



## Ongoing Litigation (as of March 2019)

- The Brennan Center for Justice is monitoring significant voting rights lawsuits to restrictive voting practices in the following states:

### **ALABAMA**

- [Greater Birmingham Ministries v. Merrill](#) (N.D. Ala., No 2:15-cv-02193; 11th Cir., No. 18-10151)
  - In December 2015, Greater Birmingham Ministries and the Alabama NAACP filed suit challenging Alabama’s voter ID law, which requires voters to present a photo ID to vote, but allows election officials to vouch for the identity of a voter without ID. They argue that the state’s photo ID law has a disproportionate impact on minority voters in violation of the Voting Rights Act and the U.S. Constitution.
  - In January 2018, a federal district court granted the defendant’s motion for summary judgment and dismissed the case. The plaintiffs appealed to the Eleventh Circuit, which heard oral argument on July 27, 2018. The parties are awaiting a decision.
- [League of Women Voters v. Newby](#) (D.D.C, No. 1:16-cv-00236; D.C. Cir. No. 16-5196)
  - *See Georgia below.*
- [Thompson v. Alabama](#) (M.D. Ala., No. 2:16-cv-00783)
  - In September 2016, Greater Birmingham Ministries and individuals who were disenfranchised as a result of a felony conviction in their past brought a lawsuit challenging the state’s disenfranchisement process. The plaintiffs argue that the state’s disenfranchisement of individuals convicted of a “felony involving moral turpitude” and its conditioning of restoration of the right to vote on full payment of all fines, court costs, fees, and restitution violate the U.S. Constitution and section 2 of the Voting Rights Act.
  - In May 2017, the Alabama Legislature passed a law defining crimes of moral turpitude, which addressed part of the plaintiffs’ complaint. In an opinion issued in December 2017, a federal district court granted in part and denied in part the state’s motion to dismiss the complaint. The court permitted the plaintiffs to proceed on their claims that the “moral turpitude” provision of the Alabama Constitution violates the Eighth, Fourteenth, and Fifteenth Amendments and the Ex Post Facto clause of the U.S. Constitution, and that the fees and fines provision of state law violates the Fourteenth Amendment. The case is proceeding in the district court.

### **ARIZONA**

- [Navajo Nation v. Hobbs](#) (D. Ariz. No. 3:18-cv-08329)

- On November 18, 2018, the Navajo Nation and tribal members filed a complaint against the Secretary of State and elections officials in three counties, alleging that the defendants' failure to provide sufficient language assistance, in-person early voting locations, or voter registration locations on the Navajo Indian Reservation resulted in more than one hundred absentee ballots cast by tribal members being rejected in the 2018 election and will continue to have a discriminatory impact on tribal members' voting rights. The plaintiffs argue that the defendants' failure to provide adequate resources violates the equal protection clause of the Fourteenth Amendment, section 2 of the Voting Rights Act, the First Amendment's protection of political association, and the Arizona state constitution.
    - On December 24, 2018, the parties filed a joint motion for a temporary stay of 120 days to facilitate settlement negotiations, and on January 2, 2019, the court entered the stay.
- *Democratic National Committee v. Reagan* (9th Cir. No. 18-15845; D. Ariz. No. 2:16-cv-01065)
  - In April 2016, the Democratic National Committee, the Democratic Senatorial Campaign Committee, and the Arizona Democratic Party (with others) filed a challenge to Arizona's policy of not counting provisional ballots cast in the wrong precinct and to HB 2023, a 2016 law that criminalized third-party collection of completed absentee ballots. The plaintiffs claimed that these policies violate section 2 of the Voting Rights Act and the First and Fourteenth Amendments to the U.S. Constitution, and that HB 2023 also violates the Fifteenth Amendment.
  - The plaintiffs filed motions for preliminary injunction against these policies, which were the subject of extensive skirmishing in the district court, the Ninth Circuit Court of Appeals, and the U.S. Supreme Court. Ultimately, these policies were permitted to stand for the 2016 election.
  - The litigation continued in the district court. In May 2018, following a ten-day bench trial, the court ruled in favor of the defendants on all of the plaintiffs' claims.
  - The plaintiffs appealed. On September 18, 2018, a Ninth Circuit panel affirmed the district court in a 2-1 decision. The plaintiffs petitioned for the Ninth Circuit to hear the case *en banc*, however, and on January 2, 2019, the petition was granted. Oral argument is currently scheduled for March 27, 2019.

## FLORIDA

- *League of Women Voters of Florida v. Lee* (N.D. Fl., No. 4:18-cv-00251)
  - In May 2018, the League of Women Voters, the Andrew Goodman Foundation, and several students filed a lawsuit challenging the Secretary of State's determination that early voting sites could not be located on state university campuses.

- On July 24, 2018, a federal district court issued a preliminary injunction, striking down the Secretary's determination, and holding that it was intentionally discriminatory on account of age, in violation of the 26th Amendment. The decision restored discretion to election supervisors to designate early voting sites on campuses, and on July 21, 2018, the Secretary issued a directive to election supervisors in accord with the decision. In August 2018, the court stayed further proceedings in the case until after the November midterms.
    - On January 21, 2019, the court directed the parties to file briefs explaining whether or not the Secretary's July 27 directive mooted the case. On February 22, 2019, the plaintiffs filed a motion for summary judgment to convert the preliminary injunction to a permanent injunction. Both of these issues are now fully briefed and pending before the court.
- [\*Hand v. Scott\*](#) (N.D. Fl., No. 4:17-cv-00128; 11th Cir., No. 18-11388)
  - In March 2017, the Fair Elections Legal Network and Cohen Milstein Sellers & Toll PLLC filed a class action complaint on behalf of individuals who were disenfranchised as a result of felony convictions in their past. The plaintiffs argue that the unfettered discretion given to Florida's Executive Clemency Board to determine whether or not to restore individuals' voting rights violated the U.S. Constitution.
  - In February 2018, a federal district court ruled that the Clemency Board's unfettered discretion violates both the First and Fourteenth Amendments of the U.S. Constitution. In March 2018, the court ordered the defendants to create a new voting rights restoration process.
  - The state appealed to the Eleventh Circuit and requested a stay of the district court's order, pending resolution of the appeal. On April 25, 2018, the Eleventh Circuit granted the request and halted the district court's order. Oral argument on the merits appeal was held on July 25, 2018.
  - On November 20, 2018, the Court of Appeals directed the parties to brief whether the passage of [Amendment 4](#) mooted the case, and the parties have filed supplemental briefs in response.

## GEORGIA

- [\*League of Women Voters v. Newby\*](#) (D.D.C, No. 1:16-cv-00236; D.C. Cir. No. 16-5196)
  - In February 2016, the Brennan Center, Stroock & Stroock & Lavan LLP, and Kirkland & Ellis LLP filed suit on behalf of the League of Women Voters and state affiliates. The suit challenges letters sent by Election Assistance Commission ("EAC") Executive Director Brian Newby in January 2016 to the secretaries of state of Alabama, Georgia, and Kansas. Without explanation, he allowed the three states to require that applicants using the federal voter registration form provide documentary proof of citizenship.

- The suit asserts that Newby lacked the authority to make this decision, and that issuing the letters violated both EAC policy and federal law. On June 29, 2016, the district court ruled that Alabama, Georgia, and Kansas could implement their proof of citizenship requirements for the 2016 election. The plaintiffs appealed this decision to the D.C. Circuit.
  - On September 9, 2016, the D.C. Circuit preliminarily enjoined the EAC from changing the federal voter registration form to allow Kansas, Alabama, and Georgia to require documentary proof of citizenship. That means documentary proof of citizenship is not on the federal form.
  - On February 24, 2017, the district court remanded the matter to the EAC. Judge Richard Leon instructed the Commission to determine whether Executive Director Newby had authority to allow the three states to require proof of citizenship on the federal form. The preliminary injunction remains in place.
- [\*Georgia Coalition for the Peoples' Agenda v. Raffensperger\*](#) (N.D. Ga. No. 1:18-cv-04727)
  - On October 11, 2018, a coalition of civil rights groups brought a challenge to Georgia's "no-match, no vote" system, which requires an exact match between information on the voter registration form and information about the applicant in the state's databases in order to complete the registration process. The plaintiffs argue that the system is discriminatory and constitutes an undue burden on the right to vote in violation of the Voting Rights Act and the U.S. Constitution. The plaintiffs also argue that the system violates Section 8 of the National Voter Registration Act because it fails to ensure that voters who submit timely and accurate voter registration forms are registered as active voters.
  - On November 2, 2018, the district court entered a preliminary injunction with respect to these voting rules for the approximately 3,141 individuals whose voter registrations have been placed in "pending" status because their citizenship information did not match. The court observed that a mismatch could occur when a person obtains a Georgia driver's license prior to becoming a citizen, then becomes a naturalized citizen, and then submits a voter registration application claiming citizenship.
  - The court ordered the Secretary of State to allow county election officials to permit people placed in "pending" status because of citizenship to vote a regular ballot by providing proof of citizenship to poll managers or deputy registrars. Prior to the order, if these voters wanted to present proof of citizenship at the polls, they had to have their proof reviewed by a deputy registrar. The court credited evidence that deputy registrars were not always available at poll places and determined that the state's system constituted a severe burden on the right to vote.
  - The litigation is ongoing. The court entered a scheduling order on January 17, 2019.
- [\*Georgia Muslim Voter Project v. Raffensperger\*](#) (N.D. Ga. No. 1:18-CV-04789)





remove voters without the notice and waiting period required by the National Voter Registration Act.

- On June 8, 2018, a federal district court issued a preliminary injunction, blocking the law. The court held that the plaintiffs were likely to succeed in showing that Indiana’s laws violated the National Voter Registration Act. The state appealed the court’s order to the Seventh Circuit. Oral argument was held on January 14, 2019, and the parties are awaiting a decision.

## IOWA

- [\*League of United Latin American Citizens v. Pate\*](#) (Polk County Dist. Ct., No. CVCV056403; Iowa Sup. Ct., No. 18-1276)
  - On May 30, 2018, LULAC Iowa and an Iowa voter filed a lawsuit challenging HF 516, a 2017 law that, among other things, cut back on early voting days, made it harder to cast absentee ballots, and implemented new voter ID requirements in elections after 2018.
  - In July 2018, a state district court issued temporary injunction, blocking parts of the law making it more difficult to apply for an absentee ballot and cutting back on the early/absentee voting period. The court also prohibited state officials from advertising that ID was required to vote this November in connection with the state’s “soft rollout” of its new voter ID law.
  - On August 10, 2018, the Iowa Supreme Court affirmed the district court’s temporary injunction in part, but it reversed the injunction with respect to the absentee/early voting period, restoring the state’s cutback. The case was remanded to the district court, and it is ongoing.

## KANSAS

- [\*Fish v. Kobach\*](#) (D. Kan. No. 2:16-cv-02105; 10th Cir. No. 16-3147)
- [\*Bednasek v. Kobach\*](#) (D. Kan. No. 2:15-cv-09300; 10th Cir., No. 18-3186)
  - In February 2016, the ACLU brought suit on behalf of affected would-be voters alleging that Kansas violated the National Voter Registration Act by requiring Kansans who attempt to register to vote while applying for or renewing a driver’s license to produce documentary proof of citizenship. In a separate case – *Bednasek v. Kobach* – would-be voters brought suit arguing that the documentary proof of citizenship requirement constituted an undue burden on their right to vote in violation of the Fourteenth Amendment.
  - A federal district court consolidated the cases for trial and held a bench trial in March 2018. After trial, the district court struck down the law. The state appealed to the Tenth Circuit, and the case was argued on March 18, 2019.



- [\*League of Women Voters v. Newby\*](#) (D.D.C, No. 1:16-cv-00236; D.C. Cir. No. 16-5196)
  - *See Georgia above.*

## KENTUCKY

- [\*Harbin v. Bevin\*](#) (E.D. Ky. No. 6:18-cv-002777)
  - On January 4, 2019, four Kentuckians with previous felony convictions filed a complaint challenging Kentucky's voting rights restoration policy. (One of the plaintiffs had previously filed a complaint and an amended complaint, *pro se*, on October 29, 2018 and November 2, 2018, respectively.) The plaintiffs claim that Kentucky's policy, which the plaintiffs allege permanently disenfranchises individuals with felonies unless the Governor restores their rights and grants the Governor unfettered discretion to decide whether or not to do so, violates their rights under the First Amendment of the U.S. Constitution. The plaintiffs ask the court to issue a permanent injunction replacing the current system with a system that restores the right to vote based upon neutral, objective, uniform rules.
  - On February 15, 2019, the defendant filed a motion to dismiss. That motion is pending.

## MISSISSIPPI

- [\*O'Neil v. Hosemann\*](#) (S.D. Miss. No. 3:18-cv-00815)
  - On November 21, 2018, the Mississippi State Conference of the NAACP and three Mississippi voters filed a challenge to Mississippi's absentee ballot procedures, claiming that those procedures constitute an undue burden on the right to vote in violation of the First and Fourteenth Amendments to the U.S. Constitution. According to the plaintiffs, the state allows a voter to use an absentee ballot only if the voter meets one of a limited number of excuses and requires the voter to get both the request form and the ballot itself notarized. The relevant forms are not available online and cannot be photocopied. And Mississippi is one of three states to require that absentee ballots be received before Election Day.
  - The plaintiffs further alleged that these procedures were even more burdensome in the context of the November 27, 2018 runoff election, because county clerks only started sending out ballots on November 17th, so voters would have to complete all of the required steps in about a week and might also be required to pay for overnight shipping in order to get their ballot counted.
  - On November 26, 2018, the plaintiffs filed a motion for a temporary restraining order and preliminary injunction, seeking an extension of the deadline for absentee ballots to be returned for the runoff. On November 27, the court denied the motion.

- The litigation is ongoing. The court entered a case management order on March 1, 2019.

## MISSOURI

- *Missouri NAACP v. State of Missouri* (Cole County Cir. Court, No. 17AC-CC00309; Western District Court of Appeals, No. WD81484)
  - In June 2017, the Missouri NAACP and League of Women voters brought suit, challenging the state's new voter ID law. The plaintiffs argue that the manner in which the state has implemented the law violates state law and the state Constitution.
  - In January 2018, the trial court granted the defendants' motion for judgment on the pleadings and dismissed the case. The plaintiffs appealed, and on October 30, 2018, the Missouri Court of Appeals reversed the district court's decision, and sent the case back to the district court for further proceedings.
- *Priorities USA v. State of Missouri* (Cole County Circuit Court, No. 18AC-CC00226)
  - In June 2018, Priorities USA and an individual voter brought a lawsuit challenging the state's voter ID law. The plaintiffs argue that the law violates the state Constitution.
  - In September 2018, the court held a trial. On October 9, 2018, the court issued an order striking down part of the voter ID law. Specifically, the court permanently enjoined the state from requiring otherwise-qualified voters that lacked photo ID to execute an affidavit in order to vote. In addition, the court enjoined the state from disseminating misleading materials suggesting that voters without photo ID could not vote. On October 19, 2018, the Missouri Supreme Court denied the defendants' request for a stay of the trial court's order. On November 9, 2018, the defendants filed a notice of appeal.

## NEW HAMPSHIRE

- *League of Women Voters v. Gardner* (Superior Court, Hillsborough Northern District, No. 226-2-17-CV-00432 and -00433)
  - In August 2017, the League of Women Voters of New Hampshire (along with certain individual plaintiffs) and the New Hampshire Democratic Party filed complaints challenging Senate Bill 3, a voter registration law that critics claim was designed to make it more difficult for students to vote.
  - The trial court held a weeks-long preliminary injunction hearing that concluded in early September 2018. On October 22, 2018, the trial court issued a preliminary injunction, partially blocking SB3. Specifically, the court enjoined the state's use of a new affidavit for voters registering within 30 days of the election without documentation proving domicile.

- On October 26, 2018, the New Hampshire Supreme Court stayed the trial court's preliminary injunction until after the November 6 election. The case is ongoing in the superior court.
- [Casey v. Gardner](#) (D.N.H. 1:19-cv-00149)
  - On February 13, 2019, two New Hampshire college students filed a challenge to HB 1264 – a 2018 law that changed the legal definition of residence. The plaintiffs allege that this change imposes significant costs on some voters because it effectively requires anyone with a driver's license or car who registers to vote in New Hampshire to obtain a New Hampshire driver's license and register that car in New Hampshire.
  - The plaintiffs claim that the law imposes an undue burden on the right to vote in violation of the First and Fourteenth Amendments to the U.S. Constitution, that it has the purpose and effect of abridging the right to vote on account of age in violation of the 26th Amendment, and that it constitutes a poll tax in violation of the 24th Amendment. And the plaintiff asks the Court to declare HB 1264 unconstitutional and to strike the law down.
- [New Hampshire Democratic Party v. Gardner](#) (D.N.H. 1:19-cv-00201)
  - On February 27, 2019, the New Hampshire Democratic Party filed a challenge to HB 1264 on the same grounds as *Casey v. Gardner*.

## NORTH CAROLINA

- [Holmes v. Moore](#) (Wake Cty. Sup. Ct. 18-cvs-15292)
  - In the November 2018 election, North Carolina voters passed a ballot measure that amended the state Constitution to add a photographic voter ID requirement. In the lame-duck session following the election, the North Carolina legislature passed enabling legislation (SB 824), over Governor Roy Cooper's veto.
  - On December 18, 2018, several North Carolina voters filed a state court challenge to SB 824, alleging that the law violates a variety of provisions of the state Constitution, including because it is discriminatory and constitutes a significant burden on the right to vote and the right to free speech and assembly. The plaintiffs also filed a request that the case be heard by a three-judge panel, arguing that state law requires that they be assigned to such a panel because their claims are facial challenges to the validity of an act of the legislature.
  - On January 22, 2019, the individual state legislator defendants filed a motion to dismiss the case. On February 21, 2019, the State and the State Board of Elections also filed a motion to dismiss (along with an answer to the complaint).

- On March 13, 2019, the Court issued an order largely denying the legislators' motion to dismiss and transferring the case to a three-judge panel.
- [North Carolina State Conference of the NAACP v. Cooper](#) (M.D.N.C. No. 1:18-cv-01034)
  - On December 20, 2018, the North Carolina State Conference of the NAACP, along with local NAACP chapters, filed a federal court challenge to SB 824. The plaintiffs argue that the law violates the Fourteenth and Fifteenth Amendments to the U.S. Constitution and section 2 of the Voting Rights Act. In addition to asking the court to enjoin the law, they request that the court bail the state into pre-clearance under section 3(c) of the Voting Rights Act.
- [North Carolina State Conference of the NAACP v. Moore](#) (Wake Cty. Sup. Ct. 18-cvs-9806)
  - On August 6, 2018 the North Carolina NAACP and Clean Air Carolina filed suit in state court, challenging the validity of four proposed constitutional amendments that were to be put on the November 2016 ballot, including a new voter ID requirement. The plaintiffs sought to prevent the amendments from being included on the ballot, arguing that the measures were misleadingly worded and that they had been passed by an illegally gerrymandered legislature and so were invalid.
  - A three-judge panel hearing the case granted a partial preliminary injunction, holding that two of the amendments (not the voter ID amendment) were misleading or inadequately informative. (The legislature subsequently re-wrote the amendments, which were then included on the ballot.) The panel found that it did not have jurisdiction to review the plaintiffs' claim that the amendments were invalid because the legislature was unlawfully constituted.
  - On October 11, 2018, the plaintiffs filed an amended complaint before a single-judge court, and on November 2, 2018, the plaintiffs filed a motion for partial summary judgment on their claim that the amendments were invalid because the legislature was unlawfully constituted. On November 6, 2018, North Carolina voters passed two of the challenged amendments, including the voter ID amendment.
  - On February 22, 2019, the Wake County Superior Court struck down the two amendments. The Court held that because the legislature that passed the amendments was illegally gerrymandered, it did not represent the people of the state, and therefore lacked the power to pass legislation amending the state constitution.
  - The defendants have appealed. On March 21, 2019, the Court of Appeals issued a stay of the Superior Court's order, pending resolution of the appeal.

## **NORTH DAKOTA**

- [Brakebill v. Jaeger](#) (D.N.D., No. 1:16-cv-08; 8th Cir. No. 18-1725; U.S. Sup. Ct., No. 18A335)

- In January 2016, seven Native American plaintiffs filed suit under the Voting Rights Act and the U.S. and North Dakota Constitutions, challenging the state's strict photo ID law and arguing that it disproportionately denies Native American citizens the right to vote. On August 1, 2016, a federal trial court issued a preliminary injunction ordering North Dakota to provide a "fail-safe" option for voters without photo ID if it intends to enforce the ID requirement.
  - In April 2017, North Dakota passed a revised voter ID law, and the plaintiffs filed a motion to enjoin the new law. In April 2018, the district court issued a preliminary injunction, temporarily halting the state from enforcing parts of the new law that could disenfranchise significant numbers of Native Americans. The state appealed to the Eighth Circuit and requested a stay of part of the district court's injunction, which required the state to accept voter ID that includes a current mailing address rather than a current residential street address.
  - On September 24, 2018, the Eighth Circuit granted the state's request for a stay of the district court's injunction with respect to the residential street address requirement, pending appeal. On October 9, 2018, the U.S. Supreme Court denied plaintiffs' application to vacate the Eighth Circuit's stay. The merits appeal has been fully briefed and submitted to the Eighth Circuit.
- [\*Spirit Lake Tribe v. Jaeger\*](#) (D.N.D. No. 1:18-cv-00222)
  - On October 30, 2018, the Spirit Lake Tribe and individual Native American voters brought a challenge to North Dakota's requirement that voter IDs include the voter's residential street address. This lawsuit followed on the Eighth Circuit's September 24, 2018 stay order in *Brakebill v. Jaeger* (see above), which indicated that while that court would not uphold the district court's *statewide* injunction of the residential address requirement at that juncture, voters impacted by the requirement could bring targeted challenges to the law based on its impact on them.
  - The plaintiffs argue that this requirement imposes an undue burden on their right to vote in violation of the First and Fourteenth Amendments to the U.S. Constitution. They ask the court to bar the state from enforcing the residential street address requirement against Native American voters living on reservations or alternatively, to allow those voters to identify their residences on the precinct map in order to verify their eligibility to vote in the precinct.
  - On October 31, 2018, the plaintiffs filed a motion for a temporary restraining order against the voter ID requirement. On November 1, 2018, the district court denied the motion. On January 7, 2019, the defendant filed a motion to dismiss.

## OHIO

- [\*Ohio A. Philip Randolph Institute v. LaRose\*](#) (6th Cir. No. 18-3984; S.D. Oh. No. 2:16-cv-00303)

- On June 11, 2018, the U.S. Supreme Court [upheld](#) a controversial Ohio purge practice in a 5-4 decision in *Husted v. A. Phillip Randolph Institute (APRI)*. Under the challenged law, voters in Ohio who miss a single federal election are flagged to receive a confirmation notice, and if they fail to respond to that notice (or engage in other defined activities) in the next four years, they are removed from the voter rolls.
- Following the Supreme Court's decision, the district court lifted a stay it had previously entered and proceeded to consideration of the remaining issues in the case. Most critically, the plaintiffs argued that the form of the confirmation notice described above violated federal law, and they sought a permanent injunction to remedy the alleged violation. On October 10, 2018, the district court denied the plaintiffs' motion for permanent injunction with respect to the form of the confirmation notice.
- On October 12, 2018, the plaintiffs appealed, and on October 15, 2018, they filed an emergency motion for injunction, pending appeal. On October 31, 2018, the Sixth Circuit [granted](#) the plaintiffs' emergency motion, in part. The court ordered Ohio to count ballots cast by voters who had been purged between 2011 and 2015 through the failure-to-vote process, as long as the purged voter casts his or her ballot at the correct polling place, continues to reside in the same county where he or she had been registered, and has not become ineligible to vote due to a felony conviction, mental incapacity, or death.
- On March 11, 2019, the district court extended that relief to the May 7, 2019 primary, pursuant to a joint stipulation of the parties. The merits appeal remains pending in the Sixth Circuit.

## PENNSYLVANIA

- [Adams Jones et al. v. Boockvar](#) (Commonwealth Court of Pa., No. 717 MD 2018)
  - On November 13, 2018, the ACLU of Pennsylvania along with other civil rights organizations filed a lawsuit challenging the Commonwealth's deadline for submitting absentee ballots. Among the plaintiffs are nine individuals who applied for an absentee ballot on time but received the ballot either too close to or after Pennsylvania's deadline for returning ballots (by 5 p.m. on the Friday before Election Day). According to the plaintiffs' complaint, the state's deadline for returning absentee ballots is the earliest in the nation. The plaintiffs are asking the court to establish a new deadline, arguing that the early deadline for returning absentee ballots violates both the U.S. and the Pennsylvania Constitution.
  - The defendants have filed motions to dismiss (or "preliminary objections"), which are pending.

## TEXAS

- [\*Allen v. Waller County\*](#) (S.D. Tex. No. 4:18-cv-3985)
  - On October 22, 2018, several students of color at Prairie View A&M University (PVAMU), a historically Black university, filed suit, alleging that Waller County elections officials refused to provide them with early voting opportunities equal to those provided to non-Black, non-student voters in the county, in violation of Section 2 of the Voting Rights Act, and the Fourteenth, Fifteenth, and 26th Amendments to the U.S. Constitution. This lawsuit is a continuation of a decades-long fight against discriminatory voting practices in Waller County. On October 24, 2018, the plaintiffs filed a motion for a temporary restraining order ("TRO").
  - On October 25, 2018, Waller County took steps to [\*expand\*](#) early voting opportunities for PVAMU students – adding a day of early voting at a location in the city of Prairie View (which surrounds PVAMU) and extending early voting hours at the PVAMU campus center. On October 26, 2018, the plaintiffs moved to withdraw their TRO motion without prejudice, and on October 30, the court granted the motion to withdraw.
  - On January 7, 2019, the defendants filed a motion to dismiss, which is pending.
- [\*Texas LULAC v. Whitley\*](#) (W.D. Tex. 5:19-cv-00074) (lead case)  
[\*MOVE Texas Civic Fund v. Whitley\*](#)  
[\*Garibay et al v. Whitley\*](#)
  - On January 25, 2019, Texas Acting Secretary of State David Whitley declared that more than 95,000 non-citizens were on the state’s voter rolls, based on information in the state’s driver’s license database. He then issued lists containing the names of these supposed non-citizens to county registrars for the purpose of purging them from the voter rolls.
  - These cases, which were filed in early February 2019 and have since been consolidated, challenge this voter purge program. (The defendants in the different cases include Secretary Whitley, Attorney General Ken Paxton, and county elections officials.) The plaintiffs argue that there are significant flaws with the program, including that the Secretary’s approach is likely to identify many eligible voters who received a driver’s license when they were non-citizens, subsequently became naturalized citizens, and then properly registered to vote. The plaintiffs allege that the voter purge program discriminates against naturalized citizens in violation of the First and Fourteenth Amendments of the U.S. Constitution, sections 2 and 11(b) of the Voting Rights Act, section 101 of the Civil Rights Act of 1964, and 42 U.S.C. § 1985.
  - The various plaintiffs filed motions for temporary injunctive relief. On February 25, 2019, the court directed the parties to file proposed findings of fact and conclusions of law regarding these motions. On February 27, 2019, while

observing that those filings were still to come, the court issued an order directing counties not to send out notices to flagged voters or remove any names from their voter registration lists without authorization from the court.

- The motions for preliminary injunction, as well as motions to dismiss the case, remain pending.

## WISCONSIN

- [\*Frank v. Walker\*](#) (E.D. Wis., No. 11-cv-1128; 7th Cir., Nos. 14-2058, 15-3582, 16-3003; U.S. Sup. Ct. No. 14A352)
  - In December 2011, several Wisconsin voters brought suit, challenging Wisconsin's strict photo ID law as discriminatory against African-American and Hispanic voters and a denial of the vote, bringing claims under the U.S. Constitution and Section 2 of the Voting Rights Act.
  - In April 2014, the trial court struck down the law; the state appealed to the Seventh Circuit, which overturned the trial court's decision and upheld the law. However, after the Supreme Court stepped in, the law was not in effect for the November 2014 election. It went into effect in April 2015, after the Supreme Court declined to reconsider the Seventh Circuit's ruling upholding the law.
  - The plaintiffs undertook a second stage of litigation; in which they argue that the strict photo ID law is unconstitutional for those who cannot get ID. In July 2016, the trial court issued an order instructing that voters who lack photo ID must be able to cast a regular ballot in the November 2016 elections after completing an affidavit.
  - Wisconsin filed an emergency appeal of this decision with the Seventh Circuit and on August 10, 2016, the Seventh Circuit stayed the district court's order. On August 26, 2016, the full Seventh Circuit declined to reconsider this decision. Because of the Seventh Circuit's order, Wisconsin's law was in effect without the affidavit alternative for those without ID during the 2016 elections.
  - After the Seventh Circuit issued the emergency stay of the district court's order, the case proceeded to the Seventh Circuit on appeal. Oral argument was held on February 24, 2017. The parties are awaiting a decision.
- [\*One Wisconsin Inst., Inc. v. Nichol\*](#) (W.D. Wis., No. 15-cv-324; 7th Cir., No. 16-3091)
  - In May 2015, One Wisconsin Institute, affected voters, and Wisconsin Citizen Action brought suit to challenge various election law policies, including the voter ID provision and legislative restrictions on early voting opportunities, under the U.S. Constitution and section 2 of the Voting Rights Act.
  - On July 29, 2016, the trial court blocked many of the challenged restrictive voting provisions. The trial court ruled, among other things, that Wisconsin could not maintain its voter ID law without creating a functional safety net for



those without ID and permitting students to use expired but otherwise valid student IDs. The court also found that the limitations on in-person absentee voting were intentionally racially discriminatory. The decision was appealed to the Seventh Circuit.

- On August 22, 2016, a panel of the Seventh Circuit denied Wisconsin's request to put the trial court's decision on hold in advance of the November election. On August 26, 2016, the full Seventh Circuit declined to reconsider this decision.
- On September 30, the district court ordered state officials to investigate whether DMV clerks were properly instructing voters on the process to obtain ID for voting, after recordings of applicants receiving incorrect information were made public. The court held a hearing on the issue on October 13th, and issued an order finding that Wisconsin had failed to sufficiently inform the public about ID options and had failed to sufficiently train DMV officials on how to issue IDs for voting. The court ordered the state to increase its education efforts, retrain DMV officials, and submit weekly progress reports to the court up until the election, but declined to enjoin the voter ID law for the November 2016 election.
- The case is currently on appeal with the Seventh Circuit. Oral argument was held on February 24, 2017. The parties are awaiting a decision.
- In December 2018, Wisconsin passed a new law imposing early voting and voter IDs restrictions (among other measures). On December 17, 2018, the plaintiffs filed a motion arguing that the new measures violated the district court's injunctions, and on January 17, 2019, the Court granted the motion, enjoining the challenged provisions.