

WINTER 2012 • VOL. 11, NO. 2

respect

A NEWSLETTER ABOUT LAW AND DIVERSITY

When Combatting Voter Fraud Leads to Voter Suppression

by Phyllis Raybin Emert

With the presidential election fast approaching in November, it is important to remember that taking part in America's democratic process by casting your vote is a fundamental right of every American of voting age. Proposed legislation in as many as 38 states could make it harder for some Americans to exercise that right.

According to a report released in October 2011, more than five million eligible voters will find it harder to cast their ballots in November if these states pass their proposed legislation. The report, titled "Voting Law Changes in 2012," was produced by New York University School of Law's Brennan Center for Justice, a **non-partisan**, public policy and law institute that focuses on the fundamental issues of democracy and justice.

John Samples, of the Cato Institute, a research organization that supports limited government, told *The Washington Post*, "The five million number might be true in a general sense under the law, but the real question here is whether the imposition of the requirement would cause the person to do something different than they would have done without it. It is implausible to me that five million people would be deterred from voting short of physical force."

The Brennan Center report contends that the new restrictions "fall most heavily on young, minority, and low-income voters, as well as voters with disabilities."

In addition, the report revealed that "of the 12 likely battleground states [in the 2012 presidential election], according to *The Los Angeles Times* analysis in August, five have already cut back on voting rights and two more are currently considering new restrictions." According to the Brennan Center's report and other newspaper accounts, some of the voting restrictions include making it more difficult to register to vote, cutting back on early voting, a huge benefit for millions of Americans who cannot take off work [>continued on page 2](#)

Wal-Mart Wins, A Million Women Lose

by Cheryl Baisden

In 1963, the United States passed the Equal Pay Act, making it illegal to pay men and women different wages for the same job. A year later, Congress strengthened the nation's workplace gender anti-discrimination laws when it adopted the Civil Rights Act. Under Title VII of that act, employers were required to treat men and women equally when it came to promotions, benefits, raises and other work-related opportunities as well.

These laws set the foundation for gender equality in the workplace, but even today the issue of employment equality continues to be tested in the courts on a regular basis, notes Lisa Lehrer, a Livingston attorney whose practice includes workplace issues.

In 2000, in fact, the most expansive lawsuit ever filed related to workplace gender discrimination was lodged against the nation's largest retailer—Wal-Mart. Both the Equal Pay Act and Title VII of the Civil Rights Act were at the center of that landmark case, which was filed on behalf of 1.5 million present and former female Wal-Mart employees, claiming the chain's employment practices

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This publication was made possible through funding from the IOLTA Fund of the Bar of New Jersey.

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Voter Suppression *continued from page 1*

to vote when faced with long lines at the voting booth, and requiring voters to show some type of government-issued photo ID. The report contends that "as many as one in 10 voters do not have this type of ID." This number includes nearly one in five younger voters and one in four African Americans, who traditionally vote Democratic. These same voters turned out in the millions for Barack Obama in 2008.

What some states are proposing

According to a September 2011 *Rolling Stone* article, Kansas and Alabama now demand proof of citizenship to register to vote. The Republican-controlled states of Alabama, Kansas, South Carolina, Tennessee, Texas and Wisconsin require voters to show a government ID card before voting. In Texas, Republican Governor Rick Perry, who recently ended his run for the Republican presidential nomination, signed a law that allowed a concealed-weapons permit to be an acceptable form of ID for voting but not a student ID.

Maine repealed Election Day voter registration, which had been in effect since 1973. Florida, Georgia, Ohio, Tennessee and West Virginia all shortened their early voting periods, and Florida and Iowa disenfranchised thousands of former criminals who served their prison time and would have had their voting rights re-instated.

Florida, in fact, approved so many new regulations, creating excessive paperwork and red tape when registering voters that the League of Women Voters ended its efforts in that state after 70 years.

Ion Sancho, an elections supervisor in Florida's Leon County, told *The Guardian*, "Every state that has a Republican [controlled] legislature is doing this, from Maine to Florida. It's a national effort."

In New Jersey, a bill was introduced in July 2011 that would "require specified forms of photo ID when voting, subject to certain exemptions." The bill was referred to the Senate

State Government, Wagering, Tourism & Historic Preservation Committee and is still pending.

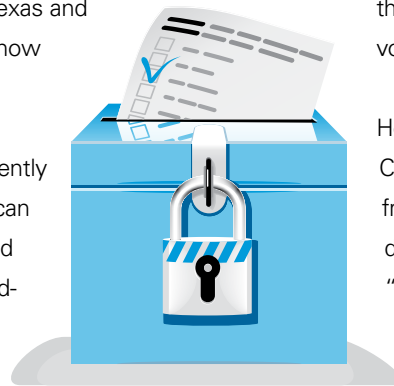
Why all the legislation?

Republicans have stated the reason for the proposed voting restrictions is to eliminate voter fraud, and the Bush administration made it a high priority. From the flurry of legislation put forth in 2011 restricting voting rights, one would think this type of fraud is rampant. According to the *Rolling Stone* article, "out of the 300 million votes cast [between 2002 and 2007], federal prosecutors convicted only 86 people for voter fraud." In fact, according to the Brennan Center, "It is more likely that an individual will be struck by lightning than that he will impersonate another voter at the polls."

In a speech given on the floor of the House of Representatives in July 2011, Congressman John Lewis, a Democrat from Georgia and a civil rights leader dating back to the 1960s, declared, "Voting rights are under attack in America. There's a deliberate and systematic attempt to prevent millions of elderly voters, young voters, students, minority and low-income voters from exercising their constitutional right to engage in the democratic process."

Speaking before a group of students at a Campus Progress convention in July 2011, former President Bill Clinton said, "One of the most pervasive political movements going on outside of Washington today is the disciplined, passionate, determined effort of Republican governors and legislators to keep most of you from voting next time. Why is all of this going on?," Clinton asked. "This is not rocket science. They are trying to make the 2012 electorate look more like the 2010 electorate than the 2008 electorate."

President Clinton is referring to the 2010 mid-term elections when the Republicans took back the House of Representatives from the Democrats and nearly claimed the Senate as well. He went on to tell the students, "There has never been in my lifetime, since we got rid of the



poll tax and all the Jim Crow burdens on voting, the determined effort to limit the franchise that we see today.”

Poll taxes were instituted after the Civil War in an effort to keep African Americans from voting. Essentially, a poll tax was a fee that had to be paid in order to vote, which disenfranchised poor voters. While a 1937 U.S. Supreme Court decision in *Breedlove v. Suttles* held these taxes to be constitutional, the 24th Amendment to the U.S. Constitution, ratified by the states in 1964, prohibited poll taxes in federal elections. That means that it is now unconstitutional to charge anyone a fee to vote.

On disenfranchising thousands of ex-cons, President Clinton asked, “Why should we disenfranchise people forever once they’ve paid their price? Because

most of them in Florida were African American and Hispanics and would tend to vote for Democrats—that’s why.”

Voting Rights Act of 1965

The Voting Rights Act of 1965 prohibits states from “imposing any voting qualification or pre-requisite to voting, or standard, practice, or procedure....to deny or abridge the right of any citizen of the United States to vote on account of race or color.” In addition, the Act established strict federal oversight of elections in states with a history of discriminatory voting practices. States that fell into what was called “covered jurisdictions” could not implement any changes to its voting practices without first clearing those changes with the U.S. Department of Justice. This requirement was referred to

as “preclearance.”

Congress has renewed the Voting Rights Act with some amendments four times, most recently in 2006 under the Bush Administration. The most controversial part of the Act today is Section 5, which deals with preclearance. Those states that still fall into the “covered jurisdictions” feel it is unnecessary to consult the Justice Department before making changes to their voting practices, believing that they have moved beyond the discriminatory practices of the past.

South Carolina case

Some states have been able to “bail out” of Section 5 preclearance requirements, but preclearance still affects 16 states, either all or in part. One of those states is South [>continued on page 8](#)

A Case of Voter Intimidation in New Jersey

Voter intimidation is another form of voter suppression and in 1981 a blatant case occurred right here in the Garden State.

In 1981, the Democratic National Committee, the New Jersey Democratic State Committee, and two Trenton residents took legal action against the New Jersey Republican State Committee, the Republican National Committee and three of its employees. The lawsuit asked for relief and damages against the Republicans “for their efforts to intimidate, threaten and coerce duly qualified black and Hispanic voters from voting and from urging and aiding other black and Hispanic duly qualified persons to vote in the state of New Jersey.” The Democrats stated the Republicans violated the 14th and 15th Amendments to the U.S. Constitution and asked them to stop “engaging in activities to intimidate, threaten or coerce minority voters” and award monetary damages.

According to the complaint, one of the **plaintiffs**, an African American woman named Lynette Monroe, “was stopped by members of the **defendants’** National Ballot Security Task Force when she attempted to vote in the general election on November 3, 1981. She was asked if she had her voter registration card and was told that if she did not have the card she could not vote.” The defendants stood outside the polling place and turned Monroe away. The Republican National Ballot Security Task Force only patrolled “predominantly black and Hispanic precincts in New Jersey” according to court documents.

In addition, the Task Force placed posters around the polling places with large red letters that stated, “Warning—This area is being patrolled by the National Ballot Security Task Force...” and offered a \$1,000 reward for information leading to the “arrest and conviction of anyone violating New Jersey election laws.” The posters were placed within 100 feet of the polling place, a violation of state law. On Election Day, deputies and policeman with revolvers, two-way radios and armbands with National Ballot Security Task Force printed on them patrolled the polling places. Court documents state they “obstructed and interfered with the operations of the targeted polling places in...black and Hispanic precincts...[by] disrupting the operations...harassing poll workers, stopping and questioning prospective voters, refusing to permit prospective voters to enter the polling places and ripping down signs of one of the candidates...”.

The action was resolved by the signing of a settlement agreement in 1982 in which the Republican National Committee and the New Jersey State Republican Committee agreed to stop all activities in question in the future and the plaintiffs agreed to accept the sum of \$1 in damages and waive all further claims. The settlement did not include an admission of wrongdoing by the defendants. —Phyllis Raybin Emert



Banned Book Raises Free Speech Questions

by Barbara Sheehan

You might be surprised to learn that some of your favorite books are also the most widely challenged for removal from libraries. Best sellers like *Twilight*, *The Hunger Games*, even *Harry Potter* have been targeted for removal from library shelves because of objections to the books' themes or content, such as wizardry or violence.

According to the American Library Association, between 400 and 500 book challenges are launched each year. Thankfully for avid readers (and the millions of "Katniss" and "Jacob" fans) these books usually survive their challenges and remain available for borrowing.

Once in a while, however, a book loses the battle and joins the ranks of the banned. One of the most widely publicized cases in recent years occurred right here in New Jersey. It began when a woman complained to two New Jersey libraries about a book called "*Revolutionary Voices: A Multicultural Queer Youth Anthology*."

What happened next would open a new chapter in the free speech debate and call in to question how libraries limit what people read.

What's the beef?

As described on its back cover, *Revolutionary Voices* contains the writing and artwork of "a new generation of queer people from ages 14 to 26." Upon its publication in 2000, the book was embraced by the lesbian, gay, bisexual and transgender (LGBT) community and was viewed as a valuable resource that can help people who may be dealing with questions about their sexuality. *Revolutionary Voices* was a finalist in two categories for a Lambda Literary Award, which celebrates LGBT writing, and in 2001 it was named one of the best adult books for high school students by *School Library Journal*.

In recent years, however, some sharp criticism of the book has emerged. Complaints have stemmed largely from the 9/12 Project, a volunteer movement that seeks to restore American "togetherness" to the way it was after the September 11, 2001 terrorist attacks. The organization, founded by conservative political pundit Glenn Beck, emphasizes traditional values such as honesty, the sanctity of family and a belief in God.

The matter came to a head in New Jersey at the Burlington County Library and the Rancocas Valley Regional High School Library in 2010, when Burlington County resident Beverly Marinelli, a member of the 9/12 Project, complained about *Revolutionary Voices*, publicly describing the book as "pervasively vulgar, obscene, and inappropriate." Even though the 9/12 Project

identifies itself as a non-political organization, some viewed Marinelli's complaint as a political move to push her organization's values on students by restricting their access to information.

What has the court said?

Similar concerns arose with the landmark case of *Board of Education, Island Trees School District v. Pico*, which the U.S. Supreme Court heard in 1982. The case, which began in 1975, involved three school board members in a Long Island school district who sought the removal of nine books from the high school library, calling them "anti-American, anti-Christian, anti-Semitic, and just plain filthy." The books in question were *Slaughterhouse Five* by Kurt Vonnegut Jr., *The Naked Ape* by Desmond Morris, *Down These Mean Streets* by Piri Thomas, *Best Short Stories of Negro Writers* edited by Langston Hughes, *Go Ask Alice*, by Anonymous, *Laughing Boy* by Oliver LaFarge, *Black Boy* by Richard Wright, *A Hero Ain't Nothing But a Sandwich* by Alice Childress and *Soul on Ice* by Eldridge Cleaver. The Board of Education elected to remove all but one of the books.

High school student Stephen Pico, on behalf of his fellow students, filed suit against the school board, claiming the removal of these books was a violation of their First Amendment right to access information. A New York district court ruled in favor of the school board; however an appeals court **reversed** that decision. The U.S. Supreme Court **upheld** the decision of the appeals court, siding with the students. In its ruling, the Court stated, "Local school boards may not remove books from school library shelves simply because they dislike the ideas contained in those books and seek by their removal to prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion." The ruling also stated, "the right to receive ideas is a necessary predicate to the recipient's meaningful exercise of his own rights of speech, press, and political freedom" and "students too are beneficiaries of this principle."

A policy decision

Of course, in most cases when a book is challenged, the outcome is not decided in a court of law but handled by the individual library. To ensure a fair and respectful process, the American Library Association recommends that all libraries have an official policy in place that they can follow.

The Rancocas Valley Regional High School implemented such a policy when the concern about *Revolutionary Voices* arose. A committee was formed, research about the complaint was gathered, and a formal vote of the school Board of Education was

taken. According to Dee Ann Venuto, the school's media center coordinator, seven board members voted to ban *Revolutionary Voices* and one member **abstained**. The reason the Board pulled the book was obscenity, Venuto noted.

In her 20 years at the library, Venuto said this was the first time that they have faced this kind of a book challenge. In addition to *Revolutionary Voices*, two other books—*Love and Sex: 10 Stories of Truth* and *The Full Spectrum: A New Generation of Writing About Gay, Lesbian, Bisexual, Transgender, Questioning, and Other Identities* were challenged by the 9/12 Project but were allowed to remain on the shelves.

Follow the email chain

At the Burlington County Library, *Revolutionary Voices* was also pulled from the library shelves; but questions arose as to how and why. The American Civil Liberties Union of New Jersey (ACLU-NJ), a non-profit organization that works to defend and protect individual rights, used the state's Open Public Records Act (OPRA) to determine how the book was removed. OPRA provides that government records must be made readily accessible for inspection, copying, or examination by records requestors, with certain exceptions.

The OPRA request uncovered an email exchange between the Burlington County Library System Director Gail Sweet and others, which was then made public. In the email chain, Sweet wrote, "We were aware of the challenge at Rancocas Valley High School and took a look at the book. It was recommended both by Marge and by me that the book be removed. The commissioners supported our decision. There was no official challenge, no official vote by the commissioners. We made the decision before the Board of Ed decided to remove the book at RV [Rancocas Valley]."

This followed an earlier email communication by Sweet, in which she said, "We need to pull 'Revolutionary Voices' by Amy Sonnie from our shelves. There are still two requests. How can we grab the books so that they never, ever get back into circulation...."

An extremely troublesome situation

Jeanne LoCicero, deputy legal director of ACLU-NJ, noted that her organization did not take any formal legal action against the Burlington County Library; but she described what happened there as an extremely troublesome situation because it puts too much control in the hands of one person.

As for the Rancocas Valley High School Library, LoCicero noted that the library followed a policy rather than just pulling the

book from the shelf; and the ACLU did not get involved. LoCicero acknowledged that schools have different priorities to balance.

Still, she said the ACLU-NJ has some concerns. Banning and censorship are never a good idea, she said. With so much access to information on the Internet and elsewhere, you might wonder what all the fuss is about. Does one library book really matter that much? LoCicero insists it does.

"It's not just about one book," LoCicero says. "It is at the core of our First Amendment right to free expression and to have access to information."

Also, these types of First Amendment issues don't just impact books, LoCicero added. Issues are also arising in the context of Internet access for students at schools and in libraries. In this regard, the ACLU has initiated a nationwide "Don't Filter Me" campaign challenging web filters on school computers that the

ACLU says "are unconstitutionally blocking access to hundreds of LGBT websites."

Here in New Jersey, LoCicero said the ACLU believes that New Jersey's Law Against Discrimination and its state Constitution protect against this kind of censorship—or blocking of information based on viewpoint. She said that ACLU-NJ plans to inquire whether filters are impacting school districts in the state. It is possible that when schools implement these filters

they may not even be aware that these particular blocks are in place, she noted.

Our right to debate

Even though *Revolutionary Voices* was removed from two New Jersey libraries, its message continues on through theatrical readings of the book (titled "Revolutionary Readings"), which were sparked by the book banning controversy and have been held in different venues in New Jersey.

The self-described young theatre artists behind the readings write as part of their mission statement: "Libraries are not a place for personal, political and religious agendas. By removing this and similar books from their shelves, the voices of the LGBT community are silenced...".

Of course, just as these artists are expressing their concerns, citizens like Marinelli also have a right to voice their opinions. Having this opportunity to debate is a core constitutional right, noted LoCicero. Disagreements over what is acceptable speech are unavoidable; however, First Amendment protections should never be taken for granted. ■



discriminated against them. Originally focusing on a handful of women in California, the case was broadened into a class action lawsuit and ended up before the U.S. Supreme Court.

Although *Dukes v. Wal-Mart* was a workplace discrimination suit, “the Supreme Court wasn’t asked to decide whether or not Wal-Mart actually discriminated against the plaintiffs,” says Lehrer. “The justices were asked to decide whether the employees shared common ‘questions of fact or law’ to be properly certified as a class.”

What is a class action?

Basically, Lehrer explains, a class action is a lawsuit that is filed on behalf of a large group of people who have all been wronged by the same entity, in this case Wal-Mart. In order to be considered a class, members of the group must have suffered from the same or a similar incident.

Although the U.S. Court of Appeals for the Ninth Circuit in San Francisco had approved the female plaintiffs in the *Wal-Mart* case as a class, Wal-Mart appealed the decision to the U.S. Supreme Court, and the majority of justices viewed the case differently than the lower court.

“The Court was sharply divided on the question of whether the plaintiffs in this case were similar enough to sue together,” explains Lehrer. “The majority of the Court ruled that the plaintiffs in the case did not demonstrate enough of a ‘commonality;’ that this very large group of people had different discrimination complaints against Wal-Mart, so they could not sue as a group.”

If Wal-Mart had lost and the suit had been certified as a class action, the company could have been on the hook for more than \$1 billion in back pay. The women can still pursue their discrimination charges against Wal-Mart, since the Court did not address whether the charges were true, Lehrer notes. Their complaints, however, would have to be broken down into smaller lawsuits, where the discrimination claims were the same, or filed as individual complaints by the women.

The Court’s decision may seem technical and not really a loss for the women since their claims can still be pursued, but it is

actually a huge blow for the plaintiffs in this case and could have far-reaching ramifications for future class action suits against other companies.

“Pursuing these smaller legal actions would be more difficult, time-consuming and not as far-reaching,” says Lehrer. “Plus, a lot of lawyers would be less likely to take such a case without a large money retainer from the plaintiff [since the monetary value an individual would be seeking is small]. Realistically, many people do not have the resources to sue individually. Also, they may be skittish or afraid to challenge and sue their employer. It takes a

lot of courage to sue your own boss and keep your job. People are afraid of retaliation, of what their boss will do if they speak up and sue.”

Shortly after the Supreme Court announced its decision in June 2011, a new case was filed against Wal-Mart limited to the California plaintiffs. How many other Wal-Mart-related lawsuits may be filed in the future is unclear.



vs. Walmart

The facts of the matter

Initially filed in 2000, *Dukes v. Wal-Mart* involved 54-year-old store greeter Betty Dukes, who claimed that although she had worked at the California-based Wal-Mart for six years and received good work reviews, she was denied an opportunity for a promotion because of her gender. Several other women soon joined the suit, which in time was broadened into the class action case.

Some of the other incidents detailed in the class action matter, which specifically highlighted 120 examples of alleged discrimination against female employees, included:

- A woman with a master’s degree who worked at Wal-Mart for five years and discovered she was paid less than a 17-year-old male employee who had just been hired. When she questioned her department manager, she was allegedly told: “You aren’t male, so you can’t expect to be paid the same.”
- A woman who allegedly was informed that a male employee got a bigger raise because he had “a family to support.”

- A woman who was allegedly told that men would always be paid more than women at Wal-Mart because “God made Adam first, so women would always be second to men.”

The plaintiffs in the class action lawsuit had three objectives: to stop Wal-Mart’s alleged practice of employment discrimination; to have the company adopt an employment policy of equality; and to recover the income they lost as a result of discriminatory practices, which averaged around \$1,100 a year.

Their attorney, Brad Seligman, contended that a policy of discrimination was part of Wal-Mart’s “corporate culture.” Seligman told *The Washington Post*, “Wal-Mart has a very in-depth training program, very careful corporate oversight, a strong corporate culture, all designed to ensure a uniformity in decision making.”

Wal-Mart’s legal team claimed employment decisions were made at a local level, and not dictated by corporate policy, and that as a result the women should not be considered a class. Citing what the defense team called a flexible management policy, the Supreme Court should not support a “class certification by the district court [that] was estimated to include over 1.5 million former and current female Wal-Mart employees who held different jobs in different stores in different states under the supervision of different managers,” attorney Theodore Boutrous Jr. wrote in his brief to the Court.

Based on precedent set by the Court in prior rulings, the U.S. Supreme Court required that the plaintiffs identify a common policy that led to the discrimination in order to pursue monetary damages. Based on this requirement, the justices unanimously voted to disqualify the case on financial grounds. What they disagreed on, however, was whether the case could be considered a class action if the plaintiffs dropped their financial claims.

Four justices indicated they saw a common issue in the complaints and suggested the case proceed as a class action, eliminating the request for financial reimbursement. The Court majority voted against the proposal.

Justice Antonin Scalia, writing for the majority, said the plaintiffs “provide no convincing proof of a company-wide discriminatory pay and promotion policy.” He noted, “Some managers will claim that the availability of women, or qualified women, or interested women, in their stores’ area does not mirror the national or regional statistics. And almost all of them will claim to have been applying some sex-neutral, performance-based criteria—whose nature and effects will differ from store to store.”

Justice Ruth Bader Ginsburg, writing for the minority, said both

the statistics and the individual accounts showed that “gender bias suffused Wal-Mart’s corporate culture....The practice of delegating to supervisors large discretion to make personnel decisions, uncontrolled by formal standards, has long been known to have the potential to produce disparate effects. Managers, like all humankind, may be prey to biases of which they are unaware.” She added, “Isn’t there some responsibility on the company to say, is gender discrimination at work, and if it is, isn’t there an obligation to stop it?”

Justice Ginsburg also quoted the following statistics: “Women fill 70 percent of the hourly jobs in the retailer’s stores, but make up only 33 percent of the management employees....The higher one looks in the organization, the lower the percentage of women.”

Reactions to the ruling

As a result of the Supreme Court’s ruling, civil rights and public interest groups have voiced concern that large corporations will now see themselves as being exempt from federal anti-discrimination laws. Public Justice, a public interest law firm based in Washington, DC, filed a brief with the U.S. Supreme Court in support of the plaintiffs, arguing “class actions are often the only effective means to compensate wronged individuals and **sanction** corporate misconduct.” Paul Bland, a lawyer at Public Justice, told *The Washington Post*, the message this ruling sends is: “As long as you discriminate against enough people, courts can’t get involved.”

The U.S. Chamber of Commerce, which filed two briefs supporting Wal-Mart, viewed the Court’s ruling differently. In a statement, Robin Conrad, the executive vice president of the litigation unit for the U.S. Chamber of Commerce, said, “Today’s ruling reinforces a fundamental principle of fairness in our court systems: that defendants should have the opportunity to present individualized evidence to show they complied with the law. Too often the class action device is twisted and abused to force businesses to choose between settling meritless lawsuits or potentially facing financial ruin.”

In terms of changing the practices at Wal-Mart, the lawsuit may not have failed. Christine Kwapnoski, one of the original seven plaintiffs in the case, told *The New York Times*, “The influx of women into management after the lawsuit was brought was phenomenal.” Another plaintiff, Stephanie Odle, told *The New York Times*, “We’ve already won because they already had to change their policies toward women because of us.” ■

Carolina, which is still considered a “covered jurisdiction” under the Voting Rights Act.

In December 2011, the Justice Department blocked South Carolina’s new voter ID law, claiming it would place an unfair burden on minority voters. A Justice Department letter sent to South Carolina’s attorney general stated, “the state’s data demonstrates that nonwhite voters are significantly burdened by the [photo ID requirement]....” The letter goes on to state, “Until South Carolina succeeds in addressing the racial disparities [in voter ID possession] the state cannot meet its burden of proving that, when compared to the benchmark standard, the voter identification requirements proposed will not have a **retrogressive** effect.” In addition, the Justice Department stated that the state’s proposal did not “include any evidence of either in-person voter impersonation or any other type of fraud that is not already addressed by the state’s existing voter identification requirement.”

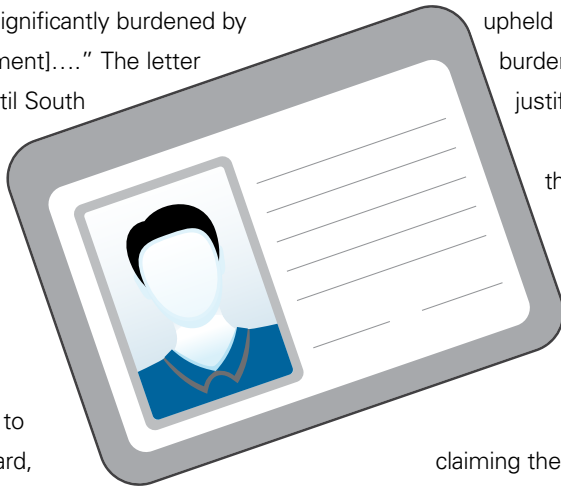
South Carolina filed a complaint against the Justice Department in February 2012 challenging its decision. Newspaper accounts estimate that the lawsuit could cost South Carolina taxpayers more than \$1 million.

South Carolina Governor Nikki Haley’s spokesperson said in a statement, “It wouldn’t cost anything if [U.S. Attorney General] Eric Holder and the Department of Justice would get out of the way and let us protect our citizens and enforce our laws.”

Indiana case

One of the biggest complaints with new state restrictions on voting practices is the requirement for producing a photo ID in order to vote. In 2008, the U.S. Supreme Court

decided the constitutionality of Indiana’s voter ID law with its ruling in *Crawford v. Marion County Election Board*. In that case, the Court ruled 6 to 3 that the Indiana law was constitutional because the state had a “valid interest” in improving election procedures as well as deterring fraud. In his opinion Justice Antonin Scalia wrote, “The law should be upheld because its overall burden is minimal and justified.”



In July 2008, after the U.S. Supreme Court decision was announced, the League of Women Voters brought another lawsuit in an Indiana state court,

claiming the law violated the Indiana Constitution by not treating all voters equally. The argument was that voters using absentee ballots were not held to the same standard as in-person voters who had to produce a photo ID. While an Indiana appellate court struck down the voter ID law, the Indiana Supreme Court ruled that the Legislature “has the power to require voters to show photo IDs at the polls.”

Since the U.S. Supreme Court **upheld** the Indiana voter ID law, other states proposing the requirement of photo IDs have modeled legislation on the Indiana law in order to pass scrutiny if challenged in the courts.

“Your right to vote is the right upon which your ability to defend all of your other rights depends,” NAACP President Ben Jealous said in a speech given at a Martin Luther King Jr. event in January 2012. “When people come after your right to vote, it is usually to make it easier to come after so many of your other rights that you may actually hold dearer. And when it comes to our right to vote we will not let any unjust law—or any person for that matter—turn us around.” ■

Glossary

abstain — to voluntarily refrain from something. **defendant** — in a legal case, the person (or entity) accused of civil wrongdoing or a criminal act. **disenfranchise** — to deprive someone of the right to vote. **franchise** — a constitutional right reserved to the people, for example, the right to vote. **nonpartisan** — not adhering to any established political group or party. **plaintiff** — person or persons bringing a civil lawsuit against another person or entity. **pundit** — an analyst or commentator. **retrogressive** — going back to a more primitive or worse condition. **reverse** — to void or change a decision by a lower court. **sanction** — a provision for safeguarding conformity to the law. **upheld** — supported; kept the same.