



1           These inefficiencies can be fixed if the two challenges are resolved via a single trial. The  
 2 parties in *Soto Palmer* and *Garcia* are already coordinating discovery, so permitting Intervenor-  
 3 Defendants to add their crossclaim, but then bifurcating that crossclaim for trial, as Intervenor-  
 4 Defendants suggest may be appropriate (Dkt. # 109 at 4), would leave the parties in the same  
 5 position they are in right now. Rather, as Intervenor-Defendants suggest elsewhere in their brief,  
 6 the more prudent and sensible course would be for “the three-judge panel”—on which this Court  
 7 sits—to “hear the case as a whole, as both claims will largely consist of the same evidence, and  
 8 then [issue] separate opinions . . . for the statutory and constitutional claims[.]” *Id.* at 3 n.3.

9           Plaintiffs argue strenuously that the three-judge panel *might* not have jurisdiction to rule  
 10 on Intervenor-Defendants’ proposed crossclaim, *see* Dkt. # 105 at 3–6; *but see League of United*  
 11 *Latin Am. Citizens v. Abbott*, No. 21-CV-00259-DCG-JES-JVB, 2021 WL 5417402 at \*2  
 12 (W.D. Tex., Nov. 19, 2021), and therefore consolidation is inappropriate. But even if Plaintiffs are  
 13 right, their jurisdictional concern is beside the point. This Court could render a separate opinion  
 14 on the *Soto Palmer* Plaintiffs’ claim following a trial before a three-judge panel on all parties’  
 15 claims. This would avoid any potential jurisdictional issues. *See Cooper v. Reynolds*, 77 U.S.  
 16 308, 316 (1870) (“[J]urisdiction . . . [refers] to the power of the court over the parties, over the  
 17 subject-matter, . . . and to the authority of the court to render the judgment or decree which it  
 18 assumes to make.”). And it would increase efficiency.<sup>1</sup>

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 24           <sup>1</sup> Scheduling-wise, the easiest way to accomplish this would seem to be for both claims  
 25 to be heard when the three-judge panel is already scheduled to convene for *Garcia* in June 2023.  
 26 This would involve an additional month of delay for the *Soto Palmer* Plaintiffs, but this brief  
 delay would not prejudice Plaintiffs and would be more than made up for by the prejudice it  
 would resolve to the State and Intervenor-Defendants.

1 DATED this 21st day of November, 2022, at Seattle, Washington.

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**DECLARATION OF SERVICE**

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court’s CM/ECF System which will serve a copy of this document upon all counsel of record.

DATED this 21st day of November 2022, at Seattle, Washington.

s/ Andrew R.W. Hughes  
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