UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

TEXAS DEMOCRATIC PARTY; BOYD L. RICHIE, in his capacity as Chairman of the Texas Democratic Party; FRANK JOSEPH; and BRETT ROSENTHAL	§	
Plaintiffs,	§	
vs.	§	Cause No. 08-CV-02117-P
DALLAS COUNTY, TEXAS; and BRUCE SHERBET, in his capacity as Election Administrator for Dallas County, Texas,	§	
Defendants.	§	

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT ON SECTION 5 CLAIMS

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiffs, TEXAS DEMOCRATIC PARTY, BOYD L. RICHIE, in his capacity as Chairman of the Texas Democratic Party, FRANK JOSEPH, and BRETT ROSENTHAL (hereinafter collectively referred to as "Plaintiffs") and files this their Motion for Summary Judgment on Section 5 Claims, and would respectfully show the Court as follows:

I.

ARGUMENT

Defendants filed their Motion for Summary Judgment in the above-referenced case alleging no genuine issues of material fact exist concerning Plaintiffs claims under Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c.

When presented with a § 5 suit, a three-judge panel may determine only "(i) whether a change was covered by § 5, (ii) if the change was covered, whether Section 5's approval requirements were satisfied, and (iii) if the requirements were not satisfied, what remedy was appropriate." *See City of Lockhart v. United States*, 460 U.S. 125, 129 n. 3 (1983). The Court may not decide "what Congress expressly reserved for consideration by the District Court for the District of Columbia or the Attorney General — the determination whether a covered change does or does not have the purpose or effect 'of denying or abridging the right to vote on account of race or color.'" *See Perkins v. Matthews*, 400 U.S. 379, 385 (1971).

For the reasons stated in the contemporaneously filed Brief in Support of Plaintiffs' Motion for Summary Judgment of Section 5 claims, which is incorporated herein for all purposes, the Court should grant summary judgment and order the Defendants to refrain from implementing the election practices and procedures complained of in this suit until they are pre-cleared by the United States Attorney General or the United States District Court for the District of Columbia.

II.

CONCLUSION

As a result of the foregoing and based upon the Briefs of the parties, the Plaintiffs request the Court grant this Motion for Summary Judgment because Defendants have failed to raise a genuine issue of material fact on a defense and Plaintiffs have carried their burden to prove the relevant elements of the Section 5 claim.

Dated this 9th day of February, 2009.

Respectfully submitted,

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

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CERTIFICATE OF SERVICE

I hereby certify that on February 9, 2009, I electronically filed the foregoing document with the Clerk of the United States District Court, Northern District of Texas, Dallas Division, using the electronic case filing system of the Court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means:

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