

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

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

Defendants.

Civil Action No. 3:21-cv-299

MOTION TO CONSOLIDATE

Pursuant to Federal Rule of Civil Procedure 42(a), the United States respectfully moves to consolidate this action with *League of United Latin American Citizens v. Abbott*, No. 3:21-cv-259, which is currently pending before this Court. The United States has conferred with counsel for defendants, who advise that defendants do not oppose this motion. The United States has also conferred with counsel for plaintiffs in *League of United Latin American Citizens* and the six other matters currently consolidated therewith, and who advise that plaintiffs similarly do not oppose this motion.

Consolidation is permissible when “actions before the court involve a common question of law or fact.” Fed. R. Civ. P. 42(a); *Hall v. Hall*, 138 S. Ct. 1118, 1124 (2018). The United States has alleged that Texas’s 2021 Congressional delegation redistricting plan and 2021 State House redistricting plan violate Section 2 of the Voting Rights Act, 52 U.S.C. § 10301.

Plaintiffs in *League of United Latin American Citizens* have also alleged that the 2021 Congressional plan and 2021 House plan violate Section 2. See LULAC Compl. ¶¶ 111-112, ECF No. 1. Based on the presence of both common triable facts and common causes of action,

consolidation would “serve the interests of judicial economy.” *Frazier v. Garrison Indep. Sch. Dist.*, 980 F.2d 1514, 1532 (5th Cir. 1993). Other federal cases challenging Texas’s redistricting plans under the U.S. Constitution and the Voting Rights Act have been consolidated before a three-judge court in *League of United Latin American Citizens*. See Order, ECF No. 16.

For the reasons set out above, the United States respectfully requests that this Court consolidate this matter with *League of United Latin American Citizens v. Abbott*. The United States notes that there is a court conference on December 7 with counsel for the consolidated parties, and items on the agenda will include a discovery schedule, a briefing schedule, and estimates on the length of a trial. See Order, ECF No. 25. The United States respectfully requests the opportunity to participate in the December 7 conference as a party to the consolidated litigation.

Pursuant to Local Rule CV-7(F), a proposed order is attached hereto.

Date: December 6, 2021

Respectfully submitted,

PAMELA S. KARLAN
Principal Deputy Assistant Attorney General
Civil Rights Division

/s/ Daniel J. Freeman

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CERTIFICATE OF CONFERRAL

Pursuant to Local Rule CV-7(G), I hereby certify that on December 6, 2021, I met and conferred with counsel for Defendants regarding this motion for consolidation. Counsel for defendants advise that Defendants do not object to consolidation of this matter with *League of United Latin American Citizens v. Abbott*. Likewise, on December 6, I met and conferred with counsel for plaintiffs in *League of United Latin American Citizens v. Abbott*. Counsel for plaintiffs advise that plaintiffs in that litigation do not oppose consolidation.

/s/ Daniel J. Freeman _____

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CERTIFICATE OF SERVICE

I hereby certify that on December 6, 2021, I electronically filed the foregoing with the Clerk of the court using the CM/ECF system, which will send notification of this filing to counsel of record.

/s/ Daniel J. Freeman

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[PROPOSED] ORDER

The United States' Motion to Consolidate (ECF No. ___) is **GRANTED**. The Court hereby **ORDERS** that this case be consolidated into *League of United Latin American Citizens v. Abbott*, No. 3:21-cv-259 (W.D. Tex.). It is **ORDERED** that all future filings be filed in *League of United Latin American Citizens v. Abbott*, No. 3:21-cv-259 (W.D. Tex.).

So ORDERED and SIGNED on this ___ day of December 2021.

UNITED STATES DISTRICT JUDGE