

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

TEXAS STATE LULAC; VOTO LATINO,

Plaintiffs,

v.

BRUCE ELFANT, in his official capacity as the Travis County Tax Assessor-Collector; JACQUELYN CALLANEN, in her official capacity as the Bexar County Elections Administrator; ISABEL LONGORIA, in her official capacity as the Harris County Elections Administrator; YVONNE RAMÓN, in her official capacity as the Hidalgo County Elections Administrator; MICHAEL SCARPELLO, in his official capacity as the Dallas County Elections Administrator; LISA WISE, in her official capacity as the El Paso County Elections Administrator,

Defendants,

and

KEN PAXTON, in his official capacity as Attorney General of Texas; LUPE TORRES, in their official capacity as Medina County Election Administrator; TERRIE PENDLEY, in her official capacity as the Real County Tax-Assessor Collector,

Intervenors.

Case No. 1:21-cv-00546-LY

**PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION FOR RECONSIDERATION
AND/OR CLARIFICATION OF THE COURT'S AUGUST 2, 2022 ORDER AND
JUDGMENT**

Plaintiffs Texas State LULAC and Voto Latino, by and through undersigned counsel, file this response to Defendants Lisa Wise, Michael Scarpello, and Clifford Tatum's Motion for Reconsideration and/or Clarification of the Court's August 2, 2022 Order and Judgment.

While Plaintiffs agree that *Ex parte Young*, rather than *Monell*, provides the proper framework for determining whether equitable relief is available from the County Defendants, and that County Defendants may be properly enjoined pursuant to *Ex parte Young*, see Mot. for Reconsideration at 6-9, Plaintiffs take no position on the motion because it does not seek to modify the judgment that is currently being appealed on an expedited basis in the Fifth Circuit.¹ Plaintiffs reserve the right to file a further response to the extent any party moves this Court to modify the judgment.

Dated: September 13, 2022

Respectfully submitted,

/s/ Uzoma N. Nkwonta

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**Admitted Pro Hac Vice*

¹ A motions panel of the Fifth Circuit *sua sponte* expedited this appeal on September 7. See Order, *Texas State LULAC v. Elfant*, No. 22-50690 (5th Cir. Sep. 7, 2022) (per curiam). The Court subsequently issued a briefing notice under which Appellants' principal merits brief is due on September 15, 2022, Appellees' principal merits brief is due on September 22, and Appellants' reply is due on September 27. The case has been calendared for oral argument on October 6, 2022. See Briefing Notice, *Texas State LULAC v. Elfant*, No. 22-50690 (5th Cir. Sep. 9, 2022).

CERTIFICATE OF SERVICE

I hereby certify that on September 13, 2022, I electronically filed the foregoing document through the Court's ECF system, which automatically serves notification of the filing on counsel for all parties.

/s/ Uzoma N. Nkwonta
Uzoma N. Nkwonta

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