

No. 22-50407
c/w No. 22-50648

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

LEAGUE OF UNITED LATIN AMERICAN CITIZENS, et al.,
Plaintiffs-Appellees,
SHEILA JACKSON LEE, et al.,
Intervenor Plaintiffs-Appellees,
v.
GREG ABBOTT,
Defendant,
RYAN GUILLEN, TEXAS HOUSE MEMBER, et al.,
Movants-Appellants.

LEAGUE OF UNITED LATIN AMERICAN CITIZENS, et al.,
Plaintiffs-Appellees,
SHEILA JACKSON LEE, et al.,
Intervenor Plaintiffs-Appellees,
v.
GREG ABBOTT,
Defendant,
TODD HUNTER, TEXAS HOUSE MEMBER, et al.,
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.

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 three Texas House members (Representative Ryan Guillen, Representative Brooks Landgraf, and Representative John Lujan). 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, ECF 282.¹ These House members 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.

2. Plaintiffs also issued subpoenas for depositions of additional Texas House members and employees, in addition to Senators and Senate employees. The additionally subpoenaed Texas House members and employees 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 previously laid out. *See* Order, ECF 340; Order, ECF 409.

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. On July 15, 2022, the three initially subpoenaed House members 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 *LULAC v. Hunter*, No. 22-50648, which the Court subsequently consolidated with this docket, No. 22-50407.

4. As relevant to this appeal, pursuant to the district court's scheduling order, fact discovery closed on July 15, 2022, with the exception of certain agreed-upon depositions that took place or are taking place after this deadline. Order, ECF 325.

5. As of today, plaintiffs have deposed 10 Texas House members, one House officer, two current House employees, and two former House employees. Plaintiffs agreed to not proceed with Mr. Dyer's deposition, and his deposition never took place.² 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.

² There is still one pending deposition of a House employee that has been stayed by the district court pending the resolution of the motion to quash. *See* Order 8-9, ECF 409.

6. In accordance with the district court's procedure, plaintiffs are expected to file tonight (August 8) their motions to compel the use of those transcripts subject to legislative privilege by submitting them under seal for the district court's *in camera* review. It is expected that plaintiffs will move to compel the use of the legislatively privileged portions of the deposition transcripts for every Appellant, except Mr. Dyer (whose deposition never took place) and House Parliamentarian Carter (whose deposition took place on July 29 but whose transcript was not available in time). The House members' and employees' response would be due one week from today (August 15).

7. Based on agreement of the parties, it is anticipated that the United States will file a motion to compel the use of Parliamentarian Carter's transcript by no later than August 15, 2022. *See* U.S. Mot. to Extend Time to File, ECF 510. Parliamentarian Carter's response would be due one week from the filing of the United States' motion.

8. In light of these ongoing proceedings, Appellants request that this Court continue to hold this appeal in abeyance. Appellants will file another monthly status report no later than September 7, 2022.

Respectfully submitted,

Dated: August 8, 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 August 8, 2022

/s/ Frank H. Chang

Frank H. Chang

*Counsel for Legislators,
Movants-Appellants*

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