

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

CAROLE KEETON STRAYHORN,  
KIMBLE D. ROSS, DAVID MAYES  
MIDDLETON II, AND BARBARA  
RUUD,

Plaintiffs

V.

ROGER WILLIAMS, TEXAS  
SECRETARY OF STATE,  
Defendant

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CASE NO. A-06-CA-205 SS

**PLAINTIFFS' MOTION FOR EXPEDITED DISCOVERY**

Plaintiffs respectfully request this Court enter an order allowing for expedited discovery and would show the Court as follows:

**INTRODUCTION**

1. Plaintiffs are Carole Keeton Strayhorn, a prospective independent candidate for Texas Governor and Kimble Ross, David Middleton II, and Barbara Ruud, registered voters in Texas who wish to associate for the purposes of electing Strayhorn. Defendant is Roger Williams, the Texas Secretary of State.
2. Plaintiffs sued Defendant for violating their First and Fourteenth Amendment rights to political association by unnecessarily delaying Strayhorn's candidacy by refusing to expeditiously perform a statistical sample to determine the validity of her application and petitions for a place on the ballot.
3. Plaintiffs also sued Defendant for violating state law by failing to perform a review of Strayhorn's petitions as soon as is practicable, which is required

under the Texas Election Code.

4. Plaintiffs have filed an application for preliminary injunction in this matter, which Plaintiffs have requested be set as soon as possible.

### ARGUMENT

5. The federal rules provide that “[e]xcept . . . when authorized under these rules or by order or agreement of the parties, a party may not seek discovery from any source before the parties have conferred as required by Rule 26(f).” FED. R. CIV. P. 26(d).

6. When requested, however, a court should “issue an order for expedited discovery if there is some showing of good cause to justify the order. Expedited discovery would be appropriate in cases involving preliminary injunctions or challenges to personal jurisdiction.” *El Pollo Loco, S.A. de C.V. v. El Pollo Loco, Inc.*, 344 F. Supp. 2d 986, 991 (S.D. Tex. 2004) (citation omitted).

7. In this case, Plaintiffs require expedited discovery to take the depositions of two persons employed by Defendant, Melinda Nicholas and Ann McGeehan, and to require the witnesses to produce certain documents as outlined in Exhibit “A” at their depositions.

8. Without expedited discovery, Plaintiffs will be required to conduct discovery at the hearing on the preliminary injunction, thus wasting the resources of both the Court and the parties.

9. Because this discovery is necessary to prepare for the hearing on preliminary injunction, Plaintiffs have shown good cause to expedite discovery

in this proceeding.

### CONCLUSION

Based upon the foregoing, Plaintiffs respectfully request the Court to grant their motion and allow the expedited depositions of Melinda Nicholas and Ann McGeehan, and to require these witnesses to produce the documents as set out in Exhibit "A" at such depositions.

Respectfully submitted,

RAY, WOOD & BONILLA, L.L.P.

By: 

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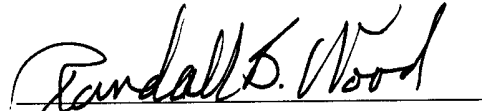
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**ATTORNEYS FOR PLAINTIFF  
CAROLE KEETON STRAYHORN**

CERTIFICATE OF CONFERENCE

I certify that I have attempted to confer with opposing counsel by telephone but have been unsuccessful in reaching him.

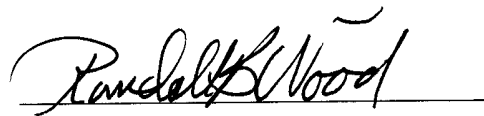
  
Randall B. Wood

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Plaintiffs' Motion for Expedited Discovery has been sent via certified mail, return receipt requested, to the following:

Mr. Edward D. Burbach  
Deputy Attorney General for Litigation  
Office of the Texas Attorney General  
Attorney General's Office  
300 West 15<sup>th</sup> Street; 11<sup>th</sup> Floor  
Austin, Texas 78701  
**Attorneys for Defendant Roger Williams,  
Texas Secretary of State**

on this the \_\_\_\_ day of March, 2006.

  
Randall B. Wood

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**Exhibit "A"**

1. Documents reflecting the Secretary of State's decision to use the statistical sampling method to verify petitions submitted to the Secretary from 1992 to present.
2. Documents pertaining to the Secretary of State's decision not to use the statistical sampling method to review Carole Keeton Strayhorn's petitions.
3. Documents pertaining to the validity of the use of statistical sampling for the purpose of verification of petition signatures from 1992 to present.

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