

SUMMARY OF THE LITIGATION INVOLVING THE REPUBLICAN PARTY OF GALVESTON COUNTY

The following is a summary by Tom Dickens of the litigation where, after Moody Bank sued seeking an answer to who had the right to the Party bank accounts, the Galveston County Republican Chair, Carl Gustafson, decided without the input or authority of the Executive Committee to sue 8 precinct chairs. He brought an action in his own name against them and in the name of the Executive Committee of Galveston County.

Moody Bank in February filed a lawsuit against the Galveston County Republican Party Executive Committee to determine who has power over the party's bank accounts as well as a clear designation of who the secretary and treasurer were.

The suit stems from a months-long conflict within the party between Chairman Carl Gustafson and a majority of the precinct chairs who had called for a meeting in November to change the bylaws of the GCRP because of dissatisfaction with Gustafson's "leadership". The group had all of the required signatures to call a meeting but Gustafson refused to publish notice of the meeting on the web site. Gustafson was the only one who could get something posted. Despite the wording of the then current bylaws which stated he "shall" post the notice he refused.

The meeting went on as schedule despite of the fact that Gustafson caused the building to lock out the Precinct Chairs. Despite written notice stating he would attend Gustafson did not attend. The meeting was conducted according to Roberts Rules and the steps were followed to that point as outlined by State Republican Executive Committeeman J. T. Edwards. The motion to modify the By-Laws was passed and a steering committee was formed.

Gustafson refused to honor the By-Law amendment on several grounds: (1) The meeting was out of order because it was not posted. [many prior meeting were held without the posting and Gustafson was solely responsible for the non-posting]; and, (2) Gustafson claimed the notice of the meeting was not specific enough because it only gave notice of a possible By-Law change and did not have specific language of the change; (3) At the hearings Gustafson's attorneys Hatcher and Todd claimed there were not enough signatures to pass the By-Law amendment. Hatcher appeared in Court with Todd representing both Gustafson and the Galveston County Republican Executive Committee. Neither Mr. Todd nor Ms. Hatcher requested that any conflict, if it existed, be waived by the Executive Committee, Precinct Chairs, or any of the eight third party defendants.

Despite having a remedy to cure the disagreement by calling a meeting Gustafson refused to do so. Moody Bank was faced with the problem of having two different groups claim to have authority to make changes to the bank account. This went on for several months again with Gustafson never calling a meeting to cure the disagreement. Moody Bank was faced with no choice except to file suit and asked the court for a Declaratory Judgment to decide who had rights to direct the bank account.

Galveston County Republican Party Executive Committee [GCRPEC, Executive Committee, or CEC] was sued by Moody Bank. Gustafson decided that he had authority to answer for CEC without: (1) calling a CEC meeting to resolve the authority issue; and, (2) calling a CEC meeting to receive authority to file an answer on behalf of the Executive Committee, or to hire an attorney. Gustafson's position is that because of his position as County Chair he has authority to make all of those decisions without CEC approval or authorization.

Gustafson, claiming there was not time to get notice to the 8 precinct chairs of a hearing, sought and obtained an order from the Court prohibiting the 8 precinct chairs from:

"(1) holding the meeting previously scheduled by them for the Galveston County Republican Party County Executive Committee for the date of March 20, 2018; (2) organizing and holding the Galveston County SD 4 and/or SD 11 conventions; (3) **calling any other meetings of the Galveston County Republican Party County Executive Committee**; (4) sending a list of Galveston County delegates to the State Convention to the Republican Party of Texas; and, 5) conducting any other business of the Galveston County Republican Party."

Yes, the County Chairman of the Republican Party went to court and convinced a judge that he had the right to stop duly elected Precinct Chairs from being able to call a meeting of the Galveston County Republican Party County Executive Committee.

After getting the Court Order Gustafson, without asking authority from the CEC, personally intervened in the lawsuit for himself. After he intervened he personally sued eight precinct chairs and personally made a claim for damages in the amount of \$100,000. If he had recovered that money would have gone to him personally.

Gustafson claims that the By-Law changes interfered with the State Election Law. A comparison of each element of the By-Law changes specifically and intentionally DID NOT impede Gustafson's statutory duties. Absolutely at no time during any legal proceeding or in any pleadings did attorneys Alton Todd or Julia Hatcher point to any portion of the By-Law amendment which violated any portion of the Texas Election Code.

Tom Dickens represented five of the precinct chairs and Reese Campbell represented three precinct chairs and each filed an answer for their clients. The petition specifically names eight people as third-party defendants: Scott Apley, David Buckner, Janis Lowe, Alison Putnam, Kathy Rogers, Paula Smith, Deborah Winters Chaney and Alicia Youngblood. An answer was filed for each group. Of the 8 sued 6 were on the Steering Committee created by the November meeting and 2 of those sued were in a runoff race for their precinct chair position and they just happened to have opponents created and supported by Gustafson. Gustafson paid for campaign signs for one of the opponents. Gustafson also paid for signs for one of the 4 people Gustafson recruited to run against Kathy Rogers.

Tom Dickens tried for days to resolve the matter, contacted the bank to determine what they needed but was completely unable to obtain a reasonable agreement. Gustafson was insisting on terms like "the 8 precinct chairs cannot say anything negative about Gustafson." It was absolutely impossible to resolve at that point.

Tom Dickens sent deposition notices and filed numerous motions immediately including:

1. A Motion to Show Authority [demanding Gustafson show authority to hire an attorney, to file an answer for the CEC, and to intervene and file an action against 8 precinct chairs];
2. Motion to Disqualify the attorney Gustafson hired because they had a conflict by representing the CEC and Gustafson;
3. Motion to Dismiss for Failing to State a Cause of Action [This contended Gustafson failed to state a legal cause of action for which, even if proved he could recover.]; and,
4. Motion to Strike Gustafson's Intervention [He was not a necessary party to resolve the bank issue.]

During this period of time Tom Dickens tried repeatedly to get different party officials to testify as expert witnesses regarding the absence of authority by the County Chair to do the things that Gustafson had done. Although there were repeated assurances that Tom Dickens' position was correct when it came down to it absolutely no one from the Republican Party would show up to testify for the precinct chairs. Dickens even had two witnesses lined up to testify that Gustafson had stated to them he would not resolve the matter and that he was going to use this to punish people who disagreed with or opposed him politically.

On Tuesday April 3, 2018 Visiting Judge Lisa Burkhalter in the 56th District Court was set to hear arguments on the temporary restraining order but first determined that she did have jurisdiction to hear the matter. Tom Dickens found out that a new third-party petition had been filed; he asked for a continuance regarding the Temporary Restraining Order. The continuance was granted until Friday, April 6, 2018.

On Friday the 6th the Judge reconsidered her position regarding hearing the internal party disagreement and indicated she would sign an order protecting the bank and leave the other matters open. This ruling would have had litigation continuing for months and months.

Ultimately there was an agreement reached with the following terms:

1. The parties agree that the pending case will be stayed until July 16th, 2018.
2. The parties agree that no action will be taken by any party pursuant to the November 29, 2017 by-law amendment [the parties acknowledge they disagree on the viability of that by-law amendment] and that until the new biennium the parties will operate under the by-laws in effect prior to November 2017.
3. The third party defendants further agree that they will do nothing to modify the banking relationship that existed with Moody Bank prior to November 1, 2017 until the new biennium organizational meeting.
4. The parties agree that David Smith may serve as treasurer and signatory until the new biennium organizational meeting.
5. The parties further agree that if this Rule 11 agreement is not violated by any party then the parties agree to nonsuit the pending case on or before July 16, 2018 and all third party claims without prejudice. The parties further agree to bear their own costs and attorney's fees.

Carl Gustafson, as evidenced by his actions and the argument of his attorneys, believes that he as the County Chair has the right to: (1) Refuse to post meetings if they are called by anyone but himself; (2) Seek and obtain a court order which would prohibit duly elected Precinct Chairs from doing their elected duty and even calling meetings; (3) File an answer on behalf of the Executive Committee without seeking the authority of the Executive Committee; (4) Hire an attorney to represent the Executive Committee without getting the authority of the Executive Committee; (5) Personally sue members of the executive committee seeking to recover monetary damages for himself; and, (6) Direct an attorney to sue members of the Executive Committee. He apparently believes he has the right to do this when Precinct Chairs, according to his pleadings, have a different vision for the direction of the Executive Committee and the Republican Party.