IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF TEXAS **DALLAS DIVISION**

MARIA FABELA, ALFONSO BALADEZ, AMELIA BALADEZ, MARIA BALADEZ, MARIA JACOBO, ANTONIO REYES, MARIA REYES, DIANA ROSAS, LETICIA TORRES, AND JOSE VILLANEDA, **Plaintiffs**

CIVIL ACTION NO. 3-10CV1425-D

V.

CITY OF FARMERS BRANCH, TEXAS, AND TIM O'HARE, HAROLD FROELICH, MICHELLE HOLMES, DAVID KOCH, BEN ROBINSON, AND TIM SCOTT, In Their Official Capacities,

> § §

Defendants

MOTION TO DISMISS

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendants move to dismiss this cause for failure to state a claim upon which relief can be granted. As more fully detailed in the accompanying brief, the plaintiffs cannot obtain relief on this claim because:

- 1. The claim is barred by claim preclusion due to the decision in Reyes v. City of Farmers Branch, 2008 WL 4791498 (N.D. Tex. Nov. 4, 2008), aff'd, 586 F.3d 1019 (5th Cir. 2009).
- 2. The determinative fact issue in the case—whether voting-age Hispanic citizens are sufficiently numerous and geographically compact to be able to constitute a citizenvoting-age majority in a putative single-member district in the City of Farmers

Branch—was litigated and decided in *Reyes v. City of Farmers Branch*, 2008 WL 4791498 (N.D. Tex. Nov. 4, 2008), *aff'd*, 586 F.3d 1019 (5th Cir. 2009) and, accordingly, is barred by issue preclusion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On August 10, 2010, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the Court. I hereby certify that I have served counsel of record listed below via electronic transmission through the Court's ECF system:

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