

No. 21-51145

In the United States Court of Appeals
for the Fifth Circuit

LA UNION DEL PUEBLO ENTERO, ET AL.,

Plaintiffs-Appellees,

v.

GREGORY W. ABBOTT, ET AL.,

Defendants,

and

HARRIS COUNTY REPUBLICAN PARTY, DALLAS COUNTY REPUBLICAN
PARTY, REPUBLICAN NATIONAL COMMITTEE, NATIONAL REPUBLICAN
SENATORIAL COMMITTEE & NATIONAL REPUBLICAN CONGRESSIONAL
COMMITTEE,

Proposed Intervenors-Appellants.

On Appeal From The United States District Court
For The Western District Of Texas

MOTION TO EXPEDITE APPEAL

John M. Gore

Counsel of Record

E. Stewart Crosland*

Stephen J. Kenny*

JONES DAY

51 Louisiana Ave., NW

Washington, DC 20001-2113

(202) 879-3939

jmgore@jonesday.com

November 26, 2021

Counsel for Proposed Intervenors-Appellants

** Applications for admission forthcoming*

CERTIFICATE OF INTERESTED PERSONS

No. 21-51145, *La Union Del Pueblo Entero, et al. v. Gregory W. Abbott, et al.*

The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Fifth Circuit Local Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

1. Proposed Intervenors-Appellants:
 - Harris County Republican Party
 - Dallas County Republican Party
 - Republican National Committee
 - National Republican Senatorial Committee
 - National Republican Congressional Committee
2. Counsel for Proposed Intervenors-Appellants:
 - John M. Gore
 - E. Stewart Crosland
 - Stephen J. Kenny
 - Jones Day
3. Plaintiffs-Appellees:
 - La Union Del Pueblo Entero
 - Friendship-West Baptist Church
 - The Anti-Defamation League Austin, Southwest, and Texoma Regions
 - Southwest Voter Registration Education Project
 - Texas Impact

- Mexican American Bar Association Of Texas
- Texas Hispanics Organized For Political Action
- Jolt Action
- William C. Velasquez Institute
- Fiel Houston Inc.
- Isabel Longoria
- James Lewin
- Mi Familia Vota
- Marla Lopez
- Marlon Lopez
- Paul Rutledge
- Houston Justice
- Houston Area Urban League
- Delta Sigma Theta Sorority Inc.
- The Arc of Texas
- Jeffrey Lamar Clemmons
- LULAC Texas
- Vote Latino
- Texas Alliance for Retired Americans
- Texas AFT
- OCA-Greater Houston
- League of Women Voters of Texas
- REVUP-Texas
- Texas Organizing Project
- Workers Defense Action Fund
- United States of America

4. Counsel for Plaintiffs-Appellees La Union Del Pueblo Entero, Southwest Voter Registration Education Project, Mexican American Bar Association of Texas, Texas Hispanics Organized for Political Action, Jolt Action, William C. Velasquez Institute, and Fiel Houston Inc.:

- Nina Perales
- Michael C. Keats

- Rebecca L. Martin
- Jessica M. Choi
- Christopher Bell
- Mexican American Legal Defense & Education Fund
- Fried, Frank, Harris, Shriver & Jacobson LLP

5. Counsel for Plaintiffs-Appellees Friendship-West Baptist Church, Anti-Defamation League Austin, Southwest, and Texoma Regions, Texas Impact, Isabel Longoria, and James Lewin:

- Sean Morales-Doyle
- Eliza Sweren-Becker
- Patrick A. Berry
- Andrew B. Garber
- Elizabeth Y. Ryan
- Paul R. Genender
- Matthew Berde
- Megan Cloud
- Alexander P. Cohen
- Weil, Gotshal & Manges LLP
- Brennan Center for Justice
- Brennan Center for Justice at NYU Law School

6. Counsel for Plaintiff-Appellee Isabel Longoria:

- Christian P. Menefee
- Jonathan Fombonne
- Tiffany Bingham
- Sameer Birring
- Radiah Rondon
- Susannah Mitcham
- Office of the Harris County Attorney

7. Counsel for Plaintiffs-Appellees Mi Familia Vota, Marla Lopez, Marlon Lopez, and Paul Rutledge:

- Ben Clements
- Laura E. Rosenbaum
- Wendy J. Olson
- Courtney M. Hostetler
- Elijah M. Watkins
- John Bonifaz
- Marc T. Rasich
- Ronald A. Fein
- Sean Michael Lyons
- Free Speech for People
- Stoel Rives LLP
- Lyons & Lyons, PC

8. Counsel for Plaintiffs-Appellees Houston Justice, Houston Area Urban League, Delta Sigma Theta Sorority Inc., The Arc of Texas, and Jeffrey Lamar Clemmons:

- Georgina Yeomans
- J. Keely Dulaney
- Jennifer A. Holmes
- Kathryn Sadasivan
- Kenneth E. Broughton, Jr.
- Lora Spencer
- Sarah M. Cummings
- Shira Wakschlag
- NAACP Legal Defense & Education Fund, Inc.
- Reed Smith LLP
- The Arc of the United States

9. Counsel for LULAC Texas, Vote Latino, Texas Alliance for Retired Americans, and Texas AFT:

- Domingo A. Garcia
- Graham White
- John Russell Hardin
- Jonathan Patrick Hawley
- Joseph N. Posimato
- Kathryn E. Yukevich
- Marc Erik Elias
- Meaghan E. Mixon
- Uzoma N. Nkwonta
- Elias Law Group LLP
- Perkins Coie, LLP

10. Counsel for Plaintiffs-Appellees OCA-Greater Houston, League of Women Voters of Texas, REVUP-Texas, Texas Organizing Project, and Workers Defense Action Fund:

- Adriel Cepeda-Derieux
- Andre I. Segura
- Hani Mirza
- Jerry Vattamala
- Jessica Ring Amunson
- Lia Sifuentes Davis
- Lucia Romano Ostrom
- Mimi M.D. Marziani
- Patrick Stegemoeller
- Ryan V. Cox
- Samantha Osaki
- Savannah Kumar
- Sophia Lin Lakin
- Susana Lorenzo-Giguere
- Thomas Paul Buser-Clancy

- Urja Mittal
- Ari Savitzky
- Ashley Alcantara Harris
- American Civil Liberties Union Foundation
- Texas Civil Rights Project
- Asian American Legal Defense And Education Fund
- Jenner & Block LLP
- Disability Rights Texas
- ACLU Foundation of Texas

11. Counsel for Plaintiff-Appellee United States of America:

- Daniel Joshua Freeman
- Jennifer Jaeseon Yun
- Michael Elliot Stewart
- Richard Alan Dellheim
- Thomas Christian Herren , Jr.
- Dana Paikowsky
- U.S. Department of Justice

12. Defendants

- Gregory W. Abbott, Governor of Texas
- John B. Scott, Texas Secretary of State
- Jose A. Esparza, Former Acting Texas Secretary of State
- Warren K. Paxton, Attorney General of Texas
- Lupe C. Torres, Medina County Elections Administrator
- Lisa Wise, El Paso County Elections Administrator
- Isabel Longoria, Harris County Elections Administrator
- Jacque Callanen, Elections Administrator of Bexar County
- Yvonne Ramon, Hidalgo County Elections Administrator
- Michael Scarpello, Dallas County Elections Administrator
- Dana DeBeauvoir, Travis County Clerk

13. Counsel for Defendants Gregory W. Abbott, John B. Scott,

Jose A. Esparza, and Warren K. Paxton:

- Patrick K. Sweeten
 - Jeffrey Michael White
 - Eric A. Hudson
 - Office of the Texas Attorney General
14. Counsel for Defendant Lupe C. Torres:
- Chad Ennis
 - Robert E. Henneke
 - Texas Public Policy Foundation
15. Counsel for Defendant Lisa Wise:
- Angelica Lien Leo
 - Beatriz Mejia
 - Christine Sun
 - Germaine Habell
 - Kathleen Hartnett
 - Kelsey Spector
 - Orion Armon
 - Ranjana Natarajan
 - Sharon Song
 - Zack Goldberg
 - Cooley LLP
 - States United Democracy Center
16. Counsel for Defendant Isabel Longoria:
- Jonathan Fombonne
 - Sameer Birring
 - Office of the Harris County Attorney
17. Counsel for Defendant Jacque Callanen:
- Robert D. Green
 - Bexar County District Attorney

18. Counsel for Defendant Yvonne Ramon:

- Josephine L. Ramirez
- Leigh Ann Tognetti
- Hidalgo County District Attorney's Office

19. Counsel for Defendant Michael Scarpello:

- Barbara S. Nicholas
- Ben L. Stool
- Dallas County District Attorney's Office

20. Counsel for Defendant Dana DeBeauvoir:

- Anthony J. Nelson
- Leslie W. Dippel
- Patrick T. Pope
- Sherine Elizabeth Thomas
- Travis County Attorney's Office

21. Amicus Foundation For Government Accountability

22. Counsel for Amicus Foundation For Government

Accountability:

- Donna Garcia Davidson
- Chase Martin
- Stewart Whitson

23. Proposed Intervenor Public Interest Legal Foundation

24. Counsel for Proposed Intervenor Public Interest Legal

Foundation:

- Andy Taylor

- Maureen Riordan
- Kaylan L. Phillips

Dated: November 26, 2021

Respectfully submitted,

/s/ John M. Gore

*Counsel of Record for Proposed
Intervenors-Appellants*

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MOTION TO EXPEDITE APPEAL

Proposed Intervenors-Appellants Harris County Republican Party, Dallas County Republican Party, Republican National Committee, National Republican Senatorial Committee, and Republican National Congressional Committee (collectively, “Republican Committees”) respectfully move to expedite this appeal. *See* 5th Cir. R. 27.5, 34.5. “[G]ood cause” exists to grant the requested relief because the Republican Committees could be deprived of a meaningful opportunity to participate in this litigation if the district court’s denial of their motion to intervene is not reversed on an expedited basis. 5th Cir. R. 34.5. This risk of a denial of the right to participate is particularly acute in light of the accelerated schedule adopted by the district court in this case.

Accordingly, to preserve the Republican Committees’ rights, the Court should adopt the following expedited schedule:

Appellants’ Opening Brief: Due December 13, 2021

Appellees’ Brief: Due January 3, 2022

Appellants’ Reply Brief: Due January 10, 2022

Oral Argument: At the Court’s convenience

Decision Requested By February 1, 2022

On November 24—immediately upon learning that the Court had docketed this appeal—undersigned counsel contacted counsel for each party regarding their position on this motion, *see* 5th Cir. R. 27.4, and received the following responses:

- The LUPE Plaintiffs-Appellees oppose the motion.
- Plaintiff-Appellee Isabel Longoria takes no position on this motion.
- The Mi Familia Vota Plaintiffs-Appellees object to the proposed briefing schedule in the motion.
- The Houston Justice Plaintiffs-Appellees oppose expedited briefing on the proposed schedule and intend to file an opposition.
- The LULAC Plaintiffs-Appellees take no position on the motion and do not intend to file an opposition.
- Plaintiff-Appellee the United States takes no position on the motion but requests that, to the extent it is granted, Appellees' briefs be due no earlier than January 10, 2022.
- Defendant Torres does not oppose the motion.

Undersigned counsel did not receive responses from the remaining parties before filing this motion on November 26.

Because time is of the essence, the Republican Committees also respectfully request that the Court enter an order directing that any oppositions to this motion be filed by Friday, December 3, 2021. *See* Fed. R. App. P. 27(a)(3)(A).

REASONS FOR GRANTING THE MOTION

Defendant Governor Greg Abbott signed SB 1 into law on September 7, 2021. *See* SB 1, <https://bit.ly/3cIECLl>. SB 1 amends the Texas Election Code in various ways, including with respect to the rules for voter registration, *see* SB 1 art. 2, election security, *see id.* art. 3, election officers, observers, and watchers, *see id.* art. 4, voting by mail, *see id.* art. 5, assistance of voters, *see id.* art. 6, fraud and other unlawful practices, *see id.* art. 7, and other election-related matters, *see id.* arts. 8–10.

Even before Governor Abbott signed SB 1 into law, various plaintiffs filed suit asserting a panoply of challenges to SB 1 under the U.S. Constitution and federal law. *See, e.g., La Union Del Pueblo Entero et al. v. Abbott et al.*, No. 5:21-cv-00844, Compl. (Dkt. 1) (filed Sept. 3, 2021). A total of five groups of private plaintiffs filed federal-court suits challenging SB 1, which the district court eventually consolidated into a single action. *See* Sept. 30, 2021 Order (Dkt. 31).

The Republican Committees maintain that SB 1 is a commonsense and constitutional statute that, together with other provisions of the Texas Election Code, advances the right to vote, accommodates voters, and protects the integrity of Texas elections. The Republican Committees have an obvious interest in the rules under which they, their voters, their members, their candidates, and their volunteers exercise their constitutional right to vote and to participate in elections in Texas. Indeed, the activities of poll watchers on behalf of the Republican Committees are directly regulated by SB 1. *See* SB 1, art. 4.

Thus, an order enjoining any provision of SB 1 now or in the future could change the competitive environment in which the Republican Committees, their voters, their candidates, and their volunteers participate in elections in Texas; affect how the Republican Committees allocate their resources in carrying out their activities in Texas elections; and change how the Republican Committees educate and mobilize their voters, volunteers, and poll watchers. Accordingly, the Republican Committees moved to intervene in these consolidated actions on October 25, the same date that Defendants' responses to Plaintiffs' complaints were due. *See* Partially Opposed Motion To Intervene (Dkt. 57); *see also*

Reply (Dkt. 111) (filed Nov. 15, 2021); Republican National Committee's Notice of Joinder (Dkt. 113) (filed Nov. 15, 2021).

The United States then brought its own suit alleging two statutory claims against SB 1 on November 4. *See* Compl., *United States v. State of Texas et al.*, No. 5:21-cv-1085 (Dkt. 1) (filed Nov. 4, 2021). The district court consolidated that suit into the private litigation on November 9. *See* Order, *United States v. State of Texas, et al.*, No. 5:21-cv-1085 (Dkt. 13).

The district court held a status conference in all of the consolidated litigation on November 16. *See* *La Union Del Pueblo Entero et al. v. Abbott et al.*, No. 5:21-cv-00844 (Dkt. 126). The district court announced near the beginning of that conference that it was denying the Republican Committees' motion to intervene. The district court entered a written order of denial on November 18. *See* Order (Dkt. 122). The Republican Committees filed a notice of appeal that same day. *See* Appeal Of Order (Dkt. 123).

Later on November 18, the district court entered a scheduling order for the consolidated cases. That order contemplates accelerated proceedings, including the following deadlines:

Plaintiffs' motions for leave to amend pleadings: January 22, 2022
Defendants' motions for leave to amend: January 31, 2022
Plaintiffs' expert designations and disclosures: February 7, 2022
Defendants' expert designations and disclosures: March 2, 2022
Completion of discovery: May 13, 2022
Dispositive motions: May 27, 2022
Trial: July 5, 2022
See Scheduling Order (Dkt. 125).

Through this appeal, the Republican Committees seek reversal of the district court's denial of their motion and an order granting them intervention in this consolidated litigation. But given that this litigation already is proceeding in earnest under the district court's scheduling order, the Republican Committees could be denied a meaningful opportunity to participate if this appeal is not expedited. Indeed, a grant of intervention after expert designations and disclosures have been exchanged, discovery has been substantially completed, or trial has commenced could prejudice the Republican Committees' ability to protect their interests in upholding SB 1—and the rules under which the Republican Committees and their voters, candidates, volunteers, and poll

watchers exercise their constitutional rights in Texas elections—against the plaintiffs’ various challenges. “[G]ood cause” therefore exists to expedite the proceedings in this appeal on the schedule that the Republican Committees have proposed. 5th Cir. R. 34.5; *see also* 28 U.S.C. § 1657 (“[T]he court shall expedite any action . . . if good cause therefor is shown.”); *Chafin v. Chafin*, 568 U.S. 165, 178 (2013) (relief warranted “[w]hen . . . the normal course of appellate review might otherwise cause the case to become moot”).

Dated: November 26, 2021

Respectfully submitted,

/s/ John M. Gore

John M. Gore
Counsel of Record
E. Stewart Crosland*
Stephen J. Kenny*
JONES DAY
51 Louisiana Ave., N.W.
Washington, D.C. 20001-2113
(202) 879-3939
jmgore@jonesday.com

Counsel for Proposed Intervenors-Appellants

* *Applications for admission forthcoming*

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT

1. This document complies with the type-volume limit of Federal Rule of Appellate Procedure 27(d)(2)(A) because, excluding the items exempted by Federal Rule of Appellate Procedure 32(f) and Fifth Circuit Rule 32.2, the motion contains 1163 words.

2. This document complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in a 14-point Century Schoolbook font.

Dated: November 26, 2021

Respectfully submitted,

/s/ John M. Gore

*Counsel of Record for Proposed
Intervenors-Appellants*

CERTIFICATE OF ELECTRONIC SUBMISSION

I certify that: (1) any required privacy redactions have been made; (2) the electronic submission of this document is an exact copy of any corresponding paper document; and (3) the document has been scanned for viruses with the most recent version of a commercial virus scanning program and is free from viruses.

Dated: November 26, 2021

Respectfully submitted,

/s/ John M. Gore

*Counsel of Record for Proposed
Intervenors-Appellants*

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CERTIFICATE OF SERVICE

I certify that on November 26, 2021, I served the foregoing motion on counsel for all parties via email and the Court's CM/ECF system.

Dated: November 26, 2021

Respectfully submitted,

/s/ John M. Gore

*Counsel of Record for Proposed
Intervenors-Appellants*

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