

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

LEAGUE OF UNITED LATIN AMERICAN  
CITIZENS, *et al.*,

*Plaintiffs,*

v.

GREG ABBOTT, in his official capacity as  
Governor of the State of Texas, *et al.*,

*Defendants.*

CIVIL ACTION NO.  
3:21-cv-00259-DCG-JES-JVB  
[Consolidated Action: Lead Case]

**LULAC PLAINTIFFS' NOTICE REGARDING RECENT FIFTH CIRCUIT OPINION  
PERTINENT TO PENDING LEGISLATIVE PRIVILEGE DISPUTES**

LULAC Plaintiffs respectfully submit this notice to inform the Court of an opinion issued by the Fifth Circuit on September 28, 2023—after the parties completed supplemental briefing regarding the legislative privilege issues pending before this Court. *See* Dkt. 735. A copy of that opinion—*In re Landry*, No. 23-30642, --- F.4th ---, 2023 WL 6302186 (5th Cir. Sept. 28, 2023)—is attached as Exhibit A.<sup>1</sup>

At issue in the parties' briefing regarding the legislative privilege in this case is, among other things, whether the legislative privilege should yield because of the extraordinary nature of redistricting cases. *See, e.g.*, Private Plaintiffs' First Supplemental Opening Brief, Dkt. 709 at 18-

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<sup>1</sup> On October 19, 2023, the U.S. Supreme Court denied applications to stay the Fifth Circuit's order in *In re Landry*. *See* Ex. B, Order on Stay Applications in *Robinson v. Ardoin*, No. 23A281 and *Galmon v. Ardoin*, No. 23A282.

21; Private Plaintiffs’ Second Supplemental Opening Brief, Dkt. 725 at 11-12.<sup>2</sup> *In re Landry* contains analysis relevant to that issue.

In *In re Landry*—a mandamus proceeding related to a challenge under Section 2 of the Voting Rights Act to Louisiana’s congressional redistricting plan—the Fifth Circuit granted mandamus relief, vacating a hearing set by the district court to determine a court-ordered remedial plan. 2023 WL 6302186, at \*1-2. In that opinion, the Fifth Circuit stated: “[i]f this were ordinary litigation, this court would be most unlikely to intervene in a remedial proceeding for a preliminary injunction. Redistricting litigation, however, is not ordinary litigation.” *Id.* at \*5. In addition, the concurring opinion states, “this case presents ‘unusually high’ stakes. It doesn’t just delineate how Louisiana voters may exercise their right to vote for their elected representatives in the House. It could also impact the course of national policy decisions made by Congress—after all, every member of Congress has a voice, and a vote, in those deliberations.” *Id.* at \*7 (Ho., J. concurring). These observations are pertinent to the issue of whether the legislative privilege should yield here because of the extraordinary nature of redistricting cases.

LULAC Plaintiffs respectfully submit this notice to inform this Court of developments in the Fifth Circuit that pertain to the instant district court proceedings.

Dated: October 23, 2023

Respectfully submitted,

*s/ Nina Perales*

Nina Perales

Texas Bar No. 24005046

Fátima Menéndez

Texas Bar No. 24090260

Kenneth Parreno

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<sup>2</sup> For the purpose of the pending disputes regarding the legislative privilege, “Private Plaintiffs” include LULAC Plaintiffs, Mexican American Legislative Caucus, Texas NAACP, Fair Maps Plaintiffs, Brooks Plaintiffs, Black Congresspersons, and Plaintiff Martinez Fischer.

Massachusetts Bar No. 705747  
Julia Longoria  
Texas Bar No. 24070166  
MEXICAN AMERICAN LEGAL  
DEFENSE AND EDUCATIONAL FUND  
110 Broadway, Suite 300  
San Antonio, TX 78205  
(210) 224-5476  
nperales@maldef.org  
fmenendez@maldef.org  
kparreno@maldef.org  
jlongoria@maldef.org

*ATTORNEYS FOR LULAC PLAINTIFFS*

**CERTIFICATE OF SERVICE**

The undersigned counsel hereby certifies that she has submitted via email a true and correct copy of the above and foregoing to all counsel of record in this matter on the 23rd day of October 2023.

*/s/ Nina Perales*

Nina Perales