

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNIÓN DEL PUEBLO ENTERO, et al.,

Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,

Defendants.

Civil Action No. 5:21-cv-844 (XR)
(consolidated cases)

JOINT ADVISORY REGARDING SCHEDULE

Pursuant to this Court's direction, *see* Text Order (Apr. 27, 2023), the parties have met and conferred regarding the scheduling order in this case. In light of the stay imposed on existing deadlines, the parties propose the following new deadlines concerning the close of discovery and pretrial motions.

- Supplemental expert reports required under Rule 26(e): **May 19, 2023**. This deadline would not include Dr. Dan Smith, whose Rule 26(e) report may incorporate documents that State Defendants intend to produce by May 22. The HAUL Plaintiffs propose that the deadline for Dr. Smith to produce a Rule 26(e) report be **June 15, 2023**. Conversely, State Defendants and Intervenor-Defendants propose that the deadline be **June 5, 2023**.
- State Defendants reserve the right to designate a rebuttal expert to respond to the Rule 26(e) Report of Dr. Smith, and to serve on all parties the materials required by Fed. R. Civ. P. 26(a)(2)(B) for any such rebuttal expert, to the extent not already served, within fifteen (15) days of receipt of Dr. Smith's report.

- Close of all discovery: **May 19, 2023**. This deadline would not foreclose further discovery concerning newly disclosed documents following the lifting of any stay of this Court's prior orders concerning the state legislative privilege. *See* Order, ECF No. 561; Order, ECF No. 425; *see also* Text Order (Apr. 27, 2023); Order Granting Stay, ECF No. 567; Order Granting Stay, ECF No. 429. This deadline would not foreclose State Defendants from taking out-of-time the deposition of Tania Chavez, who was disclosed by LUPE Plaintiffs as an individual likely to have discoverable information. State Defendants agreed to postpone Ms. Chavez's deposition at LUPE Plaintiffs' request following a crisis in Brownsville, Texas. The deposition will be rescheduled once the emergency has concluded. In addition, the parties previously agreed to keep open the depositions of Plaintiffs' experts for the purposes of supplemental reports, whereby any additional deposition taking place after the close of expert discovery will be limited solely to the content of any supplemental report, and not be used to reopen any deposition as to the content of general expert reports except to the extent that a supplemental report has altered or amended the content of such general reports. This deadline will not foreclose any expert deposition taken pursuant to the parties' agreement.
- Dispositive and *Daubert* motions: **May 26, 2023**. To the extent that this Court no longer intends to begin trial on September 11, 2023, Private Plaintiffs propose that this deadline be postponed by one week, to **June 2, 2023**.
- Briefs in opposition to dispositive and *Daubert* motions: **June 23, 2023**. To the extent that this Court adopts a June 2 motion deadline, the parties propose that this deadline also be postponed by one week, to **June 30, 2023**.

- Replies in support of dispositive and *Daubert* motions: **July 14, 2023**. To the extent that this Court adopts a June 2 motion deadline, the parties propose that this deadline also be postponed by one week, to **July 21, 2023**.
- Notwithstanding any other portion of a new scheduling order, no new written discovery shall be propounded to, or depositions noticed to, Jacque Callanen, Bexar County Elections Administrator; Joe Gonzales, Bexar County Criminal District Attorney; John Creuzot, Dallas County Criminal District Attorney; Michael Scarpello, Dallas County Elections Administrator; Lisa Wise, El Paso County Elections Administrator; Yvonne Rosales, former El Paso County District Attorney; Clifford Tatum, Harris County Elections Administrator; Isabel Longoria, former Harris County Elections Administrator; Kim Ogg, Harris County District Attorney; Hilda A. Salinas, Hidalgo County Elections Administrator; Ricardo Rodriguez, Jr., former Hidalgo County Criminal District Attorney; Toribo “Terry” Palacios, Hidalgo County Criminal District Attorney; Yvonne Ramon, former Hidalgo County Elections Administrator; Dana DeBeauvoir, former Travis County Clerk; Dyana Limon-Mercado, Travis County Clerk; Jose Garza, Travis County District Attorney; and former Interim Travis County Clerk Rebecca Guerrero, Division Director, Travis County Clerk's Office; or to any of the successors, employees, offices, or departments of the foregoing.

The parties remain ready to begin trial in this case on September 11, 2023, including maintaining all pretrial deadlines. However, the parties take differing positions concerning the impact of pending appeals on the viability of this trial date.

- The United States and the OCA Plaintiffs will be ready to begin trial on September 11, 2023, on their claims under Section 101 of the Civil Rights Act, 52 U.S.C.

§ 10101(a)(2)(B), regardless of the status of pending appeals concerning the state legislative privilege. *See LULAC Texas v. Hughes*, No. 22-50435 (5th Cir.); *LUPE v. Bettencourt*, No. 23-50201 (5th Cir.).

- Private Plaintiffs, including OCA Plaintiffs, are prepared to proceed with trial on September 11, 2023 on the remaining claims, so long as the withheld documents are produced by that date or the appeals are resolved and the relevant parties are not required to produce the withheld documents, and provided that the parties are permitted to take and reopen depositions immediately—including during trial—for the limited purpose of addressing any newly produced documents related to the legislative privilege appeals. To the extent that appeals concerning legislative privilege remain pending, Private Plaintiffs propose that trial should not go forward without all relevant evidence. To the extent that documents subject to this Court’s orders concerning the state legislative privilege are produced soon after September 11, or appeals are resolved and the relevant parties are not required to produce the withheld documents, Private Plaintiffs propose that trial may begin on or before September 27, 2023, without interfering with County Defendants’ administration of the November 7, 2023, General Election. *See* Joint Advisory at 2, ECF No. 576.
- State Defendants and Intervenor-Defendants propose that trial should begin on September 11, 2023, regardless of the status of outstanding appeals concerning the state legislative privilege.

Respectfully submitted,

Date: May 8, 2023

For the United States:

KRISTEN CLARKE
Assistant Attorney General

ELISE C. BODDIE
Principal Deputy Assistant Attorney General
Civil Rights Division

/s/ Daniel J. Freeman
T. CHRISTIAN HERREN, JR.
RICHARD A. DELLHEIM
DANIEL J. FREEMAN
DANA PAIKOWSKY
MICHAEL E. STEWART
JENNIFER YUN
Attorneys, Voting Section
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530
daniel.freeman@usdoj.gov

For Mi Familia Vota Plaintiffs:

/s/ Wendy J. Olson
Wendy J. Olson*
Laura E. Rosenbaum*
Elijah Watkins*
Mark Bieter*
Bradley Prowant*
STOEL RIVES LLP
760 SW Ninth Avenue, Suite 3000
Portland, OR 97205
Telephone: (503) 224-3380
Facsimile: (503) 220-2480
wendy.olson@stoel.com
laura.rosenbaum@stoel.com
elijah.watkins@stoel.com
mark.bieter@stoel.com
bradley.prowant@stoel.com

Sean Lyons
State Bar No. 00792280
Clem Lyons
State Bar No. 12742000
LYONS & LYONS, P.C.
237 W. Travis Street, Suite 100
San Antonio, TX 78205
Telephone: (210) 225-5251
Facsimile: (210) 225-6545
sean@lyonsandlyons.com
clem@lyonsandlyons.com

Courtney Hostetler*
Ron Fein*
John Bonifaz*
Ben Clements*
FREE SPEECH FOR PEOPLE
1320 Centre Street, Suite 405
Newton, MA 02459
Telephone: (617) 249-3015
chostetler@freespeechforpeople.org
rfein@freespeechforpeople.org
jbonifaz@freespeechforpeople.org
bclements@freespeechforpeople.org

RETRIEVED FROM DEMOCRACYDOCKET.COM

For OCA Greater Houston Plaintiffs:

/s/ Zachary Dolling

Zachary Dolling
Texas Bar No. 24105809

Hani Mirza
Texas Bar No. 24083512

Sarah Chen*
California Bar No. 325327

TEXAS CIVIL RIGHTS PROJECT

1405 Montopolis Drive
Austin, TX 78741
512-474-5073

Thomas Buser-Clancy
Texas Bar No. 24078344

Edgar Saldivar
Texas Bar No. 24038188

Savannah Kumar
Texas Bar No. 24120098

Ashley Harris
Texas Bar No. 24123238

ACLU FOUNDATION OF TEXAS, INC.

5225 Katy Freeway, Suite 350
Houston, TX 77007
(713) 942-8146

Adriel I. Cepeda Derieux*

Ari Savitzky*

Sophia Lin Lakin*

Dayton Campbell-Harris

**AMERICAN CIVIL LIBERTIES UNION
FOUNDATION**

125 Broad St., 18th Floor
New York, NY 10004
(212) 284-7334

Susan Mizner*

**AMERICAN CIVIL LIBERTIES UNION
FOUNDATION**

39 Drumm St.
San Francisco, CA 94111
(415) 343-0781

Brian Dimmick*

**AMERICAN CIVIL LIBERTIES UNION
FOUNDATION**

915 15th St. NW
Washington, DC 20005

(202) 731-2395

LUCIA ROMANO

Texas State Bar No. 24033013

LISA A. SNEAD

Texas State Bar No. 24062204

PETER HOFER

Texas State Bar No. 09777275

DISABILITY RIGHTS TEXAS

2222 West Braker Lane

Austin, Texas 78758-1024

(512) 454-4816

Jerry Vattamala*

Susana Lorenzo-Giguere*

Patrick Stegemoeller*

**ASIAN AMERICAN LEGAL DEFENSE
AND EDUCATION FUND**

99 Hudson Street, 12th Floor

New York, NY 10013

(212) 966-5932

Jessica Ring Amunson*

Alyssa G. Bernstein*

JENNER & BLOCK LLP

1099 New York Ave. NW, Suite 900

Washington, DC 20001

(202) 639-6000

Gregory D. Washington*

JENNER & BLOCK LLP

455 Market St. Suite 2100

For LUPE Plaintiffs:

/s/ Nina Perales

Nina Perales
Julia R. Longoria
MEXICAN AMERICAN LEGAL DEFENSE AND
EDUCATIONAL FUND
110 Broadway, Suite 300
San Antonio, TX 78205
Telephone: (210) 224-5476
Facsimile: (210) 224-5382
nperales@maldef.org
jlongoria@maldef.org

Michael C. Keats*
Rebecca L. Martin*
Jason S. Kanterman*
Kevin Zhen*
FRIED, FRANK, HARRIS, SHRIVER &
JACOBSON LLP
One New York Plaza
New York, New York 10004
Telephone: (212) 859-8000

/s/ Sean Morales-Doyle

Sean Morales-Doyle
Eliza Sweren-Becker*
Patrick A. Berry*
Andrew B. Garber*
Jasleen K. Singh*
BRENNAN CENTER FOR JUSTICE AT
NYU SCHOOL OF LAW
120 Broadway, Suite 1750
New York, NY 10271
Telephone: (646) 292-8310
Facsimile: (212) 463-7308
sean.morales-doyle@nyu.edu
eliza.sweren-becker@nyu.edu
patrick.berry@nyu.edu
andrew.garber@nyu.edu
* Admitted *pro hac vice*

For HAUL Plaintiffs:

/s/ Jennifer Holmes

Kenneth E. Broughton
Texas Bar No. 03087250
J. Keely Pippin*
Texas Bar No. 24116306
Reed Smith LLP
811 Main Street, Suite 1700
Houston, TX 77002-6110
Telephone: (713) 469-3800

Sarah Cummings Stewart
Texas Bar No. 24094609
Reed Smith LLP
2850 N. Harwood Street, Suite 1500
Dallas, TX 75201
(469) 680-4200

Jennifer A. Holmes*
NAACP Legal Defense and Educational
Fund, Inc.
700 14th Street NW, Suite 600
Washington, DC 20005
(202) 682-1300
jholmes@naacpldf.org

Kathryn Sadasivan*
Amir Badat*
Victor Genecin*
Breanna Williams*
NAACP Legal Defense and Educational
Fund, Inc.
40 Rector Street, 5th Floor
New York, NY 10006
(212) 965-2200

Shira Wakschlag*
The Arc of the United States, Inc.
1825 K Street, NW, Suite 1200
Washington, DC 20006
(202) 534-3708
*Admitted *pro hac vice*

For LULAC Plaintiffs:

/s/ Uzoma N. Nkwonta

Uzoma N. Nkwonta*

Christopher D. Dodge*

Michael B. Jones*

Noah B. Baron*

Elena A. Rodriguez Armenta*

Daniela Lorenzo*

Marcos Mocine-McQueen*

Marisa A. O’Gara*

Omeed Alerasool*

ELIAS LAW GROUP LLP

250 Massachusetts Avenue NW, Suite 400

Washington, D.C. 20001

(202) 968-4490

unkwonta@elias.law

cdodge@elias.law

mjones@elias.law

nbaron@elias.law

erodriguezarmenta@elias.law

dlorenzo@elias.law

mmcqueen@elias.law

mogara@elias.law

oalerasool@elias.law

*Admitted *Pro Hac Vice*

RETRIEVED FROM DEMOCRACYDOCKET.COM

For State Defendants:

KEN PAXTON
Attorney General of Texas

BRENT WEBSTER
First Assistant Attorney General

GRANT DORFMAN
Deputy First Assistant Attorney General

SHAWN E. COWLES
Deputy Attorney General for Civil
Litigation

CHRISTOPHER D. HILTON
Chief, General Litigation Division
Tex. State Bar No. 24087727

/s/ Kathleen T. Hunker

KATHLEEN T. HUNKER
Special Counsel
Tex. State Bar No. 24118415

J. AARON BARNES
Special Counsel
Tex. State Bar No. 24099014

OFFICE OF THE ATTORNEY GENERAL
P.O. Box 12548 (MC-009)
Austin, Texas 78711-2548
(512) 463-2100
christopher.hilton@oag.texas.gov
kathleen.hunker@oag.texas.gov
aaron.barnes@oag.texas.gov

For Intervenor-Defendants

/s/ John M. Gore

John M. Gore
E. Stewart Crosland (pro hac vice)
Stephen J. Kenny (pro hac vice)
Charles E.T. Roberts
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001
Phone: (202) 879-3939
Fax: (202) 626-1700
jmgore@jonesday.com
scrosland@jonesday.com
skenny@jonesday.com
cetoberts@jonesday.com

Counsel for Intervenor-Defendants

For Defendant El Paso County Election

Administrator:

/s/ Orion Armon

Orion Armon (CO SBN 34923)

oarmon@cooley.com

1144 15th Street, Suite 2300

Denver, CO 80202-2686

720 566-4000

COOLEY LLP

Beatriz Mejia* (CA SBN 190948)

David Louk* (CA SBN 304654)

Sharon Song* (CA SBN 313535)

Kelsey Spector* (CA SBN 321488)

Germaine Habel* (CA SBN 333090)

Caroline A. Lebel* (CA SBN 340067)

3 Embarcadero Center, 20th Floor

San Francisco, CA 94111-4004

415 693-2000

STATES UNITED DEMOCRACY
CENTER

Christine P. Sun* (CA SBN 218701)

3749 Buchanan St., No. 475165

San Francisco, CA 94147-3103

1 615 574-9108

STATES UNITED DEMOCRACY
CENTER

Ranjana Natarajan (TX SBN 24071013)

1801 E 51st St., Suite 365, No. 334

Austin, TX 78723

(323) 422-8578

STATES UNITED DEMOCRACY
CENTER

Marina Eisner* (DC SBN 1005593)

1101 17 Street NW

Washington, DC 20036

(240) 600-1316

STATES UNITED DEMOCRACY
CENTER

Robert Cotter* (IL SBN 6334375)

7510 N. Greenview Ave., Apt. #3

Chicago, IL 60626

Telephone: (224) 235-2606

EL PASO COUNTY ATTORNEYS

Jo Anne Bernal (TX SBN 02208720)

El Paso County Attorney

Joanne.Bernal@epcounty.com

John E. Untereker (TX SBN 24080627)

Assistant County Attorney

juntereker@epcounty.com

500 East San Antonio, Room 503

El Paso, Texas 79901

Telephone: +1 915 546-2050

Facsimile: +1 915 546-2133

**Admitted pro hac vice*

For Defendant Harris County Election

Administrator:

/s/ Tiffany S. Bingham

CHRISTIAN D. MENEFEE

Harris County Attorney

Texas Bar No. 24088049

Christian.Menefee@harriscountytexas.gov

JONATHAN G.C. FOMBONNE

First Assistant Harris County Attorney

Texas Bar No. 24102702

Jonathan.Fombonne@harriscountytexas.gov

TIFFANY S. BINGHAM

Managing Counsel, Affirmative Litigation
Division

Texas Bar No. 24012287

Tiffany.Bingham@harriscountytexas.gov

**OFFICE OF THE HARRIS COUNTY
ATTORNEY**

1019 Congress Plaza, 15th Floor

Houston, Texas 77002

Telephone: (713) 274-5101

Facsimile: (713) 755-8924

**For Defendant Bexar County Election
Administrator:**

JOE D. GONZALES
Bexar County Criminal District Attorney

By: /s/ Lisa v. Cubriel

LISA V. CUBRIEL

State Bar No. 24045731
Assistant District Attorney – Civil
Division

LARRY L. ROBERSON

Civil Section Chief
Bexar County District Attorney's Office
101 W. Nueva, 7th Floor
San Antonio, Texas 78205-3030
Telephone: (210) 335-2142
Lisa.Cubriel@bexar.org
lroberson@bexar.org

**For Defendant Hidalgo County Election
Administrator:**

/s/ Josephine Ramirez-Solis

Josephine Ramirez-Solis
Assistant District Attorney
Texas Bar No. 24007894
josephine.ramirez@da.co.hidalgo.tx.us
Leigh Ann Tognetti
Assistant District Attorney
Texas Bar No. 24083975
leigh.tognetti@da.co.hidalgo.tx.us
100 E. Cano, First Floor
Hidalgo County Courthouse Annex III
Edinburg, Texas 78539
(956) 292-7609

**For Defendants Travis County Clerk and
District Attorney:**

DELIA GARZA

County Attorney, Travis County
P. O. Box 1748
Austin, Texas 78767
Telephone: (512) 854-9513

By: /s/ Anthony J. Nelson

LESLIE W. DIPPEL

State Bar No. 00796472
Leslie.Dippel@traviscountytexas.gov

ANTHONY J. NELSON

State Bar No. 14885800
Tony.Nelson@traviscountytexas.gov

PATRICK T. POPE

State Bar No. 24079151
Patrick.Pope@traviscountytexas.gov

**For Defendants Dallas County Elections
Administrator and District Attorney**

JOHN CREUZOT
DISTRICT ATTORNEY
DALLAS COUNTY, TEXAS

/s/ Ben Stool

ASSISTANT DISTRICT ATTORNEY
TEXAS BAR NO. 19312500
ben.stool@dallascounty.org

BARBARA S. NICHOLAS
ASSISTANT DISTRICT ATTORNEY
TEXAS BAR NO. 24032785
barbara.nicholas@dallascounty.org

CIVIL DIVISION

Dallas County Records Building
500 Elm Street, Suite 6300
Dallas, TX 75202
(214) 653-7358

CERTIFICATE OF SERVICE

I hereby certify that on May 8, I electronically filed the foregoing with the Clerk of the court using the CM/ECF system, which will send notification of this filing to counsel of record.

/s/ Daniel J. Freeman _____

Daniel J. Freeman
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530
(202) 305-4355
daniel.freeman@usdoj.gov

RETRIEVED FROM DEMOCRACYDOCKET.COM