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# Caprock Chronicles: Jones vs. the City: The lawsuit that won diversity in Lubbock leadership - Part 1

**Chuck Lanehart**

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Editor's Note: Jack Becker is the editor of Caprock Chronicles and is a librarian at Texas Tech University Libraries. He can be reached at [jack.becker@ttu.edu](mailto:jack.becker@ttu.edu). Today's article about the lawsuit which brought racial diversity to the Lubbock City Council is the first of a two-part series by frequent contributor Chuck Lanehart, Lubbock attorney and historian.

When Gene Gaines' wife died in the 1970s, he was told she must be buried in the segregated Black/Mexican-American section of the City of Lubbock Cemetery. Offended by the city's racial discrimination, Gaines – Lubbock's first Black lawyer – decided to take legal action to desegregate the all-Anglo Lubbock City Council, charged with cemetery policy.

Newsman Skip Watson covered the lawsuit, and remembered, "The story of this litigation began as a blemish that grew into a boil, which ultimately had to be taken to the Appellate Court of the United States to be lanced."

After the City of Lubbock was incorporated in 1909, the city charter of 1917 systematically excluded Blacks and Mexican-Americans from elected leadership positions for the next six-plus decades. The controversy was addressed in a bitterly-litigated eight-year federal lawsuit.

In Lubbock's "at large" system, voters throughout the city elected council and mayoral candidates, and it mattered not which part of the city the candidate resided. At the time of the lawsuit, Lubbock's population was approximately 74 percent Anglo, 18 percent Mexican-American and 8 percent Black. Minorities, who lived primarily in north and east neighborhoods of the city, had never fielded a successful candidate for mayor or city council.

A minority candidate could be quite talented, invest money, run a big campaign, and even have support among Anglos, but ultimately, when the returns came in, the Anglo majority would vote for Anglo candidates, and Anglos always won.

In 1976, Gaines filed a class-action lawsuit in Judge Halbert O. Woodward's Lubbock federal court to require the city to abandon its at-large election system.

Gaines had little experience in federal civil rights litigation, so Texas Tech law professor Dan Benson volunteered to substitute as lead counsel, and Gaines became a witness in the case, rather than an advocate.

Benson, 40, was a Lubbock native and grandson of W.D. Benson, a prominent pioneer lawyer who arrived in Lubbock in 1902. Benson recruited several young Lubbock lawyers to assist, including Lane and Nancy Arthur, Tomás Garza, Mark C. Hall, and Albert Perez. All agreed to work pro bono. Collectively, they represented the minority plaintiffs: the Rev. Roy Jones, Gonzalo Garza, Eusebio Morales and Rose Wilson.

The plaintiffs' amended petition alleged the election scheme not only resulted in minority electoral defeats but had also effectively denied Lubbock's Black and Mexican-American voters equal access to the political process.

The Lubbock City Council voted to defend the 1917 city charter's at-large electoral system. Members were fearful single member districts would result in a "ward system" similar to that of Chicago, creating corruption and a racially divisive political climate in Lubbock.

The city's defense team was headed by powerful former Lubbock County District Attorney Travis Shelton, president of the State Bar of Texas 1977-78 and member of the Texas Criminal Defense Lawyers Association's Hall of Fame. Shelton was joined by his firm's associates, Dennis McGill and Dale Jones, along with City Attorney John Ross and his assistant, James Brewster.

Sentiments ran hot on both sides of the controversy. Benson said there was even an effort to get him fired from his professorship at the Tech law school.

Mark C. Hall remembered, "At trial, we had to open up a whole lot of old wounds that had been healing over time," and evidence of Lubbock's shameful racist history was produced.

Between 1909 and 1924, editorials in the Lubbock Avalanche appeared on subjects ranging from the Black electoral franchise to the very presence of Blacks in the city. The editorials contained a series of vile racial slurs at a time when fewer than 70 Blacks populated Lubbock. Editorials said Negroes would carry disease, cause crime and invite further influx of Negroes into Lubbock. An editorial in 1909 recommended disenfranchising Blacks; another in 1924 warned of Black efforts to exert political influence. The author of the offensive articles, *Avalanche* Editor James Doy, was a member of the 1917 city charter commission.

A 1923 city ordinance made it a crime for Negroes to live in any part of Lubbock other than areas designated in East Lubbock.

Charles Guy, former editor of the Lubbock Avalanche-Journal, testified for the plaintiffs. Describing the considerable history of Ku Klux Klan influence in the city, Guy believed each of the 1917 city charter commissioners were KKK members. An expert witness testified exclusion of participation by minorities – both racial and political – provided a partial motive for the movement to at-large government.

In 1979, Judge Woodward ruled against the plaintiffs, who appealed to the Fifth Circuit Court of Appeals in New Orleans. While the appeal was pending, the United States Supreme Court handed down a number of dramatic decisions which supported the plaintiffs' position, and Congress amended the Voting Rights Act, which also supported the plaintiffs' position. The case was therefore remanded for a new trial.