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October 15, 2024

**By Electronic Filing**

The Honorable Jerry E. Smith  
The Honorable David C. Guaderrama  
The Honorable Jeffrey V. Brown  
United States District Court for the  
Western District of Texas  
262 West Nueva Street  
San Antonio, Texas 78207

cc: Counsel of Record via ECF.

Re. *League of United Latin America Citizens et al., v. Abbott et al.*, No. EP-21-CV-00259-DCG-JES-JVB (W.D. Texas)

Dear Judge Smith, Judge Guaderrama, and Judge Brown:

We write on behalf of Plaintiff-Intervenors Eddie Bernice Johnson, Sheila Jackson-Lee, Alexander Green, and Jasmine Crockett in response to the Court's order requesting briefing on the impact of the recent Fifth Circuit decision in *Petteway v. Galveston County* on our case. While *Petteway* significantly impacts coalition claims under Section 2 of the Voting Rights Act, we respectfully submit that our case remains viable and unaffected by this decision.

**I. Impact on Section 2 Claims**

*Petteway* overturns Fifth Circuit precedent allowing minority coalition claims under Section 2 of the Voting Rights Act. This may affect some Section 2 claims in related cases. However, we emphasize that our clients, as individual voters and incumbent legislators or candidates, do not bring coalition-based Section 2 claims. Their claims focus on intentional discrimination and racial gerrymandering affecting specific districts (CDs 9, 18, and 30).

**II. Viability of Constitutional Claims**

Our constitutional claims of intentional discrimination and racial gerrymandering under the Fourteenth and Fifteenth Amendments remain fully viable. Intentional harm to districts with significant minority populations still violates the Fourteenth and Fifteenth Amendments, even if not cognizable under Section 2 through coalition claims. We draw an analogy to the Supreme Court's decision in *Bartlett v. Strickland*, where the Court stated:

"[I]f there were a showing that a State intentionally drew district lines in order to destroy otherwise effective crossover districts, that would raise serious questions under both the Fourteenth and Fifteenth Amendments. " *Bartlett v. Strickland*, 556 U.S. 1, 24 (2009)(quoting *Reno v. Bossier Parish School Bd.*, 520 U.S. 471, 481–482, 117 S.Ct. 1491, 137 L.Ed.2d 730 (1997)).

Similarly, we contend that the intentional destruction or manipulation of coalition districts for predominantly racial reasons still violates the Fourteenth and Fifteenth Amendments, regardless of Section 2's applicability.

It's important to note that in *Texas v. United States*, the court recognized that "CDs 9, 18, and 30 are the only Black ability districts in" in Texas. 887 F. Supp. 2d 133, 159 (D.D.C. 2012). This underscores the significance of these districts, which are the focus of our clients' claims, and the potential constitutional implications of their manipulation.

### **III. Plaintiff-Intervenors' Claims Unaffected**

We emphasize that the claims brought by our clients do not rely on coalition-based Section 2 arguments. Their claims are grounded in intentional discrimination and racial gerrymandering affecting specific districts. Therefore, these claims are entirely unaffected by the *Petteway* decision and should proceed without impediment.

### **IV. Request to Amend**

Should the Court disagree about the applicability of *Petteway* to the Intervenor's suit, and in light of the sea change *Petteway* wrought on Fifth Circuit jurisprudence, we respectfully request leave to amend our complaint and Expert reports to comport with the Courts understanding.

### **V. Conclusion**

While *Petteway* impacts coalition-based Section 2 claims, the core of our case—focused on intentional discrimination and racial gerrymandering in specific districts—remains viable. We are prepared to proceed with these claims and respectfully request the Court's guidance on amending our complaint to address the changed legal landscape.

We appreciate the Court's consideration of these issues and are available to provide any additional information or briefing the Court may require.

Very truly yours,  
/s/ Nickolas A. Spencer  
Gary L. Bledsoe  
Nickolas A. Spencer, Attorney



Attorney for Plaintiff-Intervenors Eddie  
Bernice Johnson, Sheila Jackson-Lee, Alexander  
Green, and Jasmine Crockett

