

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' UNOPPOSED MOTION
TO CONSOLIDATE**

Appellants respectfully request that the Court consolidate *LULAC v. Hunter* (No. 22-50648) with this appeal.

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. Appellants appealed and sought a stay of the depositions. This

Court denied the stay. 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. Soon thereafter, Appellants asked this Court to hold their appeal in abeyance pending depositions and further legislative privilege rulings from the district court. Appellants also explained that they “anticipate[d] that they will need to amend their notice of appeal to include any future orders relating to legislative privilege and to add other legislators subpoenaed for depositions.” Mot. to Hold Appeal in Abeyance 6 (June 7, 2022). This Court granted Appellants’ motion and held the appeal in abeyance.

3. The additionally subpoenaed Texas House members and employees—like Appellants had done—moved the district court to quash the deposition subpoenas. The district court denied the motions to quash and ordered these additional Texas House members and employees to sit for depositions following the same procedures laid out for Appellants. *See* Order, *LULAC v. Abbott*, No. 3:21-cv-259 (W.D. Tex. June 15, 2022), ECF 340; Order, *LULAC v. Abbott*, No. 3:21-cv-259 (W.D. Tex. July 6, 2022), ECF 409.

4. On July 15, 2022, Appellants amended their previously filed notice of appeal to include additional Texas House members and employees to the existing appeal: Representative Todd Hunter, Representative Daniel Huberty, Representative Jacey Jetton, Representative J.M. Lozano, Representative Andrew Murr, House Parliamentarian Sharon Carter, Mr. Jay Dyer, Ms. Angie Flores, and Mr. Adam Foltz. This Court

separately docketed the additional House members and employees' appeal under *Hunter*, No. 22-50648.

5. Both this appeal and *Hunter* concern the challenge to the substantially similar district court orders setting for the identical procedures for the depositions of Texas House members and employees. Moreover, there soon will be motions to unseal and to compel the use of the transcripts from Appellants' and these additional House members and employees' depositions. It is anticipated that any appeal from the district court's ruling on these forthcoming motions to unseal and/or compel will involve the same legal issues regarding the scope of the legislative privilege.

6. Consolidating this appeal and *Hunter*—and continuing to hold the consolidated appeal in abeyance pending the district court proceedings—will permit the legislators and other parties to brief and obtain a decision on all privilege issues at once, in service of the interests of judicial economy and the preservation of the parties' resources. *See Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936) (court has “inherent” “power ... to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel and for litigants”).

7. Plaintiffs do not oppose the relief sought in this motion.

8. For the foregoing reasons, Appellants respectfully request that the Court consolidate *LULAC v. Hunter* with this appeal and continue to hold the consolidated appeal in abeyance.

Respectfully submitted,

Dated: August 3, 2022

/s/ Frank H. Chang_____

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CERTIFICATE OF COMPLIANCE

This motion complies with Rule 27(d)(2) because it contains 589 words, excluding the parts that can be excluded. This motion complies with Rule 32(a)(5)-(6) and Fifth Circuit Rule 32.1 because it has been prepared in proportionally spaced Garamond 14-point font and 12-point footnotes.

Dated: August 3, 2022

/s/ Frank H. Chang

Frank H. Chang

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

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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: August 3, 2022

/s/ Frank H. Chang

Frank H. Chang

*Counsel for Legislators,
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