

IN THE SUPREME COURT OF KANSAS

FAITH RIVERA, DIOSSELYN TOT-
VELASQUEZ, KIMBERLY
WEAVER, PARIS RAITE,
DONNAVAN DILLON, and LOUD
LIGHT,

Plaintiffs-Appellees,

TOM ALONZO, SHARON AL-UQDAH,
AMY CARTER, CONNIE BROWN
COLLINS, SHEYVETTE DINKENS,
MELINDA LAVON, ANA MARCELA
MALDONADO MORALES, LIZ
MEITL, RICHARD NOBLES, ROSE
SCHWAB, and ANNA WHITE,

Plaintiffs-Appellees,

SUSAN FRICK, LAUREN SULLIVAN,
DARRELL LEA, and SUSAN SPRING
SCHIFFELBEIN,

Plaintiffs-Appellees,

v.

SCOTT SCHWAB, in his official
capacity as Kansas Secretary of State,
and MICHAEL ABBOTT, in his
official capacity as Election
Commissioner of Wyandotte County,
Kansas,

Defendants-Appellants,

JAMIE SHEW, in his official capacity as
Douglas County Clerk.

Defendant.

Case No. 125092

**RIVERA AND ALONZO PLAINTIFFS-APPELLEES' JOINT RESPONSE TO
DEFENDANTS-APPELLANTS' MOTION TO EXPEDITE**

The *Rivera* and *Alonzo* Plaintiffs-Appellees (“Plaintiffs-Appellees”) do not oppose Defendants-Appellants’ request to expedite this appeal. Plaintiffs-Appellees likewise do not object to Defendants-Appellants’ proposed schedule for opening and response briefs and oral argument. *See* Mot. to Expedite (“Mot.”) 3. However, as to their proposed deadline for a reply brief, Plaintiffs-Appellees wish to clarify that any reply brief in this appeal is governed by Kansas Supreme Court Rule 6.05, and thus permitted only if “made necessary by new material contained in the appellee’s . . . brief.”

Additionally, Plaintiffs-Appellees contest Defendants-Appellants’ suggestion that the remedial process of adopting a lawful new congressional map for use in the 2022 elections should not commence until after this Court’s resolution of their appeal. In particular, Defendants-Appellants’ motion asserts that their proposed schedule “should allow the Court to issue an opinion and, *if necessary*, allow the Legislature to take remedial action before the candidate filing deadline.” Mot. 3 (emphasis added). This suggestion that the remedial process will not begin until this Court rules appears to be yet another attempt by Defendants-Appellants to delay adoption of a lawful map and run out the clock.

Remedial action on the part of the Legislature need not and should not await a ruling from this Court. The district court’s decision of April 25, 2022, permanently enjoined implementation of Ad Astra 2 and provided the Legislature an opportunity to “enact a remedial plan in conformity with this opinion *as expeditiously as possible*.” *Rivera v. Schwab*, No. 2022-CV-000089, slip op. at 208 (Wyandotte Cnty. Dist. Ct. Apr. 25, 2022) (emphasis added). That injunction has not been stayed or otherwise altered and is therefore in full effect. *See* K.S.A. 60-262(a), (c) (noting that while “the court *may* suspend, modify,

restore or grant an injunction” “[w]hile an appeal is pending,” a final judgment in an action “[f]or an injunction” is “not [automatically] stayed after being entered, even if an appeal is taken” (emphasis added); *see also Rivera*, slip op. at 208 (“This Order shall remain in effect until completed or modified by the Kansas Supreme Court.”). Accordingly, the Legislature’s opportunity to act is *now*; it is not “necessary” for this Court to issue an opinion in order for the Legislature to begin its remedial process. The Legislature should therefore be expected to comply with the injunction and undertake any remedial action it plans to take during the pendency of this appeal.

Plaintiffs respectfully request that this Court provide clarification as needed in ruling on Defendants-Appellants’ motion to expedite and issuing a briefing schedule.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on April 27, 2022, a true and correct copy of this Response using the Court's electronic filing system which will serve all parties. On the same day a copy was also served by email on counsel for the Defendants.

/s/ Sharon Brett
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