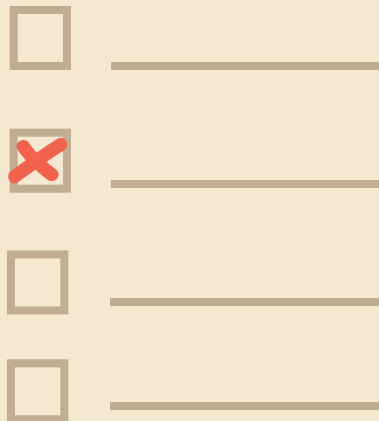


ELECTION PROTECTION

SOCIAL JUSTICE THROUGH THE BALLOT BOX



Leslie A. Gordon

Well aware that she lives in a “blue bubble,” Kelly Dermody committed to getting outside California during the 2016 election cycle. The Lief Cabraser Heimann & Bernstein partner traveled to Iowa twice last year, observing the caucuses, canvassing, and attending rallies. “I was hooked,” Dermody says. After that, she volunteered at the Democratic National Convention in July in Philadelphia, checking credentials on the floor. In the fall, she traveled to Latino neighborhoods in Reno and Tucson to register voters.

Dermody, who served as president of The Bar Association of San Francisco and the Justice & Diversity Center in 2012, then decided that she wanted to spend the week before the election in a battleground state. She arrived in North Carolina on Halloween and spent the week monitoring polls during early and election-day voting. She was stationed primarily at polling stations in minority districts, working as many as thirteen hours a day.

From left: Bryan Heckenlively with Fresno-area Lead Poll Worker Lidia Medrano and Adam Kaplan outside Medrano's home. Once Medrano's local precinct was large enough, her garage became a polling place where she hosted voters and contributed "to our democracy in this special way."



Several of the polling stations “had issues,” Dermody recalls. Most had very long lines—as long as four hours—caused by too few polling places and too few voting machines. Dermody walked up and down the lines, talking to voters about what documents they needed (once even helping a high school student locate a school transcript online for identification), escorting disabled individuals to the front of the line, and answering voter questions. Many voters who had registered at the DMV discovered that the DMV never sent their records to the board of elections, an issue litigated in favor of voters the week she was in the state.

“My job was getting people situated so they were empowered,” Dermody says. “It was anxiety reducing and kept people in the long line.” She was in phone and email contact with a boiler room staffed by lawyers trained in North Carolina voter laws. “The legal force was out there.”

Overall, Dermody has many “inspiring stories about people who were excited to vote.” For example, one pregnant woman, driven by her family, showed up in labor (“She looked like she was in terrible pain”), but insisted on voting before going to the hospital. Several people fainted in the long lines and during the early voting period, one man hit his head and had to stay overnight in the hospital but returned

to the line immediately after being discharged, still wearing the same clothes from the day before.

“Some partisan stuff happened.” Dermody says. “People started arguments. One man parked his truck, which bore huge spray-painted placards, in a disabled parking spot next to the door of the voting place. He flew a Christian nationalist flag and had numerous graphic signs opposing homosexual sodomy. He told me he wasn’t there to vote.” (The security staff asked him to leave after thirty minutes.)

Dermody is glad she went to North Carolina, a state with “serious voter suppression” issues. “I’m glad I bore witness to that,” she says. “I met really cool people and there were important social justice issues litigated in the election up and down the ballot. It was a state that desperately needed people to pay attention to voter access.”

Dermody is just one of the many Bay Area lawyers who did election protection work this past fall. Attorneys of all stripes worked to get voters to the polls, to prevent voter fraud, to observe precincts, and note irregularities that could affect the result. Lawyers’ experience in quickly digesting new information, spotting issues and patterns, and communicating clearly makes them perfect watchdogs for

Attorneys of all stripes worked to get voters to the polls, to prevent voter fraud, to observe precincts, and note irregularities that could affect the result. Lawyers' experience in quickly digesting new information, spotting issues and patterns, and communicating clearly makes them perfect watchdogs for protecting our country's most sacred privilege.

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Dermody found the numbers of lawyers out in force impressive. "There was no one particular affiliation in terms of type of law firm, practice, or client. There were lawyers from both the plaintiff and management bars, lawyers from supersized corporate law firms, and lawyers from the non-profit world. It was well diversified. It's nice to know that despite our differences as lawyers, we collectively saw the importance of a fair election."

Adam Kaplan, a litigator at Munger, Tolles & Olson and current president of the Barristers Club, decided in September to get involved after receiving a request from the Lawyers' Committee for Civil Rights of the San Francisco Bay Area (LCCR), an organization for which he'd previously done pro bono asylum work. When he learned LCCR was cosponsoring a nonpartisan voter protection drive with Asian Americans Advancing Justice, "I thought it sounded like a great way to get involved on election day," Kaplan recalls. "I personally love going to the polls. I was excited about traveling to different polls to ensure they were complying with the law. It sounded important and fun."

In October, Kaplan attended a ninety-minute training on federal and state polling station laws. At 5:45 a.m. on election day, his Munger colleague Bryan Heckenlively picked

him up and together they traveled to Stockton, visiting the first of five polling stations at 7:00 a.m.

"The primary idea was making sure that, per state and federal law, the polls had materials in different languages based on the size of each population in different areas," Kaplan says. They needed to have a sample ballot and signs in the relevant languages. In the case of Stockton, that included Vietnamese, Tagalog, and Khmer. Kaplan also checked to see how many poll workers could speak other languages based on the area's demographics and whether they were wearing stickers to identify them as fluent in those languages. He also ensured that county voter guides were available and the California Voters Bill of Rights was posted.

Kaplan observed each polling place for thirty minutes, checking to see whether voters were being asked to show ID because "only in very, very limited circumstances is that permissible." He also checked in with poll workers. "Everyone was friendly and cooperative," he says. "We saw nothing alarming. No voters were turned away. The main thing we found was, in a couple of places, the foreign language sample ballots and county voter guides were obscured, tucked away under other materials. We asked if they could put them in their own space."

Although legal training wasn't strictly necessary for the work

Kaplan did, having that background helped him understand the various voting regulations. But the main benefit of being a lawyer, he says, was having confidence when talking to poll workers about complying with the regulations. “We knew that what we were requesting was in accordance with law,” he says.

Doing poll monitoring was a “really wonderful experience,” Kaplan says. “It was encouraging to see so many people voting. And it was clear from speaking with poll workers that they took their job seriously. There was a lot of energy around the day. Regardless of how the election turned out, it felt important to be a part of the effort to ensure that all voters were heard.”

Meanwhile, back in San Francisco, Morgan, Lewis & Bockius hosted a national nonpartisan hotline center, which provided voters with free legal and procedural assistance if they encountered problems at the polls or had questions regarding their voting rights. Part of LCCR’s election protection effort, a call center was set up in a large conference room where more than seventy lawyers and paralegals from Morgan Lewis and other law firms worked four-hour shifts answering voter questions on November 7 and 8, according to Morgan Lewis’s pro bono counsel Andrea Fitanides.

The Morgan Lewis center fielded hundreds of calls, mostly from Northern California, but also from Southern California and other areas, especially when other call centers around the country had already closed for the night. Callers’ questions ranged from the basic (“Where’s my polling place?” and “Am I registered?”) to the substantive (“Is what this demonstrator is doing legal?”). Volunteers received training in advance, and team captains, who’d received additional training, were on hand to help identify patterns, particularly if certain behaviors seemed aimed at denying access based on people’s voting choices.

“We were very happy to provide the infrastructure for protecting a very important right,” Fitanides says. Lawyers, she adds, were well suited to staff the hotline. “Lawyers can digest information in a training and apply it to lots of situa-

tions. They know how to problem-solve in real time.”

Very early on election day, Jeff Bleich worked in Hillary Clinton’s national voter protection boiler room in Brooklyn. It was not his first time doing this kind of work, having done both voter protection and poll monitoring in 2004 and 2008. (In the 2012 election, Bleich was abroad serving as US ambassador to Australia.) “I will only do this work for candidates who say they just want everyone to vote,” explains Bleich, a partner at Dentons and BASF’s president in 2003. “I want to help citizens be engaged and do their civic duty.”

Bleich answered phones from 6:00 a.m. to noon on election day. Several dozen callers asked how to vote or how to solve problems, such as five-hour lines or late-opening poll stations. “It was really heartening because people want to vote,” Bleich says. “They’d call and ask where they could vote, what they needed to bring. If they forgot to register, we’d let them know if they were in a same-day-registration state.”

The Brooklyn boiler room comprised a dozen people, mostly lawyers and members of the Clinton campaign team. “It was very inspiring,” he says. “People cared very deeply about the election outcome, but they didn’t ask callers, ‘Who are you going to vote for?’ It’s what democracy is supposed to look like.” Bleich also “walked the floor,” working to determine whether there were patterns of disenfranchisement.

Being a lawyer is not essential for doing election work, “but it’s the best training,” says Bleich. “In the boiler room, you have to gather facts quickly, immediately identify and spot the issues, master a research system fairly quickly, spot patterns, and communicate efficiently to the right people. It’s basically IRAC.”

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