

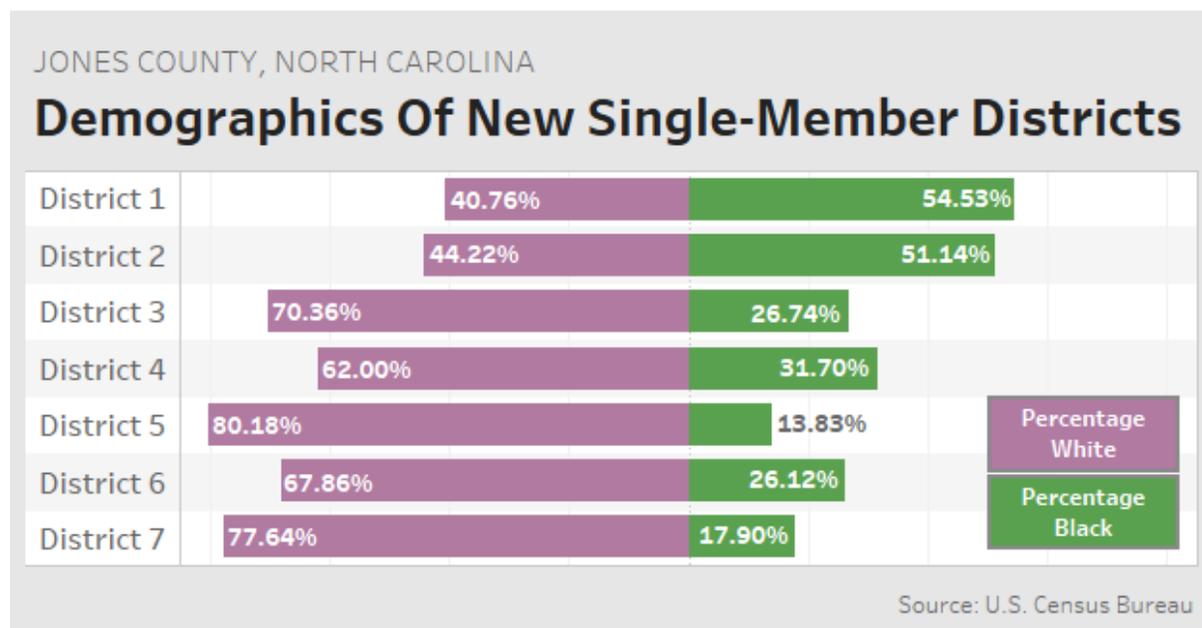
## Cleary Helps Overhaul Discriminatory NC Voting System

By Adam Rhodes

*Law360, New York (September 12, 2017, 1:40 PM EDT)* -- Jones County, North Carolina, hasn't had an African-American commissioner since a 1994 general election, but thanks to pro bono work by Cleary Gottlieb Steen & Hamilton LLP and the Lawyers' Committee for Civil Rights Under Law, an upcoming 2018 election might stop that trend in its tracks.

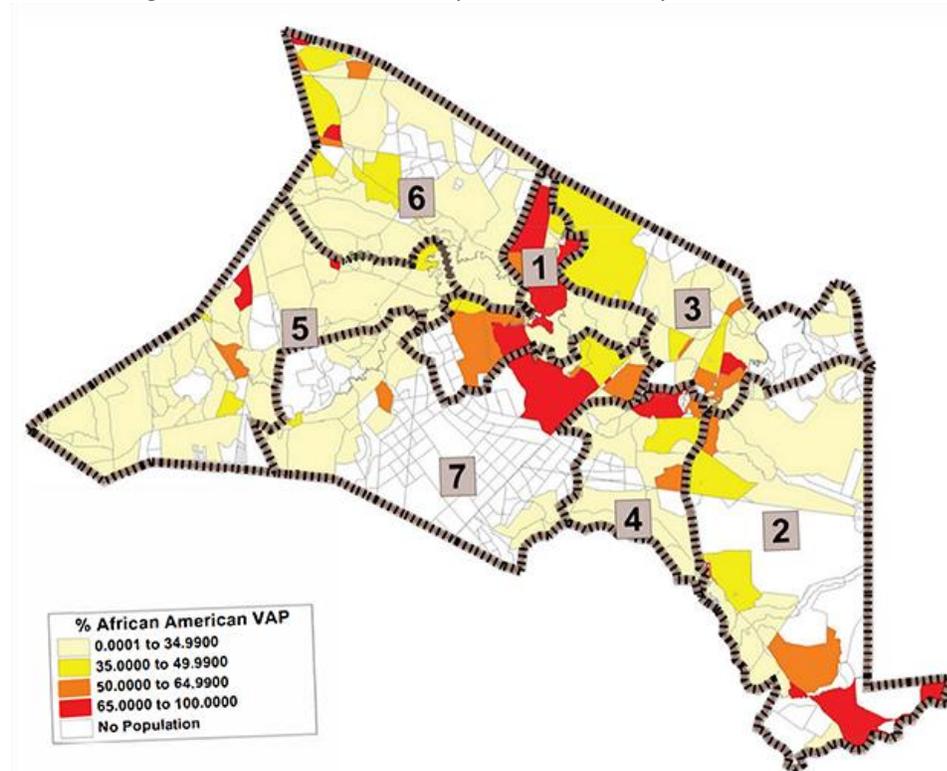
Cleary, the committee and local law firm Patterson Harkavy LLP slapped the county's board of commissioners, the commissioners themselves, the county's board of elections, and the county manager with a lawsuit in North Carolina federal court for allegedly diluting African-American votes through an at-large voting method in violation of Section 2 of the Voting Rights Act of 1965.

According to 2010 census data, those who identified solely as African-American made up 32.4 percent of the county. The February lawsuit alleges that the different racial communities in the county voted for members of their own communities and that, coupled with the at-large system under which Jones County residents cast five votes for five commissioners, first in partisan primaries then in a general election, African-American voters were prevented from being able to elect one of their own to the board since 1994.



“If you have voting apparently on race, the black candidate would never win,” Cleary partner Jonathan I. Blackman told Law360. “The white voters who were the majority would cast their five votes for five white candidates.”

The lawsuit, which Blackman called the first VRA case in 2017, came about after a Jones County voter approached the Lawyers’ Committee in 2014, which ignited an investigation into just how equal an African-American vote was in Jones County. The investigation eventually unearthed decades of deteriorating conditions in predominantly African-American communities in the county, according to the lead investigator in the case, Dorian Spence of the Lawyers’ Committee.



Under a plan for new single-member voting districts, two majority African-American districts could elect an African-American for the first time since 1994.

After making contacts in the community, and talking to a number of lifelong residents, the committee decided it would be good for the African-American community to file this lawsuit and brought on the firms to help bring the case, Spence told Law360.

Through a cooperative, required mediation, the county defendants and the team bringing the suit on behalf of four African-American voters in Jones County filed a consent decree in August to revamp the voting system and do away with the five-member board elected at-large, in favor of a seven-member board elected by single-member districts in time for the upcoming, 2018 primary and general board-of-commissioners elections.

U.S. District Judge Louise W. Flanagan of the Eastern District of North Carolina approved the deal on Aug. 23.

Though the resolution was swift and satisfactory for the team bringing the suit, Blackman and Spence

said, the case was not without its challenges.

Blackman said challenges came for him when complying with a U.S. Supreme Court test for assessing such Section 2 claims in the high court's 1986 ruling in *Thornburg v. Gingles*. Under the *Gingles* test, Blackman said, the team representing the voters had to prove that Jones County's African-American voters could create a majority in a single-member district, that they voted as a bloc, and that the racial majority voted in such a way that systematically defeated the minority's preferred candidates.

To bolster their case, Blackman said, the team additionally dove into records in a public library that detailed the county's history as it relates to race relations and the effect of African-American voters having no voice on the board of commissioners.

Through this research, Blackman said, the team unearthed evidence of "disparate allocation" of public services as well as startling facts about the differing conditions of minority and majority communities, such as paved roads ending on the border of majority and minority communities and streetlighting issues in minority communities, among other things.

For Spence, the challenge came after the consent decree was signed.

"As a racial justice organization, we want to ensure that we are positioning the African American community that we serve so their future is bright and they have every opportunity afforded to them," Spence said.

Though there was no way to set up a structure where representatives of African-American communities would make up a majority of the board of commissioners, Spence said, the team still achieved its goal of at least giving the African-American voters a voice.

Additionally, the team is in the process of reaching out to community organizations in the state to continue the work, to ensure African-American votes are protected and to keep an eye on whether the African-American communities produce commissioner candidates.

However, the importance of the case's central issues greatly outweigh its challenges, Blackman said, citing his own commitment to civil rights in a number of areas, especially the resurging issue of voting rights.

"Since November, [voting rights] has achieved increased prominence not only for [our firm], but other people because our whole system relies on people being allowed to vote," Blackman said.

He added later, "It's critically important that the private bar step into the breach and bring litigation as necessary, as was the case here, to enforce the Voting Rights Act."

This case continues a decadeslong trend of a partnership between Cleary and the Lawyers' Committee, which Blackman said he hopes continues in the future.

Cleary's New York and Washington, D.C., offices logged more than 55,000 pro bono hours last year, a Cleary spokesman told Law360. Under the firm's voluntary pro bono program, helmed by practice director Jennifer L. Kroman, attorneys of all levels are allowed to choose their own projects, and each case is handled identically to a billable case.

“Cleary’s pro bono team works hand-in-hand with dozens of public interest organizations around the country — and around the world — to ensure that we leverage our global capacity to meet the legal needs of individuals who would otherwise have little access to legal resources, and the nonprofit organizations that serve these individuals,” the spokesperson said, adding that the Jones County case “fits squarely within the firm’s civil rights and racial justice docket.”

Recently, Cleary has also filed cases centering on the use of force against predominantly African-American and Latino individuals by the Chicago Police Department, sexual abuse of female inmates at New York City's Rikers Island, and discrimination and wrongful arrest of women of color — many of whom are transgender — under an NYC law that criminalizes loitering for the purposes of prostitution.

Pro Bono Spotlight is a recurring Law360 series profiling law firm pro bono efforts.

--Edited by Kerry Benn and Edrienne Su.