

## Bernal-Leon, Marisol

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**From:** Webster, Brent  
**Sent:** Wednesday, December 9, 2020 4:56 PM  
**To:**  
**Subject:** Draft intervention for Texas Original Action - deadline imminent  
**Attachments:** 2020-Election-StatesIntervention.docx

No. \_\_\_\_\_, Original

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**In the Supreme Court of the United States**

STATE OF TEXAS,

*Plaintiff,*

v.

COMMONWEALTH OF PENNSYLVANIA, STATE OF  
GEORGIA, STATE OF MICHIGAN, AND STATE OF WIS-  
CONSIN,

*Defendants.*

MOTION OF STATE OF \_\_\_\_\_, STATE OF \_\_\_\_\_,  
AND STATE OF \_\_\_\_\_ TO INTERVENE AS PLAIN-  
TIFFS

[Name/Address]

\* *Counsel of Record*

## **INTRODUCTION**

Pursuant to S.Ct. Rule 17 and 21 and by analogy to FED. R. CIV. P. 24, movants State of \_\_\_\_\_, State of \_\_\_\_\_, and State of \_\_\_\_\_ (collectively, “Plaintiffs-Intervenors”) move for leave to intervene as plaintiffs in this matter as of right or, in the alternative, permissively. Plaintiff in this action is the State of Texas; the defendants are the Commonwealth of Pennsylvania, the State of Georgia, the State of Michigan, and the State of Wisconsin (collectively, the “Defendant States”). Plaintiff sued the Defendant States in an original action relating to the administration of the 2020 presidential election in each state, alleging that the Defendant States ran their 2020 election processes in noncompliance with the ballot-integrity requirements of their State legislature’s election statutes, in violation of the Electors Clause of Article II, Section 1, Clause 2, and the Fourteenth Amendment of the U.S. Constitution. In lieu of submitting a Bill of Complaint in Intervention, Plaintiffs-Intervenors adopt the Bill of Complaint that Texas has sought leave to file. *Cf.* FED. R. CIV. P. 24(c).

This Court has jurisdiction over Plaintiffs-Intervenors’ claim pursuant to Article III of the United States Constitution and 28 U.S.C. §1251(a), the latter of which provides that “[t]he Supreme Court shall have original and exclusive jurisdiction of all controversies between two or more States.” 28 U.S.C. §1251(a). For the reasons stated herein, and in the Bill of Complaint, Plaintiffs-Intervenors have a direct, substantial, and sovereign interest in the subject matter of the suit.

FED. R. CIV. P. 24 sets out the criteria for intervention both as of right and permissively. Although Rule 24 does not apply by its terms to appellate proceedings, appellate courts frequently look to its criteria to guide intervention into appellate litigation, *Mullaney v. Anderson*, 342 U.S. 415, 416-17 (1952), and this Court's rule for original actions adopt the federal rules for motions and pleadings. See S.Ct. Rule 17.2.

### **INTERVENTION OF RIGHT**

This action meets the four-prong test for intervention as of right.

#### **The Motion to Intervene Is Timely**

For both intervention as of right and permissive intervention, the motion must be timely, FED. R. CIV. P. 24(a), (b)(1), where “the point to which the suit has progressed is one factor” but “not solely dispositive.” *Nat'l Ass'n for Advancement of Colored People v. New York*, 413 U.S. 345, 365-66 (1973) (“*NAACP*”). Courts evaluate timeliness under a totality-of-the-circumstances test, “determined by the court in the exercise of its sound discretion.” *Id.* With only days having passed since Texas filed this action on the evening of December 7, this motion is timely for both intervention as of right and permissive intervention.

Intervention would not delay these proceedings at all. Plaintiffs-Intervenors' participation would not prevent the Court's granting of the interim relief that Texas has requested or affect the briefing schedule that the Court has set.

### **The Movants Have a Sufficient Interest**

Plaintiffs-Intervenors have the same sovereign dignity before this Court that Texas has and thus “claim[] an interest relating to the property or transaction that is the subject of the action.” FED. R. CIV. P. 24(a)(2); *South Carolina v. North Carolina*, 558 U.S. 256, 274-75 (2010). “Only in *rare circumstances* will a litigant in one cause be compelled to stand aside while a litigant in another settles the rule of law that will define the rights of both.” *Landis v. North American Co.*, 299 U.S. 248, 255 (1936) (emphasis added). Given this Court’s exclusive jurisdiction for actions between States, this Court should not limit jurisdiction to the first filer.

Because Plaintiffs-Intervenors seek the same relief as Texas, they do not need independent Article III standing, *Town of Chester v. Laroe Estates, Inc.*, 137 S.Ct. 1645, 1651 (2017), but Plaintiffs-Intervenors have the same basis for standing as Texas: injury to their own voting rights *as States* in the Senate, *see* U.S. CONST. art. V, cl. 3 (“no state, without its consent, shall be deprived of its *equal suffrage in the Senate*”) (emphasis added), plus injuries to the voting rights of their citizens and electors *as parens patriae*. *New Jersey v. New York*, 345 U.S. 369, 372-73 (1953) (citing *Kentucky v. Indiana*, 281 U.S. 163, 173 (1930)). Either this Court lacks Article III jurisdiction for this entire dispute, or Plaintiffs-Intervenors suffer an Article III injury well beyond Rule 24’s mere “interest” threshold.

### **This Action May Impair the Plaintiffs-Intervenors' Interests**

To meet the third criterion for intervention as of right, Plaintiffs-Intervenors must establish that they are “so situated that disposing of the action may as a practical matter impair or impede the [movants’] ability to protect [their] interest.” FED. R. CIV. P. 24(a)(2). The gravamen of the Bill of Complaint is a *national* election for President and Vice President: “the impact of the votes cast in each State is affected by the votes cast for the various candidates in other States.” *Anderson v. Celebrezze*, 460 U.S. 780, 795 (1983). Plaintiffs-Intervenors will be affected to the same extent as all other States.

### **Texas Does Not Adequately Represents Plaintiffs-Intervenors**

To meet FED. R. CIV. P. 24(a)’s fourth criterion for intervention as of right, Plaintiffs-Intervenors must establish that the existing plaintiff—Texas—*may* inadequately represent their interests. *Trbovich v. United Mine Workers of America*, 404 U.S. 528, 538, n.10 (1972). Because this Court reads the required showing as “minimal,” *id.*, the fourth criterion is easily met here. While Texas “must be deemed to represent all its citizens,” *Kentucky v. Indiana*, 281 U.S. 163, 173-174 (1930), Texas does not represent Plaintiffs-Intervenors’ citizens. Similarly, Native American Tribes with claims to water rights that the United States already was pressing “on their behalf” could meet the test for inadequate representation by the United States, especially for permissive intervention *a. Arizona v. California*, 460 U.S. 605, 615 (1983). Texas represents Plaintiffs-Intervenors to a far lesser

extent that the United States represented the Tribes in *Arizona*.

### **PERMISSIVE INTERVENTION**

To intervene permissively pursuant to FED. R. CIV. P. 24(b), a movant must (1) avoid “unduly delay[ing] or prejudic[ing] the adjudication of the original parties’ rights;” and (2) have a “claim or defense that shares with the main action a common question of law or fact.” Even if Plaintiffs-Intervenors do not meet the test for intervention as of right, they readily meet the test for permissive intervention. *Ionian Shipping Co. v. British Law Ins. Co.*, 426 F.2d 186, 191-92 (2d Cir. 1970) (denial of intervention as of right does not preordain denial of permissive intervention). For the reasons already set forth above, this motion is timely. *See, e.g., NAACP*, 413 U.S. at 365 (timeliness under Rule 24(a) and Rule 24(b) coincide). Moreover, intervention would not delay this litigation at all: If the Court denies Texas leave to file or grants the summary relief that Texas requests, Plaintiffs-Intervenors’ motion will have no effect. Alternatively, if the Court hears this case on the merits, Plaintiffs-Intervenors will have had time to become full-fledged parties who will not delay this matter’s proceedings in this Court. Finally, while the adequacy of representation should not be a criterion for permissive intervention, that criterion is met as explained above. *Arizona*, 460 U.S. at 615. Plaintiffs-Intervenors thus meet all the criteria of permissive intervention.

### **CONCLUSION**

This Court should grant leave to file the Complaint in Intervention.

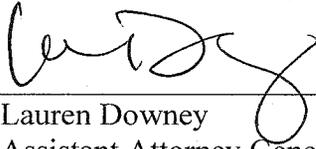
December \_\_, 2020

6  
Respectfully submitted,

[Name/Address]

\* *Counsel of Record*

Pursuant to section 552.308(b), this is to confirm the brief at issue was timely placed in intra-agency mail addressed to the Open Records Division on March 24, 2021.



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Lauren Downey  
Assistant Attorney General  
Public Information Coordinator  
Office of the Attorney General



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 24, 2021

Justin Gordon  
Open Records Division  
Office of the Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

Re: Public Information Request No. R008673

Dear Mr. Gordon:

On March 18, 2021, the Office of the Attorney General ("OAG") received a public information request under the Public Information Act ("PIA"), Chapter 552, Government Code, from Ms. Emma Lewis. A copy of the request is attached as Exhibit A.

A portion of the information at issue was the subject of prior requests for rulings, in response to which the Open Records Division issued Open Records Letter Nos. 2021-06924 (2021) and 2021-07014 (2021). As the law, facts, and circumstances on which the prior rulings were based have not changed, the OAG will continue to rely on those rulings as previous determinations. *See* Open Records Decision No. 673 at 6-7 (2001).

The remaining information requested by Ms. Lewis is currently pending a ruling from your office. On February 24, 2021, the OAG submitted a request for a ruling from the Open Records Division, along with our written comments and responsive information, concerning a request received from Mr. Eric Lipton (R008173). The remaining information sought by Ms. Lewis in the attached request is the same as the information requested by Mr. Lipton. Pursuant to section 552.301(e-1) of the PIA, the OAG is providing Ms. Lewis with a copy of the written comments we submitted to the Open Records Division on February 24, 2021. The OAG respectfully requests the Open Records Division rule on these requests together.

Please do not hesitate to contact me at (512) 475-4213 if you have questions or require additional information.

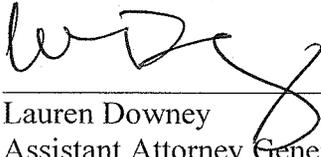
Sincerely,

A handwritten signature in black ink, appearing to read "Lauren Downey".

Lauren Downey  
Assistant Attorney General  
Public Information Coordinator  
Office of the Attorney General

c: Ms. Emma Lewis  
American Oversight  
1030 15<sup>th</sup> St. NW, Suite B255  
Washington, DC 20005  
(w/o enclosures)

Pursuant to section 552.308(b), this is to confirm the brief at issue was timely placed in intra-agency mail addressed to the Open Records Division on February 24, 2021.



---

Lauren Downey  
Assistant Attorney General  
Public Information Coordinator  
Office of the Attorney General



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 24, 2021

Mr. Justin Gordon  
Open Records Division  
Office of the Attorney General  
P. O. Box 12548  
Austin, TX 78711-2548

Re: Public Information Request No. R008173

Dear Mr. Gordon:

On February 3, 2021, the Office of the Attorney General (“OAG”) received a written request under the Public Information Act (“PIA”), Chapter 552, Government Code, from Mr. Eric Lipton.<sup>1</sup> A copy of the request is attached as Exhibit A.

The OAG will release some responsive information, but asserts the remaining information responsive to the request is excepted from required disclosure under the PIA. Pursuant to sections 552.301(b) and 552.301(e) of the Government Code, the OAG submits this brief to seek a decision as to whether section 552.107 of the Government Code applies to the information at issue. We have copied the requestor as a recipient of this brief pursuant to sections 552.301(d) and 552.301(e-1) of the Government Code. A representative sample of the information at issue is attached as Exhibit B.

**I. Information Excepted From Required Public Disclosure Under Section 552.107: Privileged Attorney-Client Communications**

Section 552.107(1) of the Government Code excepts from required public disclosure information “that the attorney general . . . is prohibited from disclosing because of a duty to the client under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct.” Gov’t Code § 552.107. Section 552.107 protects information that falls within the attorney-client privilege. When asserting the attorney-client privilege, a governmental body has the burden of providing the necessary facts to demonstrate the elements of the privilege in order to withhold the information at issue. Open Records Decision No. 676 at 6-7 (2002). First, a governmental body must demonstrate that the information constitutes or documents a communication. *Id.* at 7. Second, the communication must have been made for the purpose of facilitating the rendition of professional legal services to the client governmental body. Tex. R. Evid. 503(b)(1). Third, the privilege applies only to communications between or among clients, client representatives,

<sup>1</sup> The OAG’s offices were closed February 12, 2021 through February 19, 2021.

lawyers, and lawyer representatives. *Id.* 503(b)(1)(A), (B), (C), (D), (E). Lastly, the attorney-client privilege applies only to a confidential communication, *id.* 503(b)(1), meaning it was not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication. *Id.* 503(a)(5).

Section 552.107(1) applies to communications between a governmental body and its attorney made in confidence to further the attorney's rendering of professional legal services to the governmental body. Attorney General opinions applying section 552.107(1) have permitted governmental bodies to withhold information their attorneys have received or generated in the capacity of a legal advisor. *See* Open Records Decision No. 462 at 10-11 (1987) (applying section 3(a)(7), predecessor to Section 552.107(1)).

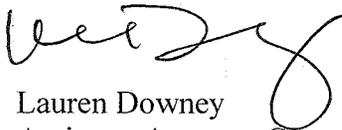
The information at issue consists of communications between attorneys in the OAG's Executive Administration and the attorney appointed as Special Counsel to the Attorney General. All the communications at issue pertain to a litigation matter. These communications were not intended to be disclosed and have not been disclosed to non-privileged parties. *See* Tex. R. Evid. 503(a)(5). Because this information consists of confidential communications between privileged parties that were made for the purpose of providing professional legal services to the State of Texas, the OAG contends the information at issue may be withheld in its entirety under section 552.107(1) of the Government Code.

### III. Conclusion

The OAG respectfully requests a decision from the Open Records Division regarding the applicability of the argued exception as provided by the PIA.

Should you need additional information, please feel free to contact me at (512) 475-4213 or [publicrecords@oag.texas.gov](mailto:publicrecords@oag.texas.gov).

Sincerely,



Lauren Downey  
Assistant Attorney General  
Public Information Coordinator  
Office of the Attorney General

cc: Mr. Eric Lipton  
The New York Times  
4307 38<sup>th</sup> Street NW  
Washington, DC 20016  
(without enclosures)



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 19, 2021

Ms. Lauren Downey  
Assistant Attorney General  
Office of the Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

OR2021-06924

Dear Ms. Downey:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 871423 (PIR Nos. R007455, R007505, and R007908).

The Office of the Attorney General (the "OAG") received three requests from different requestors for communications involving named OAG officials and employees and other named and specified individuals and information pertaining to a named former OAG employee and specified litigation.<sup>1</sup> The OAG states it will release some information to the requestors with redactions allowed by law. The OAG claims the submitted information is excepted from disclosure under section 552.107 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.<sup>2</sup>

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<sup>1</sup> The OAG sought and received clarification of the information requested by one of the requestors. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified). We understand the same requestor modified her request in response to a cost estimate. *See* Gov't Code § 552.222(b); *see also* *City of Dallas*, 304 S.W.3d at 387.

<sup>2</sup> We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Section 552.107(1) of the Government Code protects information coming within the attorney-client privilege. When asserting the attorney-client privilege, a governmental body has the burden of providing the necessary facts to demonstrate the elements of the privilege in order to withhold the information at issue. Open Records Decision No. 676 at 6-7 (2002). First, a governmental body must demonstrate that the information constitutes or documents a communication. *Id.* at 7. Second, the communication must have been made “to facilitate the rendition of professional legal services” to the client governmental body. TEX. R. EVID. 503(b)(1). The privilege does not apply when an attorney or representative is involved in some capacity other than that of providing or facilitating professional legal services to the client governmental body. *In re Tex. Farmers Ins. Exch.*, 990 S.W.2d 337, 340 (Tex. App.—Texarkana 1999, orig. proceeding) (attorney-client privilege does not apply if attorney acting in a capacity other than that of attorney). Governmental attorneys often act in capacities other than that of professional legal counsel, such as administrators, investigators, or managers. Thus, the mere fact that a communication involves an attorney for the government does not demonstrate this element. Third, the privilege applies only to communications between or among clients, client representatives, lawyers, and lawyer representatives. TEX. R. EVID. 503(b)(1). Thus, a governmental body must inform this office of the identities and capacities of the individuals to whom each communication at issue has been made. Lastly, the attorney-client privilege applies only to a *confidential* communication, *id.*, meaning it was “not intended to be disclosed to third persons other than those: (A) to whom disclosure is made to further the rendition of professional legal services to the client; or (B) reasonably necessary to transmit the communication.” *Id.* 503(a)(5). Whether a communication meets this definition depends on the *intent* of the parties involved at the time the information was communicated. *Osborne v. Johnson*, 954 S.W.2d 180, 184 (Tex. App.—Waco 1997, orig. proceeding). Moreover, because the client may elect to waive the privilege at any time, a governmental body must explain that the confidentiality of a communication has been maintained. Section 552.107(1) generally excepts an entire communication that is demonstrated to be protected by the attorney-client privilege unless otherwise waived by the governmental body. *See Huie v. DeShazo*, 922 S.W.2d 920, 923 (Tex. 1996) (privilege extends to entire communication, including facts contained therein).

The OAG states the submitted information consists of communications between attorneys in the OAG’s Executive Administration, the Office of the Solicitor General, and other privileged parties regarding various legal matters of the OAG that were made for the purpose of facilitating the rendition of professional legal services to the State of Texas. The OAG states the communications were intended to be confidential and have remained confidential. Upon review, we find the OAG has demonstrated the applicability of the attorney-client privilege to the submitted information. Thus, the OAG may withhold the submitted information under section 552.107(1).

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Matthew Taylor  
Assistant Attorney General  
Open Records Division

MT/jxd

Ref: ID# 871423

Enc. Submitted documents

c: 3 Requestors  
(w/o enclosures)



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 19, 2021

Ms. Lauren Downey  
Assistant Attorney General  
Public Information Coordinator  
Office of the Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

OR2021-07014

Dear Ms. Downey:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 871425 (PIR Nos. R007511, R007523, R007542, R007608, R007696, and R007978).

The Office of the Attorney General (the "OAG") received six requests for information pertaining to specified litigation and incidents.<sup>1</sup> The OAG states it released some information. The OAG claims the submitted information is excepted from disclosure under section 552.107 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.<sup>2</sup> We have also received and considered comments submitted by a requestor and comments submitted by a representative of another requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

Section 552.107(1) of the Government Code protects information coming within the attorney-client privilege. When asserting the attorney-client privilege, a governmental

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<sup>1</sup> Although one of the requestors is a member of the Texas House of Representatives, the OAG states it confirmed with the requestor's office the requestor does not seek the information in his legislative capacity for a legislative purpose. *See* Gov't Code § 552.008.

<sup>2</sup> We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

body has the burden of providing the necessary facts to demonstrate the elements of the privilege in order to withhold the information at issue. Open Records Decision No. 676 at 6-7 (2002). First, a governmental body must demonstrate that the information constitutes or documents a communication. *Id.* at 7. Second, the communication must have been made “to facilitate the rendition of professional legal services” to the client governmental body. TEX. R. EVID. 503(b)(1). The privilege does not apply when an attorney or representative is involved in some capacity other than that of providing or facilitating professional legal services to the client governmental body. *In re Tex. Farmers Ins. Exch.*, 990 S.W.2d 337, 340 (Tex. App.—Texarkana 1999, orig. proceeding) (attorney-client privilege does not apply if attorney acting in a capacity other than that of attorney). Governmental attorneys often act in capacities other than that of professional legal counsel, such as administrators, investigators, or managers. Thus, the mere fact that a communication involves an attorney for the government does not demonstrate this element. Third, the privilege applies only to communications between or among clients, client representatives, lawyers, and lawyer representatives. TEX. R. EVID. 503(b)(1). Thus, a governmental body must inform this office of the identities and capacities of the individuals to whom each communication at issue has been made. Lastly, the attorney-client privilege applies only to a *confidential* communication, *id.*, meaning it was “not intended to be disclosed to third persons other than those: (A) to whom disclosure is made to further the rendition of professional legal services to the client; or (B) reasonably necessary to transmit the communication.” *Id.* 503(a)(5). Whether a communication meets this definition depends on the *intent* of the parties involved at the time the information was communicated. *Osborne v. Johnson*, 954 S.W.2d 180, 184 (Tex. App.—Waco 1997, orig. proceeding). Moreover, because the client may elect to waive the privilege at any time, a governmental body must explain that the confidentiality of a communication has been maintained. Section 552.107(1) generally excepts an entire communication that is demonstrated to be protected by the attorney-client privilege unless otherwise waived by the governmental body. *See Huie v. DeShazo*, 922 S.W.2d 920, 923 (Tex. 1996) (privilege extends to entire communication, including facts contained therein).

The OAG states the submitted information consists of communications between OAG attorneys and other privileged parties that were made for the purpose of facilitating the rendition of professional legal services to the State of Texas. The OAG states the communications were intended to be confidential and have remained confidential. Upon review, we find the OAG has demonstrated the applicability of the attorney-client privilege to the submitted information. Thus, the OAG may withhold the submitted information under section 552.107(1).

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Matthew Taylor  
Assistant Attorney General  
Open Records Division

MT/jm

Ref: ID# 871425

Enc. Submitted documents

c: 6 Requestors  
(w/o enclosures)

## Bernal-Leon, Marisol

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**From:** Webster, Brent  
**Sent:** Thursday, December 10, 2020 9:22 AM  
**To:** Darryl Bressack  
**Cc:** Kenneth Paxton; jdelone@attorneygeneral.gov; bellaviatc@doj.state.wi.us  
**Subject:** Re: State of Texas v Pennsylvania et al. Supreme Court Case No. 220155 - Notice of Intent to File Amicus Curiae Brief

Acknowledged and no objection.

Sent from my iPhone

On Dec 9, 2020, at 9:50 PM, Darryl Bressack <dbressack@finkbressack.com> wrote:

Pursuant to Supreme Court Rule 37.2, please let this email serve as notice that the City of Detroit intends to file an Amicus Curiae Brief on behalf of the Defendants in this matter.

<image002.png>

### Darryl Bressack

T: [248-971-2500](tel:248-971-2500) | M: [734-255-4004](tel:734-255-4004)

E: [dbressack@finkbressack.com](mailto:dbressack@finkbressack.com) | W: <http://www.finkbressack.com>

A: 38500 Woodward Ave., Suite 350, Bloomfield Hills, MI 48304

A: 535 Griswold St., Suite 1000, Detroit, MI 48226

NOTICE: This is a communication from Fink Bressack and is intended for the named recipient(s) only. It may contain information which is privileged, confidential and/or protected by the attorney-client privilege or attorney work product doctrine. If you received this by mistake, please destroy it and notify us of the error. Thank you.

## Bernal-Leon, Marisol

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**From:** Webster, Brent  
**Sent:** Thursday, December 10, 2020 9:23 AM  
**To:** VanZile, Caroline (OAG)  
**Cc:** Kenneth Paxton; jdelone@attorneygeneral.gov; apinson@law.ga.gov; restucciae@michigan.gov; kauljl@doj.state.wi.us; AliKhan, Loren (OAG); Stark, Harrison (OAG)  
**Subject:** Re: Texas v. Pennsylvania, No. 20O155

Consent granted.

Sent from my iPhone

On Dec 9, 2020, at 9:41 PM, VanZile, Caroline (OAG) <Caroline.VanZile@dc.gov> wrote:

Counsel,

I'm writing to ask for your consent for the District of Columbia, on behalf of itself and a group of states, to file a brief as *amici curiae* in support of defendants in *Texas v. Pennsylvania*, No. 20O155. We are aiming to file tomorrow by 3 p.m. and, as is customary for amici at this stage of proceedings, will be moving to dispense with the requirement to file in booklet format and the 10-day notice requirement for amicus briefs. Please let us know your position at your earliest convenience, and many thanks.

Sincerely,

Caroline S. Van Zile  
Principal Deputy Solicitor General  
Office of the Attorney General for the District of Columbia  
400 6th Street, NW, Suite 8100  
Washington, D.C. 20001  
(917) 971-0361 (cell)  
(202) 724-6609 (phone)  
(202) 741-0649 (fax)  
[caroline.vanzile@dc.gov](mailto:caroline.vanzile@dc.gov)