

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

LULAC, *et al.*,

Plaintiffs,

v.

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

Defendants.

Case No. 3:21-CV-00259-DCG-JES-JVB
[Lead Case]

ROY CHARLES BROOKS, FELIPE
GUTIERREZ, PHYLLIS GOINES, EVA
BONILLA, CLARA FAULKNER,
DEBORAH SPELL, SANDRA M. PUENTE,
JOSE R. REYES, SHIRLEY ANNA
FLEMING, LOUIE MINOR JR, NORMA
CAVAZOS, LYDIA ALCALAN, and
MARTIN SAENZ,

Plaintiffs,

v.

GREG ABBOTT, in his official capacity as
Governor of Texas; JOHN SCOTT, in his
official capacity as Secretary of State of
Texas, and STATE OF TEXAS,

Defendants.

Case No. 1:21-CV-00991-DCG-JES-JVB
[Consolidated Case]

**BROOKS PLAINTIFFS' LETTER BRIEF REGARDING THE FIFTH CIRCUIT'S
DECISION IN *PETTEWAY***

The Fifth Circuit has ruled that Section 2 does not protect coalitions of minority voters in discriminatory effects coalition claims. This case is before a three-judge district court with direct appeal to the Supreme Court, not the Fifth Circuit. The Supreme Court has assumed, but not decided, that coalition claims are viable. *See Growe v. Emison*, 507 U.S. 25 (1993).

This Court has previously indicated that it views itself as bound by Fifth Circuit decisions, but Brooks Plaintiffs are unaware of authority establishing that proposition for three-judge courts. In any event, to the extent this Court concludes it is bound by *Petteway*, the appropriate course is to reject any such claims at final judgment to permit Plaintiffs to appeal to the Supreme Court if they so choose.

October 15, 2024

Respectfully submitted,

/s/ Chad W. Dunn

Chad W. Dunn (Tex. Bar No. 24036507)

Brazil & Dunn

4407 Bee Caves Road

Building 1, Ste. 111

Austin, TX 78746

(512) 717-9822

chad@brazilanddunn.com

/s/ Mark P. Gaber

Mark P. Gaber*

Mark P. Gaber PLLC

P.O. Box 34481

Washington, DC 20043

(715) 482-4066

mark@markgaber.com

Jesse Gaines* (Tex. Bar. No. 07570800)

P.O. Box 50093

Fort Worth, TX 76105

817-714-9988

gainesjesse@ymail.com

Molly E. Danahy*

P.O. Box 26277

Baltimore, MD 21211

(208) 301-1202

anahy.molly@gmail.com

Sonni Waknin*

10300 Venice Blvd. # 204

Culver City, CA 90232

732-610-1283

sonniwaknin@gmail.com

*Admitted *pro hac vice*

Counsel for Plaintiffs

RETRIEVEDFROMDEMOCRACYDOCKET.COM