

No. 22-50407

**UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

LEAGUE OF UNITED LATIN AMERICAN CITIZENS, et al.,
Plaintiffs-Appellees,

v.

GREG ABBOTT, et al.,
Defendants,

RYAN GUILLEN, TEXAS HOUSE MEMBER, BROOKS LANDGRAF,
TEXAS HOUSE MEMBER & JOHN LUJAN, TEXAS HOUSE MEMBER,
Third-Party Movants-Appellants.

APPELLANTS' STATUS REPORT

Pursuant to this Court's June 17, 2022 order, Appellants submit this monthly status report apprising the Court of the status of the district court proceedings. As of the filing of this status report, plaintiffs have deposed or plan to depose 18 Texas House members and current or former House employees, in addition to Texas Senators and Senate employees. Appellants anticipate that additional motions will be filed in the district court regarding the scope of legislative privilege following depositions, which are ongoing, and that additional legislators and legislative employees will join this appeal. Accordingly, it remains prudent to continue holding this appeal in abeyance.

1. This appeal arises from ongoing redistricting litigation. Plaintiffs have subpoenaed Texas legislators and legislative employees for depositions, over their legislative immunity and privilege objections. Plaintiffs initially issued deposition subpoenas

for Appellants, three Texas House members. The district court denied the House members' motion to quash and ordered them to sit for depositions, raise legislative privilege objections during the deposition as appropriate to preserve their objections, and then answer questions in full. Order 4-5, *LULAC v. Abbott*, No. 3:21-cv-259 (W.D. Tex. May 18, 2022), ECF 282.¹ Appellants appealed and sought a stay of the depositions. This Court denied the stay, and the appeal has been held in abeyance pending depositions and further legislative privilege rulings from the district court. In the meantime, plaintiffs have issued 15 additional subpoenas for depositions of Texas House members and employees, in addition to Senators and Senate employees.

2. As of today, plaintiffs have deposed five Texas House members, including all three Appellants, as well as one current House employee and two former House employees. During depositions, plaintiffs have asked Texas House members and employees about various legislatively privileged matters, including what motivated redistricting legislation and their impressions regarding the same. As required by the district court's procedure, deponents have answered those questions in full after invoking their legislative privilege objections. *See id.*

¹ All references to ECF numbers in this status report refer to the entries in the district court's docket in *LULAC v. Abbott*, No. 3:21-cv-259 (W.D. Tex.).

3. Within the next 3 weeks, Plaintiffs plan to depose an additional 10 Texas House members and employees.²

4. Of the 10 remaining Texas House members and employees whom plaintiffs seek to depose are the Speaker of the Texas House of Representatives and the General Counsel to the House. Both have moved to quash their deposition subpoenas given the lack of exceptional circumstances warranting the depositions of one of Texas's highest-ranking public officials and the House's General Counsel. *See, e.g.*, Mot. to Quash and/or for a Prot. Order (June 15, 2022), ECF 341; Reply (June 27, 2022), ECF 376; *In re FDIC*, 58 F.3d 1055, 1060 (5th Cir. 1995). The district court has ordered plaintiffs to file supplemental briefing next week to justify the depositions or to withdraw the subpoenas in light of ongoing discovery. Order, ECF 409.

5. Pursuant to the district court's scheduling order, fact discovery will close on July 15, 2022, except for specific fact depositions that the parties have agreed can occur the following week. Order, ECF 325. And the deadline for plaintiffs to file a motion to compel (*i.e.*, unseal) legislatively privileged portions of the depositions transcripts is August 1, 2022. Order 5, ECF 282.

² Upon receiving deposition subpoenas, additional House members and employees adopted Appellants' legislative immunity and privilege arguments in a motion to quash to preserve those arguments for appeal, and those individuals currently expect to join this appeal. *See* Order (June 15, 2022), ECF 340; *see also* Mot. to Quash and/or for a Prot. Order (June 14, 2022), ECF 333.

6. In light of these ongoing proceedings, Appellants request that this Court continue to hold this appeal in abeyance pending further proceedings at the district court. Appellants will file another monthly status report no later than August 7, 2022.

Respectfully submitted,

Dated: July 7, 2022

/s/ Frank H. Chang

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CERTIFICATE OF SERVICE

I filed this motion with the Court via ECF, which will electronically notify all parties who have appeared in this case. The document has been scanned and is free of viruses.

Dated: July 7, 2022

/s/ Frank H. Chang

Frank H. Chang

*Counsel for Legislators,
Third-Party Movants-Appellants*

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