

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

LA UNION DEL PUEBLO ENTERO, et al.,

Plaintiffs,

v.

STATE OF TEXAS, et al.,

Defendants,

HARRIS COUNTY REPUBLICAN PARTY, et al.,

Intervenor-Defendants.

Case No. 5:21-CV-844-XR
(Consolidated Cases)

HAUL-MFV, LUPE, AND LULAC PLAINTIFFS' ADVISORY

Pursuant to the Court's Order dated December 19, 2024 (Dkt. 1195), as amended on January 10, 2025, the HAUL-MFV Plaintiffs, the LUPE Plaintiffs, and the LULAC Plaintiffs (collectively, the "Private Plaintiffs") respectfully submit the following Advisory after consultation with the State Defendants and Intervenor Defendants:

(1) Responding to the Court's question whether the Private Plaintiffs intend to proceed with their claims for intentional discrimination in violation of the Fourteenth and Fifteenth Amendments:

The HAUL-MFV and LULAC Plaintiffs intend to proceed to trial on their claims for intentional discrimination ("Phase II"),¹ noting that they reserved for Phase II certain proof of intent in addition to the evidence that was anticipated to result from a favorable appellate ruling on Defendants' claims of legislative privilege. They also did

¹ LULAC Plaintiffs' intentional discrimination claim is raised under Section 2 of the Voting Rights Act. LULAC Plaintiffs do not raise any intentional discrimination claims under the Fourteenth and Fifteenth Amendments. *See generally* ECF No. 753 at 7-8.

not discuss the proof of intent they adduced in the Phase I trial in their post-Phase I submissions or closing arguments, reserving those presentations for Phase II as well.

The State Defendants have asked us to advise the Court that they “believe no Phase II is necessary because Phase II was originally intended only to present evidence of intent that might follow Fifth Circuit rulings on then-pending appeals. Those appeals netted no additional documents to Private Plaintiffs, rendering further trial unnecessary. Should the Court elect to hold a second phase, State Defendants agree that such trial should proceed as set out below.”

HAUL-MFV and LULAC Plaintiffs and State Defendants anticipate that their witnesses may include certain current members of the Texas State Senate and Texas House of Representatives. As a practical matter, therefore, these parties expect that Phase II could not take place before the conclusion of the current legislative session and any additional special sessions that may be called, and respectfully suggest that the Court set October 6, 2025, or another date thereafter during October, 2025, at the Court’s convenience, for trial to commence. The parties estimate that the Phase II trial should take no more than two weeks. They will not repeat testimony or re-introduce documents relevant to intent that were received into evidence during the trial of Phase I; they will cite such testimony and documents in the proposed Findings of Fact and Conclusions of Law that they will submit after the Phase II trial and in closing argument. The parties expect to work cooperatively, to the extent possible, to streamline their trial presentations.

The LUPE Plaintiffs do not intend to proceed to trial on intentional discrimination claims. In conjunction with this filing, the LUPE Plaintiffs are filing an unopposed motion for

voluntary dismissal without prejudice pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure.²

(2) Responding to the Court's question whether it should postpone issuing findings of fact and conclusions of law on Plaintiffs' claims under Section 2 of the VRA until Phase II has concluded:

The HAUL-MFV and LUPE Plaintiffs and State Defendants join in respectfully urging the Court to issue, in advance of Phase II of trial, its Findings of Fact and Conclusions of Law on the HAUL-MFV and LUPE Plaintiffs' discriminatory results claims under Section 2 of the VRA, based on the proof presented in Phase I.

The LULAC Plaintiffs respectfully request that the Court postpone until after Phase II issuing its Findings of Fact and Conclusions of Law as to LULAC Plaintiffs' VRA Section 2 claim, which is based primarily on theories of intentional discrimination. See ECF No. 753 at 8.

Dated: January 24, 2025

Respectfully submitted,

² As explained in that motion, the LUPE Plaintiffs' Second Amended Complaint alleges that various provisions of SB1 were enacted with a racially discriminatory purpose in violation of the Fourteenth and Fifteenth Amendments to the U.S. Constitution (Counts II and III) and Section 2 Voting Rights Act (Count IV). That motion does not affect the remaining challenges raised in Count IV of the LUPE Plaintiffs' Second Amended Complaint—namely, that the challenged provisions have discriminatory results in violation of Section 2 of the VRA. The LUPE Plaintiffs' discriminatory results claims under Section 2 of the VRA are addressed further below.

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CERTIFICATE OF SERVICE

I certify that the above document was served via email on the Court's CM/ECF system to all counsel of record on January 24, 2025.

/s/ Victor Genecin
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