

**Ryan Kercher**

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**From:** Malhi, Jaywin (CRT) <Jaywin.Malhi@usdoj.gov>  
**Sent:** Friday, July 12, 2024 12:56 PM  
**To:** Ryan Kercher; Sharon Murray; Kathleen Hunker; Munera Al-Fuhaid; Will Wassdorf; Lanora Pettit; Amaireny Rodriguez  
**Cc:** Mellett, Timothy F (CRT); Freeman, Daniel (CRT); Rupp, Michelle (CRT); Anderson, Jacki (CRT); Berlin, Holly (CRT); David Fox; Nina Perales; Hilary Harris Klein; chad@brazilanddunn.com; mark@markgaber.com; sonniwaknin@gmail.com; quesada@texttrial.com; joaquinrobertgonzalez@gmail.com; smccaffity@texttrial.com; neil.steiner@dechert.com; pchaudhuri@lawyerscommittee.org; sfgold@lawyerscommittee.org; aharris@aclutx.org; ddonatti@aclutx.org; rudenskyy@brennan.law.nyu.edu; martin.golando@gmail.com; Richard Medina; gbledsoe@thebledsoelawfirm.com; nas@naslegal.com; Taylor Meehan; frank@consovoymccarthy.com; patrick@consovoymccarthy.com  
**Subject:** RE: LULAC v. Abbott (Texas Redistricting): Draft Status Report

Ryan,

Thanks for your email. We're willing to share the Plaintiffs groups' current thinking so you can better understand our position. Please note that these thoughts are tentative and subject to change as this case progresses.

Fact Discovery: Since discovery closed two years ago, we believe there should be additional (albeit limited) fact discovery. We're unable to state with certainty what exactly that discovery will entail for a few reasons, including still-pending motions and the passage of time. Plaintiffs anticipate disclosing some new fact witnesses but do not anticipate issuing new written discovery (though we do not waive the right to do so if discovery is reopened).

Expert Discovery: Some Plaintiffs groups might have to disclose additional experts because, most notably, a few existing experts have become ill and may need to be replaced. And because our previously filed expert reports do not address the 2022 elections and new Census data, among other issues, we will need to supplement some reports touching on those topics. We do not, however, intend to wait for the November 2024 general election results.

Pleadings: The United States does not intend to supplement or amend its complaint to address the 88th Legislature's reenactment of the redistricting plans initially passed by the 87th Legislature. The LULAC Plaintiffs plan to amend or supplement soon. And the NAACP Plaintiffs and Brooks Plaintiffs will likely amend or supplement when we have a pretrial schedule.

Thanks.

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**From:** Ryan Kercher <Ryan.Kercher@oag.texas.gov>  
**Sent:** Thursday, July 11, 2024 11:08 AM  
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**Subject:** [EXTERNAL] RE: LULAC v. Abbott (Texas Redistricting): Draft Status Report

Jaywin –

We are evaluating the proposal you forwarded on Tuesday. In order for State Defendants to formulate a response, it would be helpful to know the following.

- **Fact Discovery:** Section B(2) describes fact discovery and depositions of newly-disclosed witnesses, newly-disclosed issues, and newly-disclosed documents.
  - o Do Plaintiffs anticipate disclosing additional fact witnesses? If so, how many (approximately)?
  - o Do Plaintiffs anticipate issuing new written discovery?
  - o Can you provide a general description of what the newly-disclosed issues might be?
  - o Can you provide a general description of how the fact discovery would be limited?
- **Expert Discovery:** Section B(3) describes supplemental expert reports.
  - o Do Plaintiffs anticipate disclosing additional experts? If so, how many?
  - o How many of Plaintiffs' current expert witnesses will supplement their reports?
  - o Based on the timeline proposed, it appears Plaintiffs do not intend to await the 2024 General Election results. Is that correct?
- **Pleadings:** Plaintiffs have previously represented their intent to supplement or amend their complaints to address HB 1000 of the 88<sup>th</sup> Texas Legislature. To date, we have received two such revised pleadings.
  - o Can the remaining Plaintiffs groups provide a date certain by which they will file their revised pleadings?
  - o If some Plaintiffs' groups have determined they will not so revise, can Plaintiffs please identify which groups elect not to amend or supplement?

Thanks in advance, and hope you're well.

Regards,

RGK

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**From:** Malhi, Jaywin (CRT) <[Jaywin.Malhi@usdoj.gov](mailto:Jaywin.Malhi@usdoj.gov)>

**Sent:** Tuesday, July 9, 2024 4:12 PM

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**Subject:** LULAC v. Abbott (Texas Redistricting): Draft Status Report

Counsel:

In the interest of keeping this litigation moving, we have prepared the attached draft status report to soon file with the Court. All Plaintiffs groups have signed off on this draft (except for the Plaintiff-Intervenors, who have not yet given us their position) and we invite you to review and add any input you may have. Though most of the content of the status report should be uncontroversial, you may have different thoughts for the last section; accordingly, we have left space for you to fill in your position, should you disagree with ours. We look forward to receiving your feedback soon. Thanks.

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