



November 18, 2021

*Sent via email*

Pointe Coupee Parish School Board  
337 Napoleon Street  
New Roads, LA 70760

**Re: Pointe Coupee Parish School Board Compliance with Section 2  
of the Voting Rights Act**

Dear Members of the Pointe Coupee Parish School Board:

The Southern Poverty Law Center (“SPLC”), the NAACP Legal Defense and Educational Fund, Inc. (“LDF”),<sup>1</sup> the New Roads NAACP Branch (“New Roads NAACP”), and the Westside Sponsoring Committee of the Industrial Areas Foundation (“Westside Sponsoring Committee”), write to urge the Point Coupee Parish School Board (“School Board”) to take seriously its affirmative obligation to comply with Section 2 of the Voting Rights Act of 1965 (“Section 2”), which likely requires this body to enact a map during the upcoming redistricting cycle with three districts comprised of a majority of Black voters (“majority-Black districts”). We know it is possible to draw a School Board map with three majority-Black districts.

**I. Background**

Pointe Coupee Parish voters elect eight School Board members from single-member districts. The School Board sets budgetary, curricular, hiring, and resource priorities for all school children in Pointe Coupee Parish. About 36% of Pointe

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<sup>1</sup> Since 1957, LDF has been a separate entity from the NAACP and its state and local branches. LDF and the NAACP have won numerous cases challenging discriminatory methods of election in Louisiana and elsewhere. *See, e.g., Thornburg v. Gingles*, 478 U.S. 30 (1986); *Chisom v. Roemer*, 501 U.S. 380 (1991); *Alabama State Conf. of NAACP v. City of Pleasant Grove*, 372 F. Supp. 3d 1333 (N.D. Ala. 2019); *Ga. State Conf. of the NAACP v. Fayette Cty. Bd. of Comm’rs*, 118 F. Supp. 3d 1338 (N.D. Ga. 2015) (LDF and NAACP successfully challenging county commission’s and school board’s at-large elections); *Dillard v. Greensboro*, 956 F. Supp. 1576 (M.D. Ala. 1997) (LDF successfully challenging at-large elections).

Coupee’s residents are Black.<sup>2</sup> Moreover, the Pointe Coupee public school student body is 57% Black.<sup>3</sup> Notwithstanding Pointe Coupee Parish’s significant Black community, the School Board currently has only two Black members (and six white members). Based on demographics alone, Pointe Coupee’s Black community is underrepresented on the School Board.<sup>4</sup>

## **II. The Pointe Coupee Parish School Board Has an Obligation to Comply with Section 2 of the Voting Rights Act in Redistricting.**

Louisiana law mandates that the School Board reapportion its districts after each decennial census;<sup>5</sup> that is, the School Board must balance the population of Pointe Coupee residents as equally as possible among the eight school board districts to comply with the “one person, one vote” principle under the U.S. Constitution’s Equal Protection Clause.<sup>6</sup> The U.S. Census Bureau conducted the decennial census in 2020 and released the data necessary to fulfill this obligation on August 12, 2021.

The School Board also has a post-census obligation to ensure that the School Board map complies with the Voting Rights Act in the redistricting process. Section 2 of the Voting Rights Act requires the redistricting body to ensure that voters of color have an equal opportunity “to participate in the political process and elect candidates of their choice,” taking into consideration the state or locality’s demographics, voting

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<sup>2</sup> 36.15% of Pointe Coupee’s population is Black. The parish’s white population is 59.71%. *Attributes, Pointe Coupee*, State of Louisiana, [https://redist.legis.la.gov/2020\\_Files/Reports/Report%20-%20Pointe%20Coupee%20Parish%20-%20Census%202020%20-%20Total%20Pop%20and%20Voting%20Age%20Pop%20By%20Precinct.pdf](https://redist.legis.la.gov/2020_Files/Reports/Report%20-%20Pointe%20Coupee%20Parish%20-%20Census%202020%20-%20Total%20Pop%20and%20Voting%20Age%20Pop%20By%20Precinct.pdf).

<sup>3</sup> *Feb 2021 Multi Stats (Total by Site and School System)*, Louisiana Department of Education, <https://www.louisianabelieves.com/resources/library/student-attributes> (last visited Oct. 12, 2021).

<sup>4</sup> *See St. Bernard Citizens for Better Gov’t v. St. Bernard Par. Sch. Bd.*, No. CIV.A. 02-2209, 2002 WL 2022589, at \*4 (E.D. La. Aug. 26, 2002) (considering the percent of Black student population in a Section 2 claim against Saint Bernard Parish School Board); *Perez v. Pasadena Indep. Sch. Dist.*, 958 F. Supp. 1196, 1224 (S.D. Tex. 1997), *aff’d*, 165 F.3d 368 (5th Cir. 1999) (“The Hispanic student population has been consistently underrepresented on the PISD Board.”).

<sup>5</sup> La. Rev. Stat. Ann. § 18:1921; La. Rev. Stat. Ann. § 18:1922.

<sup>6</sup> For local elections, a 10% maximum population deviation is presumptively valid. *See Brown v. Thomson*, 462 U.S. 835, 842 (1983) (“Our decisions have established, as a general matter, that an apportionment plan with a maximum population deviation under 10% falls within this category of minor deviations.”). The state may justify population deviations over 10% if the plan “may reasonably be said to advance [a] rational state policy” and, if so, “whether the population disparities among the districts that have resulted from the pursuit of this plan exceed constitutional limits.” *Id.* at 843.

patterns, and other circumstances.<sup>7</sup> A chief purpose of Section 2 is to prohibit minority vote dilution at all levels of government, including school board elections.<sup>8</sup>

A district map may violate Section 2 when it dilutes the voting power of voters of color, including by “packing” Black voters into districts where they constitute an excessive majority and depriving them of the ability to elect their candidates of choice in other districts. Section 2 prohibits minority vote dilution regardless of whether a plan was adopted with a discriminatory purpose.<sup>9</sup> What matters under Section 2 is the effect of the redistricting plan on the opportunity of voters of color to elect candidates of their choice.

The U.S. Supreme Court has established the following three “*Gingles* preconditions” for evaluating vote dilution under Section 2: whether (1) an illustrative districting plan can be drawn that includes an additional district in which the minority community is sufficiently large and geographically compact to constitute a majority in a single-member district; (2) the minority group is politically cohesive in its support for its preferred candidates; and (3) in the absence of majority-minority districts, candidates preferred by the minority group would usually be defeated due to the political cohesion of non-minority voters in support of different candidates.<sup>10</sup> Together, the second and third *Gingles* preconditions are commonly referred to as racial bloc or racially polarized voting.<sup>11</sup>

After a plaintiff establishes the three *Gingles* preconditions, a “totality of circumstances” analysis is conducted to determine whether minority voters “have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.”<sup>12</sup> It will be “only the very unusual

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<sup>7</sup> *Thornburg v. Gingles*, 478 U.S. 30, 34 (1986).

<sup>8</sup> *St. Bernard Citizens for Better Gov’t*, 2002 WL 2022589, at \*10; *Fifth Ward Precinct 1A Coal. & Progressive Ass’n v. Jefferson Par. Sch. Bd.*, No. CIV.A. 86-2963, 1989 WL 3801, at \*1 (E.D. La. Jan. 18, 1989).

<sup>9</sup> *Gingles*, 478 U.S. at 35.

<sup>10</sup> *Id.* at 50-51.

<sup>11</sup> Racially polarized voting occurs when different racial groups vote for different candidates. In a racially polarized election, Black people vote together for their preferred (usually Black) candidate, and most non-Black voters vote for the opposing (usually white) candidate.

<sup>12</sup> 52 U.S.C. § 10301(b); *see also LULAC v. Perry*, 548 U.S. 399, 425 (2006). Courts examine the “totality of the circumstances” based on the so-called Senate Factors, named for the Senate Report accompanying the 1982 Voting Rights Act amendments in which they were first laid out. *Gingles*, 478 U.S. at 43-45. The Senate Factors are: (1) the extent of any history of discrimination related to voting; (2) the extent to which voting is racially polarized; (3) the extent to which the Parish uses voting practices that may enhance the opportunity for discrimination; (4) whether Black candidates have access to candidate slating processes; (5) the extent to which Black voters bear

case in which the plaintiffs can establish the existence of the three *Gingles* factors but still have failed to establish a violation of § 2 under the totality of circumstances.”<sup>13</sup>

### **III. A New Pointe Coupee Parish School Board Map with Only Two Majority-Black Districts Likely Violates Section 2 of the Voting Rights Act.**

A new Pointe Coupee School Board district map will likely violate Section 2 of the Voting Rights Act if it fails to provide Pointe Coupee voters with an equal opportunity to elect candidates of their choice through the development of three districts comprised of a majority of Black voters. Each of the three *Gingles* preconditions are likely satisfied in Pointe Coupee Parish, and there is ample evidence that under the totality of the circumstances, Black voters have less opportunity than other members of the electorate to participate in the political process and elect candidates of their choice.

#### **a. *Gingles* Precondition One: It Is Possible to Develop a School Board Map with Three Majority-Black Districts.**

Based on our analysis, there are multiple ways to draw three majority-Black districts in the eight-member Pointe Coupee Parish School Board map. Our analysis confirms that it is unnecessary to continue to pack Black voters into two of the eight School Board districts in the upcoming redistricting cycle. Accordingly, the first *Gingles* precondition could readily be satisfied.<sup>14</sup>

#### **b. *Gingles* Preconditions Two and Three: Pointe Coupee Parish School Board Elections Reflect Racially Polarized Voting Patterns.**

There is ample evidence to suggest that School Board elections in Point Coupee Parish are racially polarized, satisfying the remaining two *Gingles* preconditions.

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the effects of discrimination in areas of life like education, housing, and economic opportunity; (6) whether political campaigns have been characterized by overt or subtle racial appeals; (7) the extent to which Black people have been elected to public office; (8) whether elected officials are responsive to the needs of Black residents; and (9) whether the policy underlying the voting plan is tenuous. *Id.* at 36-37. However, “there is no requirement that any particular number of factors be proved, or that a majority of them point one way or the other.” *Id.* at 45.

<sup>13</sup> *Clark v. Calhoun Cty.*, 21 F.3d 92, 97 (5th Cir. 1994).

<sup>14</sup> *See Gingles*, 478 U.S. at 50.

Even as Black voters have supported Black candidates (demonstrating Black voter cohesion under *Gingles* precondition two), Black candidates have lost recent elections against white candidates in majority-white School Board districts (indicating that non-Black voters tend to vote against Black voters' preferred candidates under *Gingles* precondition three). In every election since at least 1990, Black candidates have prevailed with large margins in the two majority-Black districts (Districts C and D). By contrast in 2018, 2014 and 2006, Black candidates for School Board seats—Paula LaCour, Cleotha Johnigan, Jr., and Anthony “Dudley” Hurst, Sr.—lost to white candidates in three of the parish’s majority-white districts (Districts F, G, and B). Similar voting patterns existed in prior elections as well. This suggests that the current map, in combination with racially polarized voting patterns, are diluting the votes of Black people in Point Coupee Parish and depriving them of the opportunity to elect candidates of their choice.

Moreover, Louisiana has well-documented history and ongoing record of racially polarized voting in elections across the state.<sup>15</sup> Therefore, there is ample evidence to support the conclusion that *Gingles* preconditions two and three can be satisfied.

**c. Totality of Circumstances: Voters of Color Have Less Opportunity to Elect Candidates of Their Choice to the Pointe Coupee Parish School Board.**

In addition to the indicia of the three *Gingles* preconditions, under the “totality of the circumstances,” Black voters have “less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice” to the Pointe Coupee School Board.<sup>16</sup> There is substantial evidence that multiple “Senate Factors,” can be demonstrated here, including the extent of the history of discrimination related to voting in Pointe Coupee specifically and Louisiana generally (Factor 1) and the extent to which Black voters bear the effects of

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<sup>15</sup> See, e.g., *Terrebonne Par. Branch NAACP v. Jindal*, 274 F. Supp. 3d 395, 433 (M.D. La. 2017) (concluding that elections in Terrebonne Parish are racially polarized), *rev'd on other grounds sub nom. Fusilier v. Landry*, 963 F.3d 447 (5th Cir. 2020); *Hall v. Louisiana*, 108 F. Supp. 3d 419, 440 (M.D. La. 2015) (finding that racially polarized voting was present in elections for the City Court of Baton Rouge); *Nw. Austin Mun. Util. Dist. No. One v. Mukasey*, 573 F. Supp. 2d 221, 251 (D.D.C. 2008) (as of 2006, “not one redistricting plan for the Louisiana House of Representatives had ever been precleared as originally submitted.”); *St. Bernard Citizens for Better Gov't*, 2002 WL 2022589, at \*8 (finding the existence of racially polarized voting in elections to the St. Bernard Parish Council).

<sup>16</sup> *Gingles*, 478 U.S. at 36-37 (quoting 42 U.S.C. § 10301(b)).

discrimination in a variety of areas of life in Pointe Coupee (Factor 5).<sup>17</sup> The following is a sample of only some of the extensive evidence establishing the Senator Factors:

- The Pointe Coupee Parish school system remains the subject of desegregation litigation initiated more than five decades ago, in 1965.<sup>18</sup>
- In 1983, a Louisiana district court approved a consent decree in the school desegregation litigation, establishing a plan to achieve a unitary school system.<sup>19</sup> In 2008, the district court permitted the Louisiana Department of Education to take over Pointe Coupee Central High School due to the school's failing performance and the school board's inadequate efforts to reach unitary status; in its ruling, the court indicated that the longstanding consent decree had "been honored more in its breach than it has probably in its following."<sup>20</sup> Control of the Pointe Coupee Central High School reverted to the school board in April of 2014,<sup>21</sup> after the state likewise failed to promote desegregation and improve the school's academic.<sup>22</sup> The school was then shuttered altogether for two years, and reopened as the STEM Magnet Academy of Pointe Coupee in 2016 over opposition from the New Roads NAACP, which pushed for it to operate as a traditional public high school.<sup>23</sup> The Pointe Coupee Parish School Board continues to report annually on district-wide student enrollment by school and race, as ordered by the district court.<sup>24</sup>
- There are stark racial disparities in academic performance indicators between Black and white students in the Pointe Coupee Parish school system. Black students are, on average, academically 1.4 grades behind white students.<sup>25</sup> Black students are 2.4 times as likely to be suspended as white students.<sup>26</sup>

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<sup>17</sup> See *supra* note 12 (listing the Senate Factors).

<sup>18</sup> Complaint, *Boyd v. Pointe Coupee Par. Sch. Bd.*, No. 3:65-cv-03164 (M.D. La. Mar. 12, 1965).

<sup>19</sup> *Boyd v. Pointe Coupee Par. Sch. Bd.*, 569 F. Supp. 501, 503 (M.D. La. 1983).

<sup>20</sup> Transcript of Proceedings Held on June 17, 2008, *Boyd v. Pointe Coupee Par. Sch. Bd.*, No. 3:65-cv-03164 (M.D. La. July 2, 2008).

<sup>21</sup> Order, *Boyd v. Pointe Coupee Par. Sch. Bd.*, No. 3:65-cv-03164 (M.D. La. April 7, 2014).

<sup>22</sup> Ruling on Motion, *Boyd v. Pointe Coupee Par. Sch. Bd.*, No. 3:65-cv-03164 (M.D. La. Nov. 11, 2015).

<sup>23</sup> Terry L. Jones, *Pointe Coupee Opens STEM Academy; draws kids back to parish*, The Advocate, Aug. 10, 2016, [https://www.theadvocate.com/baton\\_rouge/news/communities/westside/article\\_5314f8d4-5f15-11e6-a271-b7c66c492d91.html](https://www.theadvocate.com/baton_rouge/news/communities/westside/article_5314f8d4-5f15-11e6-a271-b7c66c492d91.html).

<sup>24</sup> See, e.g., Report of Defendant Pointe Coupee Parish School Board, *Boyd v. Pointe Coupee Par. Sch. Bd.*, No. 3:65-cv-03164 (M.D. La. November 11, 2020).

<sup>25</sup> *Miseducation, Pointe Coupee Parish School District*, ProPublica, <https://projects.propublica.org/miseducation/district/2201260> (last updated October 2018).

<sup>26</sup> *Id.*

- Pointe Coupee Parish has an extensive history of discrimination against Black voters. In 1978, for example, the U.S. Department of Justice (“DOJ”) objected to planned polling place changes in the parish. The parish attempted, over virulent opposition from the Black community, to transfer a polling place in a majority-Black precinct to a site that was significantly less convenient for Black voters, was not more centrally located in the precinct, and offered poorer facilities.<sup>27</sup>
- The DOJ found Pointe Coupee Parish’s school board and/or police jury redistricting plans to be retrogressive *four decades in a row*, in 1971-72, 1983, 1991-92, and 2002. In 1971, the DOJ objected to a plan that merged a majority-Black police jury ward with two other wards to create a new double-member district with a majority white population. The DOJ found that the plan discriminated against Black voters and candidates.<sup>28</sup> During the same cycle, in 1972, the DOJ objected to a plan that reduced the number of school board members elected from majority-Black districts from eight of an existing twelve-member board to two of a proposed eight-member board.<sup>29</sup> In the next redistricting cycle, in 1983, the parish attempted to pack as much of the Black population as it could into a single police jury district, while submerging the remaining Black voters in ten majority-white districts; as a result, the Black population made up a majority in only one of the eleven police jury districts, despite making up 42% of the parish population.<sup>30</sup> In 1991, the parish attempted to pack Black voters in two police jury districts in the New Roads area and fragment Black voters in two districts in the parish’s northern region.<sup>31</sup> After the DOJ objected to this plan the parish tried again, incurring yet another objection for its attempts to pack and crack Black voters.<sup>32</sup> In both objection letters, the DOJ noted that the parish’s plans had been developed over the Black community’s strong opposition and with no opportunity for

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<sup>27</sup> Letter from Drew S. Days III, Assistant Attorney General, Civil Rights Division, U.S. DOJ, to Samuel C. Cashio, District Attorney (August 11, 1978). See Voting Determination Letters for Louisiana, U.S. DOJ, <https://www.justice.gov/crt/voting-determination-letters-louisiana>.

<sup>28</sup> Letter from David L. Norman, Acting Assistant Attorney General, Civil Rights Division, U.S. DOJ, to Samuel C. Cashio, District Attorney (August 9, 1971). The objection was ruled untimely in in *United States v. Pointe Coupee Parish Police Jury*, No. 71-336 (E.D. La. Oct. 19, 1971).

<sup>29</sup> Letter from David L. Norman, Acting Assistant Attorney General, Civil Rights Division, U.S. DOJ, to John P. Ward, Jr., Special Counsel for the Pointe Coupee Parish School Board (June 7, 1972).

<sup>30</sup> Letter from Wm. Bradford Reynolds, Assistant Attorney General, Civil Rights Division, U.S. DOJ, to E. Kenneth Selle, President, Tri-S Associates, Inc. (Aug. 22, 1983).

<sup>31</sup> Letter from John R. Dunne, Assistant Attorney General, Civil Rights Division, U.S. DOJ, to Clement Guidroz, President, Pointe Coupee Parish Police Jury (Feb. 7, 1992).

<sup>32</sup> Letter from John R. Dunne, Assistant Attorney General, Civil Rights Division, U.S. DOJ, to Joseph Roy Jarreau, President, Pointe Coupee Parish Police Jury (Sep. 10, 1992).

meaningful input.<sup>33</sup> Ten years later, in 2002, the DOJ objected again when the parish attempted to reduce the number of majority-Black school board districts from three to two.<sup>34</sup> In its 2002 objection letter, the DOJ emphasized the parish's record of extreme racial bloc voting.<sup>35</sup>

- There are dramatic race-based socioeconomic disparities in Pointe Coupee Parish. Black adults are 60% less likely than white adults to have received a bachelor's degree.<sup>36</sup> Nearly one-third of Black residents live below the poverty line—more than double the rate of their white counterparts.<sup>37</sup> Black residents are nearly twice as likely to lack health insurance than white residents.<sup>38</sup>

There is strong evidence based on the totality of circumstances that Black voters in Pointe Coupee Parish have less opportunity to elect candidates of their choice under the current district map.

#### **IV. The Pointe Coupee Parish School Board Must Enact a Map with Three Majority-Black Districts.**

For the reasons explained above, the School Board must consider its obligations under the Voting Rights Act, including whether it is necessary to develop an additional majority-Black district to provide Black voters with an equal opportunity to elect candidates of their choice. A failure by the School Board to comply with Section 2 may lead to costly and unnecessary litigation.<sup>39</sup> We therefore urge the School Board to consider plans that ensure non-dilution of Black voting strength in

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<sup>33</sup> *Id.*

<sup>34</sup> Letter from Ralph F. Boyd, Jr., Assistant Attorney General, Civil Rights Division, U.S. DOJ, to Gregory B. Grimes, Superintendent, Pointe Coupee Parish School District (Oct. 4, 2002).

<sup>35</sup> *Id.*

<sup>36</sup> S1501 Educational Attainment, 2019 American Community Survey 5-Year Estimates, United States Census.

<sup>37</sup> S1701, Poverty Status in the Past 12 Months, 2019 American Community Survey 5-Year Estimates, United States Census.

<sup>38</sup> S2701: Selected Characteristics of Health Insurance Coverage in the United States, 2019 American Community Survey 5-Year Estimates, United States Census.

<sup>39</sup> One school district recently paid its lawyers in excess of \$7 million for unsuccessfully defending a Section 2 lawsuit brought by a local NAACP branch and was also ordered to pay over \$4 million in plaintiffs' attorneys fees and costs. Jennifer Korn, ERCS D Threatens to Fire Teachers if Legal Fees Not Cut to \$1: NAACP Leaders Respond, ROCKLAND COUNTY TIMES, Jan. 21, 2020, <https://bit.ly/39dKvij>; Report and Recommendation, *NAACP, Spring Valley Branch v. East Ramapo Central School Dist.*, No. 7:17-08943-CS-JCM (S.D.N.Y. Dec. 29, 2020). See also NAACP Legal Defense and Educational Fund, Inc., *The Cost (in Time, Money, and Burden) of Section 2 of the Voting Rights Act Litigation as of September 2021*, NAACP Legal Defense and Educational Fund, <https://www.naacpldf.org/wp-content/uploads/Section-2-costs-9.19.21-Final.pdf> (last visited Oct. 30, 2021).



Pointe Coupee Parish. We are happy to discuss iterations of maps for the School Board that would comply with the Voting Rights Act and the U.S. Constitution.

Please feel free to contact Liza Weisberg at (470) 708-0560 or [liza.weisberg@splcenter.org](mailto:liza.weisberg@splcenter.org), or Michael Pernick at (917) 790-3597 or [mpernick@naacpldf.org](mailto:mpernick@naacpldf.org) with any questions or to discuss these issues in more detail. We also commend you to digest *Power on the Line(s): Making Redistricting Work for Us*,<sup>40</sup> a guide for community partners and policy makers who intend to engage in the redistricting process at all levels of government.

Sincerely,

/s/ Liza Weisberg

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<sup>40</sup> See NAACP Legal Defense and Educational Fund, Inc., Mexican American Legal Defense and Educational Fund, and Asian Americans Advancing Justice | AAJC, *Power on the Line(s): Making Redistricting Work for Us*, (2021), <https://bit.ly/3ogg6pS>.

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Southern Poverty Law Center (“SPLC”)

The SPLC is a catalyst for racial justice in the South and beyond, working in partnership with communities to dismantle white supremacy, strengthen intersectional movements, and advance the human rights of all people.

NAACP Legal Defense and Educational Fund, Inc. (“LDF”)

Since its founding in 1940, LDF has used litigation, policy advocacy, public education, and community organizing strategies to achieve racial justice and equity in education, economic justice, political participation, and criminal justice. Throughout its history, LDF has worked to enforce and promote laws and policies that increase access to the electoral process and prohibit voter discrimination, intimidation, and suppression. LDF has been fully separate from the National Association for the Advancement of Colored People (“NAACP”) since 1957, though LDF was originally founded by the NAACP and shares its commitment to equal rights.

Adcock Law LLC

Adcock Law is a law firm devoted to plaintiff side civil rights litigation in the areas of housing and employment discrimination, whistleblower protection, election disputes, and prison litigation.