JENNER & BLOCK

Celebrating "Voices of Democracy: Ensuring Justice for All," in Honor of 2023 US Pro Bono Week

News

October 23, 2023

In honor of US Pro Bono Week, Jenner & Block is celebrating and shining a spotlight on the impactful work our lawyers do to help preserve and strengthen American democracy. We are committed to advocating for free elections, fair and equitable districting maps, and a government that reflects the will of the people.

The pro bono matters being highlighted this week are aligned with this year's theme of "Voices of Democracy: Ensuring Justice for All" and are only a small representation of the work our lawyers do every single day.

Our next Heart of the Matter Report, coming in February 2024, will detail more of the significant and life-changing service from this year. Read on to learn more about some of the cases that helped strengthen democracy.

SCOTUS Upholds 2022 NC Supreme Court Decision in *Moore v. Harper*, Rejects Independent State Legislature Theory

In June 2023, the US Supreme Court affirmed the 2022 decision of the North Carolina Supreme Court in *Moore v. Harper*, a consolidation of three cases stemming from North Carolina's redistricting process.

Jenner & Block successfully represented the North Carolina League of Conservation Voters (NCLCV) and 15 North Carolina citizens in what a former federal circuit judge called "the most important case for American democracy in the almost two and a half centuries since America's founding." In 2022, the North Carolina Supreme Court ruled that the state constitution prohibits partisan gerrymandering. As a result, North Carolina voters in the 2022 congressional elections voted in fair districts rather than egregiously gerrymandered ones.

But in *Moore v. Harper*, North Carolina legislative leaders took the case to the US Supreme Court, arguing that they are not bound by their state constitution when making the rules for congressional elections.

Partners Jessie Amunson and Sam Hirsch and former Partner Zach Schauf led the case for the NCLCV et al., and in their joint Supreme Court brief with co-respondents laid bare the flaws in the legislators' "independent state legislature" theory.

The US Supreme Court decision, written by Chief Justice Roberts, agreed with our clients and rejected the "independent state legislature" theory that would have given state legislatures unprecedented power in drawing gerrymandered congressional districts and would have stripped state courts of the oversight role granted to them in state constitutions.

Supreme Court Cites Jenner & Block's Amicus Brief in Victory for Voter Rights in Alabama
In 2022, a Jenner & Block team filed an amicus brief in the US Supreme Court on behalf of computational redistricting experts in support of Black voters in *Allen v. Milligan*. In a 5-4 decision in June 2023, the Supreme Court decided that the map adopted by Alabama for its 2022 congressional elections violated Section 2 of the Voting Rights Act, a huge win in protecting minority voting rights. Even though Black residents constitute more than 27% of the state's total population, the map created a congressional delegation with only one Black opportunity district out of seven, diluting Black voices and votes.

In the opinion, the Chief Justice relied heavily on Jenner's amicus brief, quoting it repeatedly to bat away Alabama's arguments. In his concurring opinion, Justice Kavanaugh also harked back to the brief when discussing the proper role for algorithmic redistricting.

In October 2023, a federal court approved a new 2024 congressional map in Alabama that was drawn by a court-appointed special master. The map, which will be used when Alabamians cast their vote for who will represent them in the U.S. House of Representatives, adds a second Black opportunity congressional district giving greater electoral power to Black residents.

The team was led by Partners Sam Hirsch and Jessica Amunson and Associate Mary Marshall. They represented amici Dr. Daryl R. DeFord, Dr. Amariah Becker, and Dr. Dara Gold, computational redistricting experts.

Jenner & Block Partners with NAACP Legal Defense and Educational Fund to Challenge President Trump's Interference with 2020 Election
Jenner & Block and co-counsel NAACP Legal Defense and Educational Fund are representing Michigan Welfare Rights Organization, NAACP, and three Detroit residents in a lawsuit that raises claims under the Voting Rights Act and the Ku Klux Klan Act seeking monetary damages and injunctive relief against President Donald Trump, the Trump Campaign, and the Republican National Committee for unlawful interference with the 2020 presidential election. The lawsuit also seeks to stop future election interference.

"Defendants' efforts to disenfranchise hundreds of thousands of voters—targeting cities with large Black populations, including Detroit, Michigan, Milwaukee, Wisconsin, Philadelphia, Pennsylvania,

and Atlanta, Georgia—repeat the worst abuses in our nation's history, where Black Americans were denied a voice in American democracy for most of the first two centuries of the Republic."

The Jenner team is being led by Partner Jason Bradford with support from Special Counsel Jonathan Enfield and Associates Christian Hatten and Melissa Fedornak. Former Associates William Von Hoene and Deanna Krokos also worked on this case.

Judge Grants Partial Summary Judgment in Texas Anti-Voter Law; Trial Concludes on Remaining Provisions

In August, a federal court granted partial summary judgment in favor of civil rights groups who filed a lawsuit against Senate Bill 1 (SB 1), a Texas law that has disenfranchised voters. Senate Bill 1 requires mail voters to provide an ID number that matches the number contained in their voter file, which is maintained in a Texas voter registration database that contains incorrect and missing information. The district court ruled that the matching requirement violates the Materiality Provision of Section 101 of the Civil Rights Act of 1964 by rejecting mail-in ballot applications and votes "based on errors or omissions on a record or paper relating to an act requisite to voting that are not material in determining whether voters are qualified under Texas law to vote or to cast a mail ballot."

Trial on the remaining claims, which challenge prohibitions on certain forms of mail ballot assistance and protected speech, concluded on October 19 after nearly six weeks of testimony from dozens of witnesses. The case is now under advisement.

"We have already seen portions of S.B. 1 rolled back as unlawful restrictions on voting," said Partner Alex Trepp. "Having heard compelling testimony on our remaining challenges, including obstacles presented by the provisions addressed at trial, we hope these harmful limitations on the right to vote will be struck down."

In 2021, Jenner & Block joined the Texas Civil Rights Project, American Civil Liberties Union, the ACLU of Texas, Asian American Legal Defense and Education Fund, and Disability Rights Texas to file the lawsuit on behalf of the League of Women Voters of Texas, Register, Educate, Vote, & Use your Power - Texas (REV UP Texas), and OCA Greater Houston.

In addition to Alex, the firm team includes Partners Jessica Ring Amunson and Sam Hirsch, Associates Sophia Cai, Alyssa Bernstein, Greg Washington, Senior Paralegal Albert Peterson, and former Associate Urja Mittal.

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Election Law and Redistricting

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