

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, three current House employees, and two former House employees. Plaintiffs agreed to not proceed with Mr. Dyer's deposition, and his deposition never took place. 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.

6. In accordance with the district court's procedure, plaintiffs filed 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 on August 8, 9, and 15. U.S. 1st Mot. to Compel, ECF 520; U.S. 2d Mot., ECF 538; Pls. 1st Mot., ECF 521; Pls. 2d Mot., ECF 539.

7. The House members and employees—along with the relevant Senate members and employees—filed a consolidated response to the motions to compel on August 19, 2022. Legislators' Resp., ECF 551.

8. Plaintiffs filed their replies on August 26 and 29, 2022. U.S. Reply, ECF 565; Pls. Reply, ECF 568.

9. The motions to compel regarding the legislative privilege and the deposition transcripts are fully briefed and pending before the district court.

10. Furthermore, the district court vacated the initially scheduled trial dates (September 28 – October 8, 2022). Order, ECF 569. The parties submitted their proposed alternate trial dates, ranging from November 2022 to early summer of 2023. Joint Advisory, ECF 566. The district court has not set new trial dates yet.

11. 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 October 7, 2022.

Respectfully submitted,

Dated: September 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 September 8, 2022

/s/ Frank H. Chang

Frank H. Chang

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Movants-Appellants*

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