

In the Supreme Court of the United States

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REPRESENTATIVE RYAN GUILLEN, TEXAS HOUSE MEMBER,  
REPRESENTATIVE BROOKS LANDGRAF, TEXAS HOUSE MEMBER,  
& REPRESENTATIVE JOHN LUJAN, TEXAS HOUSE MEMBER,

*Third-Party Applicants,*

v.

LEAGUE OF UNITED LATIN AMERICAN CITIZENS, ET AL.,

*Respondents.*

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**SUPPLEMENTAL MEMORANDUM  
IN SUPPORT OF EMERGENCY APPLICATION FOR STAY  
PENDING APPEAL IN THE UNITED STATES COURT OF APPEALS FOR  
THE FIFTH CIRCUIT OR, IN THE ALTERNATIVE, PENDING DISPOSITION  
OF PETITION FOR WRIT OF MANDAMUS AND REQUEST FOR  
IMMEDIATE ADMINISTRATIVE STAY**

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KEN PAXTON  
Attorney General of Texas

BRENT WEBSTER  
First Assistant Attorney General

JUDD E. STONE II  
Solicitor General

PATRICK K. SWEETEN  
Deputy Attorney General

WILLIAM T. THOMPSON  
Deputy Chief, Special Litigation Unit

JACK B. DISORBO  
Assistant Attorney General

OFFICE OF THE ATTORNEY GENERAL  
P.O. Box 12548 (MC-009)  
Austin, TX 78711-2548  
(512) 463-2100  
judd.stone@oag.texas.gov

TAYLOR A.R. MEEHAN  
*Counsel of Record*

FRANK H. CHANG  
CONSOVOY MCCARTHY PLLC  
1600 Wilson Blvd., Suite 700  
Arlington, VA 22209  
(703) 243-9423  
taylor@consovoymccarthy.com  
frank@consovoymccarthy.com

ADAM K. MORTARA  
LAWFAIR LLC  
125 South Wacker, Suite 300  
Chicago, IL 60606  
(773) 750-7154  
mortara@lawfairllc.com

*Counsel for Applicants*

## SUPPLEMENTAL MEMORANDUM

Respondents have alerted this Court that they have had a change in plans. They now intend to begin legislators' depositions the week of June 13 at the earliest. *See* U.S. Second Suppl. Memo. That change in plans comes after weeks of attempted negotiations by the legislators' counsel to postpone depositions.<sup>1</sup> Until the legislators filed this stay application, Respondents, led by the United States, were intransigent: depositions must proceed in May and not a day later.

Respondents' change in plans does not change the appropriate course here. As Respondents suggest, there is no reason to delay the adjudication of the legislators' pending application for relief. Respondents have merely postponed depositions until their preferred dates. They remain unwilling to postpone depositions pending further expedited appellate review. The reality remains that, absent a stay pending the disposition of appellate review, depositions will proceed in June and the harm is done.

With a stay, the legislators can obtain necessary appellate review of the important questions raised by the court order on appeal—a court order greenlighting plaintiffs to depose up to 75 Texas legislators and demanding that the legislators air legislatively privileged testimony, over their objections, before counsel for the United States Department of Justice and more than 60 plaintiffs. App.4-5. Counsel can then bring that testimony to the district court's attention—acting simultaneously as the

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<sup>1</sup> *See* Legislators' Reply in Support of Mot. to Quash United States' Subpoenas 2-4, *LULAC v. Abbott*, No. 3:21-cv-259 (W.D. Tex. May 13, 2022), ECF 277 (discussing repeated attempts to reach an agreement to postpone May depositions and attaching email correspondence relating to the same).

arbiter of the privilege and as factfinder—and ask that it be made part of the public record. *Id.* It is a truly extraordinary course for what this Court has deemed “extraordinary” even for local policymakers, let alone state legislators. *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 268 (1977); see *Tenney v. Brandhove*, 341 U.S. 367, 377 (1951).

Respectfully submitted,

KEN PAXTON  
Attorney General of Texas

BRENT WEBSTER  
First Assistant Attorney General

JUDD E. STONE II  
Solicitor General

PATRICK K. SWEETEN  
Deputy Attorney General

WILLIAM T. THOMPSON  
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P.O. Box 12548 (MC-009)  
Austin, TX 78711-2548

(512) 463-2100  
judd.stone@oag.texas.gov  
patrick.sweeten@oag.texas.gov  
will.thompson@oag.texas.gov  
jack.disorbo@oag.texas.gov

TAYLOR A.R. MEEHAN  
*Counsel of Record*

FRANK H. CHANG  
CONSOVOY MCCARTHY PLLC  
1600 Wilson Blvd., Suite 700  
Arlington, VA 22209  
(703) 243-9423

taylor@consovoymccarthy.com  
frank@consovoymccarthy.com

ADAM K. MORTARA  
LAWFAIR LLC  
125 South Wacker, Suite 300  
Chicago, IL 60606  
(773) 750-7154  
mortara@lawfairllc.com

*Counsel for Applicants*

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