff election if no candidate received a majority of the vote. The runoff election would generally be held about two months after the general or primary election. As a result, Georgians would be required to register to vote approximately three months before a runoff election in order to participate in that election. Under Section 8 of the NVRA (52 U.S.C. § 20507(a)(1)), states are prohibited from setting voter registration deadlines in excess of thirty days before a federal election. Thus, Georgia’s runoff election voter registration scheme violated this provision of the NVRA and the District Court granted a preliminary injunction enjoining the state from using the longer deadline ahead of the Georgia Sixth Congressional Runoff Election in June 2017. Subsequently, the parties settled the matter with the Secretary of State agreeing not to enforce a voter registration deadline that violated Section 8 of the NVRA. ***Georgia State Conference NAACP v. Georgia*, No. 1:17-CV-1397-TCB (N.D. Ga. May 4, 2017).**

Suit Challenging State Legislative Redistricting: Civil rights organizations and voters, represented by the Lawyers' Committee, filed suit in the United States District Court for the Northern District of Georgia, challenging the State legislature's post-*Shelby* 2015 redistricting of two legislative districts as racial and partisan gerrymanders. The Plaintiffs alleged the legislature targeted African American population in drawing the districting plans to increase the electoral advantage of white Republicans as the districts were becoming more competitive for Black Democrats. After African American candidates were elected to seats in both of the challenged districts in November 2018, the parties agreed to voluntary dismissals of the actions. ***Georgia State Conference of NAACP v. Georgia*, No. 1:17-CV-1427 (N.D. Ga. 2017).**

Challenge to Purge of Mostly Black Voters in Hancock County: Plaintiffs, represented by the Lawyers' Committee, filed this action on November 3, 2015 in the U.S. District Court for the Middle District of Georgia. This case challenged the removal of 53 voters, 51 of whom were African Americans, from the voter rolls of a small, predominately Black county. The purge occurred just prior to a hotly contested election in Sparta, the largest city in Hancock County, and white candidate was elected mayor for the first time in decades. The case was brought under Section 2 of the VRA and Section 8 of the NVRA. Immediately, the District Court directed Defendants to restore qualified purged voters to the registration rolls or show cause why they would not do so. As a result, 17 voters were restored to the rolls; two others would have been restored, but had died in the interim; and eight voters were placed into inactive status, but remained eligible to vote by producing proof of their residency when requesting a ballot. The parties subsequently mediated the case, which resulted in a settlement in which the Defendants agreed to comply with the NVRA before removing anyone from the voter rolls and to be subject to monitoring by a court appointed examiner. On March 30, 2018, the Court granted the parties' Joint Motion for Entry of Consent Decree. Compliance with the Consent Decree is being actively monitored by the Court appointed examiner. ***Georgia State Conference of NAACP v. Hancock Cty. Bd. of Elections & Registration*, No. 5:15-CV-00414 (CAR) (M.D. Ga. 2015).**

Vote Dilution Lawsuit Challenging District Plans for Gwinnett County: Plaintiffs, represented by the Lawyers' Committee and other civil rights organizations, filed a vote dilution suit under Section 2 of the VRA challenging the districting plans for the County Board of Commissioners and Board of Education. At the time the lawsuit was filed, no African American, Latino or Asian American candidates had ever won election to these boards, despite the fact that Gwinnett

County is considered to be one of the most racially diverse counties in the Southeastern United States. After two long-term incumbents chose not to run for re-election to the School Board in the 2018 mid-term election, and with the minority population of the county continuing to grow, African American and Asian American candidates were finally elected to the County Commission and an African American candidate was elected to the School Board for the first time in the county's history. Following these electoral successes, the parties agreed to a voluntary dismissal of the litigation. *Ga. State Conference of the NAACP v. Gwinnett Cty. Bd. of Registrations & Elections*, No: 1:16-cv-02852 (N.D. Ga. 2016).

Suit to Extend Registration Period for Communities Hard-Hit by Hurricane

Matthew: The Lawyers' Committee sought emergency relief to extend the voter registration for Chatham County, Georgia residents in the wake of Hurricane Matthew. The storm had resulted in the closing of County government offices for what would have been the last six days of the voter registration period. Despite requests to extend the deadline, both Governor Nathan Deal and Secretary of State Brian Kemp, refused to extend the deadline for Chatham County residents. Chatham County, which includes the city of Savannah, has over 200,000 voting age citizens, of whom more than 40 percent are African American or Latino. It was hit particularly hard by the devastating storm. Almost half of its residents lost power, and it was one of six counties subject to a mandatory evacuation order. Following a hearing on the plaintiffs' motion for a preliminary injunction on October 14, 2016, the Court ordered that the voter registration deadline for Chatham County residents be extended from October 11, 2016 to October 18, 2016. As a result of this extension, approximately 1,418 additional Chatham County residents registered in time to be eligible to vote in the November 2016 general election. Approximately 41 percent of these new registrants are African American, 4.5 percent are Latino and 38.6 percent are white. *Georgia Coalition for the Peoples' Agenda, et al., v. John Nathan Deal, et al.* (S.D. Ga., No. 4:16-cv-0269-WTM-GRS, October 12, 2016).

Challenge to District Lines of Emanuel County School Board as Dilutive of

Black Votes: Plaintiffs, represented by the Lawyers' Committee, alleged that the district boundaries for the Emanuel County School Board violated Section 2 of the VRA. The complaint alleged that the then current map of seven School Board districts impermissibly diluted the voting strength of African American voters by "packing" them into one district. African Americans comprises 81 percent of the voting-age population in one of the districts and a minority in all of the other six. Although African Americans made up one-third of the county's voting-age population and close to half of the students in Emanuel County, and although African American

candidates had run in other districts, there had never been more than one African American member on the School Board at one time. After suit was filed, the parties negotiated a settlement, resulting in the creation of two majority-minority single-member districts. ***Georgia State Conference of NAACP, et al., v. Emanuel County Board of Commissioners, et al.***, (S.D. Ga., No. 6:16-cv-021, February 23, 2016).

Election Day Suits to Extend Voting Hours: Plaintiffs, working with the Lawyers' Committee's Election Protection program, filed two suits on Election Day 2018 to extend voting hours in precincts with large African-American populations, that had suffered technology failures, resulting in extraordinarily long lines. The court granted hours' long extensions at the Booker T. Washington and Morehouse College Archer Auditorium Precincts, and Pittman Park Recreation Center precincts. ***Georgia State Conference of NAACP, et al. v. Fulton County Bd. of Reg. & Elections*** (Superior Ct. of Fulton County, State of Georgia, Nov. 6, 2018).

Indiana

Election Day Suit to Extend Voting Hours: Plaintiffs, in a suit coordinated by the Lawyers' Committee's Election Protection program, unsuccessfully sought emergent relief to extend the voting hours in Johnson County, Indiana, because polling places had run out of paper ballots. ***Dan Newland v. Johnson Co., et al.***, (Johnson County Superior Court, State of Indiana, November 6, 2018).

Kansas

Defense against Attempt to Change Federal Registration Form re Proof of Citizenship: The Lawyers' Committee intervened on behalf of the Inter Tribal Council of Arizona, Inc. to successfully defeat an attempt by the states of Arizona and Kansas to modify the state-specific instructions of the federal mail voter registration form to require applicants residing in Kansas and Arizona to submit proof-of-citizenship documents in accordance with state law. ***Kobach v. U.S. Election Assistance Commission***, 772 F. 3d 1183 (10th Cir. 2015).

Louisiana

Challenge to State's Districting Plan for Electing Justices to Supreme Court: The Lawyers' Committee's Complaint alleges that the method of electing members of the Louisiana Supreme Court violates the Voting Rights Act. The suit

maintains that Louisiana's electoral map for electing justices denies black voters an equal opportunity to elect justices of their choice. Louisiana's population is 32% African American but just one of state's seven Supreme Court districts is majority-black in population. As a result, six of the seven justices on the most powerful court in the state are white. The suit, which highlights that the state's Supreme Court districts have not been redrawn since 1999, alleges that a second majority-black district must be drawn to address the harm to black voters. The State has filed a motion to dismiss, which is pending. ***Louisiana State Conference of the NAACP, et al., v. State of Louisiana, et al.*** (M.D. La., No. 3:19-cv-00479-JWD-EWD, July 23, 2019).

Mississippi

Challenge to Redistricting of State Senate District: On July 9, 2018, Black Mississippi voters filed a challenging the districting plan for Mississippi State Senate District 22 under Section 2 of the Voting Rights Act. Plaintiffs, represented by the Lawyers' Committee and Mississippi Center for Justice contended that the plan diluted the voting strength of Black voters and, combined with racially polarized voting, prevented them from electing candidates of their choice to the Senate District 22 seat. Plaintiffs prevailed at trial and the trial court gave the Legislature an opportunity to re-draw the district to comply with the court's decision. After failing to obtain a stay of the court's order, the Legislature redrew the district to create a district with a sufficiently large Black voting population to give Black voters an equal opportunity to elect candidates of their preference. The Fifth Circuit affirmed the district court's decision. In October, 2019, the Fifth Circuit, *sua sponte*, issued an order accepting the case for *en banc* review. ***Thomas v. Bryant*, 919 F.3d 298 (5th Cir. 2019).**

Suit Challenging State's Restrictive Absentee Ballot Procedures: On November 21, 2018, Plaintiffs, represented by the Lawyers' Committee, filed a complaint challenging, on federal constitutional right to vote grounds, Mississippi's unique combination of requiring notarization of both the absentee ballot application and the ballot itself, in addition to a deadline of receipt of the ballot the day before election day. Plaintiffs also sought emergency relief to compel the counting of ballots post-marked by election day (November 27) in the senatorial run-off, where voters had only 9 days – including Thanksgiving weekend – to apply for, obtain, and cast their absentee ballots. The court denied relief on November 27, 2019 on grounds that it was too close to the election to order relief. The case is still pending. ***O'Neil v. Hosemann*, No: 3:18-cv-00815 (S.D. Miss. Nov. 27, 2018).**

New York

Suit to Restore Voting Rights to New Yorkers Who Were Removed from Poll Books in Violation of Federal Law: The Lawyers' Committee and another civil rights organization filed suit to restore the voting rights of millions of New Yorkers ahead of the 2018 election. Plaintiffs alleged that certain eligible but "inactive" voters are improperly removed from poll books throughout New York State in violation of the NVRA. Plaintiffs contend that the removal of inactive voters from the poll books disproportionately impacts voters of color. Trial began on October 16, 2019. *Common Cause/New York v. Brehm*, Case No. 1:17-cv-06770 (S.D.N.Y 2017).

Suit Challenging Purge of New York City Voters: On November 3, 2016, the Lawyers' Committee and another civil rights organization filed suit alleging that the New York City Board of Elections (NYCBOE) had purged voters from the rolls in violation of the NVRA. Plaintiffs sought the restoration of all purged voters to the registration list, and also that the NYCBOE count all affidavit ballots cast by these individuals in the November 2016 election. Earlier in 2016, the NYCBOE had confirmed that more than 126,000 Brooklyn voters were removed from the rolls between the summer of 2015 and the April 2016 primary election. Shortly before the November 2016 election, the parties reached an agreement under which the NYCBOE agreed to provide various forms of notice to poll workers and voters concerning the requirement that all voters who believed they were registered were to be offered an affidavit ballot on Election Day. The NYCBOE also agreed to send absentee ballots to two individual plaintiffs who had previously been purged from the registration list. After further negotiations and the entry of the State of New York and the U.S. Department of Justice in the case, the NYCBOE agreed to place persons who were on inactive status or removed from the rolls back on the rolls if they lived at the address listed in their voter registration file and/or if they had voted in at least one election in New York City since November 1, 2012 and still lived in the city. Subsequently, the parties negotiated a Consent Decree, under which the NYCBOE agreed to comply with the NVRA before removing anyone from the rolls, and to subject itself to a four-year auditing and monitoring regimen. The Consent Decree was approved by the Court in December 2017 and is being monitored by the plaintiffs. *Common Cause/New York v. Board of Elections in City of New York* (E.D.N.Y., No. 1:16-cv-06122-NGG-VMS).

North Carolina

Challenge to At-Large Method of Electing Jones County Commissioners as Dilutive of Black Voters' Rights: Plaintiffs, represented by the Lawyers' Committee, challenged the at-large scheme of electing members to the Jones County, NC Board of Commissioners under Section 2 of the Voting Rights Act. Due to the at-large method of electing members to the Jones County Board of Commissioners, which diluted the voting strength of African American voters, no African American candidate had been elected to the Jones County Board of Commissioners since 1998. The parties eventually settled the matter with an agreement that the Board of Commissioners would implement a seven single-member district electoral plan, including two single-member districts in which African-American voters constitute a majority of the voting-age population. *Hall v. Jones Cty. Bd. of Commissioners*, No. 4:17-cv-00018 (E.D.N.C. Aug. 23, 2017).

Suit Alleging Violation of Sections 5 and 7 of NVRA: Since 2013, North Carolina has seen a precipitous drop in the number of voter registration applications offered and collected at public assistance agencies and DMV offices across the state. In particular, the drop in public assistance registration significantly and detrimentally affects low income voters of color. Suit was filed in December 2015, by the Lawyers' Committee and other civil rights organizations, alleging that North Carolina was violating Sections 5 and 7 of the NVRA, in not adequately making assistance to register to vote available to people who visit motor vehicle and public assistance agencies. The case settled in 2018, with substantial improvements made at both DMV and NC social service agencies in how voter registration applications are offered and processed. *Action NC, et al. v. Kim Westbrook Strach, et al.* (M.D.N.C., No. 1:15-cv-01063).

Pennsylvania

Election Day Challenge to Acceptance of Absentee Ballots: On Election Day, 2018, Plaintiff, coordinating with the Lawyers' Committee's Election Protection program, obtained a court order from the Commonwealth of Pennsylvania allowing her to vote her absentee ballot which had been rejected because of Pennsylvania's overly-restrictive time requirements, due to no fault of Plaintiff.

Challenge to Absentee Ballot Deadline: On November 13, 2018, Plaintiffs, represented by the Lawyers' Committee and other civil rights organizations, filed a challenge under Pennsylvania's and the federal constitutions, alleging that Pennsylvania's requirement that absentee ballots must be received by the Friday before election day violates the right to vote. The suit is pending. *Cassandra Adams*

***Jones, et al. v. Robert Torres, et al.* (Commonwealth Court of Pennsylvania, No. 717 MD 2018, Nov. 13, 2018).**

South Dakota

Challenge to Lack of Access for Native Americans to Polling Place Locations: This suit, brought by the Lawyers' Committee in 2014, challenged the failure of Jackson County to maintain a voting and registration location sufficiently convenient to the Pine Ridge Reservation of the Oglala Sioux Tribe. After suit was filed, the County passed a resolution to open a location in proximity to the Reservation for federal elections over the next four years. The suit was subsequently dismissed as moot. ***Thomas Poor Bear, et al. v. The County of Jackson, et al.*, (D. S.D.No. 5:14-cv-05059-KES).**

Tennessee

Suit Challenging New Law Restricting Voter Registration Activity: The Lawyers' Committee, representing several civil rights organizations, filed suit the day the Governor signed into law a statute that imposes severe restrictions on voter registration activity by community groups and third parties and includes criminal and civil penalties for failures to comply with the law. The law was enacted in the wake of successful large-scale voter registration initiatives in the state in 2018 which targeted minority and underserved communities. The case is pending. ***Tennessee State Conference of the N.A.A.C.P. v. Hargett*, Case No. 3:19-cv-00365 (M.D. Tenn. 2019).**

Texas

Challenge to Restrictive Voter ID Law: This Was a Federal court action, brought by several civil rights organizations, including the Lawyers' Committee, and the Department of Justice, challenging the Texas voter ID law under Section 2 of the VRA and the U.S. Constitution. In October 2014, the district judge ruled in Plaintiffs' favor on all claims and blocked the law, holding that it violated Section 2 of the VRA, constituted an unconstitutional burden on the right to vote, amounted to a poll tax, and was motivated in part by a racially discriminatory purpose. In July 2016, the Fifth Circuit, sitting *en banc*, affirmed the district court's finding of discriminatory effect under Section 2, and remanded the case to the district court for further fact-finding on the discriminatory intent claim. The district court entered an interim remedial order that allowed anyone to vote without the required ID. On April 10,

2017, the district court issued a decision re-affirming its prior determination that SB 14 was passed, at least in part, with a discriminatory intent. On June 1, 2017, Texas passed a new law, SB 5, which it claimed remedied the effects of SB 14. While SB 5 shares provisions in common with the court-ordered interim remedy, there are aspects of concern, including a harsh felony penalty (up to two years of imprisonment) for voters who inappropriately use the affidavit process for voting in-person without an acceptable photo ID. On August 23, 2017, the court granted declaratory relief, holding that SB 14 violated Section 2 of the VRA and the 14th and 15th Amendments to the U.S. Constitution. The court enjoined SB 14 and SB 5, finding that the new law “perpetuates SB 14’s discriminatory features.” On April 27, 2018, the Fifth Circuit issued an opinion “reversing and rendering” the district court’s order for permanent injunction and further relief, finding that the district court had abused its discretion, and further finding that SB 5 constituted an effective remedy “for the only deficiencies in SB 14,” and that there was no equitable basis for subjecting Texas to ongoing federal election scrutiny under Section 3(c) of the Voting Rights Act. ***Veasey v. Abbott*, 888 F.3d 792 (5th Cir. 2018).**

Challenge to Attempted Purge of Naturalized Citizens: In late January 2019, David Whitley, Texas’ Secretary of State, sent Texas counties a list containing 95,000 registered voters and directing the counties to investigate their voting eligibility. The list was based on DMV data the state knew was flawed and would necessarily sweep in thousands of citizens who completed the naturalization process after lawfully applying for a Texas drivers’ license. Naturalized citizens are entitled to full voting rights under Constitution. Voting rights advocates, including the Lawyers’ Committee, filed lawsuits challenging the purging of voters based upon this flawed process. The case was eventually settled after the U.S. District Court in Texas granted a motion for preliminary injunction, enjoining the removal of voters from the rolls based upon this flawed process. ***Texas League of United Latino American Citizens v. Whitley*, No. 5:19-cv-00074 (W.D. Tex. February 27, 2019).**

Challenge to At-Large Election of Texas High Courts as Diluting Votes of the Latinx Population: The Lawyers’ Committee brought this suit challenging the at-large voting districts for the Texas Supreme Court and the Texas Court of Criminal Appeals, as unlawfully diluting the votes of Latinx voters, who, despite comprising a sizeable percentage of Texans, had not elected a candidate of their choice to either of these courts for decades. Although the court found, after trial, that plaintiffs had met the basic standards for a violation of Section 2 of the Voting Rights Act, it denied

relief on the primary basis that partisanship, rather than race, explained the election results. *Lopez, et al. v. Abbott*, (S.D. Tex., 2:16-cv-00303, July 20, 2016).

Utah

Suit Challenging County's Failure to Provide Effective Language Assistance and In-Person Early Voting Sites for Navajo Nation Voters: San Juan County, Utah is home to a substantial Native American population. The County moved to all-mail balloting in 2014. Coupled with a lack of sufficient in-person early voting sites serving the Navajo Nation's voters, Plaintiffs, represented by the Lawyers' Committee and other civil rights organizations, argued that the county failed to provide effective language assistance to its Native American population. Following a period of intense and sometimes contentious litigation, the parties reached a settlement in which the county agreed to 1) provide in-person language assistance on the Navajo reservation for the 28 days prior to each election through the 2020 general election; 2) maintain three polling sites on the Navajo reservation for election day voting, including language assistance; and 3) to take additional action to ensure quality interpretation of election information and materials in the Navajo language. The settlement is being monitored by the plaintiffs. *Navajo Nation Human Rights Comm'n v. San Juan County*, 216CV00154JNPBCW, 2017 WL 3976564, at *1 (D. Utah Sept. 7, 2017).

Virginia

Suit to Extend Registration Deadline: In 2016, Virginia's state online voter registration platform crashed during the last days of voter registration, leading up to the October 17th voter registration deadline. The Lawyers' Committee, working with local civil rights groups, filed suit in the U.S. District Court for the Northern District of Virginia, after the Commonwealth had refused a request to extend the time for registration. After a hearing, the court ordered Virginia to extend the deadline until midnight October 21. As a result, approximately 28,000 Virginians registered to vote, who otherwise would not have been able to. *New Virginia Majority Education Fund, et al. v. Virginia Department of Elections, et al.*, No. 1:16-cv-013190CMH-MSN, N.D.VA, Alexandria Division.

Washington, D.C.

Challenge to Decision by the Election Assistance Commission's Executive Director to Include Proof of Citizenship Requirement on Federal Registration Form Instructions: In January 2016, EAC Executive Director Brian

Newby, acting without input from the EAC Commissioners, issued notice to Alabama, Georgia, and Kansas that the federal registration form instructions would be amended to allow these states to require citizenship documents from applicants who use the federal registration form. Plaintiffs, represented by a number of civil rights organizations including the Lawyers' Committee, filed suit to enjoin Newby's action and the United States Court of Appeals for the District of Columbia Circuit preliminarily enjoined the EAC from changing the federal voter registration form after the District Court for the District of Columbia denied Plaintiffs' motion for a preliminary injunction. The parties have fully briefed cross-motions for summary judgment and the action remains pending. ***League of Women Voters of United States v. Newby*, 838 F.3d 1 (D.C. Cir. 2016).**

Challenge to Presidential Advisory Commission on Election Integrity: On May 11, 2017, President Trump established the Presidential Advisory Commission on Election Integrity, to study the registration and voting processes used in Federal elections, including those that "could lead to improper voter registrations and improper voting, including fraudulent voter registrations and fraudulent voting." Exec. Order 13799. The Commission was chaired by Vice President Pence, but its Vice-Chair is Kansas Secretary of State Kris Kobach, a known advocate of laws and regulations that have the effect of suppressing votes, particularly those of minority voters. Other members of the Commission included Hans Von Spakovsky, Christian Adams, and Ken Blackwell, all advocates of similar laws and regulations. On June 28, 2017, the Commission held a meeting after which Kobach sent a letter to every state requesting the production of information relating to every voter in the nation, including political affiliation and the last four digits of their social security numbers. This meeting was not open to the public. The Commission also announced that its next meeting would be held on July 19, 2017, but would be open to the public only via video streaming. On July 10, 2017, the Lawyers' Committee filed an action on its own behalf, seeking production of all Commission records under Section 10 of the Federal Advisory Committee Act, simultaneously seeking a temporary restraining order that would require the Commission to produce its records prior to the July 19 meeting, and would open that meeting to in-person public participation. On July 18, 2017, Judge Kollar-Kotelly issued an opinion denying the TRO application on the bases that (1) the Commission had submitted an affidavit promising to make all documents public; (2) there was no requirement that the documents be produced prior to the July 19 meeting; and (3) there was no requirement for in-person public participation. The Commission proceeded with its meeting on July 19. On July 21, Plaintiff filed motions on the basis that the Commission had not fulfilled its commitment to produce all records and documents. After reviewing the briefing, the Court set a hearing date of

August 30, at which time DOJ apologized on behalf of its client, the Commission, for not disclosing all the documents it had promised to disclose. The Court ordered that the Commission prepare a Vaughn Index, listing all documents it is withholding from production and that the parties meet and confer to discuss the specifics and timing of the Vaughn Index. On September 29, the federal government provided Plaintiff with its Vaughn Index, which indicated, among other things, that there were communications between some of the members of the Commission on substantive matters that had not been disclosed to the public. The Lawyers' Committee then filed a motion to compel compliance with the court's prior order, which is fully briefed and pending decision. On January 3, 2018, President Trump announced that he was dissolving the Commission. The suit was subsequently dismissed. ***Lawyers' Committee for Civil Rights Under Law v. Presidential Advisory Commission on Election Integrity, et al.***, D.D.C. No. 1:17-cv-01354-CKK, July 10, 2017.

Presidential Advisory Commission on Election Integrity – FOIA: On January 26, 2018, the Lawyers' Committee filed a complaint on its own behalf in the District Court for the District of Columbia, seeking compliance by the Department of Justice and the Department of Homeland Security with FOIA requests for documents relating to the Presidential Advisory Commission on Election Integrity. The matter is pending. ***Lawyers' Committee for Civil Rights Under Law v. U.S. Dept. of Justice***, D.D.C. No. 1:18-cv-00167-EGS, January 26, 2018.

| Appendix B – Summary Table of Cases which the Lawyers’ Committee for Civil Rights Under Law's Voting Rights Project has participated in since <i>Shelby County v. Holder</i> | | | | | | |
|---|-------------------|--------------|---------------|--------------------------------------|----------------------------------|------------------------|
| Case Name | Year Filed | State | Result | Opposing Covered Jurisdiction | Challenging Voting Change | Section 2 Claim |
| Alabama State Conference of the NAACP v. State of Alabama | 2017 | Alabama | Pending | Y | N | Y |
| State of Alabama v. US Dept. of Commerce | 2018 | Alabama | Pending | Y | N | N |
| Gallardo v. State of Arizona | 2014 | Arizona | Negative | Y | Y | N |
| Huerena v. Reagan, Superior Court of Arizona | 2016 | Arizona | Positive | Y | Y | N |
| League of United Latin American Citizens of Arizona v. Reagan | 2018 | Arizona | Positive | Y | Y | N |
| Arizona Advocacy Network v. Maricopa County Board of Supervisors | 2018 | Arizona | Negative | Y | N | N |
| City of San Jose v. Wilbur Ross | 2018 | California | Positive | N, Federal Gov't | N | N |
| New Florida Majority Education Fund v. Detzner | 2018 | Florida | Negative | No | N | N |
| Donna Curling v. Brian Kemp | 2017 | Georgia | Positive | Y | N | N |
| Georgia State Conference of the NAACP v. Brian Kemp | 2016 | Georgia | Positive | Y | Y | Y (+) |
| Georgia Coalition for the People's | 2018 | Georgia | Positive | Y | Y | Y (+) |

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| Agenda v. Brian Kemp | | | | | | |
| Martin v. Kemp | 2018 | Georgia | Positive | Y | N | N |
| Georgia State Conference of the NAACP v. Georgia (Runoff Elections) | 2017 | Georgia | Positive | Y | N | N |
| Georgia State Conference of the NAACP v. Georgia (Redistricting) | 2017 | Georgia | Positive | Y | Y | N |
| Georgia State Conference of the NAACP v. Hancock County Board of Elections and Registration | 2015 | Georgia | Positive | Y | Y | Y (+) |
| Georgia State Conference of the NAACP v. Gwinnett County Board of Registration and Elections | 2016 | Georgia | Positive | Y | N | Y |
| Georgia Coalition for the People's Agenda v. John Nathan Deal | 2016 | Georgia | Positive | Y | N | Y |
| Georgia State Conference of the NAACP v. Emanuel County Board of Commissioners | 2016 | Georgia | Positive | Y | N | Y |
| Georgia State Conference of the NAACP v. Fulton County Board of Registrations and Elections | 2018 | Georgia | Positive | Y | N | N |
| Third Sector Development, et al. v. Kemp, et al. | 2014 | Georgia | Negative | Y | N | N |

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|---|------|----------------|----------|---|---|-------|
| Dan Newland v. Johnson County | 2018 | Indiana | Negative | N | N | N |
| Kobach v. U.S. Election Assistance Commission | 2013 | Kansas | Positive | Y | N | N |
| Louisiana State Conference of the NAACP v. State of Louisiana | 2019 | Louisiana | Pending | Y | N | Y |
| Thomas v. Bryant | 2018 | Mississippi | Positive | Y | N | Y |
| O'Neil v. Hosemann | 2018 | Mississippi | Pending | Y | N | N |
| Common Cause New York v. Board of Elections in the City of New York | 2016 | New York | Positive | Y | Y | N |
| Hall v. Jones County Board of Commissioners | 2017 | North Carolina | Positive | N | N | Y |
| Action North Carolina v. Kim Westbrook Strach | 2015 | North Carolina | Positive | Y | N | N |
| Election Day Challenged to Acceptance of Absentee Ballots | 2018 | Pennsylvania | Positive | N | N | N |
| Cassandra Adams Jones v. Robert Torres | 2018 | Pennsylvania | Pending | N | N | N |
| Thomas Poor Bear v. The County of Jackson | 2014 | South Dakota | Positive | N | N | Y |
| Tennessee State Conference of the NAACP v. Hargett | 2019 | Tennessee | Pending | N | Y | N |
| Veasey v. Abbott | 2018 | Texas | Positive | Y | Y | Y (+) |
| Texas League of United Latin American | 2019 | Texas | Positive | Y | Y | Y (+) |

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|---|------|----------------|----------|------------------|---|-------|
| Citizens v. Whitley | | | | | | |
| Common Cause New York v. Brehm | 2017 | New York | Pending | Y | N | N |
| Lopez v. Abbott | 2016 | Texas | Negative | Y | N | Y |
| Navajo Nation Human Rights Commission v. San Juan | 2017 | Utah | Positive | N | Y | Y (+) |
| New Virginia Majority Education Fund v. Virginia Department of Elections | 2016 | Virginia | Positive | Y | N | N |
| League of Women Voters of United States v. Newby | 2016 | Washington, DC | Positive | N, Federal Gov't | Y | N |
| Lawyers' Committee for Civil Rights Under Law v. Presidential Advisory Commission on Election Integrity | 2017 | Washington, DC | Positive | N, Federal Gov't | N | N |
| Lawyers' Committee for Civil Rights Under Law v. US Dept. of Justice | 2018 | Washington, DC | Pending | N, Federal Gov't | N | N |

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| Legend |
| Case Name = name of the case |
| Year Filed = year in which case was filed |
| State = State of the court the case was filed in, including the federal court |
| Result |
| Positive = positive change resulting from case if representing plaintiff, no change if representing defendant |
| Negative = no change resulting from case if representing plaintiff, change if representing defendant |
| Pending = case still pending with no positive or negative results yet |
| Opposing Covered Jurisdiction |

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|---|
| Y= an opposing party was covered under Section 5, |
| N = no opposing party was covered under Section 5, |
| N, Fed Gov't = the federal government is the opposing party |
| Challenging Voting Change |
| Y = Yes, challenged voting change |
| N = No, did not challenge voting change |
| Section 2 Claim |
| Y = Only a Section 2 claim |
| Y (+) = Section 2 is one of multiple claims |
| N = no Section 2 claim |