



# Brazil & Dunn LLP

Attorneys at Law

## Scott Brazil

Member, American Board of  
Trial Advocates  
Board Certified Civil Trial  
Board Certified Personal Injury Trial Law  
Texas Board of Legal Specialization

## Chad W. Dunn

Member, American Board of  
Trial Advocates  
Board Certified Personal Injury Trial Law  
Texas Board of Legal Specialization

1900 Pearl Street  
Austin, Texas 78750  
512/717-9822 office  
512/515-9355 fax

Houston • Miami

[www.BrazilAndDunn.com](http://www.BrazilAndDunn.com)

December 1, 2023

VIA ECF

Lyle W. Cayce  
Clerk of Court  
U.S. Court of Appeals for the Fifth Circuit  
600 S. Maestri Place  
New Orleans, LA 70130

**Re: *Petteway, et al. v. Galveston County, et al.*,  
No. 23A449**

Dear Mr. Cayce:

The Petteway Plaintiffs-Appellees join in the arguments raised by the NAACP/LULAC Plaintiffs-Appellees and the United States in opposition to the County's letter suggesting a further stay of the district court's injunction. We also incorporate the arguments in opposition to a stay set forth in our Supreme Court reply brief, which the County attached to its letter. We write separately to raise the following additional points.

*First*, the County's dilatory actions in seeking a stay from the en banc Court forecloses its eleventh-hour request to disrupt the ongoing election process. On November 10, the County's counsel indicated that they would be filing a motion for a stay with the en banc Court following the panel's affirmance of the district court's decision. (Email correspondence appended to this letter). Thus, the County itself viewed its prior stay motion as rendered obsolete by the panel's decision. Yet the County never filed its motion with the en banc Court seeking a stay pending appeal. Now, the County says it knew immediately on November 28 that the temporary "administrative stay" entered by the panel expired on November 28. Yet the County, according to its counsel, sat on its rights, sending its belated letter days later while its preferred map was enjoined as the candidate filing period progressed. This is an election case with ongoing

Brazil & Dunn LLP

Lyle W. Cayce  
December 1, 2023

Page 2

deadlines. The County cannot delay for three weeks, in the midst of the candidate filing deadline, its effort to secure relief. A party who delays seeking relief in an election case cannot claim it suffers irreparable harm from the injunction. This is particularly so in light of the Purcell principle, which itself mandates denial of the eleventh-hour stay request.

*Second*, the County's request is procedurally improper. Following this Court's clarification that the temporary administrative stay expired on November 10, the district court entered a remedial order clarifying that Map 1 is in effect and is governing the November 2024 election and the ongoing candidate filing process. If the County seeks to obtain a stay of that order, it must first request one from the district court. See Fed. R. App. P. 8(a). The County has not done so.

Time is up. In reliance on this Court's clarifying order from yesterday, the election is proceeding in accord with the district court's injunction and any further conflicting order would cause intolerable disruption to the election schedule and candidate and voter confusion. To the extent the County's letter to the Clerk even qualifies as a request for relief from the en banc Court, it should be denied.

Sincerely,



Chad W. Dunn  
Counsel for *Petteway* Plaintiffs-Appellees

cc: All Counsel

RETRIEVED FROM DEMOCRACYDOCKET.COM

## Mark Gaber

---

**From:** Angela Olalde <aolalde@greerherz.com>  
**Sent:** Friday, November 10, 2023 2:06 PM  
**To:** Chad Dunn  
**Cc:** Kathy Cox; Meza, Catherine (CRT); Hilary Harris Klein; Valencia Richardson; Adrienne Spoto; Jennifer Jimenez; schen@texascivilrightsproject.org; Joseph Russo; Jordan Raschke Elton; Jayaraman, Tharuni (CRT); bernadette@uclavrp.org; KGarrett@willkie.com; Gear, Bruce (CRT); hani@texascivilrightsproject.org; joaquin@texascivilrightsproject.org; RMancino@willkie.com; Mark Gaber; neil@ngbaronlaw.com; Newkirk, Zachary (CRT); nas@naslegal.com; MPolizzano@willkie.com; ASilberstein@willkie.com; Simone Leeper; sonni@uclavrp.org; JSuriani@willkie.com; DVall-llobera@willkie.com; Wake, Brittany (CRT); Zachary@texascivilrightsproject.org; MZhu@willkie.com; Smith, K'Shaani (CRT); Berman, Robert (CRT); Gwen Kelly; Christina Beeler; Joe Nixon; Maureen Riordan; a@electionlawcenter.com; Shawn Sheehy; Sharon Norwood; Dallin Holt; Alexandra Copper; Riley, Nic (CRT); Drecun, Matthew (CRT)  
**Subject:** RE: Petteway - Motion for En Banc Initial Hearing

Good afternoon, we intend to file a motion for rehearing en banc, and an emergency motion to stay pending the resolution of MFR, today. Please let me know your party's position on these motions.

---

**From:** Chad Dunn <chad@brazilanddunn.com>  
**Sent:** Thursday, November 2, 2023 11:58 AM  
**To:** Angela Olalde <aolalde@greerherz.com>  
**Cc:** Kathy Cox <Kcox@greerherz.com>; Meza, Catherine (CRT) <Catherine.Meza@usdoj.gov>; Hilary Harris Klein <hilaryhklein@scsj.org>; Valencia Richardson <VRichardson@campaignlegalcenter.org>; Adrienne Spoto <Adrienne@scsj.org>; Jennifer Jimenez <JJimenez@greerherz.com>; schen@texascivilrightsproject.org; Joseph Russo <JRusso@greerherz.com>; Jordan Raschke Elton <jraschkeelton@greerherz.com>; Jayaraman, Tharuni (CRT) <Tharuni.Jayaraman@usdoj.gov>; bernadette@uclavrp.org; KGarrett@willkie.com; Gear, Bruce (CRT) <Bruce.Gear@usdoj.gov>; hani@texascivilrightsproject.org; joaquin@texascivilrightsproject.org; RMancino@willkie.com; Mark Gaber <MGaber@campaignlegalcenter.org>; neil@ngbaronlaw.com; Newkirk, Zachary (CRT) <Zachary.Newkirk@usdoj.gov>; nas@naslegal.com; MPolizzano@willkie.com; ASilberstein@willkie.com; Simone Leeper <SLeeper@campaignlegalcenter.org>; sonni@uclavrp.org; JSuriani@willkie.com; DVall-llobera@willkie.com; Wake, Brittany (CRT) <Brittany.Wake@usdoj.gov>; Zachary@texascivilrightsproject.org; MZhu@willkie.com; Smith, K'Shaani (CRT) <K'Shaani.Smith@usdoj.gov>; Berman, Robert (CRT) <Robert.Berman@usdoj.gov>; Gwen Kelly <gwen@brazilanddunn.com>; Christina Beeler <christinab@texascivilrightsproject.org>; Joe Nixon <JNixon@publicinterestlegal.org>; Maureen Riordan <MRiordan@publicinterestlegal.org>; a@electionlawcenter.com; Shawn Sheehy <ssheehy@holtzmanvogel.com>; Sharon Norwood <snorwood@holtzmanvogel.com>; Dallin Holt <dholt@holtzmanvogel.com>; Alexandra Copper <ACopper@campaignlegalcenter.org>; Riley, Nic (CRT) <Nicolas.Riley@usdoj.gov>; Drecun, Matthew (CRT) <Matthew.Drecun@usdoj.gov>  
**Subject:** Re: Petteway - Motion for En Banc Initial Hearing

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Petteway Plaintiffs oppose.

On Thu, Nov 2, 2023 at 8:27 AM Angela Olalde <[aolalde@greerherz.com](mailto:aolalde@greerherz.com)> wrote:

Good morning,

Appellants intend to file a motion for en banc initial hearing today, in hopes of streamlining the court's consideration of the issues and avoiding any potential inefficiency through panel-first consideration. Please let me know your position on this motion.

Angie

RETRIEVED FROM DEMOCRACYDOCKET.COM