

CAUSE NO. \_\_\_\_\_

F.N. WILLIAMS, SR.,	§	IN THE DISTRICT COURT
HOUSTON AREA	§	
PASTORS COUNCIL,	§	
HERNAN CASTANO,	§	
MAGDA HERMIDA AND	§	
KHANH HUYNH,	§	
Plaintiffs,	§	HARRIS COUNTY, TEXAS
	§	
VS.	§	
ANNISE D. PARKER, AND	§	
JOHN DOE AND/OR JANE	§	
DOE CONSPIRATORS,	§	
Defendants.	§	_____ JUDICIAL DISTRICT

**PLAINTIFFS' ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF THIS COURT:

Plaintiffs F.N. WILLIAMS, SR., HOUSTON AREA PASTORS COUNCIL, HERNAN CASTANO, MAGDA HERMIDA AND KHANH HUYNH (hereinafter referred to as "Plaintiffs"), hereby file Plaintiffs' Original Petition against ANNISE D. PARKER AND JOHN DOE AND/OR JANE DOE CONSPIRATORS, and in support thereof show as follows:

**I.**  
**DISCOVERY CONTROL PLAN**

1. Plaintiffs intend this case to be conducted under a Level 2 discovery control plan.

**II.**  
**THE PARTIES**

2. Plaintiffs F.N. Williams, Sr. is a registered voter who resides in Harris County and within the City of Houston, Texas. Plaintiffs Hernan Castano, Magda Hermida and Khanh Huynh are registered to vote and reside in Harris County. Houston Area Pastors Council (“HAPC”) is a Texas non-profit corporation.

3. The known Defendant herein is Annise D. Parker. She is currently the Mayor of the City of Houston. According to the City of Houston website, the Mayor may be served with service of process at the physical offices of the City of Houston, 900 Bagby, Houston, Texas 77002. The identity of any John Doe and/or Jane Doe Conspirators are not known at this time, but, once discovery reveals whether—and if so, who—acted in concert with Defendant Parker to deprive Plaintiffs of their constitutional and other legal rights, those persons will be added to this lawsuit and held accountable for damages in accordance with 42 U.S.C. § 1983.

**III.**  
**VENUE**

4. Venue in this action is proper and maintainable in Harris County, Texas under Civil Practice and Remedies Code § 15.002(a) because the events or omissions giving rise to the claim occurred in Harris County,

Texas. Specifically, this lawsuit involves a claim under 42 U.S.C. §1983 for the vindication of rights conferred in the United States Constitution and other applicable laws.

#### **IV. STANDING**

5. Each of the Plaintiffs herein has standing to bring this Original Petition. More specifically, each Plaintiff personally helped to organize a petition drive for what ultimately became known as “No Unequal Rights!” (“Citizen Referendum Petition”). With the exception of the HAPC, each of the Plaintiffs is a registered voter within the State of Texas, and each such Plaintiff possesses a fundamental right to vote, freedom of speech, freedom of religion, freedom of association, and freedom to petition government for redress of grievances, as guaranteed under both the United States and Texas Constitutions, and as further protected by both federal and state law, including the Houston City Charter. Plaintiff Williams also signed a Citizen Referendum Petition to repeal the Mayor’s so-called “Houston Equal Rights Ordinance” (“HERO”). Because of the Mayor’s wrongful refusal to recognize the validity of the Citizen Referendum Petition, Plaintiff Williams filed a lawsuit and a separate petition for writ of mandamus to compel the Defendant to comply with her ministerial duties. Plaintiff won the legal battle, but at great time and expense. HAPC funded the litigation described

herein and has standing to seek reimbursement of all of its fees and expenses and costs.

**V.**  
**WAIVER OF GOVERNMENTAL IMMUNITY**

6. Plaintiffs assert that no governmental or qualified immunity exists for a claim brought under 42 U.S.C. §1983 against a defendant who, acting under color of state law, deprives any person of their rights, privileges, or immunities secured by the Constitution and other applicable laws.

7. Defendant Parker acted under the color of state law when she—as Mayor of Houston—exercised her power possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law. Such actions will result in liability because Mayor Parker abused the power of the position given to her by the people of Houston.

**VI.**  
**FACTS**

8. City of Houston Ordinance No. 2014-530 is known as the Mayor’s so-called Houston Equal Rights Ordinance (“HERO”)<sup>1</sup>. This ordinance was officially published on June 3, 2014.

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<sup>1</sup> “HERO” is the Mayor’s acronym for “Houston Equal Rights Ordinance.” Plaintiffs assert that label is both deceptive and false. Far from creating equality, “HERO” creates special rights, not equal rights, for biological males to enter the public restrooms reserved for adult women, adolescent girls, and infants.

9. Along with each of the Plaintiffs herein, a coalition of pastors and others (“the Coalition”) organized a petition drive to force the City of Houston to either repeal this law, or, if not willing to do so, to immediately place this ordinance on the ballot for potential repeal by the voters of the City of Houston.

10. The repeal effort is regulated by the referendum provisions contained within Section VII-b of the Houston’s City Charter. More specifically, Section VII-b, Section 3, states:

“If prior to the date when an ordinance or resolution shall take effect, or within thirty days after the publication of same, whichever is later, a petition signed and verified, as required in section 2(a) hereof, by the qualified voters equal in number to ten percent of the total vote cast as calculated in accordance with Article V, Section 10 of this Charter, shall be filed with the City Secretary, protesting against the enactment or enforcement of such ordinance or resolution, it shall be suspended from taking effect and no action theretofore taken under such ordinance or resolution shall be legal and valid. Immediately upon the filing of such petition the City Secretary shall do all things required by section 2(b) of this Article. Thereupon the Council shall immediately reconsider such ordinance or resolution and, if it does not entirely repeal the same, shall submit it to popular vote at the next city general election, or the Council may, in its discretion, call a special election for that purpose; and such ordinance or resolution shall not take effect unless a majority of the qualified voters voting thereon at such election shall vote in favor thereof.”

11. Thus, because June 3 was the official publication date of the HERO, the thirty day deadline to gather signatures and file the petitions with the

Houston City Secretary fell on July 3, 2014. Section 2(a), referenced above, provides as follows:

“Petition. A petition signed and verified in the manner and form required for recall petition in Article VII-a by qualified voters equal to fifteen per cent of the total vote cast as calculated in accordance with Article V, Section 10 of this Charter, next preceding the filing of said petition, accompanied by the proposed legislation or measure in the form of a proposed ordinance or resolution, and requesting that such ordinance or resolution be submitted to a vote of the people, if not passed by the Council, shall be filed with the City Secretary.”

Article VII-a, in turn, provides as follows:

“All petitions for recall of any officer of the City of Houston, shall be instituted by filing with the City Secretary a verified written petition requesting the removal of such officer, which said petition shall be signed by qualified voters of the City of Houston, in number not less than twenty-five per cent of the total votes cast calculated in accordance with Article V, Section 10 of this Charter, based on the votes cast city-wide if the officer sought to be recalled was elected city-wide, or if the officer sought to be recalled was elected by district, based on the votes cast in the district which the officer sought to be recalled currently serves. The signers of said petition shall also set opposite their respective names, the number of his residence, naming the street, and shall also state the day of the month and the year when such signature was affixed. “

Section 2(b) provides that:

“On or before the thirtieth day after the date of filing of the petition the City Secretary shall certify to the City Council (a) the greatest total vote cast for Mayor at any city general election held within three years next preceding the date of the filing of such petition, and (b) the number of valid signatures on said petition, and shall present such petition and certificate to the Council.”

12. As a result of the hard work of all concerned, a successful referendum petition drive produced over 54,000 signatures on the Citizen Referendum Petition, and the coalition pre-verified with VUID over 31,000 signatures. Thereafter, on July 3, 2014, the Citizen Referendum Petition was timely filed with the Houston City Secretary.

13. Under the terms of the City Charter, quoted above, City Secretary Anna Russell had a ministerial and mandatory duty to review the Citizen Referendum Petition upon filing and to certify no later than thirty days thereafter to the City Council the following: (a) the greatest total vote cast for Mayor at any city general election held within three years next preceding the date of the filing of such petition, and (b) the number of valid signatures on said petition. Secretary Russell did this on August 1, 2014, wherein she attempted to verify approximately 30+% of the total number of signatures. In so doing, Secretary Russell specifically certified that the number of valid and verified signatures on the Citizen Referendum Petition was 17,846, which is more than the minimum required number of 17,269. **Accordingly, the Citizen Referendum Petition was validated by the Houston City Secretary and the consequences of such validation imposed ministerial and non-discretionary mandatory duties upon Defendant Parker.**

14. Rather than abide by the City Secretary's findings and certifications on August 1, 2014, however, Defendant Parker and David Feldman, Houston's then-City Attorney, and, upon information and belief, other John Doe and Jane Doe conspirators, held a press conference three days later to announce that the Citizen Referendum Petition would be rejected because too many signatures were invalidated to reach the required minimum. Conspicuously absent from the press conference was the City Secretary, Anna Russell. The actions of Defendant Parker were wrongful. Secretary Russell was the only person with the authority to certify the Citizen Referendum Petition, and she did so. Mayor Parker and her then-City Attorney wrongfully inserted themselves into the process, blocked Secretary Russell's certification, dared the public to challenge their decision in court if they did not agree with their rejection of the Citizen Referendum Petition, and arrogantly and illegally refused to obey their mandatory duties under the Houston City Charter.

15. Under the law governing this area, the City Secretary had a ministerial and mandatory duty to inspect a timely-filed referendum petition and certify whether the Citizen Referendum Petition contained enough signatures to trigger certain mandatory duties under the law. Incredibly, despite the fact that Secretary Russell certified the Citizen Referendum Petition, Defendant

Parker falsely stated that Secretary Russell did not approve the Citizen Referendum Petition. That was not a true statement, for at least two reasons. First, the insert to Secretary Russell's certification upon which the Defendant based her assertion does not say that Anna Russell personally finds or agrees with the analysis of the Defendant Mayor or her then-City Attorney. Second, Anna Russell's deposition testimony proves that she did not review and approve the City Attorney's analysis. Indeed, she continued to assert that the Citizen Referendum Petition was validated by her and her staff.

16. Even though Secretary Russell certified the result, the Citizen Referendum Petition was wrongfully rejected. Even though Defendant Parker was constitutionally required to accept it, she did not. Accordingly, some of the Plaintiffs had no choice but to file a state court lawsuit as well as a separate mandamus proceeding to force Defendant Parker to obey the Houston City Charter and the consequences which flow therefrom, e.g., immediate suspension of enforcement of HERO, reconsideration of HERO by vote of the City Council, and, should HERO not be repealed by Council, then the immediate calling of an election on whether to repeal HERO.

17. On Friday, August 24th, 2015, the Texas Supreme Court delivered a stinging rebuke to Defendant Parker. In a unanimous per curiam ruling, the

Supreme Court ruled that “The legislative power reserved to the people of Houston is not being honored.” Furthermore, the High Court held that Defendant Parker and her regime acted unlawfully in attempting to usurp the power of Houston City Secretary Anna Russell, who had certified that the Citizen Referendum Petitioners had gathered enough signatures for a vote on the issue:

“The Relators assert that under the Houston Charter, after the City Secretary certifies the petition’s sufficiency, the City Council has a ministerial duty to immediately reconsider the ordinance and, if it does not repeal it, put it on the November 2015 ballot. The City responds that the City Council has no duty to act because the City Secretary did not certify a sufficient number of signatures. Moreover, according to the City, disputed fact issues, such as whether signatures were forged or affidavits were defective, preclude mandamus.

We agree with the Relators that the City Secretary certified their petition and thereby invoked the City Council’s ministerial duty to reconsider and repeal the ordinance or submit it to popular vote. The City Secretary unequivocally stated that “I am able to certify that . . . [t]he number of signatures verified on the petition submitted on July 3, 2014 is 17,846,” and that only 17,269 were required. As for the City Attorney’s findings, the City Secretary merely stated that “[a]ccording to the City Attorney’s Office and reviewed by the City Secretary,” there were not enough valid pages. The City Secretary did not expressly adopt the City Attorney’s findings, and she never reviewed his reasons—she merely reviewed his math. The Charter requires the City Secretary to “certify” her findings, and the only findings she expressly certified were her own. The City Attorney may, no doubt, give legal advice to the City Secretary, but he cannot assume her duties. Though the City Secretary’s report mentions the City Attorney’s findings, the City Secretary did not adopt the City Attorney’s findings as her own, review

the substance of his findings herself, or certify the inadequacies to the City Council. Once the City Council received the City Secretary's certification, it had a ministerial duty to act."

18. Simply put, Defendant Parker intentionally and arrogantly abused her powers as Mayor of the City of Houston in a concerted effort to run roughshod over her veteran colleague City Secretary Anna Russell. Even worse, after Defendant Parker warned others that "she would not allow the public to vote on her equal rights," Annise Parker trampled the voting rights of over a million voters in the fourth largest city in the United States of America in an unprecedented and colossal violation of every Houstonian's civil rights. While feigning a sincere belief in equal rights for all persons, Defendant Parker decided to crush—under color of state law—the civil rights of each of the Plaintiffs in an unconstitutional and unlawful manner. Elevating her own private social agenda above the constitutional rights of the public, Defendant Parker literally smothered the Citizen Referendum Petition in the crib. That attempted exercise of naked power was shameful and contrary to the rule of law, for which monetary redress should be awarded and punitive and/or exemplary punishment should be inflicted. Otherwise, future Mayor Parkers will try the same bullying tactics without any fear of adverse consequences. Deterrence is needed, both now and in the future.

19. Emboldened with what Mayor Parker incorrectly judged to be a quick and decisive defeat of the voters of Houston, this same Defendant subsequently attempted to bully her perceived opponents in the clergy with a malicious and targeted threat of subpoenas and jail time for non-compliance. In subpoenas issued to five members of the Houston Area Pastors Council<sup>2</sup>, Mayor Parker requested a long list of documents and communications. Among them were “all speeches, presentations, or sermons” related to the so-called Houston Equal Rights Ordinance and “all communications with members of your congregation” regarding “HERO” and the Citizen Referendum Petition.

20. Now known as the “Houston 5,” several of whom are Plaintiffs herein, these Houston Pastors valiantly fought the subpoenas by filing motions and briefing in the Court from which the subpoenas had been issued. Surprisingly, Defendant Parker did not back down or apologize. Instead, she and her then-City Attorney, David Feldman, embraced what had transpired and strongly defended their unconstitutional subpoenas and illegal actions. For example, David Feldman said: “Some [petition] signatures were acquired at churches which make the sermons fair game.” Feldman

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<sup>2</sup> These five pastors were not even parties to any litigation between the Mayor and certain Plaintiffs, but were merely voting citizens who had publicly expressed their disagreement with the Mayor’s actions and were exercising their constitutionally guaranteed right to petition their government for redress of grievances. .

also said “If they choose to do this inside the church, choose to do this from the pulpit, then they open the door to the questions being asked.” The Mayor did the same thing. On twitter, Defendant Parker echoed her City Attorney’s defense of the subpoenas: “If the 5 pastors used pulpits for politics, their sermons are fair game.” Thus, by improperly issuing unconstitutional subpoenas, and by refusing to withdraw such subpoenas when given the opportunity and ratifying those wrongful actions instead, Defendant Parker violated the constitutional rights of the Houston 5, emanating from the First Amendment of the United States Constitution.

21. Moreover, by improperly rejecting the Citizen Referendum Petition, Defendant Parker wrongfully stripped these Plaintiffs of their right to petition government for a redress of their grievances, in violation of the Houston City Charter, as well as the State and Federal Constitutions.

**VII.**  
**CAUSE OF ACTION FOR DEPRIVATION OF CIVIL RIGHTS**  
**UNDER 42 U.S.C. §1983**

22. Accordingly, each Plaintiff brings this civil rights lawsuit under 42 U.S.C. § 1983 for Defendant Parker’s wrongful actions under color of state law depriving each of them of procedural and substantive due process under the 14<sup>th</sup> Amendment to the United States Constitution, as well as to vindicate

their liberty interests under the Bill of Rights and Amendments to the United States Constitution.

**VIII.**  
**REQUEST FOR RELIEF**

23. Plaintiffs incorporate by reference all preceding paragraphs.
24. Plaintiffs each seek compensation for their respective nominal and/or actual and/or compensatory and/or punitive and/or exemplary relief to which they may show themselves to be entitled.

**IX.**  
**CONCLUSION**

For the reasons detailed above, Plaintiffs respectfully request the following relief:

- a. Cite Defendant Parker to appear herein;
- b. Damages pursuant to 42 U.S.C. § 1983;
- c. Reasonable and necessary attorneys' fees pursuant to 42 U.S.C. § 1988;
- d. All costs of suit;
- e. All other and further relief to which Plaintiffs may show themselves to be justly entitled.

Respectfully Submitted,

ANDY TAYLOR & ASSOCIATES, P.C.

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