

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

SHANNON PEREZ, et al.,)	
)	
Plaintiffs)	
)	CIVIL ACTION NO:
)	
v.)	
)	
STATE OF TEXAS; RICK PERRY,)	
In his official capacity as Governor of the)	
State of Texas; DAVID DEWHURST,)	
In his official capacity as Lieutenant)	
Governor of the State of Texas; JOE)	
STRAUS, in his official capacity as)	
Speaker of the Texas House of)	
Representatives)	
Defendants)	

**PLAINTIFFS’¹ JOINT MOTION FOR BIFURCATION OF REMAINING ISSUES ON
2011 REDISTRICTING PLANS AND NEW CHALLENGE TO 2013 REDISTRICTING
PLANS, ABATEMENT OF THE TRIAL ON THE 2013 ENACTMENTS, AND
PROPOSED SCHEDULING ORDER**

Pursuant to Fed. R. Civ. P. 42(b), Plaintiffs jointly request that this Court bifurcate trial on Plaintiff’s Causes of Action as to the 2011 enactments and abate any consideration of the 2013 enactments until a final judicial determination has been entered as to the violations of the Voting Rights Act and the 14th and 15th Amendments of the United States Constitution by Defendant stemming from the 2011 redistricting plans.

Federal Rule of Civil Procedure 42 (b) provides that the Court may order separate trials of any claims or issues "in furtherance of convenience or to avoid prejudice, or when separate

¹ Plaintiffs MALC, Texas Latino Redistricting Task Force, Perez et al., Quesada et al., Texas Conference of NAACP Branches et al., Cuellar, Johnson et al., and LULAC join in this motion. Plaintiffs Rodriguez et al., do not oppose the separation of the hearing on 3c relief and declaratory judgment regarding the 2011 enactments from trial on 2013 enactments, but do not join in this motion.

trials will be conducive to expedition and economy." A separate trial may be ordered on motion of any party or sua sponte. *Saxion v. Titan C-Manufacturing*, 86 F. 3d 553, 556 (6th Cir. 1996).

Plaintiffs also request, pursuant to Fed. R. Civ. P. 16 and for good cause shown, that this Court modify its scheduling order to facilitate this bifurcation in the following manner:

- 1) All motions by any party for declaratory judgment and to seek Section 3(c) relief to remedy alleged intentional discrimination by Texas as to the enactment of the 2011 redistricting plans be filed with the Court by October 4, 2013;
- 2) Hearing on admissibility of exhibits and testimony from DDC on October 16, 2013;
- 3) Texas' response to any 3(c) motion must be filed with the Court by October 18, 2013;
- 4) Any reply to Texas' response must be filed with the Court by November 1, 2013;
- 5) A hearing to be held on December 1, 2013, for presentation of additional evidence and oral argument to allow the court to make a final determination on the extant legal claims against the 2011 redistricting enactments.
- 6) Trial schedule, including discovery, expert reports, and pretrial motions regarding the 2013 redistricting enactments is abated pending resolution of issues related to the 2011 redistricting enactments.

There are several reasons why bifurcation, abatement, and the proposed scheduling order are proper. This schedule will focus the litigants on the most pressing and controversial issues before the Court. It will bring to a close a case that was tried more than two years ago. It is apparent that whatever final determination and possible remedy that this Court may make as to the 2011 enactments will set the blue-print for future litigation regarding the 2013 enactments and with regard to Section 3(c) standards. An expedited resolution of the issues regarding the 2011 plans will allow for appellate review in a timely fashion so that any further litigation will benefit from the Supreme Court's guidance. In short, the history of this case demands all of the focus and energy of the litigants to these issues.

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CERTIFICATE OF CONFERENCE

Plaintiffs' counsel Jose Garza has conferred with Defendants' counsel Mr. Sweetan and with counsel for applicant Plaintiff Intervenor, the United States, Mr. Mellett and has been informed that Defendants oppose this Motion and the United States supports this Motion.

/s/ Jose Garza

Jose Garza

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of September, 2013, I electronically filed the foregoing using the CM/ECF system which will send notification of such filing to all counsel of record

