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November 29, 2016

The Honorable Jerry E. Smith
Circuit Judge, United States Court of Appeals - Fifth Circuit
515 Rusk Avenue, Room 12621
Houston, Texas 77002-2698

The Honorable Orlando Garcia
Chief Judge, United States District Court of Texas,
Western District - San Antonio Division
655 E. Cesar E. Chavez Blvd.
San Antonio, Texas 78206

The Honorable Xavier Rodriguez
United States District Court of Texas,
Western District of Texas - San Antonio Division
655 E. Cesar E. Chavez Blvd.
San Antonio, Texas 78206

Re: Perez, et al. v. Perry, et al., Case 5:11-cv-00360

Dear Judge Smith, Chief Judge Garcia, and Judge Rodriguez:

On May 9, 2011, the plaintiffs filed the above titled action against the State of Texas seeking relief for alleged vote dilution and intentional discrimination in the adoption and implementation of the redistricting maps for the Texas House of Representatives, the Texas Senate, and Texas' delegation to the United States House of Representatives. On September 1,

2011, trial on the merits commenced. After trial, the plaintiffs sought and were awarded a preliminary injunction preventing the implementation of the legislatively-adopted maps, as those plans had not been pre-cleared pursuant to federal law. The maps adopted by the State of Texas were never implemented because of the actions of the plaintiffs.

After seeking input from the parties, in November of 2011, this Court adopted interim relief that reversed many of the discriminatory elements of the State's redistricting plans. This interim relief included the creation of minority-majority house districts in South Texas, Houston, El Paso, and San Antonio, as well as modifications to CD 23 and a majority-minority congressional district in the Dallas/Fort Worth area. Even after this order was vacated and remanded with instructions by the United States Supreme Court, some of the relief sought by the plaintiffs was finally included in the second set of remedial maps ordered by this Court.

However, this relief was not final relief, as this Court was obligated to wait until a final determination of Texas' suit for pre-clearance was made by a three-judge panel in the District Court of the District of Columbia in *Texas v. United States*, 1:11-cv-1303, (RMC-TBG-BAH), Three Judge Court. On August 28, 2011, the District Court in the District of Columbia denied preclearance of the Texas redistricting plans, based both on findings of retrogression and intent.

On June 23, 2013, the State adopted the court-ordered interim relief with some adjustments. After enactment of the court-ordered plans, the State formally sought to end this case with a motion to dismiss for mootness. This motion was denied by this Court on September 6, 2013.

The following year on June 14, 2014, this Court entered an order setting trial to hear evidence concerning the adoption of the 2011 House and Congressional maps. Trial on the Texas House plan commenced on July 19, 2014. From August 11 – 16, this Court heard evidence relating to the 2011 congressional plan. On October 30, 2014, the parties filed post trial briefs. On December 4, 2014, the parties filed post-trial reply briefs.

In 2015, this Court directed the parties to file briefs concerning how the Supreme Court's decision in *Alabama Legislative Black Caucus v. Alabama* might affect the remaining claims at issue in this case. In October of 2015, some of the plaintiffs sought a preliminary injunction to enjoin implementation of the 2013 plans for the 2016 election cycle. The Court denied this motion. In the order denying this motion for injunction, the Court stated, "[that it] has been working diligently and has made substantial progress toward resolution of the claims on the 2011 plans; however, it has not yet reached a final decision. Trial on the merits of the claims against the 2013 plans has not been scheduled, and legal challenges to the 2013 plans will not be resolved before the 2016 election cycle."

In 2016, this Court ordered that the litigants file supplemental briefs regarding another U.S. Supreme Court redistricting decision in Arizona. On July 29, 2016, another set of plaintiffs sought a scheduling conference to establish a schedule for the residual claims concerning the adoption of the 2013 maps.

The current status of this case has remained unchanged since the court order denying the plaintiffs a preliminary injunction. The litigants in this cause have had two trials totaling hundreds of hours of testimony and thousands of pages of exhibits and evidence. All pending issues have been briefed extensively. The plaintiffs have survived multiple attempts to dismiss this cause of action. There has been one interlocutory appeal and more contentious appeals loom on the horizon. It has been 2,032 days since the filing of this lawsuit. It has been 1,717 days since this Court ordered its second interim maps. It has been 727 days since final post trial briefing was filed in this cause. In the ensuing elections, more than 19 million votes have been cast in Texas general elections using maps that plaintiffs contend violate U.S. federal law.

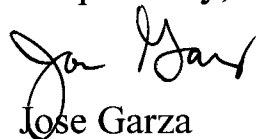
In sum, since the close of evidence on the 2011 plans in the autumn of 2014, the plaintiffs have sought a scheduling conference. They have sought an injunction. They have filed hundreds of pages of briefs and they have waited two years for an order from this Court.

All litigants in this suit understand the density and magnitude of the evidence before this Court. This is a difficult case that is both procedurally and substantively complex and no matter the action of this court, it promises to continue on appeal. However, the plaintiffs cannot begin to take action on the 2013 case, until this Court rules on the pending claims on the 2011 plans. If no order is issued in the coming days, then the plaintiffs' active claims concerning the 2013 case may not receive a hearing and an opportunity for appeal before the 2018 election cycle. Evidence is growing stale. Votes are being cast. And the rights of millions of Texans hang in the balance.

It is with the utmost respect that the private plaintiffs ask this Court to act. The Preamble to both the Texas Code of Professional Responsibility and the ABA Model Rules of Professional Conduct obligate us to zealously represent our clients. Our clients, millions of Texans affected by Texas' vote dilution, and the future of our state require action. At this time, the private plaintiffs in this action respectfully request that this Court issue its order concerning the existing claims for the 2011 state house and congressional plans by December 13, 2016. We are duty bound to take action, even extraordinary action, to best ensure that our clients' claims are protected. Our time is running short as the next Legislative session approaches—the next to last regular Legislative session prior to the upcoming regular redistricting session in 2021.

Every litigant, party, and participant in this action respects the extensive time the Court has dedicated to this litigation, but we have an affirmative obligation to move this litigation. This Court has already taken significant steps through its interim remedy. However, there is more work to be done. The fate of millions rest in the hands of this Court. That is why we are making this extraordinary request.

Respectfully,



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/s/ Nina Perales

Nina Perales

Attorney for Plaintiff Texas Redistricting Task Force, et al.

/s/ David Richards

David Richards

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/s/ Luis Vera

Luis Vera

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/s/ Allison J. Riggs

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Attorney for Texas State Conference of NAACP Branches, et al.,

/s/ M. Renea Hicks

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Attorney for Plaintiff Rodriguez, et al.,

/s/ Gerald Hebert

J. Gerald Hebert

Attorney for Plaintiffs Quezada et al.

/s/ Chad Dunn

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Attorney for Texas Democratic Party and Chairman Gilberto Hinojosa

Cc:

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