

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

SUSAN SOTO PALMER, et. al.,
Plaintiffs,
v.
STEVEN HOBBS, et. al.,
Defendants,
and
JOSE TREVINO, ISMAEL CAMPOS,
and ALEX YBARRA,
Intervenor-Defendants.

Case No.: 3:22-cv-05035-RSL

Judge: Robert S. Lasnik

**NOTICE OF SUPPLEMENTAL
AUTHORITY REGARDING
PLAINTIFFS’ MOTION TO
BIFURCATE AND TRANSFER,
STRIKE, AND/OR DISMISS
INTERVENORS’
CROSSCLAIM**

NOTE FOR MOTION
CALENDAR: January 13, 2023

Plaintiffs file this Notice to alert the Court to three depositions that have occurred since briefing was completed on the Motion to Bifurcate and Transfer, Strike, and/or Dismiss Intervenor’s Crossclaim and that bear on the matter raised in that motion. These are the depositions of the two proposed crossclaimants, Mr. Ybarra and Mr. Trevino, and also of Paul Graves, who served as a redistricting commissioner and who (along with his staff) was largely responsible for the configuration of Legislative District 15.

Mr. Ybarra. When asked about his proposed crossclaim, Mr. Ybarra—who represents District 13 and does not reside in District 15—testified as follows: “Q. And what outcome are you hoping will come from that claim? A. Well, the outcome, I just – I think that the lines are fine.

1 You know, now that I look at them, now that I'm in them, they look fine to me." Ex. A (Ybarra
2 Depo. Tr.) at 111:10-12. Mr. Ybarra further testified as follows:

3 Q. Representative Ybarra, before the redistricting plan became official
4 the Legislature had to vote on it, correct?

5 A. Yes. I think to make it official.

6 Q. And you voted in favor of the plan; correct?

7 A. Yes.

8 Q. And can I assume that you stand by that vote?

9 A. Yes.

10 Q. So do you understand the map that you voted on to be an illegal
11 racial gerrymander?

12 A. No.

13 *Id.* at 120:25-121:10;¹ *see also id.* at 82:17-19 (“Q. Yeah, I guess my question is do you see
14 yourself or understand yourself to be suing the state? A. No, so – I guess not.”).

15 **Mr. Trevino.** At his deposition, Mr. Trevino—the only proposed crossclaimant who resides
16 in District 15—testified as follows:

17 Q: And sitting here today, is that still true, you're okay with the map as it was
18 enacted by the commission staying in place?

19 A: Yes.

20 Q. And would it be your goal that the map, in fact, not change as a result of
21 this litigation?

22 A. Yes.

23 Q. And so do you see yourself as your primary goal here to defend the map and
24 have it remain the same?

25 *Mr. Holt: Objection. Form.*

26 A. Yes.

Ex. B (Trevino Depo. Tr.) at 21:1-11.

Commissioner Paul Graves. At his deposition, Commissioner Graves testified that he
connected Mr. Stokesbary with Adam Kincaid of the National Republican Redistricting Trust
(which funds litigation) and national Republican attorney (and now counsel for

¹ Mr. Stokesbary, who represents the proposed crossclaimants as well as the plaintiff in the *Garcia* case, likewise serves in the legislature and voted in favor of the plan adopted by the Commission.

1 Intervenor/proposed crossclaimants) Jason Torchinsky to “light the fire as it were to get things
2 moving” for the filing of the *Garcia* lawsuit to challenge District 15 (which Commissioner Graves
3 had drawn) as an unconstitutional racial gerrymander. Ex. C (Graves Depo. Tr.) at 204:17-205:13.

4 When asked about this, Commissioner Graves testified as follows:

5 Q. How is it that filing an Equal Protection claim would help defend the map?

6 A. It would at least forestall a default judgment. You know, that was my first
7 and most immediate concern because it was so time sensitive. There was a
8 hearing, I think, that was scheduled on this, and it seemed like a very
9 important hearing.

10 So I thought that again, because I’m well aware enough that you don’t have
11 a lot of people who want to stump up private money to do the public act of
12 defending the act of the state. I thought there might be people who might be
13 interested in filing some kind of other claim that might have forestalled that.
14 It wasn’t my goal.

15 My immediate goal was to stave off a default judgment, and my secondary
16 goal was to defend the maps. But I thought that if anybody was going to file
17 an Equal Protection claim that it would at least meet the immediate goal of
18 avoiding a default judgment.

19 Q. The Equal Protection claim was filed in a different case, though; is that your
20 recollection?

21 A. I think so, although at that point I had – I had stopped, you know,
22 communicating with the lawyers who were involved with all of that.

23 *Id.* at 203:16-204:13.² Commissioner Graves subsequently testified that, despite “lighting the fire”
24 to have an Equal Protection claim filed to forestall relief in this Voting Rights Act action, he did
25 not actually believe the claim was meritorious. *Id.* at 287:4-6 (“Q. You don’t believe the maps are
26 a racial gerrymander, do you? A. No, I don’t think so.”).

² The hearing to which Commissioner Graves referred was the hearing on Plaintiffs’ motion for a preliminary injunction, which the Court heard last spring shortly after the filing of the *Garcia* suit and the motion to intervene in this case.

1 Dated: January 10, 2023

2 By: /s/ Edwardo Morfin

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CERTIFICATE OF SERVICE

I certify that all counsel of record were served a copy of the foregoing this 10th day of January, 2023 via the Court’s CM/ECF system.

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