

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

BEAUMONT BRANCH OF THE NAACP and
JESSICA DAYE,

Plaintiffs,

vs.

Civil Action No. 22 Civ 488 (MJT)

JEFFERSON COUNTY, TEXAS and JEFFERSON
COUNTY COMMISSIONERS COURT,
ROXANNE ACOSTA-HELLBERG, 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.

**PLAINTIFFS' REPLY REGARDING MOTION FOR ORDER TO SHOW CAUSE
REGARDING DEFENDANTS' COMPLIANCE WITH TRO**

As set forth in Plaintiffs' Motion for Order to Show Cause Regarding Defendants' Compliance with TRO ("Motion"), Plaintiffs asked repeatedly over the past two months—by phone call, email, and letter—for information about whether and how Defendants complied with the Court's TRO (Dkt. 14). Defendants ignored all of these requests except to state that the Court's TRO was "void *ab initio*"—and then refused to provide Plaintiffs with any explanation whatsoever of this position. With Defendants unwilling to say that they complied with the Court's TRO (let alone how), and instead maintaining that the TRO was somehow void from the start and thus never in effect, Plaintiffs reluctantly felt compelled to file their Motion seeking the Court's assistance in obtaining this straightforward information.

On January 4, 2023, a week after the Motion was filed, the parties attended the Rule 26(f) conference ordered by the Court (Dkt. 41)—but even there, Defendants would not say whether

they complied with the TRO. That has now changed. On Wednesday January 11, the day their opposition brief was due, Defendants' counsel telephoned Plaintiffs' counsel and stated that, while they view this as a matter for discovery, they could share that Defendants complied with the TRO by distributing copies of it at the John Paul Davis Community Center on Election Day.

This is an important change in Defendants' position. Defendants did not provide the same information in their opposition brief (Dkt. 45)—saying nothing there about compliance with the TRO, and instead maintaining the unsupported position that parties in litigation can only obtain information about compliance with a Court's order (issued during that same litigation) through formal discovery requests. But with Defendants having now orally represented to Plaintiffs that they complied with the TRO in a certain fashion, Plaintiffs are amenable to seeking specific details—including who received the order and when, and how its implementation affected the voting process—through discovery, to spare the Court from unnecessary expenditure of resources now. Indeed, had Defendants provided this information when Plaintiffs asked for it the first time—or the seventh time—Plaintiffs would not have filed this motion.

Accordingly, Plaintiffs hereby withdraw their Motion and will be separately filing a notice of withdrawal.

Respectfully submitted,

Dated: January 13, 2023

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CERTIFICATE OF SERVICE

I certify that on January 13, 2023, all counsel of record who are deemed to have consented to electronic service were served with a copy of this document via the Court's CM/ECF System according to the applicable Federal Rules of Civil Procedure.

/s/ Jeff Homrig

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