

No. 22-50407

**UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

LEAGUE OF UNITED LATIN AMERICAN CITIZENS, et al.,
Plaintiffs-Appellees,

v.

GREG ABBOT, et al.,

Defendants,

RYAN GUILLEN, TEXAS HOUSE MEMBER, BROOKS LANDGRAF, TEXAS HOUSE MEMBER
& JOHN LUJAN, TEXAS HOUSE MEMBER,

Third-Party Movants-Appellants.

On Interlocutory Appeal from or, Alternatively, Petition for Writ of Mandamus to the United States
District Court for the Western District of Texas No. 3:21-cv-259-DCG-JES-JVB [Lead Case]

NOTICE OF DISTRICT COURT'S ORDER DENYING STAY PENDING APPEAL

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NOTICE

The legislators filed an emergency stay motion earlier today. The legislators have been ordered to appear for depositions and give privileged testimony, irrespective of the legislators' invocation of legislative immunity and privilege. *See* Emergency Stay Motion, Ex. A (Order). Both in the district court and in this Court, the legislators requested a stay of the depositions pending the legislators' appeal of that order, which raises serious questions about the scope of legislative immunity and privilege that have evaded this Court's review.

At the time of the legislators' filing in this Court, the district court had not yet ruled on the legislators' motion for a stay pending appeal filed in the district court. *See* Fed.R.Civ.P. 8(a)(1). The district court has now denied the motion. That order is attached as Exhibit A.

For the reasons stated in the legislators' pending emergency stay motion, the legislators respectfully request a stay of the depositions pending appeal or, alternatively, a stay pending the Supreme Court's resolution of *Merrill v. Milligan*, U.S.S.C. No. 21-1086, and a temporary administrative stay while the Court considers the legislators' motion. To prevent the depositions from proceeding absent this Court's review, the legislators respectfully request a decision on their request for an emergency stay as soon as practicable and no later than Friday, May 20, 2022, at 8:00 p.m., and their request for a temporary administrative stay as soon as practicable.

Respectfully submitted,

Dated: May 19, 2022

/s/ Adam K. Mortara

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** Application for readmission forthcoming*

*Counsel for State Legislators
& State Defendants*

CERTIFICATE OF SERVICE

I filed this motion with the Court via ECF, which will electronically notify all parties who have appeared in this case. I further certify that I have electronically served this motion by emailing parties appearing in the consolidated district court proceedings. Any required privacy redactions have been made in compliance. The document has been scanned and is free of viruses. No paper copies were filed in accordance with the COVID-19 changes ordered in General Docket Order No. 2020-3.

Dated: May 19, 2022

/s/ Adam K. Mortara
Adam K. Mortara

*Counsel for Legislators,
Third-Party Movants-Appellants*

EXHIBIT A

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

LEAGUE OF UNITED LATIN
AMERICAN CITIZENS, *et al.*,

Plaintiffs,

EDDIE BERNICE JOHNSON, *et al.*,

Plaintiff-Intervenors,

v.

GREG ABBOTT, *in his official capacity as
Governor of the State of Texas, et al.*,

Defendants.

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EP-21-CV-00259-DCG-JES-JVB
[Lead Case]


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All Consolidated Cases

ORDER

After carefully considering the Legislators’ “Emergency Motion to Stay Legislators’ Depositions Pending Appeal” (ECF No. 283) and the briefs in opposition, the Court **DENIES** the Motion to Stay.

So ORDERED and SIGNED on this 19th day of May 2022.



DAVID C. GUADERRAMA
UNITED STATES DISTRICT JUDGE

And on behalf of:

Jerry E. Smith
United States Circuit Judge
U.S. Court of Appeals, Fifth Circuit

-and-

Jeffrey V. Brown
United States District Judge
Southern District of Texas