

CAUSE NO. C-1053-22-C

TANIA RAMIREZ,
Contestant

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IN THE DISTRICT COURT

VS.

_____ **JUDICIAL DISTRICT**

RICARDO ‘RICHARD’ F. CORTEZ,
Contestee.

HIDALGO COUNTY, TEXAS

CONTESTANT’S ORIGINAL PETITION FOR ELECTION CONTEST

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, TANIA RAMIREZ, Contestant in the above styled and numbered cause, and through her attorney of record files this her Original Petition for Election Contest seeking to challenge the results of the Hidalgo County Judge, Democratic Primary Election held on March 1, 2022 (hereinafter the “Election” or “Primary Election”), and canvassed on March 10, 2022. Contestant would respectfully show the Court as follows:

I. DISCOVERY CONTROL PLAN

1. Pursuant to Rule 190.1 of the Texas Rules of Civil Procedure, Contestant intends to conduct this case under Discovery Level 3.

II. PARTIES AND SERVICE

2. Contestant, TANIA RAMIREZ, (hereinafter “Ramirez” or “Contestant”) is an individual who was a candidate in the 2022 Democratic Primary for Hidalgo County Judge against two other candidates. Ramirez is a resident of Hidalgo County, Texas.
3. Contestee, RICARDO ‘RICHARD’ F. CORTEZ, (hereinafter “Cortez” or “Contestee”) is one of the other three candidates in the 2022 Democratic Primary for Hidalgo County Judge. Contestee ran as the incumbent in the race and was declared the outright alleged winner of the Primary Election, without need for a runoff election. Cortez is likewise a

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resident of Hidalgo County, Texas, and can be served via private process server at 709 Wisteria Avenue, McAllen, Texas 78504, or wherever he may be found.

4. Pursuant to Election Code § 232.009(a)(1), Contestant specifically requests that the head Canvassing Authority, Patrick Eronini, Chair, Hidalgo County Democratic Party (Canvassing Official, Democratic Party) be noticed of the filing of this Contest. Such notice should be sent to him at his office located at the Hidalgo County Democratic Party, Patrick Eronini, Chair, 1111 West Nolana, McAllen, Texas 78504, or wherever he may be found.
5. Pursuant to Texas Election Code § 232.008(d), a copy of the present lawsuit must be delivered to the Texas Secretary of State. The lawsuit may be delivered to the Elections Division, Secretary of State, P.O. Box 12060, Austin, Texas 78711-2060. Pursuant to Senate Bill 1 (hereinafter “SB1”), passed on September 7, 2021 by the 87th Legislature, 2nd Special Session, a copy of the present lawsuit may also be electronically delivered to the Secretary of State. *See* Texas Election Code § 232.008(d).
6. Contestant further requests that the citation of service in this cause conforms to the requirements of the Election Code, which provides that

FILING PERIOD FOR ANSWER. A contestee in a contest of a general or special election must file an answer to the contestant's petition not later than 10 a.m. of the 10th day after the date of service of citation on the contestee or 10 a.m. of the fifth day after the date the official result in the contested race is determined, whichever is later. *The citation must command the contestee to answer by the specified deadline.*

Tex. Elec. Code § 232.010 (emphasis added).

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III. JURISDICTION AND VENUE

7. The District Court of Hidalgo County, Texas has exclusive jurisdiction and venue of this cause of action pursuant to Election Code 221.002(a) and 232.006(c).
8. Pursuant to Texas Election Code Section 231.004, notice is hereby given that this matter involves territory covered by the District Court of Hidalgo County. Therefore, the regularly and duly elected judge of this Court is statutorily disqualified. The District Clerk shall promptly notify the judge of this filing so that a special judge may be assigned to hear this matter pursuant to Texas Election Code Section 231.004(b).
9. This election contest is timely filed pursuant to Texas Election Code Section 232.008(c), because it was filed not later than the 15th day after the official result was determined – i.e., the election canvassing that occurred on March 10, 2022.

IV. STATEMENT OF FACTS

10. The Hidalgo County Democratic Primary was held on March 1, 2022.
11. Prior to Election Day, there were twenty-eight (28) early voting polling locations throughout the county, distributed among the following twenty (20) municipalities: Alamo, Alton, Donna, Edcouch, Edinburg, Elsa, Granjeno, Hidalgo, La Joya, La Villa, McAllen, Mercedes, Mission, Palmview, Peñitas, Pharr, Progresso, San Juan, Sullivan City and Weslaco.¹
12. Early voting ran from Monday February 14, 2022 through Friday February 25, 2022, and was conducted by Hidalgo County, and overseen by the Hidalgo County Elections

¹ “March 1, 2022 Primary Elections Early Voting Polling Locations Dates and Times,” Hidalgo County Elections Department, available at: <https://www.hidalgocounty.us/DocumentCenter/View/56750/EV-2022-March-Primary-Schedule-Final-NEW?bidId=> (accessed on March 10, 2022).

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Department (“HCED”), a participant in the Countywide Polling Place Program (“CWPP PROGRAM”).

13. The Hidalgo County Democratic Party (“HCDP”) was responsible for staffing polling places on Election Day. Also, Democratic Party Chairman Patrick Eronini (hereinafter “Eronini”) was solely responsible for appointing members of the Early Voting Ballot Board (“EVBB”) and the Signature Verification Committee (“SVC”). Eronini did in fact make such appointments to the EVBB² and the SVC³ in notices published by the HCED and signed by Yvonne Ramon, Hidalgo County Elections Administrator.

RESULTS

14. According to the unofficial results posted by the HCED, at the end of the count on Election Day, with 259 of 259 precincts reporting, 41,293 votes were cast in the race for County Judge with the following vote distribution:

CANDIDATE	VOTES	PERCENTAGE
Norma Ramirez	8,305	20.11%
Ricardo ‘Richard’ F. Cortez	20,741	50.23%
Tania Ramirez	12,247	29.66%

² “Hidalgo County Democratic Party – Notice of Early Voting Ballot Board,” Hidalgo County Elections Department, available at: <https://www.hidalgocounty.us/DocumentCenter/View/57756/Revised-2-DEM-Notice-of-Early-Voting-Ballot-Board-2022?bidId=> (accessed on March 10, 2022).

³ “Notice of Appointment of Signature Verification Committee,” Hidalgo County Elections Department, available at: <https://www.hidalgocounty.us/DocumentCenter/View/57145/DEM-Notice-of-Appointment-Signature-Verification-Committee-?bidId=> (accessed on March 10, 2022).

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15. After the vote was canvassed, and after the EVBB added either provisional or pending mail ballots to the unofficial total, there were a total of 41,383 votes cast, with the following vote distribution:

CANDIDATE	VOTES	PERCENTAGE
Norma Ramirez	8,326	20.12%
Ricardo 'Richard' F. Cortez	20,792	50.24%
Tania Ramirez	12,265	29.64%

16. These totals include the following distribution by vote type between Contestant and Contestee:

CANDIDATE	ABSENTEE COUNT	ELECTION COUNT	EARLY VOTE COUNT
Contestant	347	3,337	8,581
Contestee	1,124	5,326	14,342

17. 50% of the total votes cast in this race equals 20,691.5 votes. The difference between Contestee's votes and 50% of the total votes cast is **100.5**.

18. Furthermore, according to the official election reconciliation report, there were 43,712 total voters and 43,171 counted ballots.⁴ Thus, the EVBB rejected a total of **488** mail ballots returned by voters, and a total of 33 provisional ballots.⁵

⁴ "Election Reconciliation – Official Totals," Hidalgo County Elections Department, available at: <https://www.hidalgocounty.us/DocumentCenter/View/57901/DEM-Reconciliation-Official-Totals?bidId=> (accessed on March 11, 2022).

⁵ *Id.* (accessed March 11, 2022).

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ELECTION DAY POLLING LOCATIONS

19. The HCDP had originally planned to coordinate with the local Republican Party and to have eighty-eight (88) countywide polling places where voters could cast a ballot for either party.
20. Prior to Election Day, the HCED published a list of eighty-eight (88) polling locations, distributed among the following twenty-four (24) municipalities: Alamo, Alton, Donna, Edcouch, Edinburg, Elsa, Granjeno, Hargill, Hidalgo, La Joya, La Villa, McAllen, McCook, Mercedes, Mission, Monte Alto, Palmhurst, Palmview, Peñitas, Pharr, Progresso, San Juan, Sullivan, and Weslaco. (Contestant's Exhibit 1).
21. As late as March 10, 2022, the day of the canvass, the Secretary of State listed eighty-nine (89) polling locations in Hidalgo County.⁶
22. On Friday February 25, 2022, the last day of early voting and before the polls closed, the HCED published a new list of polling locations, with a total of fifty-six (56) locations distributed among the following nineteen (19) municipalities: Alamo, Donna, Edcouch, Edinburg, Elsa, Granjeno, Hidalgo, La Joya, La Villa, McAllen, McCook, Mercedes, Mission, Monte Alto, Palmhurst, Pharr, San Juan, Sullivan, and Weslaco. Thus, *Alton, Hargill, McCook, Sullivan, Palmview, and Progresso were deprived of polling locations.*⁷
23. On Sunday February 28, 2022, the eve of Election Day, the HCED published another updated list of polling locations, with a total of forty-two (42) locations distributed among the following municipalities: Alamo, Edcouch, Edinburg, Elsa, Granjeno, Hidalgo, La

⁶ "Texas Elections Results," Texas Secretary of State, available at: <https://results.texas-election.com/county> (accessed on March 10, 2022).

⁷ "March 1, 2022 Primary Elections – Democratic Party Election Day Polling Locations," Hidalgo County Elections Department Facebook Page, photo upload dated February 25, 4:51 PM, available at: <https://www.facebook.com/HidalgoCountyElections/> (accessed on March 10, 2022).

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Villa, McAllen, Mercedes, Mission, Monte Alto, Palmhurst, Pharr, San Juan, Sullivan, and Sullivan. *La Joya and McCook no longer had polling locations.*⁸

24. On Tuesday March 1, 2022, the day of the election, the HCED published a new list of polling locations which now omitted Mission Fire Department leaving the total at 41.⁹
25. The combination of poll closures, change in polling locations, and the unpublicized separate operation of the polling locations by the HCDP and its Republican counterpart created a perfect storm of voter confusion. Voters who had expected to vote at certain previously advertised locations found them closed. Others went to polling locations, adorned with “Vote Here” and similar messaging, only to find that they needed to go to another location because that location was dedicated to the other party.
26. As KRGV noted, “Hidalgo County typically has 88 polling locations open on Election Day, but there were just 60 on Tuesday.”¹⁰ As the video accompanying the article notes, for the primary, there were 42¹¹ Democratic locations and 18 Republican locations, and that the parties agreed to operate them separately. The reporter in the video further states that

⁸ “March 1, 2022 Primary Elections – Democratic Party Election Day Polling Locations,” Hidalgo County Elections Department Facebook Page, photo upload dated February 28, 2022 at 10:59 AM, available at: <https://www.facebook.com/HidalgoCountyElections/> (accessed on March 10, 2022).

⁹ “March 1, 2022 Primary Elections – Democratic Party Election Day Polling Locations,” Hidalgo County Elections Department Facebook Page, photo upload dated March 1, 2022 at 8:04 AM, available at: <https://www.facebook.com/HidalgoCountyElections/> (accessed on March 10, 2022). In contrast, in the 2018 primary, there were seventy-four (74) locations. “Republican & Democratic Party March 6, 2018 Election Day County Wide Polling Locations,” Hidalgo County Elections Department, available at: <https://www.hidalgocounty.us/DocumentCenter/View/29740/ED-2018-Primary-Schedule?bidId=>

¹⁰ “Questions Remain After More than 20 Polling Sites Close in Hidalgo County on Election Day,” KRGV, available at: <https://www.krgv.com/news/questions-remain-after-more-than-20-polling-sites-close-in-hidalgo-county-on-election-day/> (accessed on March 10, 2022).

¹¹ The media still reports that there were 42 polling locations on Election Day, but this does not reflect the closure of Mission Fire Department, which leaves only 41 listed polling locations.

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KRGV is still investigating why the parties “chose not to let voters know about [poll closures and the separate operations of the polls] before election day.”¹²

27. The Rio Grande Guardian published an article noting that most of the polls that were closed were in Western Hidalgo County.¹³ In this article, Alexia Anne Solis, of the American Federation of Texas, complained that the poll closures disenfranchised voters in Western Hidalgo County, as there were no polling locations in Alton, La Joya, Palmview, and Peñitas.¹⁴

28. This article also included interviews with other Democratic Party activists, including Danny Diaz and Rosalie Weisfeld, both of whom stated that the poll closures were designed to suppress votes. As Weisfeld stated in the concluding salvo of the article, “[v]oter suppression is underway. So many cities do not have a polling place on Election Day, this is a travesty and will definitely impact the candidates running. Note, La Joya, Peñitas, Alton, Progreso, McCook, San Manuel/Linn don’t have an Election Day polling location”¹⁵

29. Contestee himself, before the results of the election were known, spoke to the Monitor to complain of the poll closures. The Monitor article, published on Election Day, stated the following:

Cortez said most of the polling locations that the Hidalgo County Democratic Party closed were on the western side of the county, including the only polling locations in Palmview, La Joya and Peñitas. “The only voting location in the west would be

¹² “Questions Remain After More than 20 Polling Sites Close in Hidalgo County on Election Day,” KRGV, available at: <https://www.krgv.com/news/questions-remain-after-more-than-20-polling-sites-close-in-hidalgo-county-on-election-day/> (accessed on March 10, 2022).

¹³ “Solis: Redo the Primary Election in Hidalgo County; Tens of Thousands of Voters Disenfranchised,” Rio Grande Guardian, available at: <https://riograndeguardian.com/solis-redo-the-primary-election-in-hidalgo-county-tens-of-thousands-of-voters-disenfranchised/> (accessed on March 10, 2022).

¹⁴ *Id.* (accessed on March 10, 2022) (erroneously stating that Palmhurst did not have a polling location).

¹⁵ *Id.* (accessed on March 10, 2022).

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Sullivan City, or they can come to Mission to vote,” he said with an exasperated laugh. “It’s really very disappointing.” Cortez also noted that manpower did not seem to be an issue for voters in McAllen or Edinburg. “And if you have 12 (polling locations) in Edinburg and 12 in McAllen, and none in the west . . . you can’t tell me that it’s a lack of people,” he said. “You chose to put them where you put them, and if the people on the west are outraged at what happened, they should be.”¹⁶

30. Contestee’s complaints regarding poll closures were even picked up by the state media, with the Texas Tribune reporting that “Hidalgo County also closed polling sites because of staffing shortages. *County Judge Richard Cortez, a Democrat who is running for reelection, blamed the local Democratic Party* and called the closures triggered by the lack of election judges ‘very disappointing,’ according to The Monitor, the McAllen-based newspaper.”¹⁷

ACTIONS OF THE HEAD OF THE CANVASSING AUTHORITY

31. The HCDP was responsible for conducting the primary election on Election Day and was the canvassing authority for the election. The chairman of the HCDP is Patrick Eronini, and the individual ultimately responsible for designating Election Day polling locations.

32. Prior to assuming the role of chairperson, Eronini served as the HCDP Secretary and the Election Administrator. As early as July 10, 2021, Eronini, “elaborated over the role of election judges in the county. Mr. Eronini reminded the CEC that the party would need to present a list to the Election Department by the end of July. Each polling site would need to hire six workers for the 2022 midterms. There are 74 polling sites and we need to man

¹⁶ “Hidalgo County Democratic Party Quietly Shuts Down Election Day Polling Sites in the West,” The Monitor, available at: <https://myrgv.com/local-news/elections/2022/03/01/hidalgo-county-democratic-party-quietly-shuts-down-election-day-polling-sites-in-the-west/> (accessed on March 10, 2022).

¹⁷ “Many Voting Locations Throughout Texas did not Open Because of Staff Shortages,” The Texas Tribune, available at: <https://www.texastribune.org/2022/03/01/texas-primary-election-voting-location-closures/> (accessed on March 10, 2022) (emphasis added).

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those locations. Mr. Eronini went on to say after this list is completed then we could begin with training.” (Contestant’s Exhibit 2).

33. Prior to assuming the role of chairman, the chairwoman of the HCDP was Norma Ramirez, who finished in last place in the race for Hidalgo County Judge.¹⁸ In addition to being a contributor to her campaign,¹⁹ Eronini played an active role in the Norma Ramirez campaign, including running her campaign Facebook page until at least January 22, 2022,²⁰ among other electioneering activities.

34. As Contestee himself has acknowledged, Norma Ramirez and Patrick Eronini are publicly known to be in a domestic relationship.²¹

35. This relationship had been the focus of scrutiny prior to Election Day, with concerns that Eronini’s relationship with Norma Ramirez, and his active role in her campaign, would inject bias into the administration of the Democratic Primary Election.

36. For example, Davis Rankin, in a county judge candidate forum hosted by the McAllen Chamber of Commerce and the McAllen Citizens League on February 3, 2022, asked

¹⁸ “Norma Ramirez Resigns as Hidalgo County Democratic Party Chair,” Rio Grande Guardian, available at: <https://riograndeguardian.com/norma-ramirez-resigns-as-hidalgo-county-democratic-party-chair/> (accessed on March 15, 2022).

¹⁹ “Candidate/Officeholder Campaign Finance Report – January 15, 2022,” Hidalgo County Elections Department, available at: <https://www.hidalgocounty.us/DocumentCenter/View/56227/Norma-Ramirez-Campaign-Finance-Report?bidId=> (emphasis added).

²⁰ “Dr. Rashid to Norma Ramirez: Stop Filming Campaign Commercials in My Clinic,” Rio Grande Guardian, available at: <https://riograndeguardian.com/dr-rashid-to-norma-ramirez-stop-filming-campaign-commercials-in-my-clinic/> (accessed on March 15, 2022).

²¹ Eronini and Norma Ramirez have not publicly acknowledged such a relationship and have in fact suggested in other fora that they are not in such a relationship, and that any insinuation otherwise is false and possible grounds for a lawsuit. Motive, however, is not an element of an election contest claim. Violations of the Election Code are violations of the election code whether they were done with ill intent or simply out of negligence or ignorance. Thus, a Contestant may prevail by showing an election official “prevented eligible voters by voting” or that he “engaged in other fraud or illegal conduct *or made a mistake.*” Tex. Elec. Code § 221.003(a) (emphasis added). The fact asserted is not that they are in any sort of particular type of relationship, e.g. common-law marriage, but rather that they are publicly *known to be* in such a relationship, and that Contestee himself believes them to be.

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Norma Ramirez: “You and he, Mr. Eronini, are not lawfully married, not married by a judge, by a priest?”²²

37. On February 28, 2022, the Rio Grande Guardian published an article which included excerpts from recorded conversations between independent journalist Joshua Mariscal and Eronini. As the article states:

Josh D. Mariscal says that based on text and telephone interactions he has had with Hidalgo County Democratic Party chairman Patrick Eronini, *it is clear Eronini is trying, at best, to orchestrate a smear campaign in the Hidalgo County Judge’s race, and at worst, trying to select polling location workers that will get voters to change their vote.* In a telephone conversation Mariscal recorded, Eronini said: “She’s a crackhead, from what I’ve heard.” He was referring to Hidalgo County Judge candidate Tania Ramirez. In another phone conversation with Mariscal, Eronini claimed Hidalgo County Judge Richard Cortez was “incompetent” and “arrogant” and “belongs in a retirement home.” However, Norma Ramirez, another candidate for Hidalgo County Judge, is well qualified, Eronini argued. Asked about Norma Ramirez’s candidacy by Mariscal, Eronini said: “Well, she has the background. As a business person she creates jobs. She has the temperament. She’s competent.”²³

38. This article also includes excerpts of a recording in which Eronini speaks to an election-worker hired by the Norma Ramirez campaign, whom he is hiring to staff polling locations.

As the article states:

In the clip, Eronini said to the would-be election worker: “You are from Hidalgo. Why don’t you work (at a polling location) in Hidalgo? Why do you want to work in Donna?” It appears a man is asking for polling location work on behalf of a female politiquera. “It is best for her to work in Hidalgo where she knows the people. If they don’t know you they are not going to listen to you,” Eronini told the man. “It is best for her to work in Hidalgo where she knows people. You know what I am saying?” Eronini continued: “It’s easier for you to have their vote (in Hidalgo). In Donna, you don’t know the people. *The only people that you can get to change their mind is people that you know.*”²⁴ If you don’t know the people, they

²² “Hidalgo County Judge Candidates Forum,” Texas Border Business Facebook page, available at: <https://www.facebook.com/watch/?v=4816502498387026> (accessed on March 15, 2022).

²³ “Citizen Journalist: Local Political Party Leader Wanted Me to be a Misinformation Mule,” Rio Grande Guardian, available at: <https://riograndeguardian.com/citizen-journalist-local-political-party-leader-wanted-me-to-be-a-misinformation-mule/> (accessed on March 11, 2022) (emphasis added).

²⁴ Such conduct, if carried out, would violate multiple provisions of the Election and Penal Codes. It is unlawful for any person, whether hired as an election official or not, to “indicate[] to a voter in a polling place by word, sign, or

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are not going to listen to you.” Going back to Tania Ramirez and Judge Cortez, Eronini told Mariscal: “For the sake of this county, we can’t let these people in.”²⁵

39. Again on Election Day, there were stories published directly linking the closure of polls in Western Hidalgo County with Eronini’s role in the Norma Ramirez Campaign. As described in the Rio Grande Guardian article featuring Alexia Solis: “[Solis] further speculated that these closures were deliberate, that *the closures were part of ‘a political move because Patrick’s wife [Norma Ramirez], or whatever she is, is on the ballot and she is not favorable in my area.* There’s something nefarious going on Tania [Ramirez] and Richard [Cortez] are stronger over here”²⁶

40. Consistent with Alexia Solis’s statements in the Rio Grande Guardian article, Contestee himself has acknowledged the problematic relationship between Eronini and candidate Norma Ramirez. In an interview with independent journalist Joshua Mariscal, Contestee stated the following:

I’ve known all about those people. . . . There’s some bad guys, and there are, that want to . . . you know . . . *he [Patrick Eronini] is in a domestic, he is in a relationship with one of my candidates [Norma Ramirez], and she calls herself a judge of a court that doesn’t exist. And she does that willfully knowing that a court does not exist, and why does she do that? Because she wants to send out a perception that she is a judge, that she is more than what she is. I refuse to come after Norma, I refuse to come after Patrick, and I know what they are. I know what they are. Do you know how many times they call me for money, they call me for the county to give them money for this (laughs) for this refuge for abandoned kids, or whatever, and I went to the house, I went to see it, and there wasn’t a single person there, and I don’t know if they have ever had a child there, and they are*

gesture how the person desires the voter to vote or not vote.” Tex. Elec. Code § 61.008. If such a person were receiving compensation from a candidate, it would violate SB1’s prohibition against vote harvesting, and possibly the Election Code’s voter assistance provisions. *See, e.g.*, Tex. Elec. Code § 64.031 (requiring that a voter meet certain statutory requirements before receiving help in marking or reading a ballot), and § 64.032 (requiring two election officials to assist a voter).

²⁵ *Id.* (accessed on March 11, 2022) (emphasis added).

²⁶ “Solis: Redo the Primary Election in Hidalgo County; Tens of Thousands of Voters Disenfranchised,” Rio Grande Guardian, available at: <https://riograndeguardian.com/solis-redo-the-primary-election-in-hidalgo-county-tens-of-thousands-of-voters-disenfranchised/> (accessed on March 10, 2022) (emphasis added).

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soliciting funds for that. . . . I knew that helping them was not the right decision. Why is it that every week I'd get a call from Norma, the chairman [sic] of the Democratic Party, to ask me for money and tell me, well if you don't send me money, why should I help you? Well, I thought that was your job, I didn't know I had to pay you to do your job.²⁷

41. More importantly, after the closure of the polls, Contestee acknowledged that Eronini worked for the Norma Ramirez campaign, and that his decisions regarding the location of polls was deliberate, and that lack of 'manpower,' as Eronini would later claim, was no excuse:

Hidalgo County Judge Richard Cortez expressed concern Tuesday after the county's Democratic Party failed to open traditional polling locations in western Hidalgo County, *which he argued confused and disenfranchised voters there*. The issue for them was not how many polling locations the Hidalgo County Democratic Party opened on Election Day, but rather where they were placed. Cortez, who won the Democratic nomination for his post Tuesday night and had no control over the Election Day polling locations, was upset that the only option for voters in the west was a single polling site in Sullivan City. "I mean, it's really ridiculous," he said when reached by phone Tuesday afternoon. Voters in Peñitas, Palmview, La Joya and Alton — all cities that had one polling location each during the early voting period — were forced to travel to Sullivan City or Mission to cast their votes. "It's really very disappointing," Cortez said. . . . Cortez did not appear to believe that manpower was Eronini's driving factor. "We didn't have problems in early voting," Cortez said about the county's elections department, which by law had to run the early voting period — much like Eronini had to run Election Day. "We had the traditional locations open. Now even the traditional locations have been closed." Cortez, however, noted that while there weren't enough election officials to man sites in western Hidalgo County, there was no shortage of workers in Edinburg and McAllen, where Eronini opened additional polling locations on Election Day. During the early voting period, the county opened three polling locations in Edinburg and five in McAllen. Eronini more than doubled the sites in Edinburg on Election Day, going from three to eight. And in McAllen he added four more, going from five during early voting to nine on Election Day. "You can't tell me that it's lack of people," Cortez said. "You chose to put them where you put them." He refused to speculate whether Eronini's decision was a calculated move, but he did note that the Democratic chair favored his opponent in Tuesday's race: Norma Ramirez, whose campaign signs could be seen outside Eronini's residence in early December. "*How do you think I feel as a candidate to have the person in charge of this election holding one of my opponent's signs in one of the (polling)*

²⁷ "Interview with Judge Richard Cortez," Joshua Mariscal of NEC News, available at: <https://drive.google.com/file/d/1OcHnS09VtnnW1wPsEWX-vzpLZgdj6wHX/view> (accessed on March 11, 2022) (emphasis added).

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*locations,” Cortez said. “And apparently there’s no legal reason for him not to do that, but there must be an ethical and moral reason why he shouldn’t do it.”*²⁸

V. APPLICABLE LAW

42. The focus of a trial court’s inquiry in an election contest is set out in Texas Election Code section 221.003(a). Section 221.003(a) requires:

(a) The tribunal hearing an election contest shall attempt to ascertain whether the outcome of the contested election, as shown by the final canvass, is not true because:

(1) illegal votes were counted; or

(2) an election officer or other person officially involved in the administration of the election:²⁹

(A) prevented eligible voters from voting;

(B) failed to count legal votes; or

(C) engaged in other fraud or illegal conduct or made a mistake.

Tex. Elec. Code § 221.003(a).

43. A trial court can take two corrective actions in an election contest, as set out in Election Code Section 221.012:

(a) If the tribunal hearing an election contest can ascertain the true outcome of the election, the tribunal shall declare the outcome.

(b) The tribunal shall declare the election void if it cannot ascertain the true outcome of the election.

²⁸ “Hidalgo County Judge, Democratic Party Chair Butt Heads Over Closed Election Polls,” the Monitor, available at: <https://myrgv.com/local-news/elections/2022/03/01/hidalgo-county-judge-democratic-party-chair-butt-heads-over-closed-election-polls/> (accessed on March 14, 2022) (emphasis added).

²⁹ An “Election official” means . . . “a chair of a county political party holding a primary election or a runoff primary election.” Tex. Elec. Code § 1.005(4-a)(V).

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Tex. Elec. Code Ann. § 221.012.

44. If the trial court declares an election void, the court must order a new election. Tex. Elec. Code Ann. § 232.041.

45. “To set aside the outcome of an election, the contestant must prove by clear and convincing evidence that a violation of the Election Code occurred, and it materially affected the outcome of the election.” *McCurry v. Lewis*, 259 S.W.3d 369, 372–73 (Tex. App. 2008).

46. “The outcome of an election is ‘materially affected’ when a different and correct result would have been reached in the absence of irregularities . . . *or irregularities in the conduct of the election render it impossible to determine the majority of the voters’ true will.*” *Id.* at 373 (citations omitted) (emphasis added).

47. In an election contest, “a contestant need not prove both the number of people who were prevented from voting *and* their intended vote” *Denny v. Doss*, No. 02-20-00113-CV, 2020 WL 2071949, at *6 (Tex. App. Apr. 30, 2020). “Such a requirement . . . would impose an improper burden on the Contestant because the law, and sound policy, prohibits any voter from testifying in an election contest as to how he or she intended to vote.” *Id.*³⁰

48. Lastly, all provisions of the Election Code must be interpreted in light of the intent of the legislature: “It is the intent of the legislature that the application of this code and the conduct of elections be uniform and consistent throughout this state to reduce the likelihood of fraud in the conduct of elections, protect the secrecy of the ballot, promote voter access, and ensure that all legally cast ballots are counted.” Tex. Elec. Code Ann. § 1.0015.

³⁰ In this context, this prohibition would prevent Contestant from presenting testimony from voters from western Hidalgo County stating that they were prevented from voting due to the lack of polling places, and that had they been able to cast their ballot, they would have voted for Contestant for Hidalgo County Judge.

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VI. ARGUMENT

49. The maladministration of the 2022 Hidalgo County Democratic Primary Election violated multiple provisions of the Election Code, and disenfranchised numerous eligible voters, depriving them of their sacred right to have a voice in the democratic process. These violations and irregularities, individually and cumulatively, materially affected the outcome of the Election.

**COUNTYWIDE POLLING PLACE PROGRAM (“CWPP PROGRAM”)
PROVISIONS**

Violation of § 43.007(a)(4) – Shared Polling Places Requirement

50. Hidalgo County participates in the CWPP PROGRAM which “eliminate[s] county election precinct polling places and establish[s] countywide polling places” for certain elections. Tex. Elec. Code Ann. § 43.007(a). In particular, the Election Code provides that the CWPP PROGRAM may be used in

(4) each primary election and runoff primary election if:

(A) the county chair or county executive committee of each political party participating in a joint primary election under Section 172.126 agrees to the use of countywide polling places; or

(B) the county chair or county executive committee of each political party required to nominate candidates by primary election agrees to use the same countywide polling places;

Tex. Elec. Code Ann. § 43.007.³¹

³¹ This provision was added by the Eighty-Third Legislature, 2013 Regular Session (Senate Bill 578). Before SB 578, the CWPP PROGRAM regime did not apply to primary elections.

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51. The Election was not administered in accordance with § 43.007(a)(4). The HCDP did not participate in a joint primary under Section 172.126. Nor did the Election comply with the alternative provision, because subsection (B) requires that the county chair of each party “agrees to use *the same countywide polling places . . .*” Tex. Elec. Code Ann. § 43.007(a)(4)(B) (emphasis added).
52. Originally, the HCDP had planned to share polling locations with the local Republican party, and to have eighty-eight (88) Election Day polling locations at which Democrats and Republicans could both vote. (Contestant’s Exhibit 1).
53. In a meeting on January 13, 2022, both parties agreed to use the same countywide polling place locations as the Republican party, pursuant to Texas Election Code Section 43.007(4)(B), and to obtain judges and clerks for all eighty-eight (88) polling sites. (Contestant’s Exhibit 3). At this meeting, the HCDP provided Eronini and the HCDP a “Primary Elections Services Contract” and questionnaire in order to finalize the process. *Id.*
54. Following the meeting, the HCDP emailed Eronini to summarize the outcomes of the meeting, and to note certain statutory requirements for the designation of polling places. The HCDP’s statements to Eronini are consistent with Contestant’s interpretation of the law. As stated in an email to Eronini as a follow-up to the January 13, 2022 meeting, “[a]s per TEC 43.007(4)(B), each political party has agreed to use the same countywide polling places and therefore TEC 42.0051 and TEC 43.007(f)(1) can be applied resulting in the requirement of 88 countywide polling places. It was discussed that previously used polling places for past election days totaled 73 and 15 more polling places are needed to be acquired by the political parties.” *Id.* (emphasis added).

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55. Prior to the meeting, in an email sent to Eronini on January 11, 2022, the HCED explicitly told Eronini that if the party did not use the same polling places as the Republicans (pursuant to Subsection (B) above), then the CWPP PROGRAM could not be used, and he would have to use Election Day precincts instead:

In order to determine how many locations will be required for Election Day, it must first be decided whether

1. It is agreed to use the same countywide polling places, or

2. If each party will have separate polling places

If it is agreed to utilize the same countywide polling places, then 88 polling locations are needed to comply with the Texas Election Code 43.007 for the Countywide Program (voters can vote at any location on Election Day). The attached pdf titled ED Polling Locations reflects the 73 locations used in the past. The remaining 15 locations may be selected from the attached pdf titled ALL Polling Locations. These locations have been used at some point in past elections, and may be quicker to procure than locations that have never been used. If it is decided that each party will have separate polling places, then 176 polling locations will be needed to comply with the Texas Election Code 43.001 and 42.0051 and this will be reported as precinct based. This means voters will only be able to vote in their precinct polling location and not countywide. The attached pdf titled Unshared Polling Locations reflects a scenario based on consolidating precincts but also separating locations by party. Please note that these locations are an example of what would be needed, not something that has been procured.

(Contestant's Exhibit 4) (emphasis added).

56. The 2022 Hidalgo County Primary Election was conducted in violation of § 43.007(a)(4), violating the shared polling places requirement of the CWPP PROGRAM, and Eronini, the HCDP, and other election officials, knew that by having separate Election Day polling places for each party, the Primary was not conforming to law.

57. Such violations did have an impact on Election Day. Just to take one example, during the two weeks of Early Voting Democrats were able to vote at the Mission Parks and Recreation building. However, on Election Day, only Republicans could vote there, causing confusing among Democratic voters.

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Violation of § 43.007(f) – Numerosity Requirement

58. The Election Code imposes methodological requirements for the determination of Election Day polling locations. “In selecting countywide polling places, a county must adopt a methodology for determining where each polling place will be located.” Tex. Elec. Code Ann. § 43.007(f). “The total number of countywide polling places may not be less than . . . 50 percent of the number of precinct polling places that would otherwise be located in the county for that election” *Id.*
59. As the HCED explicitly told Eronini, to comply § 43.007(f), there must be at least eighty-eight (88) polling places on Election Day. (Contestant’s Exhibit 5). On January 22, 2022, in an email to the HCDP, the HCED explicitly stated that “[it] had reviewed the methodology, which is determined by following the requirements set forth in the Texas Election Code. Through combining qualifying voter precincts, and then dividing in half, as per the countywide program, it was determined that 88 polling locations are required on Election Day.” *Id.*
60. There were only 41 Election Day polling places for the Democratic Primary. Even if you added all the separately operated Republican polling locations (18), it would still fall far below the *statutorily required* eighty-eight (88). Thus, the Election was conducted in violation of § 43.007(f).³²

³² It would not make sense, as a counterargument, to suggest that the CWPP PROGRAM methodological requirements do not apply. First, it is undisputed that in the recent primary, voters could vote out of precinct, and thus there were no election precincts, i.e. we were in a universe of countywide polling places. Furthermore, as noted by the HCED itself, if the CWPP PROGRAM provisions did not apply, then selection of polling places would have had to conform to Texas Election Code 43.001 and 42.0051, to be reported as precinct based. Under these requirements, there would have had to have been 176 precinct polling places. Either the Election violated the CWPP PROGRAM provisions, or the precinct polling provisions, but it is no defense to suggest that the methodological CWPP PROGRAM requirements do not apply because of the separate operation of the polling sites, and thus the *de facto* abnegation of the CWPP PROGRAM regime. This, of course, would lead to the absurd conclusion that for this past Election no methodological requirements applied to the selection of polling locations in Hidalgo County, and that Hidalgo County

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61. This violation of the Election suppressed voter turnout. For example, in the last midterm Primary Election held in 2018, when Contestee first won, there were a total of seventy-four (74) countywide polling locations.³³ In 2018, 12,193 election day votes were cast in the county judge race. In this previous Election, only 10,861 election day votes were cast in the county judge race, with more candidates on the ballot.
62. And again, although Contestant need not prove fraud or a certain culpable mental state on the part Eronini and the HCDP, the distribution of Election Day polling locations raises questions. For example, Contestant was publicly endorsed by the entire city commissions/councils of Alton and Progresso, and yet neither had an Election Day polling location, even though they did have early voting sites. However, Granjeno, where Eronini's favored candidate Norma Ramirez serves as a "municipal judge," did have an Election Day polling location. Alton has a population of 18,198. Progresso has a smaller population of 4,807. But Granjeno, which again had one of the only Election Day polling locations in the entire county, only has a population of 283. Such facts only reinforce Contestee's observation regarding Eronini's maladministration of the Election: "You chose to put them where you put them and if the people on the west are outraged at what happened, they should be."³⁴

and the parties conducted their own *sui generis* primary election untethered from the legislative constraints inscribed in the Election Code.

³³ "Republican & Democrat Primary March 6, 2018 Election Day County Wide Polling Locations," Hidalgo County Elections Department, available at: <https://www.hidalgocounty.us/DocumentCenter/View/29740/ED-2018-Primary-Schedule?bidId=> (accessed on March 15, 2022).

³⁴ "Hidalgo County Democratic Party Quietly Shuts Down Election Day Polling Sites in the West," The Monitor, available at: <https://myrgv.com/local-news/elections/2022/03/01/hidalgo-county-democratic-party-quietly-shuts-down-election-day-polling-sites-in-the-west/> (accessed on March 10, 2022).

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Violation of § 43.007(m) – Distribution Requirement

63. Furthermore, in adopting a methodology under subsection (f), the county “must ensure”

that:

(1) each county commissioners precinct contains at least one countywide polling place; and

(2) the total number of polling places open for voting in a county commissioners precinct does not exceed more than twice the number of polling places in another county commissioners precinct.

Tex. Elec. Code Ann. § 43.007(m).

64. Such methodological requirements, adopted by the Texas legislature, help to protect the right to vote and the exercise of the franchise, which is also protected by the Equal Protection Clause: “The right to vote is protected in more than the initial allocation of the franchise. Equal protection applies as well to the manner of its exercise. Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person’s vote over that of another.” *Bush v. Gore*, 531 U.S. 98, 104-5 (2000) (citation omitted).

65. On Election Day, the polling locations were distributed among the four Hidalgo County commissioners precincts as follows:

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PRECINCT	MUNICIPALITIES	POLLING PLACES
1	Alamo (2), Donna, Edcouch, Elsa, La Villa, Mercedes, Monte Alto, and Weslaco (2).	10
2	Hidalgo, McAllen (5), Pharr (5), and San Juan (3)	14
3	Granjeno, Mission (2), Palmhurst, and Sullivan City.	5
4	Edinburg (8), and McAllen (4)	12

66. Thus, **both precincts 2 and 4 had more than twice the polling locations open on Election Day than precinct 3**, in violation of § 43.007(m).

Violation of § 43.007(g) and 43.007(o) – Notice Requirements

67. The Election Code also imposes notice requirements regarding Election Day polling locations. “A county participating in the program must establish a plan to provide notice informing voters of the changes made to the locations of polling places under the program. The plan must require that notice of the location of the nearest countywide polling place be posted on election day at each polling place used in the previous general election for state and county officers that is not used as a countywide polling place.” Tex. Elec. Code Ann. § 43.007(g).

68. “Each countywide polling place must post a notice of the four nearest countywide polling place locations by driving distance.” Tex. Elec. Code Ann. § 43.007(o).

69. There were seventy-four (74) polling locations used in the previous general election for state and county officers.³⁵

³⁵ “General Elections November 3, 2020 Election Day CountyWide Polling Locations,” Hidalgo County Elections Department, available at: <https://www.hidalgocounty.us/DocumentCenter/View/40964/ELECTION-DAY-POLLING-LOCATIONS?bidId=> (accessed on March 11, 2022).

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70. The Election was administered in violation of § 43.007(g) and § 43.007(o). On Election Day, notices were not posted at all the previous seventy-four polling places used in the previous general election, nor did each polling place post of list of the four nearest countywide polling place locations by driving distance.

Lack of “Manpower” Not a Sufficient Reason to Violate the Law

71. Eronini has represented in public that the closure of polls was a direct result of a lack of “manpower.”

72. First, this reason, even if true, is no reason to have violated any of the above provisions of the Election Code. For example, even if we assumed that Eronini’s assertions were correct about inability to find election workers, those fewer workers still could have been distributed in a way that satisfied the CWPP PROGRAM provisions, i.e. he could have still satisfied the shared polling places requirement and the distribution requirement.

73. Second, Contestant need not prove that Eronini, an election official under the Code, was involved in any fraudulent conspiracy to help candidate Norma Ramirez. Mistake is sufficient scienter. “The tribunal hearing an election contest shall attempt to ascertain whether the outcome of the contested election, as shown by the final canvass, is not true because . . . an election officer or other person officially involved in the administration of the election . . . engaged in other fraud or illegal conduct *or made a mistake.*” Tex. Elec. Code § 221.003(a) (emphasis added).

74. Contestant notes, however, that Eronini had sufficient notice to properly staff polling locations and find clerks and judges, and that his failure to do so cannot be excused because of lack of knowledge, a position which Contestee has publicly adopted.

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75. Prior to serving as party chairman, Eronini served as HCDP Secretary *and* Election Administrator. As early as July 10, 2021, 234 days before the election, Eronini “elaborated over the role of election judges in the county. Mr. Eronini reminded the CEC that the party would need to present a list to the Election Department by the end of July. Each polling site would need to hire six workers for the 2022 midterms. There are 74 polling sites and we need to man those locations. Mr. Eronini went on to say after this list is completed then we could begin with training.” (Contestant’s Exhibit 2).
76. Again, on or about January 11, 2022, a full 38 days before the need to have election workers, the HCDP informed Eronini of the need to staff 88 countywide polling places. (Contestant’s Exhibit 4).
77. Thus, *despite having at least 234 days to plan and prepare to staff at least 74 polling places*, Eronini and the HCDP failed to properly staff polling locations and violated other provisions of the Election Code in the process.

Conclusion Regarding Violation of CWPP Provisions

78. The above violations of the Election Code and irregularities materially affected the outcome of the Primary, and thus the Election should be voided. Because of his conduct, Eronini, an election official, “prevented eligible voters from voting.” Tex. Elec. Code § 221.003(a)(2)(A). Alternatively, he “engaged in other fraud or illegal conduct or made a mistake.” Tex. Elec. Code § 221.003(a)(2)(C).
79. Although Contestant need not prove a coordinated effort on the part of Eronini to close polls to help candidate Norma Ramirez, Contestant in no way waives this argument. Further discovery may in fact show that Eronini did in fact engage in fraud or other illegal conduct in the administration of the Election.

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VOTE HARVESTING PROVISIONS

80. SB1 added new provisions targeted at “vote harvesting services.”
81. The Election Code defines “vote harvesting services” as “in-person interaction with one or more voters, in the physical presence of an official ballot or a ballot voted by mail, intended to deliver votes for a specific candidate or measure.” Tex. Elec. Code Ann. § 276.015(a)(2).
82. The Election Code defines “Benefit” as “anything reasonably regarded as a gain or advantage, including a promise or offer of employment, a political favor, or an official act of discretion, whether to a person or another party whose welfare is of interest to the person.” Tex. Elec. Code Ann. § 276.015(a)(1).
83. “A person commits an offense if the person, directly or through a third party, knowingly provides or offers to provide vote harvesting services in exchange for compensation or other benefit.” Tex. Elec. Code Ann. § 276.015(b).
84. “A person commits an offense if the person, directly or through a third party, knowingly provides or offers to provide compensation or other benefit to another person in exchange for vote harvesting services.” Tex. Elec. Code Ann. § 276.015(c).
85. “A person commits an offense if the person knowingly collects or possesses a mail ballot or official carrier envelope in connection with vote harvesting services.” Tex. Elec. Code Ann. § 276.015(d).
86. “If the tribunal hearing an election contest can ascertain the candidate or side of a measure for which an illegal vote was cast, the tribunal shall subtract the vote from the official total for the candidate or side of the measure, as applicable.” Tex. Elec. Code Ann. § 221.011(a).

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87. This new addition to the Election Code was designed to address the current failure of the Election Code to criminalize such conduct. For example, as recently as 2020, a local Hidalgo County primary race for county commissioner precinct 3 was plagued with accusations of fraud, with a trial court making findings that voters were paid cash in exchange for their votes for Everardo “Ever” Villarreal, conduct which would now ostensibly violate Section 276.015. *See Flores v. Villarreal*, No. 13-20-00309-CV, 2020 WL 5050638, at *2 (Tex. App. Aug. 17, 2020).

Violation of § 276.015

88. On March 7, 2022, the Tania Ramirez Campaign engaged in a phone banking campaign to help cure pending mail ballots.

89. On this date, Contestant spoke with Senovia Villarreal Garza (Voter File VANID: 8492107) who told Contestant that Contestee had personally reached out to Ms. Garza and that he had hired her to engage in vote harvesting services related to mail ballots.

90. According to Ms. Garza, she secured at least 94 mail ballots for Contestee, in violation of the new vote harvesting provisions of the Election Code from the Sullivan area.

91. As such, at least 94 ballots should be subtracted from Contestee’s total vote count, as those ballots were cast illegally, in violation of § 276.015, and thus must be subtracted by operation of the Code. *See* Tex. Elec. Code Ann. § 221.011(a).

MAIL BALLOT PROVISIONS

92. SB 1 added new provisions to the Election Code governing mail ballots and providing voters the opportunity to cure defective ballots.

93. There are two corrective action options that the EVBB could take when faced with a ballot because of identification requirements related to the ballot by mail process. If it is possible

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for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the EVBB must mail the original defective ballot to the voter. *See* Texas Election Code § 87.0271(b)(1).

94. However, “[i]f the early voting ballot board determines under Subsection (b)(1) that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the board may notify the voter of the defect by telephone or e-mail and inform the voter that the voter may request to have the voter’s application to vote by mail canceled in the manner described by Section 84.032 or come to the early voting clerk’s office in person not later than the sixth day after election day to correct the defect.” Tex. Elec. Code Ann. § 87.0411(c).

95. The Code further provides that the “secretary of state may prescribe any procedures necessary to implement” Section 87.0411, i.e. the provisions providing voters an opportunity to correct their defective ballots. Tex. Elec. Code Ann. § 87.0271(f).

96. Pursuant to § 87.0271(f), the Secretary of State issued Election Advisory No. 2022-08 on January 28, 2022, entitled “NEW LAW: Senate Bill 1 – Opportunity to Correct Defects on Application for a Ballot by Mail and Carrier Envelope.”

97. This Advisory provides the EVBB with binding “procedures” to ensure that voters can cure their defective ballots. As the Advisory itself states, “[a]ny elections ordered on or after December 2, 2021, *must adhere to the changes in law made by SB 1 and the procedures outlined in this advisory.*”³⁶

³⁶ “Election Advisory No. 2022-08,” Texas Secretary of State, available at: <https://www.sos.state.tx.us/elections/laws/advisory2022-08.shtml> (emphasis added) (accessed on March 10, 2022).

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Violation of SB1 and Election Advisory 2022-08

98. The “Preliminary Election Reconciliation – Unofficial Totals” form submitted by Democratic EVBB Judge Patricia Villarreal after the Election Day Count provides that a total of 43,059 votes were counted in the March 1st 2022 Democratic Primary, with 43,606 total voters, a 27 difference between votes and ballots, 52 outstanding provisional ballots, and a total of 493 mail ballots that had not been returned or were pending voter action.³⁷
99. The Democratic EVBB was scheduled to meet on March 4, 2022 and March 8, 2022, in order to finish the count of outstanding ballots, and to reach out to voters with outstanding mail ballots to inform them that they had until Monday March 7, 2022 to cure their ballots.
100. The EVBB failed to properly inform voters of their options to cure and failed to follow the law. In particular, the EVBB failed to adhere to Election Advisory No. 2022-08, issued by the Secretary of State on January 28, 2022.
101. Relevant here, this Advisory further provides that if the EVBB:

determines that the identification information required under Section 84.002(a)(1-a) (ABBM) or Section 86.002 (carrier envelope) was missing or contained incorrect information, the voter may cure this defect through the SOS’s Ballot by Mail Tracker. . . . The Notice of Carrier Defect form provides information on how to utilize the tracker. Information validated through the Ballot by Mail Tracker should be provided to the EVBB for their final review of the ballot before determining acceptance or rejection. If a voter’s carrier envelope has a defect that may be corrected, the . . . EVBB must give this information to the early voting clerk, who submits it via TEAM to update the tracker.³⁸
102. When the EVBB convened on March 4th to inform voters that their ballot had not been counted, it only informed voters that they may cure their ballot by completing the

³⁷ “Preliminary Election Reconciliation – Unofficial Totals,” Hidalgo County Elections Department, available at: <https://www.hidalgocounty.us/DocumentCenter/View/57702/Democratic-Reconciliation-Form?bidId=> (accessed on March 10, 2022).

³⁸ *Id.*

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“Corrective Action Form for Defective Carrier Envelope” and returning the form to the voting clerk’s office. Thus, the EVBB did not inform voters of this option to cure their defective ballot online, without the need to travel.

103. Furthermore, upon information and belief, the EVBB did not discharge its duties to timely reach out to voters when it convened prior to Election Day to inform voters of their options to cure their defective ballots. Nor did it properly record such attempts in compliance with the law. (Contestant’s Exhibit 6).

104. After the vote was canvassed, and after the EVBB added either provisional or pending mail ballots to the unofficial total, there were a total of 41,383 votes cast.

105. This means that only 90 votes were added to the unofficial total. According to the Provisional Status Report, only 19 provisional ballots were accepted, with 33 being rejected.³⁹ Thus, only 71 mail ballots were cured during the six-day period following the election.

106. According to the final Election Reconciliation Form, because of violations of SB1 and Election Advisory 2022-08, *a total of 488 mail ballots were returned by voters and rejected by the EVBB.*⁴⁰

BALLOT SECURITY PROVISIONS

107. The Texas Legislature, in SB1 added new security measures to voted ballots “to ensure the security of ballot boxes containing voted ballots throughout the period of tabulation at the central counting station.” Tex. Elec. Code Ann. § 127.1232(a).

³⁹ “Democratic Primary – March 1, 2022 - Provisional Status Report by Ballot Board,” Hidalgo County Elections Department, available at: <https://www.hidalgocounty.us/DocumentCenter/View/57866/Democrat-provisional-report-new1?bidId=>

⁴⁰ “Preliminary Election Reconciliation – Unofficial Totals,” Hidalgo County Elections Department, available at: <https://www.hidalgocounty.us/DocumentCenter/View/57702/Democratic-Reconciliation-Form?bidId=> (accessed on March 10, 2022).

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108. “The general custodian of election records in a county with a population of 100,000 or more shall implement a video surveillance system that retains a record of all areas containing voted ballots: (1) from the time the voted ballots are delivered to the central counting station until the canvass of precinct election returns; and (2) from the time the voted ballots are delivered to the signature verification committee or early voting ballot board until the canvass of precinct election returns.” Tex. Elec. Code Ann. § 127.1232(b).
109. “A video from a system implemented under Subsection (b) shall be made available to the public by a livestream.” Tex. Elec. Code Ann. § 127.1232(c).
110. Such provisions are designed to help implement other provisions of the Election Code related to ballot security. For example, Section 61.005 provides that “[f]rom the time a presiding judge receives the official ballots for an election until the precinct returns for that election have been certified, *the presiding judge shall take the precautions necessary to prevent access to the ballots, ballot boxes, and envelopes used for provisional ballots in a manner not authorized by law.*” Tex. Elec. Code Ann. § 61.005(a) (emphasis added).

Violation of § 127.1232

111. Upon information and belief, the voted ballots were not secured in accordance with the Texas Election Code.
112. In particular, on March 8, 2022, days prior to the certification of the vote, the HCED published a video on its channel entitled “Hidalgo County Elections Ballot Transportation Live Stream.”⁴¹

⁴¹ “Hidalgo County Elections Ballot Transportation Livestream,” Hidalgo County Elections Department Youtube, available at: <https://www.youtube.com/watch?v=ibkkxXBPwoo> (access on March 15, 2022).

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113. In this video, an orange box of voted ballots is visible inside the office of an employee, and not visible by surveillance. The orange box is then moved to another room which does have video surveillance.

114. It is unclear what the elections officials were doing with this box of voted ballots outside of the view of the cameras and prior to canvassing. However, one thing is clear: SB1 and the Election Code's related ballot security measures were designed to prevent such opportunities for mischief to unseat our faith in our elections.

VII. CONCLUSION

115. The right to vote is the cornerstone of our democracy, and the local and state media was rightly concerned that the closure of polling locations in Hidalgo County in this past Election led to the disenfranchisement of voters across our County. The Election Code provides courts a remedy in situations like this, where violations of the Code and other irregularities materially affected the outcome of the Election. Combined with the other violations of the Code during the administration of the Election, in conjunction with the counting of illegally harvested votes, the conclusion is clear: our voters cannot have confidence in this past Election.

VIII. REQUEST FOR RELIEF AND ATTORNEY'S FEES

116. As a result of the irregularities herein alleged, the canvass does not reflect the true result of the Election. Upon trial of this contest, Contestant will show the true winner of the Election to be Tania Ramirez. Alternatively, because the true outcome of the Election cannot be determined, Contestant requests that the Election be declared void, and that a new election be held. Should a new election be ordered by this Court, Contestant requests

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that this Court maintain supervisory jurisdiction over the election, and issue sufficient orders to prevent a recurrence of the irregularities which impugned the Election.

117. Contestant is entitled to necessary costs and attorneys' fees from Contestee.

IX. PRAYER

118. **WHEREFORE, PREMISES CONSIDERED**, Contestant prays that after trial on the merits on her cause of action, that the results of the Election and canvass be re-tallied, such that Contestant be declared the true winner of the Election, or alternatively, that the Election be declared void because the result cannot be determined and a new election be ordered to be held, that costs and attorneys' fees be assessed against Contestee, and for all other and further relief, either in law or in equity, to which Contestant may show himself justly entitled.

Respectfully submitted,

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