IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF TEXAS, Plaintiff, v. ERIC H. HOLDER, JR., ATTORNEY GENERAL OF THE UNITED STATES, *et. al.* Defendant,	Case No. 1:12-cv-00128 RMC-DST-RLW

DEFENDANT-INTERVENORS' REPLY MEMORANDUM IN SUPPORT OF DEFENDANT-INTERVENORS' PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

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REPLY TO TEXAS' OPPOSITION TO INTERVENORS' PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW[1]

9B. This finding accurately characterizes the cited authority.

9C. This finding directly cites to an ACLU report noting "extremely high rates of provisional ballot rejections," Ex. 57 at p. 55, and a complaint to SOS regarding a voter being denied the right to vote and not being offered a provisional ballot. Ex. 49.

18C. As Mi Familia Vota's State Coordinator, Mr. Bayron may testify to the effect of a new law on its resources. FED. R. EVID. ("FRE") 602, 701. Mr. Bayron provided similar testimony at his deposition. Bayron Dep. 22:14-24, 15:21-16:10, 23:19-24:25.[2]

18E-F. The testimony of persons actively engaged in the community and in voter issues "on the ground" is relevant. Further, Ms. Camarillo provided similar testimony at her deposition. Camarillo Dep. 35:15-24, 50:4-52:10, 54:24-55:3. See FF ¶18C *supra* with respect to Texas' hearsay objection.

18G. Texas provides no facts to dispute this finding, which is fully supported by the cited exhibit and specific testimony.

[1] Texas' objection (Doc. 263, p. 4) to Intervenors' "citation to trial exhibits rather than specific pages in Defendant-Intervenors' Appendix" should be overruled. As did the other parties, Intervenors consistently cited to specific pages within trial exhibits, except where the cited exhibit was one page in length, or a very short exhibit which, in its entirety, supported the proposed fact. Texas' only specific objections to a lack of page references concerns ¶¶ 222-223, regarding Exhibits 59, 60 and 61. The Ex. 60 and 61 citations supported the lack of a statement, and therefore it was appropriate to not cite to a specific page. A page reference inadvertently was omitted from the Ex. 59 citation, which is corrected in this submission. Additionally, while Intervenors cited to specific pages of the Joint Appendix by specific Bates numbers in their FFs, Intervenors now also include exhibit numbers to provide additional clarity.

[2] Intervenors urge the Court to accept the declarations of Nicole Rodriguez, Victoria Rodriguez, Glenn Bayron, and Lydia Camarillo under the residual exception to the rule against hearsay, FRE 807, for the reasons stated in Defendant-Intervenors' Motion for miscellaneous relief (Doc. 279).

18H. The cited statements are supported by Ms. Sanders' testimony, based on experience and personal knowledge, and further supported by other evidence in the record. *See* D-I Response to Plaintiff's FF, ¶¶ 2, 11-15; D-I Supplemental FF, ¶¶ 23A – 23G.

19S-19CC. The cited authority speaks for itself.

23A-G. See FF ¶18C *supra* with respect to hearsay.

23A. Ms. Victoria Rodriguez and Ms. Nicole Rodriguez provided similar testimony at their depositions. V. Rodriguez Dep. 13:2-3; N. Rodriguez Dep. 13:10.

23B. Ms. Victoria Rodriguez and Ms. Nicole Rodriguez provided similar testimony at their depositions. V. Rodriguez Dep. 11:24-12:4; N. Rodriguez Dep. 11:8-12:7, 19:6-8.

23C. Ms. Victoria Rodriguez and Ms. Nicole Rodriguez provided similar testimony at their depositions. V. Rodriguez Dep. 10:15-16; N. Rodriguez Dep. 12:10-16.

23D. The reference to "recent regulation on proof of residence to obtain a Texas EIC" identifies the rules as set forth in 37 Tex. Admin. Code § 15.49.

23E. In addition the material already cited, Ex. 10 ¶ 15 and Ex. 11 ¶ 15 demonstrate why Ms. Rodriguez and Ms. Rodriguez need their parents' presence to obtain an EIC. Further, Ms. Victoria Rodriguez and Ms. Nicole Rodriguez provided similar testimony at their depositions. V. Rodriguez Dep. 12:5-19; N. Rodriguez Dep. 12:8-16.

23G. This paragraph contains logical inferences, rather than speculation. FRE 602, 701.

23H. The second sentence of this response is not supported. In ¶23 H, Intervenors incorporated ¶¶1, 11-15 of their Response to Plaintiff's FOF Directed To Intervenors (Doc 240). Further, Dr. Ansolabehere, has identified specific individuals who may be prevented from voting as a result of SB 14.

33. This finding accurately characterizes the cited authority.

41A. Dr. Shaw admits he did not analyze false positives. Shaw Dep. 246:18 – 247:16.

46A. Texas' cited exhibits do not dispute the specific facts and expert opinion set forth in this proposed finding.

46B. Texas' cited exhibits do not dispute the specific facts and expert opinion set forth in this proposed finding. Stating that an expert's opinion will be given no weight is a finding of fact, not a conclusion of law. Testimony given after this FOF was filed provides additional support for FF ¶46B, as set forth below.

46BB. Dr. Shaw's survey of Dr. Ansolabehere's VRNID list yielded results vastly higher (far beyond any reasonable margin of error) than the actual voting age population percentages in at least three areas: (1) a Texas license to carry – 10% compared to an actual 2.8%; (2) at least a 50% Veterans' Administration disability – 12% compared to an actual 1.6%; and (3) a Social Security determined disability – 24% compared to an actual 3%. If Dr. Shaw's results were valid, then the 1.9 million registrants from whom the sample were drawn (about 10 percent of the voting age population) would account for more than half of veterans receiving disability benefits and more than half of the Social Security certified disabled in the entire state. Lichtman deposition testimony (awaiting transcription); and Exs. 124, 125, 127 at p. 3, and 128 at Table 2 (DIA 1298).

46BBB. For the license to carry results, Dr. Shaw's survey should, if anything, have shown substantially *lower* license to carry percentages than the overall voting age population, given that Dr. Ansolabehere *eliminated* from his "no match" population the registrants who matched with a license to carry record. Lichtman deposition testimony.

46BBBB. These discrepancies are indicative of two kinds of problems in Dr. Shaw's survey, a highly unrepresentative sample and/or respondents who are providing inflated "yes" answers to questions. Lichtman deposition testimony. Substantive differences between the 2 percent of the sample surveyed and the those not surveyed could lead to unreliable estimates of the population surveyed. Lichtman deposition testimony.

56C. Texas concedes that "[t]he number of voter registration database entries without a driver's license or personal identification card number . . . indicates the number of persons who did not provide a driver's license or personal identification card number at the time they registered;" that, since January 1, 2004 ("post-2003"), those who register to vote in Texas *must* provide this number on their registration application, if they have this identification. Tex. Elec. Code § 13.002(c)(8); and that officials or applicants have disregarded this requirement. Accordingly, Texas does not provide any factual basis for rejecting the assertion that the Texas registration database reflects the number of post-2003 registrants who do not have a driver's license or identification card. Furthermore, Texas does not dispute FF 56C regarding the actual number of post-2003 registrants who lack a driver's license or identification card number in their registration record (as of May 10, 2012), or the contrary numbers claimed by Dr. Shaw (as to registrants without a driver's license or identification card).

60A, 71A-71C. Texas does not substantively dispute the facts in these findings. Texas relies on its response to FF 56C; however, as indicated, Texas' response to FF 56C does not itself dispute FF 56C's underlying facts. Texas claims, as to FF 60A, that "[t]here is no factual basis" for concluding that 580,225 post-2003 registrants lack a driver's license

or identification card (as of May 10, 2012), but that fact is established in FF 56C. Texas does not dispute the contrary number claimed by Dr. Shaw (as to registrants without a driver's license or identification card). Texas likewise does not dispute FF 71A-71C concerning the numbers and percentages of Spanish-surnamed post-2003 registrants, and non-Spanish-surnamed post-2003 registrants, without a driver's license or identification card number in their voter registration record (as of May 10, 2012).

71D-71E. Texas does not dispute that the rate at which the White VAP is age 65 or older is substantially higher than the rate at which either the Hispanic VAP or the Black VAP is age 65 or older. Texas claims, without substantiation, that proportionality should be determined by the total numbers of persons within each group that are age 65 or older; while this is incorrect (a proportionality analysis necessarily must compare groups according to each group's within-group rate), there are, in any event, substantially more Whites age 65 or older than Hispanics or Blacks. Texas does not offer any basis on which to believe that the relative age distributions among Whites, Hispanics, and Blacks would differ if the population groups were limited to citizens age 65 or older.

71G-71H. Texas does not dispute that, in three of the four most recent elections, the White by-mail voting rates exceeded the minority rates, and that this also is the case for the two most recent general elections. Ex. 118.

71I-71J. Texas' response mischaracterizes the cited authority. The SOS Communications Director's testimony does not support an inference that any education efforts concerning the photo ID requirement are planned in addition to those that may be permitted by the general $3 million allocation. For example, he would only say that it is "possible" that he

would draft op-eds and that it would be "speculative" as to what web content the SOS would use, if any. Parsons Dep. 28:18-30:25.

71K. The statement is not offered for the truth of the matter asserted, but to show Ms. McGeehan's knowledge of what she heard. Further, it is a statement of a party opponent.

71L. The cited authority supports the fact. JA Ex. 22 at JA1736.

71N. The cited authority supports the proffered fact.

71O. The referenced exhibit shows that Hispanics use every category of information source less than at least one other demographic group. Ex. 53 at p. 2 (DIA 468).

71P. The cited authority supports the proffered fact.

71Q. Texas does not address or explain the inconsistency between Mr. Ingram's affidavit and his deposition testimony.

71R. Texas' response mischaracterizes the cited authority. Parsons. Dep. 76:2-7.

77D. Mr. Wood has first-hand experience in handling many election law and election contest cases in Texas which involved the issue of alleged voter fraud. His testimony, that voter impersonation fraud claims are almost never proven, rebuts Texas' claim that thwarting voter impersonation fraud was one of the major purposes behind SB 14. It is not hearsay since he has first-hand knowledge of facts regarding matters he was personally involved in, and he will testify at trial.

85C-86D. The record speaks for itself.

85F. Sen. Ellis's letter is not hearsay but is admissible as to its effect on the knowledge and state-of-mind of the Texas Legislature. FRE 803(3).

86D. Texas' assertion that the case cited by Mitchell "ultimately changed the result of a Justice of the Peace election" is unsupported by the record. Furthermore, the testimony reflects that no *mens rea* existed and no charges were brought against the alleged non-citizen voters. Mitchell Dep. 193:8-21.

130A. Intervenors agree with Texas' clarification as to the permissible identification under HB 1706. JA Ex. 113 at JA8939-40.

133A. Texas does not dispute that HB 218 would have allowed forms of photo ID not acceptable under HB 1706. JA Ex. 90 at JA8135-36; JA Ex. 113 at JA8940-41

150A. Texas does not dispute that SB 362 would have allowed for more forms of acceptable photo ID than SB 14.

151B. The statement is admissible under the residual hearsay exception (FRE 807), and as having been made by a supporter of SB 14, the equivalent of a party opponent.

161A. The citation to Ex. 57 is incorrect. The factual statements in this paragraph are supported by DoJ Ex. 567 at pp. 9-10.

166A. It is a statement of fact, and not of opinion, that SB 14 imposes more stringent requirements than HB 1706, HB 218, and SB 362 because it allows for the least forms of acceptable ID among the four bills.

174A. The first sentence is quoted from p. 28 (DIA000111) of Dr. Flores' expert report, Ex. 3. Experts may offer conclusions and rely on inadmissible evidence. FRE 703.

187A. *See* DoJ Ex. 235.

192. As to the admissibility of DoJ Ex. 106, the document, authored and/or authorized by Texas' Lieutenant Governor, is the admission of a party opponent. FRE 801(d)(2).

192A. The source cited is a printout from www.capitol.state.tx.us. Not only is any information contained therein an admission of a party opponent, but also reflects information stored in the normal course of the State's business. FRE 801(d)(2), 803(8).

196A. The citation to JA Ex. 6 at JA 83 is valid. Further, pages JA 60 through JA 191 support all sentences in the proposed finding of fact. The cited authority speaks for itself.

196B-196E. The cited pages of JA Ex. 6 (JA 98, 66, 69, and 115) speak for themselves.

207-208, 210-213. Ex. 4 speaks for itself and supports the proposed findings of fact. Intervenors note that the history of official discrimination is often an element in voting rights cases, and that a properly qualified historian may offer the Court his opinions. *LULAC v. Perry*, 548 U.S. 399, 439-40 (2006); FRE 702. The expert need not rely on admissible material. FRE 703. The 1975 U.S. House of Representatives Committee Report is duly cited in Dr. Tijerina's report and easily verifiable. FRE 803(8).

209. Ex. 4 also supports the proposed finding of fact.

214. The Kennie Intervenors have previously responded to these claims by Texas in their opposition to Texas' Motion *In Limine,* which is incorporated herein by reference. Dr. Lichtman's credentials and expert witness report (attached to the Kennie Intervenors' Opposition to Texas' Motion *In Limine*) demonstrate his specialized knowledge and skill.

215. Ex. 2 speaks for itself. (DIA000030-60.)

216-219, 221. Ms. McGeehan's deposition speaks for itself.

220. *See* DoJ Ex. 567.

222. The cited authority should be Ex. 59 at DIA 000862. Emails exchanged in the SOS's Office constitute admissions of a party opponent.

223. No specific page citation is needed for a general citation displaying the lack of a sentence. Further, the first page of Ex. 61 (DIA 890) clearly states that McGeehan "seemed fine with OAG's changes." *See also* McGeehan Dep. 254:20-255:9.

226. Experts may rely on inadmissible evidence. FRE 703. Also, the evidence is not offered for the truth of the matter asserted. FRE 802.

227. Ex. 3 speaks for itself.

229. Ex. 3 speaks for itself. Experts may rely on inadmissible evidence. FRE 703.

230. *See also* Ex.126.

231. Ex. 26 speaks for itself.

232. The cited documents speak for themselves.

233. Ex. 3 speaks for itself. Experts may rely on inadmissible evidence. FRE 703.

234. Ex. 3 and Ex. 20 speak for themselves. Experts may rely on inadmissible evidence. FRE 703. The *Dallas Morning News* is quoted to demonstrate Rep. Brown's state of mind, and, further is an admission of a party opponent. FRE 801(d)(2).

235. The *Dallas Morning News* is quoted to demonstrate Rep. Berman's state of mind FRE 803(3), and, further, is an admission of a party opponent. FRE 801(d)(2).

236-237. Ex. 3 speaks for itself. Experts may rely on inadmissible evidence. FRE 703.[3]

238. Ex. 3 speaks for itself. The material is admissible to demonstrate state of mind (FRE 803(3)) and, further, is an admission of a party opponent. FRE 801(d)(2).

[3] The full text of these bills can be found at http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=HB263 (HB 263) and http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=82R&Bill=HB22 (HB 22).

239. Ex. 3 speaks for itself. Experts may rely on inadmissible evidence. FRE 703. Further, the statement comprises an admission of a party opponent. FRE 802(d)(2).[4]

240. Ex. 33 speaks for itself. Experts may rely on inadmissible evidence. FRE 703.

241-243. The exhibits cited speak for themselves.

244. The evidence is proffered to show Rep. Harless' state of mind. FRE 803(3).

245. Ex. 3 speaks for itself. Experts may rely on inadmissible evidence (FRE 703) and the evidence is proffered to show Lt. Gov. Dewhurst's state of mind. FRE 803(3).

246. The evidence is proffered to show Lt. Gov. Dewhurst's state of mind. FRE 803(3).

247. Rep. Riddle's deposition speaks for itself.

248-256. Ex. 3 speaks for itself. Experts may rely on inadmissible evidence. FRE 703. Also, the evidence proffered goes to state of mind. FRE 803(3).

257. Rep. Bonnen's deposition speaks for itself.

258. Rep. Smith's deposition speaks for itself. The statements go to Rep. Smith's state of mind and not the state of the law, and are admissions. FRE 801(d)(2) and 803(3).

259. Ex. 3 speaks for itself. Experts may rely on inadmissible evidence. FRE 703.

260. Sen. Fraser's deposition speaks for itself. The evidence goes to Rep. Fraser's state of mind and is an admission of a party opponent. FRE 801(d)(2), 803(3).

261. Ex. 3 speaks for itself. Experts may rely on inadmissible evidence. FRE 703.

262. The documents speak for themselves.

[4] The full original article can be found at http://www.npr.org/2011/03/29/134956690/texas-republicans-take-harder-line-onimmigration.

263-266. Ex. 3 speaks for itself. Experts may rely on inadmissible evidence, and the other statements go the state of mind of various state legislators. FRE 703, 803(3).

REPLY TO STATE OF TEXAS' REPLY IN SUPPORT OF PROPOSED FINDINGS OF FACT AND TEXAS' ADDITIONAL ASSERTIONS OF FACT

297. [5] Dr. Sager's conclusion that there were only 167,724 registrants who were valid "no matches" on Dr. Ansolabehere's VRNID is incorrect, because Dr. Sager: (1) failed to eliminate some 4.7 million driver's licenses that were expired 60 days or more, which are not valid under SB 14; and (2) should have added approximately 1,000,000 additional registrants to the unmatched list, including (a) 468,775 registrants that matched an expired driver's license, (b) 140,666 unmatched registrants who were age 65 or older, (c) 116,797 unmatched registrants whose registration was in suspense, but could have their registrations restored with a statement of residence, and (d) 261,887 registrants who reported an ID number to the Secretary of State, but who could not be matched to state photo IDs. Lichtman deposition testimony.

337. Intervenors hereby incorporate their opposition to Texas' Proposed Findings of Fact and their additional Proposed Findings of Fact.

338. See D-I Response to Plaintiff's FF ("D-I Resp. FF"), ¶¶ 2, 11-15; D-I Supplemental FF, ¶¶ 23A-23G. DOJ's expert witness, Dr. Ansolabehere, has identified specific individuals who may be prevented from voting by SB 14.

339. Mr. Galuan's declaration speaks for itself.

[5] This assertion of fact is found in Texas' new FOF 297 (Doc. 264), filed in reply to DOJ's proposed FOF's (Doc. 223).

340. Victoria and Nicole Rodriguez are eligible Texas voters who cannot obtain the identification required by S.B. 14. Ex. 10 ¶ 20; Ex. 11 ¶ 20.

341. This proposed finding of fact is irrelevant. See also Response to FOF 338 above.

342. That certain persons who lack the photo ID required under SB 14 are eligible to vote by mail is irrelevant. Prior to SB 14, these individuals could vote either by mail or in person. After SB 14, they would be able to vote in person only if they obtain the requisite ID, and therefore their opportunity to participate in the political process would be adversely impacted. Voting in person is an important ritual in American life, and absentee voting has always been viewed – and is viewed by Texas – as an adjunct to voting in person. Tex. Elec. Code §§ 82.001, 82.002, 82.003 (recognizing only three categories of individuals eligible to vote by mail). See also Uresti Dep. 80:6-9.

343. Because SB 14 permits poll officials to exercise discretion as to whether to give a regular ballot to an individual, such as Ms. Burns, whose driver's license does not match her voter registration record, there is a reasonable possibility that Ms. Burns will be required to vote a provisional ballot rather than a regular ballot. See D-I Resp. FF ¶ 11.

344. Texas' response does not contest that Kennie will be disenfranchised. That he is poor, as well as African-American, does not mean that SB 14 does not have a discriminatory effect based on race. This is particularly so because, as Texas' expert acknowledged, African-Americans and Latinos have a far lower socioeconomic standing compared to Anglos. Shaw Dep. 48:6-13, 106:22 to 107:16; Ex. 5 ¶15.

345. Texas' FF Reply 345 is inaccurate. Intervenors contested the accuracy of Texas' assertions concerning Ms. Clark. *See* D-I Resp. FF ¶ 12. Intervenors deny that she is

domiciled in California, and state that she is duly registered to vote in Texas. Clark Dep. 9:9 – 10:2.

346. Texas' FF Reply 346 is inaccurate. Intervenors contested the accuracy of Texas' assertions concerning Ms. Culbreath. *See* D-I Resp. FF ¶ 13. Intervenors deny that she is domiciled in California, and reiterate that Ms. Culbreath is registered in Texas. Culbreath Dep. 9:14 – 10:5.

347. Texas' FF Reply responds to a "contention" nowhere found in Intervenors' FF 347.

348. Texas' FF Reply 348 responds to a "contention" that is nowhere found in Intervenors' FF 348. See D-I Resp. FF ¶ 15.

349. Texas' FF Reply 349 is irrelevant. It is Texas' burden to prove that SB 14 does not have a discriminatory purpose and will not have a discriminatory effect.

350. The last two sentences of Texas' reply cite to inadmissible hearsay. FRE 802.

351. The last sentence in Texas' proposed finding is unsupported by authority. Ms. Camarillo did not have *documents* in her possession, custody or control that supported her belief in S.B. 14's discriminatory purpose. Ms. Camarillo elsewhere provided substantial specific evidence to support of her contentions. *See* Camarillo Dep. 33:21-35:14, 36:16-22, 50:2-21, 52:16-21, 53:17-25, 65:15-66:5.

352. No intervenors have conceded that they are not domiciliaries of Texas. Texas cites no authority for its assertion that SB 14 is "logically related to the State's interest in preventing non-domiciliaries from voting." *Cf. See Symm v. United States*, 439 U.S. 1105 (1979) (affirming order barring the asking of student voters about property ownership and future plans in order to determine students' bona fide residence for voting purposes).

353. This is a conclusory statement, with no cited support, and is disputed by DOJ FF ¶¶168-174, 188, 192 and by Dr. Kousser's and Dr. Lichtman's reports. DoJ Ex. 548; Ex. 5.

354. Texas' FF Reply 354 is misleading. Voter ID legislation was not simply a party-line issue – it was a racially-polarized one. No senators that were ethnic or racial minorities supported SB 362 in 2009 or SB 14 in 2011, even though nearly all Anglo senators were in support. D-I Supplemental FF 161A; DOJ FF 120A.

355-56 (First Entry). Texas' FF Replies 355 and 356 (first entry) are inaccurate, in that use of the COTW process in the Senate is anything but "common" or "typical;" since 2004, the process was used for only one type of legislation other than Voter ID. See D-I Supplemental FF 151A.

358. Texas' FF Reply 358 is misleading and inaccurate. Parliamentarian Davis testified that with respect to final passage (as opposed to voting to take up a bill out of order), "most bills" would "usually" require a majority vote. K. Davis Dep. 253:3-14; 255:6-10.

359. Texas' assertion regarding blocker bills is unsupported by the cited source.

360. Texas' Reply is misleading: it omits the testimony that "generally, a bill that's at the top of the calendar and it is used as a blocker would have the effect of requiring a two-thirds vote for bills that are lower in calendar order beneath that bill." K. Davis Dep. 276:4-7.

361. Texas' FF Reply 361 is misleading in that omits testimony that the "two-thirds rule" encourages conciliation, cooperation, compromise, and negotiation. Hebert Dep. 156:9-22; McCoy Dep. 120:14-121:17; Brunson Dep. 104:12-105:8.

362. Texas' FF Reply 362 is misleading in that it omits that, out of at least 2000 bills that have passed the Senate since the Senate Parliamentarian took office in 2004, approximately

20 to 25 were passed without having to go through a two-thirds vote. *See* K. Davis Dep. 267:19-24; 281:11-24. The cited evidence does not support the proposition that the exception to the two-thirds rule was adopted merely because of a partisan divide.

363. Texas' FF Reply 363 is misleading because it ignores that passing a bill outside of the two-thirds rule is a highly unusual exception to ordinary practice. *See* above #362.

364. Texas' FF Reply 364 is misleading in that it omits that the only reason that SB 14 could be considered within the first 30 days of the legislative session without a four-fifths vote to suspend the constitutional order of business was that, in a combination of highly unusual procedures, Governor Perry designated SB 14 as an "emergency" item, and Lt. Gov. Dewherst assigned the bill to the Committee of the Whole and determined when it would be heard. K. Davis Dep. 78:7-78:22; 133:20-24.

365. Texas' FF Reply 358 is misleading. Parliamentarian Davis testified that with respect to final passage (as opposed to other votes, such as taking up a bill out of order), "most bills" would "usually" require a majority vote. K. Davis Dep. 253:3-14; 255:6-10.

366. Texas' FF Reply 366 mischaracterizes the testimony. Rep. Anchia testified that this is a courtesy extended to all committees. Anchia Dep. 103:13-18.

367. Texas' FF Reply 367 is incomplete. The House Journal reports that the vote was 101-48 with the Speaker not voting. JA Ex. 36 at JA2767.

368. Texas' Reply mischaracterizes Rep. Anchia's testimony that the procedural deviations were unusual, demonstrating racial intent. Anchia Dep. 113:14-22; 115:18-25.

369. It is not necessary to violate a rule to depart from normal procedures.

370. Texas' Reply is not supported by the record. There is extensive evidence of SB 14 being enacted with discriminatory purpose. *See, e.g.*, D-I Supplemental FF 224-266.

REPLY IN SUPPORT OF CONCLUSIONS OF LAW

Texas' "standing" argument is a red herring because standing is only a requirement for those who invoke federal court jurisdiction. *See Larson v. Valente*, 456 U.S. 228, 238-39 (1982). Intervenors have not invoked the Court's jurisdiction. *See also Peters v. District of Columbia*, No. 09-cv-02020, 2012 WL 1255139, at *42 n34 (D.D.C. Apr. 16, 2012) (stating that requiring that permissive intervenors have standing "is an unresolved issue"). Further, as previously discussed, that some Intervenors satisfy a standing review moots any issue as to the standing of other Intervenors, and, in any event, the challenged Intervenors satisfy the rules for standing.

Dated: July 5, 2012

/s/ Ezra D. Rosenberg
Ezra D. Rosenberg (D.C. Bar No. 360927)
Michelle Hart Yeary (*Pro Hac Vice*)
Dechert LLP
902 Carnegie Center, Suite 500
Princeton, NJ 08540-6531
(609) 955 3222 (phone)
Email: Ezra.rosenberg@dechert.com
Email: Michelle.yeary@dechert.com

Jon Greenbaum (D.C. Bar No. 489887)
Mark A. Posner (D.C. Bar No. 457833)
Robert A. Kengle
Lawyers' Committee for Civil Rights Under Law
1401 New York Ave., NW, Suite 400
Washington, D.C. 20005
(202) 662-8389 (phone)
Email: bkengle@lawyerscommittee.org
Email: mposner@lawyerscommittee.org

Wendy Weiser (*Pro Hac Vice*)
Myrna Pérez (*Pro Hac Vice*)

Ian Vandewalker (*Pro Hac Vice*)
The Brennan Center for Justice at NYU Law School
161 Avenue of the Americas, Floor 12
New York, NY 10013-1205
Email: Wendy.weiser@nyu.edu
Email: Myrna.perez@nyu.edu
Email: Ian.vandewalker@nyu.edu

Gary Bledsoe
Law Office of Gary L. Bledsoe & Associates
316 West 12th St., Suite 307
Austin, TX 78701
(512) 322-992 (phone)
Email: garybledsoe@sbcglobal.net

Victor L. Goode
NAACP National Headquarters
4805 Mt. Hope Dr.
Baltimore, MD 21215-3297
(410) 580-5120 (phone)
Email: vgoode@naacpnet.org

Robert S. Notzon (D.C. Bar No. TX0020)
The Law Office of Robert Notzon
1507 Nueces St.
Austin, TX 78701
(512) 474 7563 (phone)
Email: Robert@notzonlaw.com

Jose Garza
Law Office of Jose Garza
7414 Robin Rest Dr.
San Antonio, TX 98209
(210) 392-2856 (phone)
Email: garzapalm@aol.com

Counsel for Defendant-Intervenors
Texas State Conference of NAACP Branches and
the Mexican American Legislative Caucus of
Texas House Representatives

Ryan Haygood
Natasha M. Korgaonkar
Leah C. Aden
Dale E. Ho
Debo P. Adegbile

Elise C. Boddie
NAACP Legal Defense and Educational Fund, Inc.
99 Hudson Street, Suite 1600
New York, NY 10013
(212) 965-2200/Fax: (212) 226-7592
Email: rhaygood@naacpldf.org
Email: nkorgaonkar@naacpldf.org
Email: laden@naacpldf.org
Email: dadegbile@naacpldf.org
Email: dho@naacpldf.org
Email: eboddie@naacpldf.org

FRIED, FRANK, HARRIS
SHRIVER & JACOBSON LLP
Douglas H. Flaum
Michael B. de Leeuw
Adam Harris
One New York Plaza
New York, NY 10004-1980
(212) 859-8000

Counsel for Texas League of Young Voters Education Fund, Imani Clark, KiEssence Culbreath, Demariano Hill, Dominique Monday, and Felicia Johnson

J. Gerald Hebert
D.C. Bar No. 447676
Attorney at Law
191 Somerville Street, #405
Alexandria, VA 22304
Telephone: 703-628-4673
Email: hebert@voterlaw.com

Chad W. Dunn
D.C. Bar No. 987454
Texas Bar No. 24036507
Brazil & Dunn LLP
4201 Cypress Creek Pkwy., Suite 530
Houston, Texas 77068
Telephone: (281) 580-6310
Facsimile: (281) 580-6362
Email: chad@brazilanddunn.com

Counsel for Kennie Defendant-Intervenors

John Kent Tanner
3743 Military Road, N.W.
Washington, DC 20015
(202) 503-7696
Email: john.k.tanner@gmail.com

Nancy Abudu
Katie O'Connor
Moffatt Laughlin McDonald
American Civil Liberties Union Foundation Inc.
230 Peachtree Street NW, Suite 1440
Atlanta, GA 30303
(404) 523-2721/Fax: (404) 653-0331
Email: nabudu@aclu.org
Email: koconnor@aclu.org
Email: lmcdonald@aclu.org

Lisa Graybill
Rebecca Robertson
American Civil Liberties Union Foundation of Texas
1500 McGowan Street
Houston, Texas 77004
(713) 942-8146
Email: lgraybill@aclutx.org
Email: rrobertson@aclutx.org

Kumiki Gibson
Advancement Project
1220 L Street, NW, Suite 850
Washington, DC 20005
(202) 728-9557
Email: kgibson@advancementproject.org

Counsel for Justice Seekers, League of Women Voters of Texas, Texas Legislature Black Caucus, Donald Wright, Peter Johnson, Ronald Wright, Southwest Workers Union and La Union Del Pueblo Entero

Nina Perales
Mexican American Legal Defense & Educational Fund, Inc.
110 Broadway, Suite 300

San Antonio, TX 78205
(210) 224-5476/Fax: 210-224-5382
Email: nperales@maldef.org

Counsel for Mi Familia Vota Education Fund, Southwest Voter Registration Education Project, Nicole Rodriguez, Victoria Rodriguez

CERTIFICATE OF SERVICE

I certify that on July 5, 2012, the foregoing was filed with the Clerk of the Court using the CM/ECF system which will electronically serve all counsel of record.

/s/ Ezra D. Rosenberg
Ezra D. Rosenberg