

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

LEAGUE OF UNITED LATIN AMERICAN
CITIZENS (LULAC), et al.,

Plaintiffs,

v.

GREG ABBOTT, et al.,

Defendants.

Civil Action No. 3:21-cv-259
(DCG-JES-JVB)
(consolidated cases)

NOTICE REGARDING *LULAC v. PATRICK* DOCUMENTS APPEAL

On July 25, 2022, this Court granted the United States’ motion to enforce its document subpoenas against the Legislators¹ and ordered them to produce documents notwithstanding their assertions of the legislative privilege and other discovery protections (the “July 25, 2022 Order”). *See* Legis. Docs. Order, ECF No. 467. The Legislators appealed and the Fifth Circuit entered an administrative stay of the July 25, 2022 Order. *See* Notice of Appeal, ECF No. 479; Admin. Stay Order, *LULAC v. Patrick*, No. 22-50662 (5th Cir. July 27, 2022), ECF No. 30-2. While that appeal remained stayed, the Fifth Circuit issued two other opinions involving the legislative privilege: *Jackson Municipal Airport Authority v. Harkins*, 67 F.4th 678 (5th Cir. 2023), and *LULAC Texas v. Hughes*, 68 F.4th 228 (5th Cir. 2023). To give this Court the first opportunity to opine on the impact of *Harkins* and *Hughes* on the July 25, 2022 Order, the

¹ The Legislators include Rep. Steve Allison, Mark Bell, Rep. Tim Craddick, Rep. Philip Cortez, Darrell Davila, Jay Dyer, Adam Foltz, Colleen Garcia, Rep. Ryan Guillen, Sen. Joan Huffman, Rep. Todd Hunter, Rep. Jacey Jetton, Rep. Ken King, Koy Kunkel, Rep. Brooks Landgraf, Rep. J.M. Lozano, Anna Mackin, Rep. Geanie Morrison, Rep. Andrew Murr, Sean Opperman, Lt. Gov. Dan Patrick, Speaker Dade Phelan, and Julia Rathgeber.

United States proposed that the Fifth Circuit either remand the *Patrick* appeal or allow the parties an opportunity to seek an indicative ruling from this Court. *See* Joint Status Report ¶¶ 3-4, *LULAC v. Patrick*, No. 22-50662 (5th Cir. May 24, 2023), ECF No. 100; Joint Status Report ¶¶ 4-5, *LULAC v. Patrick*, No. 22-50662 (5th Cir. June 26, 2023), ECF No. 102.

This Court previously ordered the parties to furnish advisories on developments in higher courts that pertain to the instant proceedings. *See* Clarification Order 2, ECF No. 654. In particular, the Court requested an update “when the Fifth Circuit decides how *Patrick* will proceed.” Briefing Schedule Order 2, ECF No. 703. Accordingly, the United States provides notice that the Fifth Circuit today vacated the July 25, 2022 Order in light of *Hughes* and remanded the *Patrick* appeal to this Court. *See* Unpublished Order 11, *LULAC v. Patrick*, No. 22-50662 (5th Cir. July 18, 2023), ECF No. 107-1 (Ex. 1). The United States will confer with the parties on next steps and advise the Court regarding a proposed briefing schedule.

Date: July 18, 2023

KRISTEN CLARKE
Assistant Attorney General
Civil Rights Division

/s/ Jaywin Singh Malhi
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CERTIFICATE OF SERVICE

I hereby certify that, on July 18, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and caused to be served by email a copy of this filing to counsel of record.

/s/ Jaywin Singh Malhi _____

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EXHIBIT

1

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

July 18, 2023

Lyle W. Cayce
Clerk

No. 22-50662

LEAGUE OF UNITED LATIN AMERICAN CITIZENS; SOUTHWEST
VOTER REGISTRATION EDUCATION PROJECT; MI FAMILIA
VOTA; AMERICAN GI FORUM OF TEXAS; LA UNION DEL PUEBLO
ENTERO; MEXICAN AMERICAN BAR ASSOCIATION OF TEXAS;
TEXAS HISPANICS ORGANIZED FOR POLITICAL EDUCATION;
WILLIAM C. VELASQUEZ INSTITUTE; FIEL HOUSTON,
INCORPORATED; TEXAS ASSOCIATION OF LATINO
ADMINISTRATORS AND SUPERINTENDENTS; EMELDA
MENENDEZ; GILBERTO MENENDEZ; JOSE OLIVARES; FLORINDA
CHAVEZ; JOEY CARDENAS; SANDRA PUENTE; JOSE R. REYES;
SHIRLEY ANNA FLEMING; LOUIE MINOR, JR.; NORMA
CAVAZOS; PROYECTO AZTECA; REFORM IMMIGRATION FOR
TEXAS ALLIANCE; WORKERS DEFENSE PROJECT; PAULITA
SANCHEZ; JO ANN ACEVEDO; DAVID LOPEZ; DIANA MARTINEZ
ALEXANDER; JEANDRA ORTIZ; LUZ MORENO; MARIA MONTES;
LYDIA ALCAHAN; MARTIN SAENZ,

Plaintiffs—Appellees,

SHELIA JACKSON LEE; ALEXANDER GREEN; JASMINE
CROCKETT; EDDIE BERNICE JOHNSON,

Intervenor Plaintiffs—Appellees,

versus

GREG ABBOTT, *in his official capacity as Governor of the State of Texas*; ET
AL.,

Defendants,

TEXAS LIEUTENANT GOVERNOR DAN PATRICK, *in his Official Capacity as Lieutenant Governor and Presiding Officer of the Texas Senate*; TOM CRADDICK, *Texas Representative*; RYAN GUILLEN, *Texas Representative*; BROOKS LANDGRAF, *Texas Representative*; TODD HUNTER, *Texas Representative*; JACEY JETTON, *Texas Representative*; ANDREW MURR, *Texas Representative*; KEN KING, *Texas Representative*; GEANIE MORRISON, *Texas Representative*; SENATOR JOAN HUFFMAN; SEAN OPPERMAN, *Texas House Employee*; ADAM FOLTZ, *Texas House Employee*; KOY KUNKEL, *Texas House Employee*; ANNA MACKIN, *Texas House Employee*; PHILIP CORTEZ, *Texas Representative*,

Movants-Appellants,

DAMON JAMES WILSON, FOR HIMSELF and *on behalf of all others similarly situated*,

Plaintiff-Appellee,

versus

TEXAS LIEUTENANT GOVERNOR DAN PATRICK, *in his Official Capacity as Lieutenant Governor and Presiding Officer of the Texas Senate*,

Defendant-Appellant,

TOM CRADDICK, *Texas Representative*; RYAN GUILLEN, *Texas Representative*; BROOKS LANDGRAF, *Texas Representative*; TODD HUNTER, *Texas Representative*; JACEY JETTON, *Texas Representative*; ANDREW MURR, *Texas Representative*; KEN KING, *Texas Representative*; GEANIE MORRISON, *Texas Representative*; SENATOR JOAN HUFFMAN; SEAN OPPERMAN, *Texas House Employee*; ADAM FOLTZ, *Texas House Employee*; KOY KUNKEL, *Texas House Employee*;

No. 22-50662

ANNA MACKIN, *Texas House Employee*; PHILIP CORTEZ, *Texas Representative*,

Appellants,

VOTO LATINO; ROSALINDA RAMOS ABUABARA; AKILAH BACY; ORLANDO FLORES; MARILENA GARZA; CECILIA GONZALES; AGUSTIN LOREDO; CINIA MONTOYA; ANA RAMON; JANA LYNNE SANCHEZ; JERRY SHAFER; DEBBIE LYNN SOLIS; ANGEL ULLOA; MARY URIBE,

Plaintiffs-Appellees,

versus

JOHN SCOTT, *in his Official Capacity as Texas Secretary of State*; ET AL.,

Defendants,

TEXAS LIEUTENANT GOVERNOR DAN PATRICK, *in his Official Capacity as Lieutenant Governor and Presiding Officer of the Texas Senate*; TOM CRADDICK, *Texas Representative*; RYAN GUILLEN, *Texas Representative*; BROOKS LANDGRAF, *Texas Representative*; TODD HUNTER, *Texas Representative*; JACEY JETTON, *Texas Representative*; ANDREW MURR, *Texas Representative*; KEN KING, *Texas Representative*; GEANIE MORRISON, *Texas Representative*; SENATOR JOAN HUFFMAN; SEAN OPPERMAN, *Texas House Employee*; ADAM FOLTZ, *Texas House Employee*; KOY KUNKEL, *Texas House Employee*; ANNA MACKIN, *Texas House Employee*; PHILIP CORTEZ, *Texas Representative*,

Appellants,

MEXICAN AMERICAN LEGISLATIVE CAUCUS, TEXAS HOUSE OF REPRESENTATIVES,

Plaintiffs-Appellees,

versus

STATE OF TEXAS; ET AL.,

Defendants,

TEXAS LIEUTENANT GOVERNOR DAN PATRICK, *in his Official Capacity as Lieutenant Governor and Presiding Officer of the Texas Senate*; TOM CRADDICK, *Texas Representative*; RYAN GUILLEN, *Texas Representative*; BROOKS LANDGRAF, *Texas Representative*; TODD HUNTER, *Texas Representative*; JACEY JETTON, *Texas Representative*; ANDREW MURR, *Texas Representative*; KEN KING, *Texas Representative*; GEANIE MORRISON, *Texas Representative*; SENATOR JOAN HUFFMAN; SEAN OPPERMAN, *Texas House Employee*; ADAM FOLTZ, *Texas House Employee*; KOY KUNKEL, *Texas House Employee*; ANNA MACKIN, *Texas House Employee*; PHILIP CORTEZ, *Texas Representative,*

Appellants,

ROY CHARLES BROOKS; FELIPE GUTIERREZ; PHYLLIS GOINES; EVA BONILLA; CLARA FAULKNER; DEBORAH SPELL; BEVERLY POWELL,

Plaintiffs-Appellees,

versus

GREG ABBOTT, *in his official capacity as Governor of Texas*; ET AL.,

Defendants,

TEXAS LIEUTENANT GOVERNOR DAN PATRICK, *in his Official Capacity as Lieutenant Governor and Presiding Officer of the Texas Senate*; TOM CRADDICK, *Texas Representative*; RYAN GUILLEN, *Texas Representative*; BROOKS LANDGRAF, *Texas Representative*; TODD HUNTER, *Texas Representative*; JACEY JETTON, *Texas Representative*; ANDREW MURR, *Texas Representative*; KEN KING, *Texas Representative*; GEANIE MORRISON, *Texas Representative*; SENATOR JOAN HUFFMAN; SEAN OPPERMAN, *Texas House Employee*; ADAM FOLTZ, *Texas House Employee*; KOY KUNKEL, *Texas House Employee*; ANNA MACKIN, *Texas House Employee*; PHILIP CORTEZ, *Texas Representative,*

Appellants,

TEXAS STATE CONFERENCE OF THE NAACP,

Plaintiff-Appellee,

versus

GREG ABBOTT, *in his official capacity as the Governor of Texas*; ET AL.,

Defendants,

TEXAS LIEUTENANT GOVERNOR DAN PATRICK, *in his Official Capacity as Lieutenant Governor and Presiding Officer of the Texas Senate*; TOM CRADDICK, *Texas Representative*; RYAN GUILLEN, *Texas Representative*; BROOKS LANDGRAF, *Texas Representative*; TODD HUNTER, *Texas Representative*; JACEY JETTON, *Texas Representative*; ANDREW MURR, *Texas Representative*; KEN KING, *Texas*

No. 22-50662

Representative; GEANIE MORRISON, Texas Representative; SENATOR JOAN HUFFMAN; SEAN OPPERMAN, Texas House Employee; ADAM FOLTZ, Texas House Employee; KOY KUNKEL, Texas House Employee; ANNA MACKIN, Texas House Employee; PHILIP CORTEZ, Texas Representative,

Appellants,

FAIR MAPS TEXAS ACTION COMMITTEE; OCA-GREATER HOUSTON; NORTH TEXAS CHAPTER OF THE ASIAN PACIFIC ISLANDER AMERICANS PUBLIC AFFAIRS ASSOCIATION; EMGAGE; KHANAY TURNER; ANGELA RAINEY; AUSTIN RUIZ; AYA ENELI; SOFIA SHEIKH; JENNIFER CAZARES; NILOUFAR HAFIZI; LAKSHMI RAMAKRISHNAN; AMATULLA CONTRACTOR; DEBORAH CHEN; ARTHUR RESA; SUMITA GHOSH; ANAND KRISHNASWAMY,

Plaintiffs-Appellees,

versus

GREG ABBOTT; ET AL.,

Defendants,

TEXAS LIEUTENANT GOVERNOR DAN PATRICK, *in his Official Capacity as Lieutenant Governor and Presiding Officer of the Texas Senate;* TOM CRADDICK, *Texas Representative;* RYAN GUILLEN, *Texas Representative;* BROOKS LANDGRAF, *Texas Representative;* TODD HUNTER, *Texas Representative;* JACEY JETTON, *Texas Representative;* ANDREW MURR, *Texas Representative;* KEN KING, *Texas Representative;* GEANIE MORRISON, *Texas Representative;* SENATOR JOAN HUFFMAN; SEAN OPPERMAN, *Texas House Employee;* ADAM

No. 22-50662

FOLTZ, *Texas House Employee*; KOY KUNKEL, *Texas House Employee*;
ANNA MACKIN, *Texas House Employee*; PHILIP CORTEZ, *Texas
Representative*,

Appellants,

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

STATE OF TEXAS; ET AL.,

Defendants,

TEXAS LIEUTENANT GOVERNOR DAN PATRICK, *in his Official
Capacity as Lieutenant Governor and Presiding Officer of the Texas Senate*;
TOM CRADDICK, *Texas Representative*; RYAN GUILLEN, *Texas
Representative*; BROOKS LANDGRAF, *Texas Representative*; TODD
HUNTER, *Texas Representative*; JACEY JETTON, *Texas Representative*;
ANDREW MURR, *Texas Representative*; KEN KING, *Texas
Representative*; GEANIE MORRISON, *Texas Representative*; SENATOR
JOAN HUFFMAN; SEAN OPPERMAN, *Texas House Employee*; ADAM
FOLTZ, *Texas House Employee*; KOY KUNKEL, *Texas House Employee*;
ANNA MACKIN, *Texas House Employee*; PHILIP CORTEZ, *Texas
Representative*,

Appellants,

TREY MARTINEZ FISCHER,

Plaintiff-Appellee,

versus

JOHN SCOTT, *in his official capacity as Secretary of State of Texas,*

Defendant,

TEXAS LIEUTENANT GOVERNOR DAN PATRICK, *in his Official Capacity as Lieutenant Governor and Presiding Officer of the Texas Senate;* TOM CRADDICK, *Texas Representative;* RYAN GUILLEN, *Texas Representative;* BROOKS LANDGRAF, *Texas Representative;* TODD HUNTER, *Texas Representative;* JACEY JETTON, *Texas Representative;* ANDREW MURR, *Texas Representative;* KEN KING, *Texas Representative;* GEANIE MORRISON, *Texas Representative;* SENATOR JOAN HUFFMAN; SEAN OPPERMAN, *Texas House Employee;* ADAM FOLTZ, *Texas House Employee;* KOY KUNKEL, *Texas House Employee;* ANNA MACKIN, *Texas House Employee;* PHILIP CORTEZ, *Texas Representative,*

Appellants,

VERONICA ESCOBAR, *U.S. Representative of the 16th Congressional District of Texas,*

Plaintiff-Appellee,

versus

GREG ABBOTT, *in his official capacity as Governor of the State of Texas;* ET AL.,

Defendants,

TEXAS LIEUTENANT GOVERNOR DAN PATRICK, *in his Official Capacity as Lieutenant Governor and Presiding Officer of the Texas Senate;*

No. 22-50662

TOM CRADDICK, *Texas Representative*; RYAN GUILLEN, *Texas Representative*; BROOKS LANDGRAF, *Texas Representative*; TODD HUNTER, *Texas Representative*; JACEY JETTON, *Texas Representative*; ANDREW MURR, *Texas Representative*; KEN KING, *Texas Representative*; GEANIE MORRISON, *Texas Representative*; SENATOR JOAN HUFFMAN; SEAN OPPERMAN, *Texas House Employee*; ADAM FOLTZ, *Texas House Employee*; KOY KUNKEL, *Texas House Employee*; ANNA MACKIN, *Texas House Employee*; PHILIP CORTEZ, *Texas Representative*,

Appellants,

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ERIC WIENCKOWSKI,

Defendant,

TEXAS LIEUTENANT GOVERNOR DAN PATRICK, *in his Official Capacity as Lieutenant Governor and Presiding Officer of the Texas Senate*; TOM CRADDICK, *Texas Representative*; RYAN GUILLEN, *Texas Representative*; BROOKS LANDGRAF, *Texas Representative*; TODD HUNTER, *Texas Representative*; JACEY JETTON, *Texas Representative*; ANDREW MURR, *Texas Representative*; KEN KING, *Texas Representative*; GEANIE MORRISON, *Texas Representative*; SENATOR JOAN HUFFMAN; SEAN OPPERMAN, *Texas House Employee*; ADAM FOLTZ, *Texas House Employee*; KOY KUNKEL, *Texas House Employee*; ANNA MACKIN, *Texas House Employee*; PHILIP CORTEZ, *Texas Representative*,

Appellants,

UNITED STATES OF AMERICA

Plaintiff-Appellee,

versus

THOMAS BRYAN,

Defendant,

TEXAS LIEUTENANT GOVERNOR DAN PATRICK, *in his Official Capacity as Lieutenant Governor and Presiding Officer of the Texas Senate;* TOM CRADDICK, *Texas Representative;* RYAN GUILLEN, *Texas Representative;* BROOKS LANDGRAF, *Texas Representative;* TODD HUNTER, *Texas Representative;* JACEY JETTON, *Texas Representative;* ANDREW MURR, *Texas Representative;* KEN KING, *Texas Representative;* GEANIE MORRISON, *Texas Representative;* SENATOR JOAN HUFFMAN; SEAN OPPERMAN, *Texas House Employee;* ADAM FOLTZ, *Texas House Employee;* KOY KUNKEL, *Texas House Employee;* ANNA MACKIN, *Texas House Employee;* PHILIP CORTEZ, *Texas Representative,*

Appellants.

Appeal from the United States District Court
for the Western District of Texas

USDC No. 3:21-CV-259

USDC No. 1:21-CV-943

USDC No. 1:21-CV-965

USDC No. 1:21-CV-988

USDC No. 1:21-CV-991

USDC No. 1:21-CV-1006

USDC No. 1:21-CV-1038

No. 22-50662

USDC No. 3:21-CV-299
USDC No. 3:21-CV-306
USDC No. 3:22-CV-22
USDC No. 3:22-MC-219
USDC No. 3:22-MC-230

UNPUBLISHED ORDER

Before RICHMAN, *Chief Judge*, WIENER, and WILLETT, *Circuit Judges*
PER CURIAM:

IT IS ORDERED that the District Court's order of July 25, 2022 is VACATED in light of this Court's order in No. 22-50435, *LULAC Texas v. Hughes*. The case is REMANDED to the District Court.