

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION**

BEAUMONT BRANCH OF THE NAACP and  
JESSICA DAYE,

Plaintiffs,

v.

JEFFERSON COUNTY, TEXAS and JEFFERSON  
COUNTY COMMISSIONERS COURT, LAURIE  
LEISTER, in her official capacity as the JEFFERSON  
COUNTY CLERK, and MARY BETH BOWLING, in  
her official capacity as the PRESIDING JUDGE OF  
THE JOHN PAUL DAVIS COMMUNITY CENTER,

Defendants.

Civil Action No. 22 Civ. 488 (MJT)

**PLAINTIFFS' FIRST AMENDED COMPLAINT**

Plaintiffs Beaumont Branch of the NAACP and Jessica Daye, by and through counsel, file this complaint for declaratory and injunctive relief against Defendants Jefferson County; Jefferson County Commissioners Court; Laurie Leister, Jefferson County Clerk; and Mary Beth Bowling, presiding judge, and allege upon information and belief as follows:

**INTRODUCTION**

1. All Texas voters have the right to vote free from intimidation. Tex. Elec. Code § 62.0115(b)(2) (“a voter has the right to (2) vote in secret and free from intimidation”). Indeed, this right is a foundational principle of a democratic society. *See, e.g., Reynolds v. Sims*, 377 U.S. 533, 562 (1964) (“[T]he right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights.”).

2. The John Paul Davis Community Center (“Community Center”), located at 3580

E. Lucas Drive, Beaumont, TX 77703, is one of the voting locations in Beaumont that serves a predominantly Black community. It is in the heart of the North End of Beaumont surrounded by Black churches and other organizations that are strongholds in the community. The Community Center is a place of gathering for children, churchgoers, and other community members.

3. In addition to being a place of gathering, the Community Center is also a voting location. Many of the local churches, including the Borden Chapel Missionary Baptist Church, host voter outreach events and transport voters to the Community Center. About 90% of those who vote at the Community Center are Black, and around 10% are White.

4. For the 2022 elections held between Oct. 24, 2022 and Nov. 8, 2022 (“2022 General Elections”), there was a remarkable shift in the way early voting was conducted at the Community Center—namely, (i) White poll workers repeatedly asked, in aggressive tones, only Black voters and not White voters to recite their addresses, out loud within the earshot of other voters, poll workers, and poll watchers, even when the voter was already checked in by a poll worker, (ii) White poll workers and White poll watchers followed Black voters and in some cases their Black voter assistants around the polling place, including standing two feet behind a Black voter and the assistant while the voter was at the machine casting their ballot, and (iii) White poll workers helped White voters scan their marked ballots into ballot scanning machines, but did not similarly help Black voters scan their ballots.

5. Despite these actions being relayed to Defendant Leister, Jefferson County Clerk, neither she nor anyone else took any action to address these issues, including by removing Defendant Bowling, who was responsible for carrying out these practices and enabling this type of conduct at the Community Center.

6. Presiding judge Defendant Bowling and elections clerks supervised by Defendant

Bowling have actively deprived Black voters, including Plaintiff Daye and the members of Plaintiff Beaumont Branch of the NAACP, of their fundamental right to vote free from intimidation, harassment, threats, and other forms of coercion. Not only that, Defendant Bowling and election clerks under her direction have intentionally treated Black voters differently than White voters.

7. With the Constitutional rights of Black voters in Jefferson County undermined by these open and notorious acts of intimidation, Plaintiffs filed their initial Complaint in this action, along with an emergency motion for a temporary restraining order (“TRO”). Dkts. 1, 3. After a three-hour evidentiary hearing, the Court issued a TRO barring poll workers at the Community Center from engaging in these acts of intimidation during the elections held on Nov. 8, 2022. Dkt. 14 (TRO). In its order, the Court mandated that all affected poll workers be notified of the TRO immediately and prior to the last day of voting in the 2022 General Elections and be directed to comply with its terms. Dkt. 14 at 3.

8. Defendants’ acts and omissions since then suggest that they did not comply with the terms of the TRO. Beginning on Nov. 8, 2022, Plaintiffs’ counsel contacted Defendants’ counsel repeatedly via email and telephone seeking a copy of the Court-mandated notice, but received no response to its messages—not even a courtesy return call or email.

9. On Dec. 5, 2022, Plaintiffs’ counsel sent a letter reiterating Plaintiffs’ requests for a copy of the notice. This time, Defendants’ counsel responded. But rather than supply a copy of the Court-mandated notice, Defendants asserted that the Court’s TRO was “void *ab initio*.” This is a remarkable assertion, and appears to be why Defendants have simply refused to provide Plaintiffs with a copy of the Court-mandated notice. Upon information and belief, Defendants failed to provide a copy of the Court-mandated notice because they failed to comply with its terms

in full.

10. Plaintiffs' Dec. 5, 2022 letter also addressed Defendants' assertion that, since the elections held on Nov. 8, 2022 have now passed, Plaintiffs' claims are moot. Plaintiffs noted that Jefferson County will hold elections in the future, including at least two elections in 2023, and asked whether Defendants will enter a consent order applying the rules set forth in the TRO to all precincts in all future elections in Jefferson County. Defendants did not address this proposal directly, stating simply (and erroneously) that the Court's TRO was "void *ab initio*."

11. Defendants have not provided any proof to Plaintiffs, despite multiple requests from Plaintiffs' counsel, that they complied with the Court's TRO. Defendants have further not provided Plaintiffs any indication that they will do their best to prevent such intimidating behavior in future elections.

12. Given the egregious voter intimidation conduct set forth above, Defendants' apparent decision to refuse to follow this Court's TRO while keeping it hidden from the Court and Plaintiffs until one month after the 2022 General Elections, and the plain risk that the conduct the Court's order barred both took place in the last election and will resume in future elections in Jefferson County by County officials who feel no duty to follow a federal court order, Plaintiffs respectfully submit that this Court should declare the aforementioned conduct a violation of Section 11(b) of the Voting Rights Act (52 U.S.C. § 10101(b)) and the Fourteenth and Fifteenth Amendments to the United States Constitution, which prohibit treating one group differently from another on account of race.

13. Without this Court's intervention, Defendants will continue to inflict irreparable injury on potentially hundreds of Black voters—including Plaintiff Daye and members of Plaintiff Beaumont Branch of the NAACP—who will try to vote in future elections in Jefferson County,

including those scheduled in 2023.

## PARTIES

14. Plaintiff BEAUMONT BRANCH OF THE NAACP (“Beaumont NAACP”) is a subsidiary organization of the Texas State Conference of the NAACP (“Texas NAACP”). Plaintiff Beaumont NAACP works to ensure the political, educational, social, and economic equality of all persons and to eliminate racial hatred and racial discrimination in Beaumont, including by removing all barriers of racial discrimination through democratic processes and the right to vote, *e.g.*, not being intimidated while doing so. Plaintiff Beaumont NAACP was founded approximately fifty years ago. It continues to play a critical role in furthering the work of civil rights in Beaumont and Southeast Texas today.

15. Since its founding, Plaintiff Beaumont NAACP has used litigation, policy advocacy, community organizing, and public education to ensure the political equality of all Texans. To achieve its mission, the Texas NAACP, including Plaintiff Beaumont NAACP, engages in voter education, registration, mobilization, and other civic engagement activities. Michael Cooper was the president of Plaintiff Beaumont NAACP throughout the 2022 General Elections and at the time of filing the initial complaint in this action. Since the filing of the initial complaint, Michael Cooper stepped down as president of Plaintiff Beaumont NAACP on Nov. 12, 2022. Schedrick Evans now serves as the president of Plaintiff Beaumont NAACP.

16. Plaintiff Beaumont NAACP is based in Beaumont, Texas in Jefferson County. It has more than 600 registered members, including a youth group and a college group. A large portion of Plaintiff Beaumont NAACP’s members are registered to vote. Plaintiff Beaumont NAACP’s membership is more than 90% Black.

17. For the 2022 General Elections, Plaintiff Beaumont NAACP worked tirelessly to register voters in the Beaumont community. Plaintiff Beaumont NAACP held several voter

registration events, including a number of “Pews to the Polls” events in conjunction with local churches. Plaintiff Beaumont NAACP also released a commercial on the local radio station, 102.5 FM, encouraging people to get out the vote, and posted reminders and encouragement to vote on its webpage, its Facebook page, and the like. Many members of Plaintiff Beaumont NAACP also serve as poll workers, poll watchers, voter assistants, and campaign workers for different campaigns in Jefferson County.

18. Members of Plaintiff Beaumont NAACP live throughout Jefferson County. They have voted and plan to vote at voting locations throughout Jefferson County, including the Community Center and Theodore Johns Branch Library, located at 4255 Fannett Road, Beaumont, TX 77705, for the 2022 General Elections and elections in Jefferson County going forward. Many members of Plaintiff Beaumont NAACP take off work to vote. Plaintiff Beaumont NAACP strongly encourages its members to vote at the Community Center and the Theodore Johns Branch Library because these polling places are in their communities. These polling places have also traditionally been safe, peaceful, and welcoming places for Plaintiff Beaumont NAACP’s members to vote.

19. Members of Plaintiff Beaumont NAACP have been or will be harmed by the voter intimidation practices at the Community Center and the Theodore Johns Branch Library. Members of Plaintiff Beaumont NAACP will vote in future elections and many will vote at locations which serve the Black community, including the Community Center and the Theodore Johns Branch Library. As a result of Defendants’ actions during the 2022 General Elections, as well as their failure to provide assurances or documentation that they followed the Court’s TRO, Plaintiff Beaumont NAACP legitimately fears that its members will be subjected to similar voter intimidation tactics in future elections.

20. Plaintiff JESSICA DAYE, a Black resident of the City of Beaumont, Texas for her whole life, is a registered voter in Jefferson County and has been since she was 18 years old. She plans to vote in future elections in Jefferson County.

21. Defendant JEFFERSON COUNTY is a governmental entity created under the laws of the State of Texas. It is liable for the acts and omissions of its officials, acting on behalf of the County, to conduct elections.

22. Defendant JEFFERSON COUNTY COMMISSIONERS COURT is the governing body of Jefferson County, created under the laws of the State of Texas. Tex. Const. art. V, § 18. It is liable for the acts and omissions of its officials, acting on behalf of Jefferson County, to conduct elections.

23. Defendant MARY BETH BOWLING was the presiding judge at the Community Center appointed by the Republican Party during early voting for the 2022 General Elections, which took place from Oct. 24, 2022 to Nov. 4, 2022. During early voting in Jefferson County, Defendant Bowling was appointed a “deputy early voting clerk.” Tex. Elec. Code § 83.031. The deputy early voting clerk “has the same authority as the early voting clerk in conducting early voting, subject to the early voting clerk’s supervision.” *Id.* In turn, the early voting clerk generally “has the same duties and authority with respect to early voting as a presiding election judge has with respect to regular voting.” *Id.* § 83.001. Thus, during early voting, Defendant Bowling generally exercised the powers of a presiding judge. As the presiding judge, Defendant Bowling was “in charge of and responsible for the management and conduct of the election at the polling place of the election precinct that the judge serves.” Tex. Elec. Code § 32.071. The presiding judge “designate[s] the working hours of and assign[s] the duties to be performed by the election clerks serving under the judge.” *Id.* § 32.031. The presiding judge is also charged with “preserv[ing]

order and prevent[ing] breaches of the peace and *violations of th[e] code in the polling place.*” *Id.* § 32.075 (emphasis added). Defendant Bowling’s appointment as a presiding judge is for a one-year term beginning August 1, 2022. *Id.* § 32.002(b). Defendant Bowling is sued in her official capacity only.

24. Defendant LAURIE LEISTER is the county clerk of Jefferson County. A county clerk for the general election for state and county officers “may remove, replace, or reassign an election clerk who causes a disruption in the polling location or willfully disobeys the provisions of this code” following “an oral warning to the election clerk and with the concurrence of the county chair of the same political party with which the election clerk is affiliated or aligned.” *Id.* § 32.034(f). Defendant Leister is sued in her official capacity only.

#### **JURISDICTION AND VENUE**

25. This action is brought under Section 11(b) of the Voting Rights Act (52 U.S.C. § 10307(b)) and 42 U.S.C. § 1983 for violations of the Fourteenth and Fifteenth Amendments to the United States Constitution.

26. The Court has subject matter jurisdiction of this action under 28 U.S.C. § 1331, as this case arises under the laws of the United States, and under 28 U.S.C. § 1343(a)(4), as this case seeks equitable and other relief pursuant to an Act of Congress providing for the protection of the right to vote, namely 52 U.S.C. § 10307(b).

27. This Court has jurisdiction to grant both declaratory and injunctive relief under 28 U.S.C. §§ 2201 and 2202.

28. This Court has personal jurisdiction over Defendants Bowling and Leister who are sued only in their official capacities as officials serving in the State of Texas. Defendants Bowling and Leister are appointed officials charged with the conduct of elections in Jefferson County, including in the City of Beaumont. The violations complained of arise from Defendants Bowling



and Leister's actions or omissions in their official capacity.

29. The Court has personal jurisdiction over Defendant Jefferson County because it is an entity created under the laws of the State of Texas and is essentially at home in Texas as its role is to administer laws for a specific area of Texas. Furthermore, the Plaintiffs' claims arise from or relate to Defendant Jefferson County's contact with the state of Texas, e.g., administration of the 2022 General Elections in the City of Beaumont.

30. Similarly, the Court has personal jurisdiction over Defendant Jefferson County Commissioners Court because it is the governing body of Jefferson County. Furthermore, the Plaintiffs' claims arise from or relate to Defendant Jefferson County Commissioners Court's contact with the state of Texas, e.g., administration of the 2022 General Elections in the City of Beaumont.

31. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claim occurred and will occur in this judicial district. Plaintiffs are located in this judicial district.

## **STATEMENT OF FACTS**

### **I. Background**

32. According to the 2020 Census, Jefferson County has a population of 256,526, 34.4% Black and 58.6% White. The City of Beaumont is located in the northeast corner of Jefferson County. Its population according to the 2020 Census is 114,586, 45% Black and 43.5% White. The North End of Beaumont, where the Community Center is located, is a neighborhood of several thousand people. The North End is a predominantly Black neighborhood.

33. The Community Center sits in the heart of the North End of Beaumont, a historically and predominantly Black neighborhood. Because of its central location, its proximity to the Borden Chapel Missionary Baptist Church, and its communal atmosphere, the Community

Center is a preferred voting location for Black voters in the North End. The voting population the Community Center typically serves is approximately 90% Black and 10% White.

34. Countywide elections in Jefferson County are historically very close. While the county is politically split fairly evenly, votes from Beaumont, including the North End, tend to be heavily Democratic. For example, in 2018, in the countywide elections for County Judge, County Clerk, and County Treasurer—positions that were on the ballot in 2022—the winning candidate received less than 51% of the vote and the losing candidate received more than 49% of the vote. Citywide elections are often similarly tight in Beaumont. In 2021, for example, the Beaumont mayor's race was decided by just over 600 votes out of more than 16,700 cast.

35. For the 2022 General Elections, there were several significant changes to Jefferson County's voting setup.

- a. Jefferson County acquired new voting machines that were used for the first time in this election. These new voting machines made voting in Jefferson County a two-step process: a voter had to select the candidates they wanted to vote for on a touch-screen voting machine and then collect a printed ballot showing their selections from that machine; then, the voter had to take the print-out of their filled-out ballot and feed it into a scanning machine in a different area of the polling place. If the voter did not scan their completed ballot into the machine, their vote would not count. Since voters were not yet familiar with the County's new equipment, they were more reliant on poll workers' guidance than in previous elections.
- b. This election marked the first general election when several new statewide election policies were in effect, following the passage of an omnibus elections bill in September 2021 known as "Senate Bill 1" or "SB 1." SB 1's provisions changed

nearly every step of the voting process in Texas from voter registration to casting a mail-in ballot, but it made especially substantial changes to the powers allocated to election judges and poll watchers. Pursuant to these provisions, poll watchers now have the right to move freely around a polling place and to be near enough to see and hear the election activity they are trying to observe within the polling place. Moreover, poll watchers may not be denied free movement where election activity is occurring within a polling place. And election judges are subject to expanded criminal offenses if they take action to obstruct the view of a poll watcher or distance the poll watcher from an activity or procedure within the polling place. These changes have brought attention to the role of poll watchers, bringing newly trained poll watchers into polling places and more poll watchers overall.

- c. The Jefferson County Commission appointed a new County Clerk, Defendant Laurie Leister, in Dec. 2021. Defendant Leister's appointment came after longtime County Clerk Carolyn Guidry decided to resign after 16 years in the post, and her interim successor Theresa Goodness resigned shortly thereafter after 34 years in the County Clerk's office. Leister was appointed to serve as a temporary County Clerk on an interim basis. The County Commission's vote to appoint Leister was initially delayed after Leister told the Commission that she was unfamiliar with changes to the election law. Leister is not experienced in election administration.

36. This year, early voting at the Community Center began on Oct. 24, 2022 and ended on Nov. 4, 2022. The Community Center is a single building surrounded by a parking lot and some grassy areas. The polling place inside the Community Center was set up as follows.

- a. The voter entered through the front door and turns right. Three tables were pushed

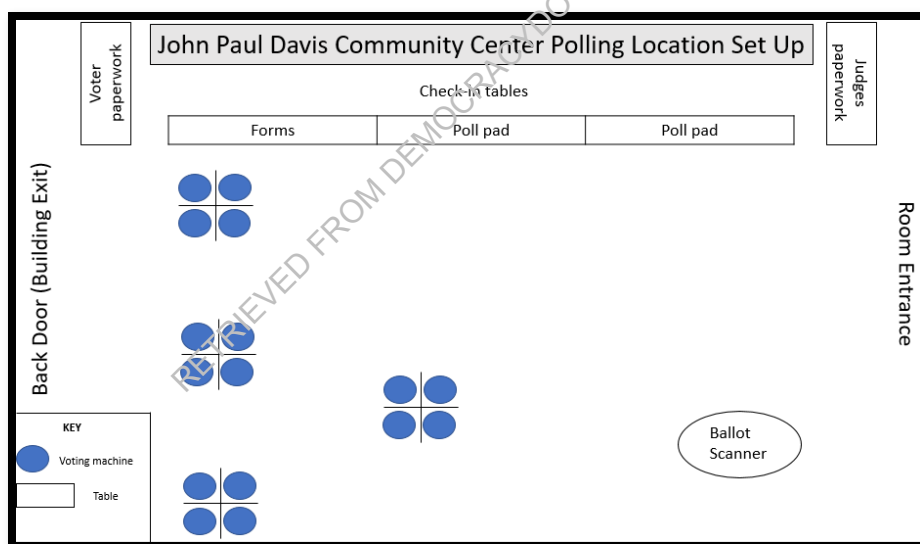
together to form one check-in table that is set up to the right of the main entrance. There were typically six election workers seated at the long check-in table, including (i) a Republican presiding judge and two poll workers from the presiding judge's party, and (ii) a Democratic alternate presiding judge and two poll workers from the alternate presiding judge's party. At the Community Center, Defendant Bowling served as the presiding judge. As such, she was responsible for managing the full conduct of elections at the Community Center. In the event that the regularly appointed presiding judge cannot serve, the alternate presiding judge serves as presiding judge for the election. Tex. Elec. Code § 32.001(b).

- b. There were two poll books or poll pads at the check-in table. Two election workers sat with a poll book at the check-in desk during voting hours. Each election worker checked voters in one at a time. There were typically one Republican election worker and one Democratic election worker at the table checking voters in. During the check-in process, the voter was asked to produce identification, confirm their residence has not changed, sign in, and then take their ballot to a voting machine.
- c. The voting machines in the Community Center were set up about three to four feet away from the check-in desk. After being checked in, the voter usually walked from the check-in desk to the voting machines. There were four voting pods, each containing a machine. None of the pods had curtains, instead they have small blinders on either side of each machine.
- d. Once a voter marked their entries using the touch screen on the voting machine, the machine printed out a marked ballot. The voter then took the ballot and walked to the ballot scanner located on the opposite side of the room, to the left of the main

entrance. The voter fed the ballot into the scanning machine in order to cast his or her vote. Then the voter exited out the front door.

- e. Between two and four poll watchers were typically at this location at any given time, one to two from each party. During early voting, the poll watchers typically stood between two and four feet behind the election workers sitting at the check-in desk. Sometimes the poll watchers sat by the ballot scanner on the opposite side of the room. Other times, the poll watchers followed a voter or followed a voter and the voter's assistant as they walked over to the voting machines, voted, and then walked over to the ballot scanner.

37. A rough visual of the polling setup at the Community Center is below:



38. During early voting for the 2022 General Elections, the Community Center's presiding election judge, Defendant Bowling, moved around the polling place during her shifts. Sometimes Defendant Bowling sat next to the ballot scanner, but mostly she stood directly behind and above the election workers who were seated while checking voters in. She hovered over the Black election workers as they checked in voters, typically just two feet or so behind them.

Defendant Bowling was at the polling place nearly every day of the early voting period.

39. Defendant Bowling and most, if not all, of the other Republican-appointed poll workers at the Community Center during the early voting for the 2022 General Elections were White. The alternate presiding judge at the Community Center is Black and most, if not all, of the Democratic-appointed poll workers were Black.

40. Throughout early voting, Airon Reynolds, Jr., the pastor of the Borden Chapel and member of Plaintiff Beaumont NAACP, had multiple members of his congregation tell him about their voting experience at the Community Center. These congregants told Mr. Reynolds about the aforementioned conduct of Defendant Bowling and the other White election clerks, and how uncomfortable and difficult it was to vote at the Community Center.

41. On Oct. 27, 2022, after hearing about Defendant Bowling's conduct from a Black poll worker at the Community Center, Mr. Reynolds immediately reached out to County Judge Jeff Branick, a member of Defendant Jefferson county Commissioners Court, to alert him to the issue. Judge Branick told Mr. Reynolds that he did not have supervisory authority over the poll workers, so he could not assist with this issue. Judge Branick has supervisory authority over the Jefferson County Clerk, which was Defendant Leister during the early voting for the 2022 General Elections, who supervises the poll workers in Jefferson County.

42. On Oct. 28, 2022, Mr. Reynolds went to the Community Center to meet with Defendant Bowling to request she stop the intimidating conduct. Mr. Reynolds arrived at 8:00 a.m., before the polls opened. Mr. Reynolds informed Defendant Bowling that asking Black voters to recite their addresses aloud and publicly was intimidating. Mr. Reynolds asked Defendant Bowling to adjust her behavior when speaking with Black voters. She refused.

43. After Defendant Bowling's refusal, Mr. Reynolds reached out to Defendant Leister,

the Jefferson County Clerk, who was on her way to the Community Center. Mr. Reynolds informed Defendant Leister of Defendant Bowling's intimidating conduct and her refusal to stop such conduct. Mr. Reynolds asked Defendant Leister to remove Defendant Bowling as presiding judge of the Community Center.

44. Defendant Leister then had a 30 to 45 minute conversation with Defendant Bowling, where they both were seen smiling, laughing, and chatting. After this conversation, Defendant Leister informed Mr. Reynolds that she would not be removing Defendant Bowling and would not direct her to stop her intimidating conduct.

45. On Nov. 1, 2022, Mr. Reynolds presented these issues to Defendant Jefferson County Commissioners Court. Mr. Reynolds outlined the pattern of Defendant Bowling and White poll workers requiring Black voters to recite their addresses aloud and White poll workers hovering over Black voters while voting. In the middle of his presentation, Judge Branick interrupted Mr. Reynolds, smirking, and said he "had no jurisdiction over the county clerks."

## **II. Intimidating Atmosphere**

46. For the 2022 General Elections, the atmosphere at the Community Center and the Theodore Johns Branch Library polling places were hostile and intimidating for Plaintiff Daye and other Black voters, including members of Plaintiff Beaumont NAACP, for the following reasons:

### **a. Community Center**

#### **i. Requiring Black Voters to Loudly Recite Their Address In Front of Others After Voters Already Properly Checked In**

47. "Before a voter may be accepted for voting, an election officer shall ask the voter if the voter's residence address on the precinct list of registered voters is current and whether the voter has changed residence within the county." Tex. Elec. Code § Section 63.0011(a).

48. After determining that the voter is registered, the voter must be asked if the

residence address on the list of registered voters has changed. *See* Elections Div. of the Office of the Tex. Sec’y of State, *The Qualifying Voters on Election Day 2022 Handbook for Election Judges and Clerks*, at 22. The address on an acceptable form of photo ID or, if applicable, a supporting form of identification with a Reasonable Impediment Declaration, should not be compared to the address on the list of registered voters, as these two addresses do not have to match. *Id.*

49. Defendants Leister and Bowling testified at an emergency hearing held before this Court on Nov. 7, 2022, that there are various ways—other than asking voters to state their addresses out loud—poll workers can confirm a voter’s address as required by law. Poll workers can non-verbally confirm a voter’s address using the poll pad. *See* Nov. 7, 2022 T.R.O. Hr’g Tr., attached hereto as Exhibit 1, at 54:10-55:24; 80:9-17. Poll workers can non-verbally confirm a voter’s address using their identification card or driver’s license. *Id.* at 57:17-58:8; 58:23-79:16. Defendant Leister testified that where multiple ways of verifying a voter’s address are available, she “would want the polling workers at [Jefferson County] polling places to use methods that are less intimidating rather than methods that are more intimidating.” *See id.* at 99:3-8. Although there were alternative ways to verify a voter’s address, Defendant Bowling and White election workers at the Community Center and the Theodore Johns Branch Library verified Black voter’s addresses by having the Black voter state their address aloud.

50. Since the first day of early voting, Defendant Bowling created an intimidating and hostile environment at the Community Center for voters and other election workers. Defendant Bowling stood behind the election clerks responsible for checking voters in. Multiple Black poll workers observed her frequently asking to look at Black voters’ identification, even though these voters had already been verified and checked in to vote in accordance with the guidelines above.



Defendant Bowling then often asked the Black voters in question to recite, out loud and within earshot of numerous others within the polling place (including poll workers, other election workers, and other voters), their addresses. The voters Defendant Bowling demanded state their address aloud appeared upset and intimidated. Defendant Bowling did not ask White voters who had been checked in by an election worker to show her their identification and recite their addresses. Defendant Bowling continued this conduct even after being advised by Mr. Reynolds that it was intimidating Black voters.

51. The other election worker who sat at the check-in desk also asked Black voters to recite, out loud and within earshot of numerous others, their addresses even after these voters had been properly checked in.

52. On one occasion, Defendant Bowling demanded that a Black voter who was voting for the first time in Beaumont state his address again after it had already been verified. After Defendant Bowling walked away, the voter told a Black poll worker that this had never happened to him before and that he found Defendant Bowling's actions to be "creepy."

53. On another occasion, a Black voter had been asked by a White poll worker to state their address aloud after already confirming their address was still correct. After this questioning, the Black voter took back her license from the White poll worker and was preparing to leave the Community Center without voting. It was only after a Black poll worker intervened that the voter decided to stay and vote.

54. On Nov. 2, 2022, Plaintiff Daye went to the Community Center to vote because it is close to where her mother lives and she takes care of her mother on a daily basis. While Plaintiff Daye was in line to check in to vote she witnessed an elderly Black voter provide their name and check in with a Black poll worker. Plaintiff Daye witnessed the Black poll worker then ask the

elderly Black voter if her address was correct, she said yes, and she signed the poll pad. The elderly Black voter then shifted down the line to speak to a White poll worker, who appeared to be assigning voters to specific machines to cast their vote. The White Republican election worker asked the elderly Black voter, who had already been checked in by a Black election worker, to take out her identification again and recite her address aloud. This was an uneasy moment at the Community Center. It appeared to Plaintiff Daye like the White poll worker was attacking the elderly Black voter, as if she was lying about her identity. After witnessing this incident, Plaintiff Daye was so alarmed and frustrated that she immediately decided not to vote at the Community Center and left. Outside the Community Center, Plaintiff Daye spoke with the elderly Black voter who had been accosted by the White poll worker. The elderly Black voter said she was not able to vote.

55. Plaintiff Daye was able to vote on election day of the 2022 General Elections at the Community Center. Plaintiff Daye plans to vote in future elections in Jefferson County and wishes to be treated with respect and free from intimidation when voting at any polling place in Jefferson County.

56. The conduct of Defendant Bowling and the White poll workers caused Black voters to feel as if they were being stalked. A Black poll worker heard a Black voter say words to the effect of “What do they want to do, come to my house?”

57. Defendant Leister was informed and was aware that Defendant Bowling and other election workers were asking Black voters to recite their addresses aloud. Defendant Leister did not take action to remove Defendant Bowling. Defendant Leister, as the Jefferson County Clerk, did not direct Defendant Bowling to instruct the election workers not to engage in this type of conduct. The intimidating conduct by Defendant Bowling and other poll workers continued

unabated.

**ii. Following Black Voters Around in the Polling Place**

58. On one occasion, Defendant Bowling, stood roughly two feet behind a Black voter assistant as they were helping a Black voter cast their ballot. The Black voter assistant told Defendant Bowling she could not watch over the Black voter's shoulder as he made his selections. After being asked a second time by the Black voter assistant, Defendant Bowling moved away. The Black voter being assisted was upset and intimidated by Defendant Bowling's actions and asked the Black voter assistant what Defendant Bowling was trying to do. The Black voter assistant was also intimidated by Defendant Bowling's actions.

59. During the last week of early voting, at least two White poll watchers mimicked Defendant Bowling's behavior, following Black voters around the Community Center and sometimes standing as close as two to three feet behind voters, including while voters were at the voting machines marking their ballots. The voters appeared upset and intimidated by these actions.

60. On Oct. 31, 2022, Mr. Reynolds, a member of Plaintiff Beaumont NAACP, went to vote at the Community Center because it is near his church. When he arrived at the Community Center there were two White poll workers suspiciously looking at him, watching every step he took. Both White poll workers stood about five feet behind Mr. Reynolds as he proceeded through the Community Center and cast his ballot. Mr. Reynolds was and felt intimidated by the actions of the White poll workers.

61. On another occasion at the Community Center, a Black poll worker observed a Black voter assistant who appeared afraid to help the voter being assisted. The Black poll worker spoke with the Black voter assistant to inform them of their right to help their voter and that they could stand with the voter at the voting machine. The Black voting assistant commented to the Black poll worker that "all those white people standing there" and watching the Black voting

assistant intently made them feel like they were doing something wrong. This Black poll worker witnessed the White election workers intently watching every Black voter from the moment the voter entered the main room where voting is conducted. Many Black voters appeared uncomfortable and asked the Black poll worker “if they were doing something wrong” and “why they were being watched so suspiciously.”

62. Throughout the early voting period, White voters came and voted at the Community Center, but at no point were they treated this way. No White voters were followed around the polling place, hovered over while they made their selections on the voting machine, or crowded as they fed their ballots into the scanning machine.

63. Defendant Leister was informed and was aware that Defendant Bowling and other election workers were closely following Black voters around the polling place. Defendant Leister testified that poll workers, unless assisting a voter, should “never be hovering over a voter while that voter is voting[.]” *See id.* at 96:1-8. Defendant Leister did not take action to remove Defendant Bowling. Defendant Leister did not direct Defendant Bowling to instruct the election workers not to engage in this type of conduct. This conduct, too, continued unabated.

### **iii. Providing Assistance and Accurate Information to White Voters But Not Black Voters**

64. Most of the time during early voting, at least one election worker under Defendant Bowling’s supervision or poll watcher from Defendant Bowling’s political party sat or stood next to the ballot scanner. Many voters needed help with the ballot scanner because it was a new machine that Jefferson County voters had never used before.

65. When a White voter needed help scanning a voted ballot into the ballot scanner, Defendant Bowling, a White election worker, or a White poll watcher routinely helped the White voter.

66. When a Black voter needed help scanning a voted ballot into the ballot scanner, Defendant Bowling, a White election worker, or a White poll watcher rarely provided this type of assistance. Black voters typically had to receive assistance from one of the Black election workers if they were around or a voter assistant if the Black voter was eligible to receive assistance and had brought one with them.

67. Sometimes Black voters did not receive the help they needed to scan their ballots in because the other Black election workers were busy checking in and helping other voters.

68. At no point did Defendant Leister take action to stop Defendant Bowling or any of the other election workers in the polling place from the differential treatment they provided to White voters and Black voters in assisting with the new ballot scanning machine.

**b. Theodore Johns Branch Library**

**i. Requiring Black Voters to Loudly Recite Their Address In Front of Others After Voters Already Properly Checked In**

69. Throughout the early voting period at Theodore Johns Branch Library, White poll workers loudly read the address of Black voters in the presence of election workers and other voters in the vicinity. The White poll workers did not read the address of White voters. The White poll workers only asked White voters if their information was correct, but loudly and publicly stated the home address of Black voters. The conduct made Black voters look uncomfortable and intimidated.

**ii. Following Black Voters Around in the Polling Place**

70. On the afternoon of Oct. 26, 2022, White poll watchers at the Theodore Johns Branch Library polling place stood so close to voters at the polling booth that they could watch the voters marking their ballots. The poll watchers were as close as two feet away from the voter. This happened at least twice over the course of the afternoon. On each occasion, the voter was

Black and appeared intimidated by the behavior of the poll watchers.

### III. Activity on and After Nov. 7, 2022

71. On Nov. 7, 2022, Plaintiffs filed a complaint for a TRO, emergency declaration, and injunctive relief. Dkt. 1. The same day the Court held a hearing. Dkt. 15 (hearing minutes); Dkt. 16 (hearing witness list); Dkt. 17 (hearing transcript order). Still the same day, the Court entered the TRO that expired on Nov. 9, 2022.

72. The TRO, *inter alia*, prohibited:

- all election judges, clerks, workers, volunteers, or watchers from requesting or ordering any voters to publicly recite their addresses before allowing them to vote (Dkt. 14 at 2);
- all election judges, clerks, workers, volunteers, or watchers from positioning themselves near voters who are marking their ballots such that they can view voters' selections with two exceptions: (a) an election worker or volunteer may assist any voter who requests assistance; and (b) election watchers may position themselves as permitted by Texas Election Code Section 33.057 (*id.*);
- all election judges, clerks, workers, volunteers, or watchers from refusing to assist any voters in inserting or scanning their completed ballot into the appropriate voting machine (*id.*); and
- all election judges, clerks, workers, volunteers, or watchers from turning away voters who are duly eligible to vote (*id.*).

73. The TRO required that Defendant Leister “send notice of this order to all affected election judges, clerks, workers, volunteers, and watchers, and to fully implement this order, no later than **7:00 a.m. Central Time on November 8, 2022.**” *Id.* at 3 (emphasis in original). In multiple emails and telephone messages on Nov. 8, 2022, Plaintiffs' counsel requested Defendants to send the notice and directive ensuring full implementation of the TRO to Plaintiffs. Defendants did not oblige, and Plaintiffs made the same request again on Dec. 5, 2022 along with a request for the Defendants to enter into a consent order based on the TRO. Dec. 5, 2022 Letter from Homrig to Kennedy, attached hereto as Exhibit 2, at 1-2. This is in addition to several other emails

and voice mails from Plaintiffs to Defendants before and after the Nov. 7, 2022 hearing to which Defendants failed to respond. *Id.* at 1.

74. Defendants did not reply to Plaintiffs at all until Dec. 7, 2022—almost a month after the TRO hearing and Plaintiffs’ first request for the notice and directive. Dec. 7, 2022 Letter from Kennedy to Homrig, attached hereto as Exhibit 3, at 2. Defendants did not provide Plaintiffs with the Court ordered notice and directive—and have yet to do so. *Id.* at 2. Defendants asserted, for the first time, this Court’s order was “void *ab initio*,” because the “[C]ourt did not make any findings of fact or state any wrong doing in the TRO by any Defendant.” *Id.* Defendants’ repeated failure to provide Plaintiffs with the mandated notice, paired with its assertion that the Court’s order was “void,” suggests that Defendants did not comply with the terms of the TRO.

75. Defendant Jefferson County will hold elections in the future that will at least in part be administered by Defendants Jefferson County Commissioners Court, Leister, as the Jefferson County Clerk, and Bowling, as presiding judge. For example, Defendant Jefferson County’s website notes there is an election in May 2023 (Uniform Election)—just several months away. Jefferson County, “Election Day Polling Locations & Information,” Dec. 2, 2022, <https://www.jeffersonelections.com/election-information/election-day-polling-locations/>, attached hereto as Exhibit 4; Jefferson County, “Early Voting Locations, Dates, and Hours,” Dec. 2, 2022, <https://www.jeffersonelections.com/early-voting-information/early-voting-locations-dates-and-hours/>, attached hereto as Exhibit 5. There is also a statewide Constitutional Amendment Election scheduled for Nov. 23, 2023, which should be held by Defendants Jefferson County and at least in part administered by Defendants Jefferson County Commissioners Court, Leister, and Bowling. Texas Secretary of State, “Welcome to Texas Elections,” Dec. 2, 2022, <https://www.sos.state.tx.us/elections/>, attached hereto as Exhibit 6 (also confirming the Uniform

Election on May 6, 2023).

76. Members of Plaintiff Beaumont NAACP live throughout Jefferson County. They plan to vote at voting locations throughout Jefferson County, including the Community Center and Theodore Johns Branch Library, in future elections in Jefferson County. Similarly, Plaintiff Daye plans to vote in future elections in Jefferson County. There is a substantial risk that the intimidating actions described *supra* occurs again to these voters or other Black voters in future elections in Jefferson County. Plaintiff Daye, members of Plaintiff Beaumont NAACP, and Black voters are likely to be able to vote in future elections in Jefferson County at multiple polling locations beyond just the Community Center and Theodore Johns Branch Library. Poll workers from the 2022 General Elections, including Defendant Bowling and those described *supra*, can serve as poll workers in future elections in Jefferson County and can be assigned to any voting location during early voting and on election day. There is nothing stopping poll workers, including Defendant Bowling and those described *supra*, from repeating the intimidating conduct described *supra* at any voting location in future elections in Jefferson County.

77. Given the intent of Plaintiff Daye and members of Plaintiff Beaumont NAACP to vote in upcoming elections and the TRO, Plaintiffs reached out on Dec. 5, 2022 to Defendants to ascertain whether they would be willing to “enter into a consent order requiring that the rules set forth in the TRO be applied in all precincts in all future elections in or administered by Jefferson County, Texas.” Exhibit 2 at 2-3. Defendants’ response to Plaintiffs on Dec. 7, 2022 did not address the proposed consent order, rather as noted *supra* Defendants argued, for the first time, the TRO was void *ab initio*. Exhibit 3 at 2. Given Defendants’ unwillingness to enter into, or discuss, a consent order, this Court must intervene to prevent irreparable injury on potentially hundreds of Black voters.



## CAUSES OF ACTION

### COUNT I

#### **52 U.S.C. 10307(b) Violation of Section 11(b) of the Voting Rights Act Voting Intimidation**

78. Plaintiffs hereby incorporate all other paragraphs of this Complaint as if set forth fully herein.

79. Section 11(b) of the Voting Rights Act creates a private right of action on behalf of one who is intimidated, threatened, or coerced while attempting to exercise his or her right to vote.

Section 11(b) of the Voting Rights Act specifically provides as follows:

No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for urging or aiding any person to vote or attempt to vote, or intimidate, threaten, or coerce any person for exercising any powers or duties under section 10302(a), 10305, 10306, or 10308(e) of this title or section 1973d or 1973g of Title 42.

U.S.C. § 10307(b).

80. Defendants have engaged in a pattern and practice of intimidating voters at the Community Center and Theodore Johns Branch Library with a specific intent to do so by asking voters to recite their addresses out loud once voters have already been checked in, by closely following voters and their assistants around the polling place, by hovering over Black voters and their assistants as they selected candidates, and by neglecting to assist Black voters in feeding their ballots into the ballot scanning machine and/or allowing this conduct to happen unabated after knowing it was happening.

81. This conduct has intimidated voters and will intimidate voters who plan to vote in Jefferson County on upcoming election days. Unless and until enjoined by this Court, Defendants will continue to violate Section 11(b) of the Voting Rights Act, thereby preventing eligible

voters—including Plaintiffs—from exercising their constitutional right to vote, causing them irreparable harm.

82. Plaintiffs have no other adequate remedy at law.

## COUNT II

### **42 U.S.C. § 1983 Violation of the Fourteenth and Fifteenth Amendments Discriminatory Intent**

83. Plaintiffs hereby incorporate all other paragraphs of this Complaint as if set forth fully herein.

84. The Fifteenth Amendment prohibits any state or political subdivision from denying a person his or her right to vote on account of race, color, or previous condition of servitude. U.S. Const. amend. XV.

85. The Fourteenth Amendment prohibits any governmental entity from denying a person within its jurisdiction equal protection of the laws. U.S. Const. amend. XIV, § 1. When a governmental entity discriminates based on race, strict scrutiny is triggered, and the entity must demonstrate both that the challenged practice or policy serves a compelling state interest and that it is necessary or narrowly tailored to serve that interest. Any governmental action classifying citizens on the basis of race is by its “very nature odious to a free people whose institutions are founded upon the doctrine of equality.” *Shaw v. Reno*, 509 U.S. 630, 643 (1993) (quoting *Hirabayashi v. United States*, 320 U.S. 81, 100 (1943)).

86. The facts clearly demonstrate that Defendant Bowling and other White election workers serving at the Community Center and other polling locations in Jefferson County treated Black voters, and Black voters only, in a manner that was different from their treatment of White voters.

87. These practices do not serve a compelling interest and are not necessary or narrowly

tailored to serve any compelling interest.

88. Unless and until enjoined by this Court, Defendants will continue to operate the Community Center and other voting locations in Jefferson County with racially discriminatory intent, thereby preventing Black voters like Plaintiffs from receiving equal treatment while trying to exercise their constitutional right to vote. This will cause Plaintiffs and others similarly situated irreparable harm.

89. Plaintiffs have no other adequate remedy at law.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff(s) respectfully pray that this Court enter an order:

- I. Declaring the actions of Defendant Bowling and election clerks supervised by Defendant Bowling in violation of Section 11(b) of the Voting Rights Act, 52 U.S.C. § 10307(b) for creating an intimidating atmosphere for voters in the polling place;
- II. Declaring the actions, as described above, of Defendant Bowling and election clerks supervised by Defendant Bowling in violation of the Fourteenth and Fifteenth Amendments to the U.S. Constitution, which prohibit the targeting of a group based on their race;
- III. Declaring the actions, as described above, of Defendant Leister in failing to remove Defendant Bowling and election clerks supervised by Defendant Bowling from their posts after learning of their intimidating behavior in violation of the Fourteenth and Fifteenth Amendments to the U.S. Constitution which prohibit the targeting of a group based on their race;
- IV. Directing Defendants to take such other measures as are necessary to ensure that Plaintiffs and similarly situated qualified voters may engage in

the lawful exercise of the franchise free from intimidation, threats, or coercion at any polling place in Jefferson County moving forward;

- V. Permanently enjoining Defendants from engaging in conduct intimidating Plaintiffs and other voters at any polling place in Jefferson County moving forward;
- VI. Establishing a 2-year monitoring program whereby Defendants file with the Court, every 4 months, a detailed report demonstrating their education efforts to prevent voter intimidation and ensuring compliance with the Court's orders.
- VII. Plaintiffs further request that the Court grant such other and further relief as may be just, including awarding Plaintiffs' costs and attorneys' fees pursuant to 42 U.S.C. § 1988.

Dated: December 13, 2022

/s/ Jeffrey G. Homrig

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*Attorneys for Plaintiffs Beaumont Branch of the  
NAACP and Jessica Daye*

**CERTIFICATE OF SERVICE**

I hereby certify that on December 13, 2022, a true and correct copy of the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

/s/ Jeffrey G. Homrig

Jeffrey G. Homrig (Bar No. 24129988)

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