

**THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

STATE OF TEXAS,

*Plaintiff*

vs.

ERIC H. HOLDER, JR.,  
in His Official Capacity as Attorney  
General of the United States,

*Defendant.*

Case No. 1:12-CV-00128

(RMC, DST, RLW)  
Three-Judge Court

**REPLY IN SUPPORT OF MOTION TO COMPEL**

Plaintiff the State of Texas files this Reply in support of its Motion to Compel to address Defendant-Intervenors' Response and Cross-Motion for Protective Order. Texas incorporates by reference its Motion to Compel and briefly addresses the specific points raised by Defendant-Intervenors. Even accepting Defendant-Intervenors' contention that they have standing to challenge discovery served on the United States, their response does not justify denial of the State's Motion to Compel, nor are they entitled to a protective order against production of Social Security Administration data.

Defendant-Intervenors contend that the citizenship status of registered voters in Texas is not relevant to the State's claim for preclearance of Senate Bill 14. *See, e.g.*, Defendant-Intervenors' Response at 3. Specifically, they argue that citizenship information maintained by the Social Security

Administration is not relevant because it has no connection to the photographic identification requirement of SB 14. *Id.* at 3–4.

Citizenship information is relevant to the preclearance claim in part because it supports the State’s contention that SB 14 was not enacted with a discriminatory purpose. The fact that the State’s voter registration rolls include persons who are not eligible to vote creates the opportunity for fraud. Identifying ineligible persons who are registered to vote is consistent with the stated purpose of SB 14: to maintain the integrity of the State’s electoral system. The fact that non-citizens are registered to vote in Texas is relevant to the purpose of SB 14 because it calls the integrity of the electoral system into question. Moreover, citizenship is related to SB 14’s photographic identification requirement because a Texas driver’s license—perhaps the most common form of identification authorized by SB 14—is not available to undocumented residents. That other forms of authorized identification may be available to non-citizens does not change the fact that photo ID requirements are likely to prevent at least some ballots from being cast in the name of persons who are not eligible to vote.

There is no basis for Defendant-Intervenors’ claim that the State’s effort to discover citizenship information is pretextual. *See* Response at 5. Although eligibility to vote does turn on a number of factors—residence, age, mental capacity, and felony conviction among them—information relevant to many of those factors is either not maintained the Social Security

Administration or is available from other sources. The fact that Texas's request for SSA data goes to a single criterion of eligibility does not call into question the sincerity of its effort to identify ineligible voters. Alternative sources and additional criteria of eligibility are not relevant to the motion to compel production of relevant information from SSA. Similarly, Defendant-Intervenors' arguments about the reliability of SSA data do not go to the relevance of the requested information and therefore do not justify denial of the State's discovery request. Potential flaws in the SSA data go its weight, not its relevance or admissibility.

The Court's protective order is sufficient to safeguard the privacy of any information produced to the State by the Social Security Administration. Moreover, Texas has expressed its willingness to limit the potential privacy concerns by limiting its discovery request to the Social Security Administration, for example by providing a list with a small percentage of Texas registered voters and asking SSA to identify only those individuals (or the number of individuals) who are not citizens. In any event, the Court's protective order is sufficient to prevent the exposure of Texas residents' personal information.

### **CONCLUSION**

For the reasons stated above and in the Motion and memorandum in support, the State's Motion to Compel should be granted, and the Defendant-Intervenors' motion for protective order should be denied.

Dated: May 29, 2012

Respectfully submitted.

GREG ABBOTT  
Attorney General of Texas

DANIEL T. HODGE  
First Assistant Attorney General

JONATHAN F. MITCHELL  
Solicitor General

    /s/ Patrick K. Sweeten  
PATRICK K. SWEETEN  
Assistant Attorney General  
ADAM W. ASTON  
Principal Deputy Solicitor General  
ARTHUR C. D'ANDREA  
Assistant Solicitor General  
MATTHEW H. FREDERICK  
Assistant Attorney General

209 West 14th Street  
P.O. Box 12548  
Austin, Texas 70711-2548  
(512) 936-1695

COUNSEL FOR THE STATE OF  
TEXAS

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document is being served by CM/ECF and/or electronic mail on May 29, 2012 on the following:

Elizabeth Stewart Westfall  
Jennifer Lynn Maranzano  
Daniel J. Freeman  
Bruce I. Gear  
Meredith E.B. Bell-Platts  
U.S. DEPARTMENT OF JUSTICE  
Civil Rights Division, Voting Section  
950 Pennsylvania Avenue, NW  
NWB-Room 7202  
Washington, DC 20530  
(202) 305-7766/Fax: (202) 307-3961  
Email: elizabeth.westfall@usdoj.gov  
Email: daniel.freeman@usdoj.gov  
Email: bruce.gear@usdoj.gov  
Email: jennifer.maranzano@usdoj.gov  
Email: Meredith.Bell-Platts@usdoj.gov  
*Counsel for the United States*

Chad W. Dunn  
BRAZIL & DUNN  
4201 FM 1960 West, Suite 530  
Houston, TX 77068  
(281) 580-6310  
Email: chad@brazilanddunn.com

J. Gerald Hebert  
Attorney at Law  
191 Somerville Street, #405  
Alexandria, VA 22304  
Telephone: 703-628-4673  
hebert@voterlaw.com  
*Counsel for Eric Kennie, Anna Burns, Michael Montez, Penny Pope, Marc Veasey, Jane Hamilton, David De La Fuente, Lorraine Birabil, Daniel Clayton, and Sergio Deleon*

Ezra D. Rosenberg  
Michelle Hart Yeary  
DECHERT LLP  
902 Carnegie Center, Suite 500  
Princeton, NJ 08540  
(609) 955-3200/Fax: (609) 955-3259  
Email: ezra.rosenberg@dechert.com  
Email: michelle.yeary@dechert.com

Jon M. Greenbaum  
Mark A. Posner  
Robert A. Kengle  
LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW  
1401 New York Avenue, NW, Suite 400  
Washington, DC 20005  
(202) 662-8325  
Email: jgreenbaum@lawyerscommittee.org  
Email: mposner@lawyerscommittee.org  
Email: bkengle@lawyerscommittee.org

Myrna Perez  
Ian Arthur Vandewalker  
Wendy Robin Weiser  
THE BRENNAN CENTER FOR JUSTICE AT NYU LAW SCHOOL  
161 Avenue of the Americas, Floor 12  
New York, NY 10013-1205  
(646) 292-8329/Fax: (212)463-7308  
Email: myrna.perez@nyu.edu  
Email: ian.vandewalker@nyu.edu  
Email: wendy.weiser@nyu.edu

Robert Stephen Notzon  
1507 Nueces Street  
Austin, TX 78701-1501  
(512) 474-7563  
Fax: (512) 852-4788  
Email: robert@notzonlaw.com

Victor L. Goode  
NAACP National Headquarters  
4805 Mt. Hope Dr.  
Baltimore, Maryland 21215-3297  
(410) 580-5120  
Email: vgoode@naacpnet.org

Jose Garza  
Law Office of Jose Garza  
7414 Robin Rest Dr.  
San Antonio, Texas 98209  
(210) 392-2856 (phone)  
Email: garzpalm@aol.com

Gary L Bledsoe  
Law Office of Gary L. Bledsoe and Associates  
316 West 12th Street, Suite 307  
Austin, Texas 78701  
(512) 322-9992  
Email: garybledsoe@sbcglobal.net  
*Counsel for Texas State Conference of NAACP Branches, Mexican American  
Legislative Caucus of the Texas House of Representatives*

Douglas H. Flaum  
Michael B. de Leeuw  
Adam Harris  
FRIED, FRANK, HARRIS, SHRIVER & JACOBSON LLP  
One New York Plaza  
New York, New York 10004-1980  
(212) 859-8000  
Email: douglas.flaum@friedfrank.com  
Email: michael.deleeuw@friedfrank.com  
Email: adam.harris@friedfrank.com

Ryan Haygood  
Natasha M. Korgaonkar  
Leah C. Aden  
Dale E. Ho  
Debo P. Adegbile  
Elise C. Boddie  
NAACP Legal Defense and Educational Fund, Inc.  
99 Hudson Street, Suite 1600  
New York, New York 10013  
(212) 965-2200  
(212) 226-7592  
Email: rhaygood@naacpldf.org  
Email: nkorgaonkar@naacpldf.org  
Email: laden@naacpldf.org  
Email: dadegbile@naacpldf.org  
Email: dho@naacpldf.org  
Email: eboddie@naacpldf.org

*Counsel for Texas League of Young Voters Education Fund, Imani Clark,  
KiEssence Culbreath, Demariano Hill, Felicia Johnson, Dominique Monday,  
and Brianna Williams*

John Kent Tanner  
3743 Military Road, NW  
Washington, DC 20015  
(202) 503-7696  
Email: john.k.tanner@gmail.com

Nancy Abudu  
Katie O'Connor  
Laughlin McDonald  
AMERICAN CIVIL LIBERTIES UNION FOUNDATION INC  
230 Peachtree Street NW, Suite 1440  
Atlanta, GA 30303  
(404) 523-2721  
Email: nabudu@aclu.org  
Email: koconnor@aclu.org  
Email: lmcDonald@aclu.org

Arthur B. Spitzer  
American Civil Liberties Union of the Nation's Capital  
4301 Connecticut Avenue, N.W., Suite 434  
Washington, D.C. 20008  
(202) 457-0800  
Email: artspitzer@gmail.com

Lisa Graybill  
Rebecca Robertson  
American Civil Liberties Union Foundation of Texas  
1500 McGowan Street  
Houston, Texas 77004  
(713) 942-8146  
Email: lgraybill@aclutx.org  
Email: rrobertson@aclutx.org

Penda Hair  
Kumiki Gibson  
Advancement Project  
1220 L Street, NW, Suite 850  
Washington, DC 20005  
(202) 728-9557  
Email: phair@advancementproject.org  
Email: kgibson@advancementproject.org  
*Counsel for Justice Seekers, League of Women Voters of Texas, Texas  
Legislature Black Caucus, Donald Wright, Peter Johnson, Ronald Wright,  
Southwest Workers Union and La Union Del Pueblo Entero*

Nina Perales  
Amy Pedersen  
MEXICAN AMERICAN LEGAL DEFENSE & EDUCATIONAL FUND, INC.  
110 Broadway, Suite 300  
San Antonio, TX 78205  
(210) 224-5476  
Email: nperales@maldef.org  
Email: apedersen@maldef.org  
*Counsel for Mi Familia Vota Education Fund, Southwest Voter Registration  
Education Project, Nicole Rodriguez, Victoria Rodriguez*

/s/ Patrick K. Sweeten  
PATRICK K. SWEETEN  
Assistant Attorney General