How to Effectively Assess Litigation Opportunities

A discussion about the role of litigation and impact on nonpartisanship and DEI
Everyone enters the webinar muted

Use the questions box to ask questions throughout the presentation

If you want to ask your question at the end of the presentation raise your hand a presenter will call on you

Make sure you identify yourself (Name, League, State & pronouns) when asking questions

A short follow up email will be sent with materials highlighted in the webinar
Community Norms

- Bring your full self and limit distractions
- Use the chat box to add thoughts, experiences, and questions
- What is learned here, leaves here
- No one individual knows everything, but together we know a lot
- Use active and reflective listening
Presentation Roadmap

- Role of pre-litigation
- Evaluating litigation prospects
- Role of LWV in cases
- Applying Nonpartisanship and DEI
- Q & A
## Presenters

<table>
<thead>
<tr>
<th>Meg Browder</th>
<th>Kayla Vix</th>
<th>Jessica Jones Capparell</th>
<th>Celina Stewart</th>
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<tr>
<td>Law Clerk</td>
<td>Comms</td>
<td>Sr. Mng. Policy and Legislative Affairs</td>
<td>Chief Counsel, Sr. Dr. Advocacy + Litigation</td>
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![Meg Browder](image1.png)  
![Kayla Vix](image2.png)  
![Jessica Jones Capparell](image3.png)  
![Celina Stewart](image4.png)
Pre-Litigation Tactics
Advocacy Lays the Groundwork
Advocacy Establishes a Record of Support and Opposition
State and Federal Advocacy Together

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• Coordination with national office

• Messaging (prior hearing testimony, press releases, social media, etc.)

• Rapid response (timing and board approval)
COMMS
COMMS
Evaluating Litigation
Considerations for Your Board

• Does the litigation advance one of the League’s strategic goals or mission?

• Is diversity, equity and inclusion a tenet to this action?

• What other options exist to remedy the problem?

• What are the possible risks to participation or not participating?
Considerations for Your Board

• What is the potential for earned media and other visibility?

• What role will the League play?

• Who is the litigation partner(s) in this case?

• What is the deadline for action?
Evaluating Participation in a Lawsuit

- When selecting partners to build or file lawsuit, LWVUS recommends selecting partners that are nonpartisan organizations. LWVUS expressly prohibits selecting political parties or candidates, or well-known party affiliates/representatives as litigation partners.

- If multiple lawsuits are consolidated by a court which includes a suit that is filed by a political party, LWVUS recommends remaining on the suit.

- Given our MIP positions, we don’t take money from SuperPAC’s, PACs, or other such entities to finance litigation. Leagues (501c3 and 501c4 entities) may fundraise to underwrite litigation costs.
Role Of LWV In Cases

LWV of Pennsylvania Files Lawsuit to Protect Absentee Voters in General Election

8/7/2020
PITTSBURGH—Mail-in voting is a critical tool to ensure voters can participate in democracy while protecting their health during the COVID-19 pandemic.

LWV of California and Partners Urge the Supreme Court to Reject Challenge to California’s Charitable Reporting Law

4/14/2023
LWV as Plaintiffs

Our most powerful position to be in for a case.

The League is unique because we have standing in a wide variety of cases because of range of issues that we work with.

Case Example (plaintiffs)

LWV v Rucho (Common Cause v Rucho)  LWVUS v Kosinski
LWV as an Intervenor

From this position we have a seat at the table but are not one of the main parties. We are still a party in the case, but we have joined after the case has begun.

The court allows intervenors into a case because we have a clear interest in the outcome of a case.

We can join as an intervenor on either the plaintiffs or the defendant's side.

Case Example:
- Trump v Bullock
- Trump v Murphy
- Judicial Watch v North Carolina
LWV as Amicus

Neutral position where you seek to influence the court without being a party.

From this position we file an amicus brief or friend of the court brief.

This position allows us to give context separate from the main parties's briefs.

The League brings the power and respect that we have built up to the brief that we sign on to or author.

Case Example:
- Brnovich v DNC
- Hecox v Little
- Cochran v Gresham
Federal Action Form

• A federal action form must be completed before any type of action is taken.

• This form gives the national office a better understanding of the case before approval.

• The form can be found at lwv.org/federal-action-form-request

Federal Action Request Form

Please use this form to make requests

Effective action on national legislative and litigation issues depends on a partnership at all League levels. The Advocacy Department leads the organization’s federal lobbying work and provides information to state and local Leagues about advocacy priorities and litigation efforts.

All action at the federal level must be authorized by the LWVUS office. This includes any effort aimed at influencing a decision on a federal issue, such as communicating with an elected or appointed official, joining a coalition, taking part in a press conference or rally, writing a letter-to-the-editor, or signing with a legal partner using the LWV brand. Especially, where action includes litigation, efforts on key priority issues under the Campaign for Making Democracy Work.

A state or local League wishing to take action or participate in litigation should consult with LWVUS about the intended action. Depending on the action, the state/local League is asked to provide the following information in writing:

Federal lobbying (including contacting elected and administration officials)

1. The proposed action and the message to be conveyed;
2. The LWVUS position on which the action is based;
3. The timeline for sending the message or signing the letter, and;
4. Details about other groups that are involved in this effort.
POLL

What role has your League played in litigation

• Plaintiff or intervener
• Amicus
• All of the above
• None of the above
Applying Nonpartisan + DEI to Litigation

WANTING EVERY ELIGIBLE VOTER TO HAVE EQUAL ACCESS TO THE BALLOT BOX IS NOT PARTISAN.
WANTING A ROBUST DEMOCRACY IN WHICH EVERYONE HAS AN EQUAL VOICE AND EQUAL REPRESENTATION IS NOT PARTISAN. WANTING TO SEE MORE ELECTED OFFICIALS THAT REFLECT THE DIVERSE MAKEUP OF OUR COUNTRY IS NOT PARTISAN.

IT IS AMERICAN.

LWV
Choosing coalition partners

When assessing potential partners:

- Are all the co-plaintiffs/intervenors/or amici nonpartisan organizations?

- Would partnering with the suggested partners compromise LWV’s nonpartisan policy?

- Do the partners seek a similar outcome (e.g. protect voters, expand voter access)?
Choosing legal partners

Is the legal partner…

☐ A nonpartisan local, state, or national partner?

☐ Is the legal party affiliated with a political party?

☐ Does the legal partner want us to align with a political party in the litigation?
Assessing Potential for Litigation Success

VOTER SUPPRESSION BILLS

FEDERAL COURT REVIEW

[Map showing states color-coded for voter suppression bills and federal court review]
Questions

How can we help?

What questions can we answer?
THANK YOU

Courtesy of shutterstock