

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 22-50536

VOTE.ORG,

Plaintiff-Appellee

v.

JACQUELYN CALLANEN, et al.,

Defendants

v.

KEN PAXTON, In His Official Capacity as the Attorney General of Texas; LUPE  
C. TORRES, In His Official Capacity as the Medina County Elections  
Administrator; TERRIE PENDLEY, In Her Official Capacity as the Real County  
Tax Assessor-Collector,

Intervenor Defendants-Appellants

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS

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MOTION OF THE UNITED STATES AS AMICUS CURIAE TO  
PARTICIPATE IN ORAL ARGUMENT

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Pursuant to Federal Rule of Appellate Procedure 29(a)(8), the United States respectfully seeks permission as amicus curiae to participate in oral argument in this appeal. In support of this motion, the United States provides as follows:

1. On November 2, 2022, the United States filed its brief as amicus curiae.

2. On January 20, 2023, this Court set oral argument in this appeal for March 6, 2023, in Oxford, MS.

3. This appeal concerns the Materiality Provision of the Civil Rights Act of 1964, 52 U.S.C. 10101(a)(2)(B). The United States, through the Attorney General, has a direct role in enforcing the Provision. 52 U.S.C. 10101(c).

4. Because of the federal government's interest in the proper interpretation of the Materiality Provision, the United States filed a brief as amicus curiae in support of plaintiff-appellee Vote.org on five issues: (1) whether the Provision may be enforced by private parties, (2) whether the Provision reaches beyond racially discriminatory acts, (3) whether a law that rejects voter registration forms lacking wet ink signatures denies the "right to vote" within the Provision's meaning, (4) whether the Provision applies to state-law requirements that do not determine whether someone meets the qualifications needed to vote, and (5) whether theoretical fraud-prevention interests can justify Texas's wet signature rule under the Materiality Provision. The United States has a strong interest in the resolution of this appeal and believes that its participation in oral argument will be helpful to the Court.

5. Counsel for plaintiff-appellee consent to this motion and have agreed to cede five minutes of plaintiff-appellee's argument time to the United States. As a

result, the United States' participation in oral argument would not affect the overall time allotted for this case.

6. Counsel for intervenor defendants-appellants do not oppose this motion.

WHEREFORE, the United States respectfully requests that this Court grant it leave to participate as amicus curiae in oral argument in this appeal.

Respectfully submitted,

KRISTEN CLARKE  
Assistant Attorney General

s/ Noah B. Bokar-Lindell  
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## CERTIFICATE OF SERVICE

I certify that on January 25, 2023, I electronically filed the foregoing MOTION OF THE UNITED STATES AS AMICUS CURIAE TO PARTICIPATE IN ORAL ARGUMENT with the Clerk of the Court for the United States Court of Appeals for the Fifth Circuit by using the appellate CM/ECF system.

I certify that all participants in this case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

s/ Noah B. Bokar-Lindell  
NOAH B. BOKAT-LINDELL  
Attorney

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## CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g), I certify that the foregoing MOTION OF THE UNITED STATES AS AMICUS CURIAE TO PARTICIPATE IN ORAL ARGUMENT:

(1) complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A) and Fifth Circuit Rule 27.4 because it contains 319 words, excluding the parts of the motion exempted by Federal Rule of Appellate Procedure 32(f); and

(2) complies with the typeface and type-style requirements of Federal Rules of Appellate Procedure 27(d)(1)(E), 32(a)(5), and 32(a)(6), and Fifth Circuit Rules 27.4 and 32.1, because it has been prepared in a proportionally spaced typeface using Word 2019, in 14-point Times New Roman font.

s/ Noah B. Bokat-Lindell  
NOAH B. BOKAT-LINDELL  
Attorney

Date: January 25, 2023