

that are not often seen in other ADR schemes, including the absolute right to seek court review instead of review by the Department of Justice.

With this in mind, the damage from the Shelby County decision, and the congressional inaction in response, falls into three areas. First, the nation has been deprived of advance notice with regard to electoral changes in those jurisdictions previously covered. These changes, which previously would have been developed and submitted for pre-clearance well in advance, include many changes—with significant potential effects on electoral participation, particularly among minority voters—that today are often revealed very close in time to an election. Such changes as precinct consolidations, alterations in precinct boundaries, and changes in voting locations often occur too close to an election to prevent their implementation through litigation under the still-viable section 2 of the VRA, prohibiting minority vote dilution, or other constitutional or statutory provisions. Courts are, perhaps understandably, reluctant to issue a preliminary injunction so close in time to a scheduled election. This problem is exacerbated by the lack of advance notice of such changes previously provided by the section 5 preclearance obligation.

For example, Arizona was a covered jurisdiction, so, prior to the Shelby County decision, the state and all its governmental subdivisions had to seek and obtain pre-clearance for any electoral change. Recently, in the 2016 Arizona presidential primary, there were widespread reports of very long lines and chaos at polling places. This seems to have been caused in large part by a drastic reduction in the number of polling places, a change apparently undertaken as a cost-saving measure. Whether or not this ill-considered decision had a particularly pronounced effect on minority voters in Maricopa County, such a change would have been analyzed in advance for its discriminatory potential under preclearance prior to Shelby County. Regardless of whether that analysis would have blocked or altered the plan to reduce polling locations, the requirement of preclearance would at least have provided notice, well in advance, of the intention to drastically reduce polling places. This might have yielded challenge and change, wholly apart from the process of pre-clearance itself.

The second area of damage from the Shelby County decision lies in the inability to review electoral changes for their potential discriminatory elements before the changes are implemented. As noted above, courts are often reluctant to issue preliminary injunctions with respect to elections matters. Indeed, a preliminary injunction is extraordinary court relief in any circumstance, but there is a particular reticence with respect to elections because of the potential disruption of the plans and efforts of so many voters and candidates. However, elections are also particularly resistant to remedy after the fact. Once an election has occurred under a particular electoral change, it is nearly impossible to “unring the bell” and discount an election or its results once reported, even if only unofficially by media engaged in exit polling. Thus, the inability to bar implementation of an electoral change by requiring pre-clearance prior to implementation results in severely limited or no remedy at all to what may be actions with significant discriminatory effects. When this occurs, this does palpable and lasting harm to voters’ respect for democracy and can deter participation by under-

standably distrustful minority voters in many future elections.

Soon after the Shelby County decision, the mayor of Pasadena, Texas announced his intent to pursue a change to the city’s elections that he would not have pursued when the city was subject to preclearance as a sub-jurisdiction in the covered state of Texas. He sought to change the eight-member council from one comprised of candidates elected in eight single-member districts to one comprised of representatives from six single-member districts and two members elected at large by the entire city. Based on participation differentials between groups, this change would have the effect of reducing the growing Latino community’s chances to elect a majority of the council. The change was adopted and has now been implemented, while MALDEF pursues an ongoing legal challenge to the change and its effects on the Latino vote. It is unclear how many elections will occur under the flawed changes before the court case is finally resolved.

The third area of Shelby County harm lies in requiring the resolution of disputes regarding potentially discriminatory electoral changes through inefficient and costly litigation under section 2 of the VRA. The Supreme Court’s adopted test for resolving section 2 claims is “totality of the circumstances.” The phrase alone illustrates the scope of such litigation, ordinarily involving multiple experts on both sides of a case, numerous percipient lay witnesses, and voluminous sets of documentary exhibits. The presentation of all of this testimony and other evidence consumes many months in preparatory depositions, discovery, and resolution of evidentiary disputes. Trial, even if streamlined in multiple ways by the court, usually involves weeks or months of presentation to a judge. The court itself then faces the arduous task of evaluating the evidence and making findings of fact and drawing conclusions of law to support a decision under the “totality of the circumstances.” The costs in both time and money associated with this arduous court journey are significant, and most often imposed on and borne entirely by a challenged jurisdiction that loses a filed section 2 case. The same jurisdiction could get to the same result, at a fraction of the cost through pre-clearance.

MALDEF has long been a leader in pursuing section 2 litigation in the formerly covered state of Texas. The dispute over Texas statewide redistricting in 2011 ended up being challenged under section 2 at the same time that it was subject to consideration for pre-clearance under section 5 by a three-judge district court in Washington, D.C. The Washington, D.C. court rejected the original Texas redistricting plan even before the Shelby County decision, but the Court’s ruling wiped that conclusion from the books. The section 2 case had to be tried over several months in 2014. The trial was concluded and fully briefed as of December 2014. More than 16 months later, we are still awaiting a district court decision on the section 2 case. This ongoing wait epitomizes that third area of harm from the Shelby County decision.

Some might assume that the ongoing harms from the Shelby County decision and the congressional failure to respond with appropriate legislation are limited to the areas, and their residents, that were previously subject to pre-clearance under the coverage formula that the Court struck down. In fact, the entire nation suffers the damage inflicted by the decision and its aftermath. The pre-clearance process—the submission and analysis of electoral changes for discrimination—provided a nationwide

indication of the potential effects of specific changes and specific categories of changes. An adverse pre-clearance decision stood as a warning to non-covered jurisdictions that might be considering, or already have in place, similar electoral procedures as those rejected in a covered jurisdiction.

In this way, pre-clearance provided election administrators and policymakers interested in minimizing discrimination in voting with guidance as to where they might look in current practice to eliminate discriminatory effects and as to what changes they should avoid to prevent further discrimination. Conversely, adverse pre-clearance decisions stood as a warning and deterrent to administrators and policymakers interested in adopting changes despite or even because of discriminatory effects. Pre-clearance outcomes stood as an indication of possible or likely successful legal challenge to such changes. In effect, just as pre-clearance was a more efficient mechanism to resolve disputes about a specific electoral practice in a specific jurisdiction, it was also a more efficient means to provide persuasive precedent for other jurisdictions, both those covered and those not covered.

Thus, in a state like California, which had only three covered counties at the time the Supreme Court decision came down, everyone still benefitted from the ready and available information provided by the pre-clearance process. In addition, although the state was only partially covered, statewide electoral changes were subject to pre-clearance because of the effects in the covered counties. This meant that statewide elections procedures saw all the benefits of advanced awareness, pre-implementation analysis, and efficient dispute resolution described above.

The experience of three years, including one mid-term election, demonstrate that the absence of the efficient pre-clearance process has deleterious effects on deterring, preventing, and eliminating electoral practices with significant discriminatory effects. MALDEF urges congressional action to reintroduce a coverage formula or formulas—that are responsive to current demographics and dynamics with respect to minority communities—into the VRA. The nation as a whole will benefit from the positive repercussions of an effective pre-clearance process for voting discrimination.

TRIBUTE TO SHERI AND FRED
BERGGREN

HON. DAVID YOUNG

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2016

Mr. YOUNG of Iowa. Mr. Speaker, I rise today to recognize and congratulate Sheri and Fred Berggren on the very special occasion of their 60th wedding anniversary.

Sheri and Fred were married on September 18, 1956 and made their home in Nodaway, Iowa. Their lifelong commitment to each other and their family truly embodies Iowa’s values. As the years pass, may their love continue to grow even stronger and may they continue to love, cherish, and honor one another for years to come.

Mr. Speaker, I commend this couple on their 60 years of life together and I wish them many more. I ask that my colleagues in the United States House of Representatives join me in congratulating them on this momentous occasion.

CLAIRE JEFFRESS EXCELS ON
AND OFF THE FIELD

HON. PETE OLSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2016

Mr. OLSON. Mr. Speaker, I rise today to recognize Claire Jeffress of Pearland, TX for her outstanding extracurricular activities on and off the field.

As a strong soccer player, it was a natural fit for Claire to start playing football in seventh grade. Now a varsity football player at Dawson High School, Claire is the kicker for the Eagles and has proven she can hold her own with her teammates. When she's not kicking her way to victory on the football field, Claire puts her leadership skills to work as a member of my Congressional Youth Advisory Council (CYAC). In her second year as part of CYAC, Claire joins 19 other high school students who provide me with critical input on issues they face, while also hearing from community leaders throughout the year.

On behalf of the Twenty-Second Congressional District of Texas, I thank Claire Jeffress for all of her contributions to our community. We are proud of her for breaking barriers and setting a great example for other young girls. We expect great things from her in the future.

TRIBUTE TO MARGARET AND
MICK FREEMAN

HON. DAVID YOUNG

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2016

Mr. YOUNG of Iowa. Mr. Speaker, I rise today to recognize and congratulate Margaret and Mick Freeman of Council Bluffs, Iowa, on the very special occasion of their 50th wedding anniversary. They were married on August 7, 1966 at Goldfield United Methodist Church in Goldfield, Iowa.

Margaret and Mick's lifelong commitment to each other and their six children, Susan, Sandy, Tom, David, Brad, and Marcia, and their 18 grandchildren, truly embodies Iowa values. As they reflect on their 50th anniversary, may their commitment grow even stronger as they continue to love, cherish, and honor one another for years to come.

Mr. Speaker, I commend this great couple on their 50th year together and I wish them many more. I ask that my colleagues in the United States House of Representatives join me in congratulating them on this momentous occasion.

TUESDAYS IN TEXAS: BESSIE
COLEMAN

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2016

Mr. POE of Texas. Mr. Speaker, in January 26, 1892, a young woman was born in Atlanta, Texas. Her name was Bessie Coleman and she continues to inspire generations of African American women around the United States

and in the great state of Texas. As the tenth of thirteen children whose father had left to Oklahoma seeking refuge from racial barriers, she was forced to work at the cotton harvest every year to help support her family. However, in 1915, she moved to Chicago seeking to become something greater. She had no idea how this step would change American history forever.

She began working as a manicurist in Chicago, but the stories of pilots from the First World War intrigued her. This, along with friendly taunts from her brother, would motivate her to learn how to fly. However, schools in America denied her entrance, so she set out to attend aviation school in France. She attended the Caudon Brother's School of Aviation, where she completed a 10 month program in only 7 months. She also received her international aviation pilot's license from the renowned Federation Aeronautique Internationale, making her the first African American and Native American woman to earn a pilot's license.

But this is not the end of her amazing story. Coleman returned to the United States and specialized in stunt flying and parachuting. She earned her living by barnstorming and performing aerial tricks. She became the first African American woman to perform a public flight in America. Although she changed her mind about starting a flying school for African Americans, she still encouraged other African Americans to learn how to fly. Most importantly, she stood up for an entire community of people when she refused to perform in places that would not admit members of her race.

Unfortunately, her life would end shortly at only 34 years old after a test flight gone wrong caused her to fall hundreds of feet to her death in April of 1926.

Mr. Speaker, Ms. Coleman's strength, endurance, and ability to break down barriers are truly inspiring. I am incredibly proud that such an amazing legacy started in Texas. It is an honor to come from a state full of people known for breaking down barriers and overcoming obstacles against all odds.

And that's just the way it is.

TRIBUTE TO KATHLEEN AND P.
RICHARD KELLEY

HON. DAVID YOUNG

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2016

Mr. YOUNG of Iowa. Mr. Speaker, I rise today to recognize and congratulate Kathleen and P. Richard Kelley of Elliott, Iowa, on the very special occasion of their 60th wedding anniversary. They celebrated their anniversary on August 6, 2016.

Kathleen and P. Richard's lifelong commitment to each other and their family truly embodies Iowa values. As they reflect on their 60th anniversary, may their commitment grow even stronger as they continue to love, cherish, and honor one another for years to come.

Mr. Speaker, I commend this great couple on their 60th year together and I wish them many more. I ask that my colleagues in the United States House of Representatives join me in congratulating them on this momentous occasion.

IN HONOR OF SUPERVISOR JIM
CHAPMAN FOR 43 YEARS OF
COMMUNITY LEADERSHIP

HON. TOM McCLINTOCK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2016

Mr. McCLINTOCK. Mr. Speaker, I rise today, on behalf of myself and Mr. LAMALFA, to honor the service of Supervisor Jim Chapman for his 43 years of outstanding leadership in Lassen County.

In 1974, at the age of 19, Jim was first elected to the Susanville City Council. Two years later, Jim was elected to serve as Mayor. In 1976, he began serving the first of nine terms as Lassen County Supervisor representing District 2.

Jim has proudly represented all aspects of the community. He has served on numerous boards and committees, including: Lassen College Board of Trustees, Lassen Hospital Board, Lassen High School Alumni Association (President, 2013 through 2014), Lassen County Chamber of Commerce (President, 2000), Susanville Kiwanis Club (President, 1985 through 1986), Rotary Club of Susanville (President, 2014 through 2015), Lassen County Special Olympics, Rural County Representative of California (President, 1982), and Lassen County Transportation Commission, among many others.

Supervisor Chapman's distinguished career of service has not only benefited but truly inspired residents of Lassen County and beyond, as evidenced by numerous awards with which Jim has been honored, including:

25 Year Service Award from Special Olympics of Northern California;

CALAFCO Lifetime Achievement Award;

Elks Distinguished Citizen in 2010; and

2016 Lassen High School Alumnus of the Year.

In addition to his exemplary public service, Jim has led a personal life filled with community involvement. He is a co-founder of the Lassen Sportsmen's Club Junior Fishing Derby, a Past Master of Lassen Masonic Lodge, a 33rd Degree Scottish Rite Mason, a Ben Ali Shriner; a 40-year host for "Old Timers Day" at the Lassen County Fair, and a Knight of the York Cross of Honour.

Mr. Speaker, Supervisor Jim Chapman has an incomparable record of service to his community. We commend him for setting an example of outstanding leadership.

TRIBUTE TO THE DES MOINES
AREA RELIGIOUS COUNCIL FOOD
PANTRY NETWORK

HON. DAVID YOUNG

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2016

Mr. YOUNG of Iowa. Mr. Speaker, I rise today to recognize the Des Moines Area Religious Council (DMARC) Food Pantry Network for their 40 years of service to the hungry citizens of central Iowa.

DMARC was founded in 1952 to assist the spiritual needs of the community and promote spiritual, moral, social, and civic welfare of the community. In May 1976, DMARC officials established the Food Pantry Network, an emergency food program to help provide services