



TO THE HONORABLE COURT:

Defendant Michael Scarpello, in his official capacity as the Dallas County Elections Administrator (“Scarpello”), pursuant to Rule 56 of the Federal Rules of Civil Procedure and this Court’s Standing Order governing motions for summary judgment, respectfully files his response to Plaintiff Vote.org’s Motion for Summary Judgment and Memorandum of Law in Support (ECF No. 111) (the “Vote.org MSJ”).

**I.**

**SUMMARY OF THE PARTIES’ CONTENTIONS IN THE PENDING MOTIONS**

Plaintiff brings suit pursuant to Section 1971 of the Civil Rights Act of 1964, 52 U.S.C. § 10101(a)(2)(B) (“the Act”). Plaintiff moves for summary judgment on Counts I and II of its Complaint, and asks the Court to enjoin enforcement of Section 14 of Texas House Bill HB 3107, 87 Leg., Reg. Sess. (Tex. 2021), which amended Texas Election Code § 13.143(d-2). *See* Vote.org MSJ at 1. Intervenor-Defendants Lupe Torres and Terrie Pendley jointly move for summary judgment on the grounds that the Act does not provide Plaintiff with a cause of action because the Act does not provide for a private right of action, the Complaint lacks an allegation of race-based discrimination and, in the alternative, the “wet signature” requirement of Texas’s new legislation is material to determining a prospective voter’s eligibility and does not deny any person the right to vote. Intervenor-Defendants Lupe Torres’ and Terrie Pendley’s Motion for Summary Judgment (ECF No. 109) (the “Torres-Pendley MSJ”) at 3. Intervenor-Defendants Ken Paxton and Remi Garza move for summary judgment on the grounds presented in the Torres-Pendley MSJ, and further on the grounds that Plaintiff lacks standing to assert the claims of parties who are not members of Plaintiff’s organization and, further, that the challenged statute does not violate the Act’s materiality provision or unlawfully burden the right to vote. Defendants Ken Paxton & Remi Garza’s Motion for Summary Judgment (ECF No. 108) (the “Paxton-Garza MSJ”) at 1-2.

Plaintiff brings suit against Defendant Scarpello “for the manner in which he enforces the Wet Signature Rule,” referring to Section 14 of Texas House Bill HB 3107. Complaint paras. 20, 24. Defendant Scarpello denies that he violates the law in conducting the activities of the Dallas County Elections Administrator. Defendant Michael Scarpello’s Amended Answer to Plaintiff’s Complaint for Declaratory and Injunctive Relief (ECF No. 69) para. 24. Plaintiff seeks summary judgment against Defendant Scarpello and the other Defendants, and requests the Court to enjoin enforcement of the “Wet Signature Rule” contained in SB 1.

## II.

### RESPONSE

Defendant Scarpello takes no position on the competing claims and positions advanced in the pending summary judgment motions. Defendant Scarpello’s position has always been that the Dallas County Elections Administrator’s office desires to comply with federal and state law and the law as determined by this Court or on appellate review. Defendant Scarpello believes that that the competing summary judgment motions sufficiently present the legal issues that the Court must resolve. Accordingly, Defendant Scarpello respectfully declines to proffer his own brief, as it would not assist the Court in its task of determining the pure issues of law at issue in Plaintiff’s summary judgment motion or in the competing summary judgment motions, but would instead serve only to increase the costs of litigation to all parties.

Respectfully submitted,

JOHN CREUZOT  
CRIMINAL DISTRICT ATTORNEY  
DALLAS COUNTY, TEXAS

/s/ Barbara S. Nicholas  
BARBARA S. NICHOLAS  
Assistant District Attorney  
Texas State Bar No. 24032785  
[barbara.nicholas@dallascounty.org](mailto:barbara.nicholas@dallascounty.org)

Civil Division  
Dallas County Records Building  
500 Elm Street, Suite 6300  
Dallas, Texas 75202  
Telephone: 214.653.7358  
Telecopier: 214.653.6134

ATTORNEY FOR DEFENDANT MICHAEL SCARPELLO,  
IN HIS OFFICIAL CAPACITY AS THE DALLAS COUNTY  
ELECTIONS ADMINISTRATOR

**CERTIFICATE OF SERVICE**

I, the undersigned counsel, hereby certify that on April 22, 2022, I caused to be electronically transmitted the attached document to the Clerk of the Court for the United States District Court for the Western District of Texas using the CM/ECF electronic case filing system of the Court.

/s/ Barbara S. Nicholas  
BARBARA S. NICHOLAS  
Assistant District Attorney