

APPEAL

**U.S. District Court
District of Rhode Island (Providence)
CIVIL DOCKET FOR CASE #: 1:20-cv-00318-MSM-LDA**

Common Cause Rhode Island et al v. Gorbea et al	Date Filed: 07/23/2020
Assigned to: District Judge Mary S. McElroy	Jury Demand: None
Referred to: Magistrate Judge Lincoln D. Almond	Nature of Suit: 441 Civil Rights: Voting
Case in other court: U.S. Court of Appeals for the First Circuit, 20-01753 (requires PACER login)	Jurisdiction: Federal Question
Cause: 42:1983 Civil Rights Act	

Plaintiff

Common Cause Rhode Island

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Plaintiff

**League of Women Voters of
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Plaintiff

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Plaintiff

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Plaintiff

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V.

Defendant

Nellie M. Gorbea
*in her official capacity as Secretary
of State of Rhode Island*

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Defendant

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Defendant

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Defendant

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Defendant

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Defendant

Isadore S. Ramos
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William E. West
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Defendant

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Defendant

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Joseph S. Larisa , Jr.
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Date Filed	#	Docket Text
07/23/2020	<u>1</u>	COMPLAINT (filing fee paid \$ 400.00, receipt number 0103-1532635), filed by Miranda Oakley, League of Women Voters of Rhode Island, Common Cause Rhode Island, Barbara Monahan, Mary Baker. (Attachments: # <u>1</u> Civil Cover Sheet)(Labinger, Lynette) (Entered: 07/23/2020)
07/23/2020		CASE CONDITIONALLY ASSIGNED to District Judge Mary S. McElroy and Magistrate Judge Lincoln D. Almond. Related Case Number CV20-262-MSM-LDA based upon the indication on the cover sheet that a related case previously was assigned to the presiding judge. The assignment is subject to the presiding judge's determination that the cases, in fact, are related. (Potter, Carrie) (Entered: 07/23/2020)
07/23/2020	<u>2</u>	CASE OPENING NOTICE ISSUED (Potter, Carrie) (Entered: 07/23/2020)
07/23/2020	<u>3</u>	MOTION for Michael C. Keats to Appear Pro Hac Vice <i>for all Plaintiffs</i> (filing fee paid \$ 100.00, receipt number 0103-1532672) filed by All Plaintiffs. (Labinger, Lynette) (Entered: 07/23/2020)
07/23/2020	<u>4</u>	MOTION for Christopher H. Bell to Appear Pro Hac Vice <i>for all Plaintiffs</i> (filing fee paid \$ 100.00, receipt number 0103-1532680) filed by All Plaintiffs. (Labinger, Lynette) (Entered: 07/23/2020)
07/23/2020		TEXT ORDER granting <u>3</u> Motion to Appear Pro Hac Vice of Michael C. Keats; granting <u>4</u> Motion to Appear Pro Hac Vice of Christopher H Bell. So Ordered by District Judge Mary S. McElroy on 7/23/2020. (Potter, Carrie) (Entered: 07/23/2020)
07/23/2020	<u>5</u>	MOTION for Temporary Restraining Order , MOTION for Preliminary Injunction (Responses due by 8/6/2020.) filed by All Plaintiffs. (Attachments: # <u>1</u> Supporting Memorandum, # <u>2</u> Affidavit A. Dr.Reingold Declaration, # <u>3</u> Affidavit B. Dr.Fine Declaration, # <u>4</u> Affidavit C. Oakley Declaration, # <u>5</u> Affidavit D. Monahan Declaration, # <u>6</u> Affidavit E. Baker Declaration, # <u>7</u> Affidavit F. Koster/LWVRI Declaration, # <u>8</u> Affidavit G.

		Marion/CC-RI Declaration, # 9 Exhibit H. 2018 Census Data)(Labinger, Lynette) (Entered: 07/23/2020)
07/23/2020		NOTICE of Remote Hearing: Chambers Conference set for Friday, 7/24/2020 at 10:00 AM via Zoom before District Judge Mary S. McElroy. The Court will send Zoom access information to counsel by email. (Urizandi, Nisshy) (Entered: 07/23/2020)
07/23/2020	6	NOTICE of Appearance by Angel Taveras on behalf of Nellie M. Gorbea (Taveras, Angel) (Entered: 07/23/2020)
07/23/2020	7	MOTION for Julie A. Ebenstein to Appear Pro Hac Vice <i>for all Plaintiffs</i> (filing fee paid \$ 100.00, receipt number 0103-1532830) filed by All Plaintiffs. (Labinger, Lynette) (Entered: 07/23/2020)
07/23/2020	8	MOTION for Jonathan Diaz to Appear Pro Hac Vice <i>for all Plaintiffs</i> (filing fee paid \$ 100.00, receipt number 0103-1532837) filed by All Plaintiffs. (Labinger, Lynette) (Entered: 07/23/2020)
07/23/2020	9	MOTION for Danielle Lang to Appear Pro Hac Vice <i>for all Plaintiffs</i> (filing fee paid \$ 100.00, receipt number 0103-1532849) filed by All Plaintiffs. (Labinger, Lynette) (Entered: 07/23/2020)
07/23/2020		TEXT ORDER granting 7 Motion to Appear Pro Hac Vice of Julie A Ebenstein, ; granting 8 Motion to Appear Pro Hac Vice of Jonathan Diaz; granting 9 Motion to Appear Pro Hac Vice of Danielle Lang. So Ordered by District Judge Mary S. McElroy on 7/23/2020. (Potter, Carrie) (Entered: 07/23/2020)
07/24/2020		Minute Entry for proceedings held before District Judge Mary S. McElroy: Chambers Conference held via Zoom on 7/24/2020. Lynette Labinger and Michael Keats for the plaintiffs and Angel Tavares and Ray Marcaccio for the defendants participated. (Urizandi, Nisshy) (Entered: 07/24/2020)
07/24/2020		NOTICE of Remote Hearing on Motion 5 MOTION for Temporary Restraining Order MOTION for Preliminary Injunction: Motion Hearing set for Monday, 7/27/2020 at 3:00 PM via Zoom before District Judge Mary S. McElroy. The Court will send out Zoom access information to counsel by email. (Urizandi, Nisshy) (Entered: 07/24/2020)
07/26/2020	10	EMERGENCY MOTION to Intervene <i>as Defendants</i> filed by Republican National Committee, Rhode Island Republican Party. Responses due by 8/10/2020. (Attachments: # 1 Exhibit Board of Elections Emergency Meeting Agenda)(Bell, Brandon) Modified on 7/27/2020 to reflect that this is an emergency motions

		and not an amended motion. (Urizandi, Nisshy) (Entered: 07/26/2020)
07/26/2020	<u>11</u>	MEMORANDUM IN SUPPORT by Republican National Committee, Rhode Island Republican Party in support of <u>10</u> Amended MOTION to Intervene <i>as Defendants Emergency Motion to Intervene</i> . (Bell, Brandon) (Entered: 07/26/2020)
07/27/2020	<u>12</u>	Emergency MOTION for Hearing <i>Protective Motion for Fairness Hearing</i> filed by Republican National Committee, Rhode Island Republican Party. Responses due by 8/10/2020. (Attachments: # <u>1</u> Exhibit Board of Elections Emergency Meeting Agenda)(Bell, Brandon) (Entered: 07/27/2020)
07/27/2020	<u>13</u>	NOTICE of Appearance by Brandon S. Bell on behalf of Republican National Committee, Rhode Island Republican Party (Bell, Brandon) (Entered: 07/27/2020)
07/27/2020	<u>14</u>	MOTION for Thomas R. McCarthy to Appear Pro Hac Vice <i>for Defendants</i> (filing fee paid \$ 100.00, receipt number 0103-1533367) filed by Republican National Committee, Rhode Island Republican Party. (Bell, Brandon) (Entered: 07/27/2020)
07/27/2020	<u>15</u>	MOTION for Patrick Strawbridge to Appear Pro Hac Vice <i>for Defendants</i> (filing fee paid \$ 100.00, receipt number 0103-1533368) filed by Republican National Committee, Rhode Island Republican Party. (Bell, Brandon) (Entered: 07/27/2020)
07/27/2020	<u>16</u>	MOTION for Cameron T. Norris to Appear Pro Hac Vice <i>for Defendants</i> (filing fee paid \$ 100.00, receipt number 0103-1533369) filed by Republican National Committee, Rhode Island Republican Party. (Bell, Brandon) (Entered: 07/27/2020)
07/27/2020		TEXT ORDER granting <u>14</u> Motion to Appear Pro Hac Vice for Thomas McCarthy filed by Brandon S. Bell. - So Ordered by District Judge Mary S. McElroy on 7/27/2020. (McGuire, Vickie) (Entered: 07/27/2020)
07/27/2020		TEXT ORDER granting <u>15</u> Motion to Appear Pro Hac Vice for Patrick Strawbridge filed by of Brandon S. Bell. - So Ordered by District Judge Mary S. McElroy on 7/27/2020. (McGuire, Vickie) (Entered: 07/27/2020)
07/27/2020		TEXT ORDER granting <u>16</u> Motion to Appear Pro Hac Vice for Cameron T. Norris filed by Brandon S. Bell. - So Ordered by District Judge Mary S. McElroy on 7/27/2020. (McGuire, Vickie) (Entered: 07/27/2020)

07/27/2020	<u>17</u>	NOTICE of Appearance by Joseph S. Larisa, Jr. on behalf of Republican National Committee, Rhode Island Republican Party (Larisa, Joseph) (Entered: 07/27/2020)
07/27/2020	<u>18</u>	Joint MOTION to Approve Consent Judgment <i>presented by all parties</i> filed by All Plaintiffs. Responses due by 8/10/2020. (Attachments: # <u>1</u> Exhibit Consent Judgment and Decree)(Labinger, Lynette) (Entered: 07/27/2020)
07/27/2020		Minute Entry for proceedings held before District Judge Mary S. McElroy: Motion Hearing held on 7/27/2020 re <u>5</u> MOTION for Temporary Restraining Order: B. Bell, D. Lang, J. Diaz, J. Ebenstein, M. Keats, L. Labinger (Plaintiffs), R. Marcaccio (Board), A. Tavaras (Gorbea), B. Bell, T. McCarthy, J. Larissa (Intervenors). Arguments heard. If potential interveners wish to file Rule 24 documents, they must do so by 7:00 p.m. on 7/27/2020. Responses to the Rule 24 documents due by 12:00 p.m. on 7/28/2020. Fairness hearing to be held on 7/28/2020 at 3:00 p.m. Recess. (Court Reporter L. Schwam via Video Hearing at 3:00 p.m..) (Potter, Carrie) (Entered: 07/27/2020)
07/27/2020		NOTICE of Hearing on Motion <u>12</u> Emergency MOTION for Hearing <i>Protective Motion for Fairness Hearing</i> : Motion Hearing set for 7/28/2020 at 03:00 PM in Remote Hearing before District Judge Mary S. McElroy. The Court will send out Zoom access information to counsel by email. (Potter, Carrie) (Entered: 07/27/2020)
07/27/2020	<u>19</u>	MOTION for Dale E. Ho to Appear Pro Hac Vice <i>for all Plaintiffs</i> (filing fee paid \$ 100.00, receipt number 0103-1533746) filed by All Plaintiffs. (Labinger, Lynette) (Entered: 07/27/2020)
07/27/2020	<u>20</u>	<i>Proposed</i> ANSWER to Complaint by Republican National Committee, Rhode Island Republican Party.(McCarthy, Thomas) (Entered: 07/27/2020)
07/28/2020	<u>21</u>	RESPONSE In Opposition to <u>18</u> Joint MOTION to Approve Consent Judgment <i>presented by all parties</i> filed by Republican National Committee, Rhode Island Republican Party. Replies due by 8/4/2020. (Attachments: # <u>1</u> Exhibit District of Minnesota Decision)(McCarthy, Thomas) (Entered: 07/28/2020)
07/28/2020	<u>22</u>	RESPONSE In Opposition to <u>10</u> Amended MOTION to Intervene <i>as Defendants</i> filed by Nellie M. Gorbea. Replies due by 8/4/2020. (Taveras, Angel) (Entered: 07/28/2020)

07/28/2020	23	AFFIDAVIT re 22 Response to Motion by Nellie M. Gorbea. (Taveras, Angel) (Entered: 07/28/2020)
07/28/2020		TEXT ORDER granting 19 Motion to Appear Pro Hac Vice of Dale E. Ho. So Ordered by District Judge Mary S. McElroy on 7/28/2020. (Potter, Carrie) (Entered: 07/28/2020)
07/28/2020	24	RESPONSE In Opposition to 10 Amended MOTION to Intervene as <i>Defendants</i> filed by All Plaintiffs. Replies due by 8/4/2020. (Labinger, Lynette) (Entered: 07/28/2020)
07/28/2020		Minute Entry for proceedings held before District Judge Mary S. McElroy: Fairness Hearing held on 7/28/2020 re 10 MOTION to Intervene , 12 Emergency MOTION for Hearing 18 Joint MOTION to Approve Consent Judgment: B. Bell, D. Lang, J. Diaz, J. Ebenstein, M. Keats, L. Labinger (Plaintiffs), R. Marcaccio (Board), A. Tavaras (Gorbea), M. Field (State of RI), B. Bell, T. McCarthy, J. Larissa, C. Norris (Intervenors). Court questions; arguments heard. For reasons states on the record, Court grants MOTION to Approve Consent Judgment; denies MOTION to Intervene as Defendants. Interveners Oral Motion to Stay pending Appeal. Motion to Stay denied. Order to issue. Recess. (Court Reporter D. Veitch via Video Hearing at 3:00 p.m.) (Potter, Carrie) (Entered: 07/28/2020)
07/28/2020		Oral MOTION to Stay <i>pending Appeal</i> filed by Republican National Committee, Rhode Island Republican Party. Responses due by 8/11/2020. (Potter, Carrie) (Entered: 07/28/2020)
07/28/2020		Order ORDER: For reasons stated on the record, Court denies Motion to Stay pending Appeal.. So Ordered by District Judge Mary S. McElroy on 7/28/2020. (Potter, Carrie) (Entered: 07/28/2020)
07/30/2020		AMENDED TEXT ORDER denying 10 Motion to Intervene - So Ordered by District Judge Mary S. McElroy on 7/28/2020. (Urizandi, Nisshy) Modified on 7/30/2020 to reflect that motion was denied on the record on July 28, 2020 (Urizandi, Nisshy). (Entered: 07/30/2020)
07/30/2020	25	AMENDED MEMORANDUM relative to approval of Consent Judgment - So Ordered by District Judge Mary S. McElroy on 7/28/2020. (Urizandi, Nisshy) (Main Document 25 replaced on 7/30/2020) (Urizandi, Nisshy). Modified on 7/30/2020 to reflect the correct date of the order(Urizandi, Nisshy). (Entered: 07/30/2020)

07/30/2020		AMENDED TEXT ORDER granting 12 Emergency MOTION for Hearing <i>Protective Motion for Fairness Hearing</i> filed by Rhode Island Republican Party, Republican National Committee. A Fairness Hearing was held on 7/28/2020 via Zoom before Judge Mary S. McElroy. The 5 MOTION for Temporary Restraining Order MOTION for Preliminary Injunction filed by Miranda Oakley, Mary Baker, Barbara Monahan, League of Women Voters of Rhode Island, Common Cause Rhode Island is denied as moot - So Ordered by District Judge Mary S. McElroy on 7/30/2020. (Urizandi, Nisshy) Modified on 7/30/2020 to reflect the correct date of the Fairness Hearing (Urizandi, Nisshy). (Entered: 07/30/2020)
07/30/2020	26	AMENDED CONSENT JUDGMENT AND DECREE - So Ordered by District Judge Mary S. McElroy on 7/28/2020. (Urizandi, Nisshy) Modified on 7/30/2020 to reflect the correct date of the ruling (Urizandi, Nisshy). (Main Document 26 replaced on 7/30/2020) (Urizandi, Nisshy). (Entered: 07/30/2020)
07/30/2020	27	Corporate Disclosure Statement by Common Cause Rhode Island, League of Women Voters of Rhode Island identifying Corporate Parent League of Women Voters of United States for League of Women Voters of Rhode Island; Corporate Parent Common Cause for Common Cause Rhode Island.. (Labinger, Lynette) (Entered: 07/30/2020)
07/30/2020	28	NOTICE OF APPEAL by Republican National Committee, Rhode Island Republican Party as to 25 Order on Motion to Approve Consent Judgment, Order on Motion for TRO, Order on Motion for Preliminary Injunction, Order on Motion for Hearing, 26 Consent Decree, Order on Motion to Intervene (filing fee paid \$ 505.00, receipt number 0103-1534853) NOTICE TO COUNSEL: Counsel should register for a First Circuit CM/ECF Appellate Filer Account at http://pacer.psc.uscourts.gov/cmecf/. Counsel should also review the First Circuit requirements for electronic filing by visiting the CM/ECF Information section at http://www.ca1.uscourts.gov/cmecf Appeal Record due by 8/6/2020. (McCarthy, Thomas) (Entered: 07/30/2020)
07/30/2020	29	CLERK'S CERTIFICATE AND APPELLATE COVER SHEET: Abbreviated record on appeal consisting of notice of appeal, order(s) being appealed, and a certified copy of the district court docket report transmitted to the U.S. Court of Appeals for the First

		Circuit in accordance with 1st Cir. R. 11.0(b). Documents Sent: Amended Text Order of 7/30/20, 25, 26, and 28. (Attachments: # 1 Record on Appeal)(Simoncelli, Michael) (Entered: 07/30/2020)
07/30/2020	30	NOTICE OF APPEAL by Republican National Committee, Rhode Island Republican Party as to 25 Order on Motion to Approve Consent Judgment,, Order on Motion for TRO,, Order on Motion for Preliminary Injunction,, Order on Motion for Hearing, 26 Consent Decree, Order on Motion to Intervene (filing fee paid \$ 505.00, receipt number 0103-1534942) NOTICE TO COUNSEL: Counsel should register for a First Circuit CM/ECF Appellate Filer Account at http://pacer.psc.uscourts.gov/cmecf/. Counsel should also review the First Circuit requirements for electronic filing by visiting the CM/ECF Information section at http://www.ca1.uscourts.gov/cmecf Appeal Record due by 8/6/2020. (McCarthy, Thomas) (Entered: 07/30/2020)
07/31/2020		USCA Case Number 20-1753 for 28 Notice of Appeal filed by Rhode Island Republican Party, Republican National Committee. (Potter, Carrie) (Entered: 07/31/2020)
07/31/2020	31	Supplemental Record on Appeal transmitted to U.S. Court of Appeals for the First Circuit. 28 Notice of Appeal. Unrestricted Documents Sent: 30. (Attachments: # 1 Record on Appeal)(Simoncelli, Michael) (Entered: 07/31/2020)
07/31/2020	33	TRANSCRIPT ORDER for proceedings held on July 28, 2020 before Judge Mary S. McElroy. Expedited Transcript selected. Transcript to be delivered within 7 calendar days.. (Keats, Michael) (Entered: 07/31/2020)
07/31/2020	34	TRANSCRIPT ORDER ACKNOWLEDGMENT Entered re: 33 Transcript Order. Court Reporter/Transcriber: Denise Veitch. (Dias, Jennifer) (Entered: 07/31/2020)
08/03/2020	35	NOTICE of Appearance by Raymond A. Marcaccio on behalf of Louis A. DeSimone Jr., Jennifer L. Johnson, Diane C. Mederos,

		Richard H. Pierce, Isadore S. Ramos, David H. Sholes, William E. West (Marcaccio, Raymond) (Entered: 08/03/2020)
08/10/2020	36	ORDER of the U.S. Court of Appeals for the First Circuit entered as to 28 Notice of Appeal filed by Rhode Island Republican Party, Republican National Committee: This cause came on to be heard on appeal from the United States District Court for the District of Rhode Island and was argued by counsel. The district court's order denying intervention is reversed in part, only for purposes of appeal, and the motion for stay pending appeal is denied. (Potter, Carrie) (Entered: 08/10/2020)
08/10/2020	37	OPINION of the U.S. Court of Appeals for the First Circuit entered as to 28 Notice of Appeal filed by Rhode Island Republican Party, Republican National Committee :..." We have paid attention, too, to the possibility that this litigation is collusive, with defendants having agreed to judgment just days after the suit was filed. A state official unhappy with the lawful decisions of the state legislature should not be able to round up an agreeable plaintiff who then uses collusive litigation to "force" the state to do what the official wants. Here, though, all other representatives of Rhode Island's government have gone silent, voicing no objection at all to the consent judgment and decree. Furthermore, if state officials fairly conclude, as credibly happened here, that enforcement of a law is unconstitutional in certain circumstances, one can hardly fault them for so acknowledging. Indeed, the Secretary of State and Board of Elections are obligated to enforce Rhode Island's voting laws, provided those laws are not deemed unconstitutional. R.I. const. art. III, § 3; R.I. const. art. IV, § 12. 17 R.I. Gen. Laws §§ 17-7-4, 17-7-5. Notice, too, was given to the attorney general, who by law is obligated to act as legal advisor for all state agencies and officers acting in their official capacity and to defend them against suit, R.I. Gen. Laws § 42-9-6, and who advised the defendants, herein, throughout the proceedings below. And it would be odd indeed to say that a plaintiff cannot get relief from an unconstitutional law merely because the state official charged with enforcing the law agrees that its application is unconstitutional. Finally, there is no claim that the details of the consent decree were not negotiated at arm's length. All in all, we see no collusion, and counsel for the Republicans expressly so agreed at argument. Finally, as to the Republicans' status as intervenors in this case, the district court's order denying intervention is reversed in part, only for purposes of appeal, and the motion for stay pending appeal is denied. (Potter, Carrie) (Entered: 08/10/2020)

08/11/2020	38	TRANSCRIPT of Fairness Hearing, held on July 28, 2020, before Judge Mary S. McElroy. Court Reporter Denise P. Veitch, Telephone number 401-752-7031. Transcript may be viewed at the court public terminal or purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date it may be obtained through the Court Reporter or PACER. NOTICE TO COUNSEL: Redaction Requests must be filed for personal identifiers only. All other redactions must be requested by motion. For local policy and sample redaction request visit our website at www.rid.uscourts.gov and select Transcripts under the Case Information menu option. Redaction Request due 9/1/2020. Redacted Transcript Deadline set for 9/11/2020. Release of Transcript Restriction set for 11/9/2020. (Veitch, Denise) (Entered: 08/11/2020)
01/19/2021	39	NOTICE by Nellie M. Gorbea Angel Taveras - <i>Firm change</i> (Taveras, Angel) (Entered: 01/19/2021)

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