

**In the United States District Court
for the
Western District of Texas**

SHANNON PEREZ, ET AL.	§	
	§	
v.	§	SA-11-CV-360
	§	
GREG ABBOTT, ET AL.	§	

ORDER RE: PRETRIAL DISCLOSURES

On May 1, 2017, this Court issued a Scheduling Order (docket no. 1389). That Order directs the parties to file their pretrial disclosures, as required by Rule 26(a)(3) by Monday, July 3. The parties were instructed to include various information, including “a list of the parties’ claims or defenses: each district being challenged, how the party has standing to make the challenge, and the specific cause of action being asserted, which must be consistent with the claims in the live pleadings.” Upon further consideration, the Court has concluded that this information should be presented as part of a pre-trial bench brief. Further, the Court concludes that proposed fact findings and conclusions of law (as required by Local Rule CV-16(e)) should NOT be filed before trial.

Accordingly, the first part of paragraph 9 of the Scheduling Order is modified as follows:

(1) All parties shall FILE their pretrial disclosures, as required by Fed. R. Civ.

P. 26(a)(3), by **Monday, July 3**. This includes:

(a) any written stipulations of fact (including concerning residences and standing) or agreements to avoid unnecessary proof at trial;

(b) the name of each fact and expert witness that the party expects to present;

(c) the designation of any witness whose trial testimony may be presented by deposition, including page and line designations; and

(d) the identification of each document or other exhibit that the parties may offer. The parties are expected to coordinate and share joint exhibits to avoid cumulative evidence and to minimize the size of the record. Each exhibit shall be clearly marked by number, party (or joint), and district/county as applicable, and exchanged in advance of trial.

(2) Each Plaintiff shall file a pre-trial bench brief no later than **Monday July 3, 2017**. The bench brief should specify the Plaintiff's claims and the expected evidence at trial in support of such claims. To the extent a Plaintiff asserts a claim under § 2 of the Voting Rights Act, such Plaintiff must specify whether the claim is a "results" claim and/or an intentional discrimination/vote dilution claim. To the extent a Plaintiff asserts a claim under the Equal Protection Clause of the Fourteenth Amendment, such Plaintiff must specify whether the claim is a *Shaw*-type racial gerrymandering claim or a purposeful racial discrimination/vote dilution claim.

At a minimum, each Plaintiff must include the following information in the following format:

Plan C235

- (1) What claims are brought against Plan C235 as a whole, if any?
 - (a) identify the claims and the relevant pleading (including page or paragraph) asserting each claim
 - (b) how does Plaintiff have standing to bring each claim
 - (c) what lay witnesses are expected to testify for this claim, and summarize their expected testimony
 - (d) what expert witnesses are expected to testify for this claim, and summarize their expected testimony
 - (e) what are the key exhibits you expect to use to prove this claim
- (2) What claims are brought against the following areas or districts, if any?
 - (a) DFW/CD30/CD33
 1. identify the claims and the relevant pleading (including page or paragraph) asserting each claim
 2. how does Plaintiff have standing to bring each claim
 3. what lay witnesses are expected to testify for this claim, and summarize their expected testimony
 4. what expert witnesses are expected to testify for this claim, and summarize their expected testimony

5. what are the key exhibits you expect to use to prove this claim

(b) Houston area

1. identify the claims and the relevant pleading (including page or paragraph) asserting each claim

2. how does Plaintiff have standing to bring each claim

3. what lay witnesses are expected to testify for this claim, and summarize their expected testimony

4. what expert witnesses are expected to testify for this claim, and summarize their expected testimony

5. what are the key exhibits you expect to use to prove this claim

(c) Austin area/CD35

1. identify the claims and the relevant pleading (including page or paragraph) asserting each claim

2. how does Plaintiff have standing to bring each claim

3. what lay witnesses are expected to testify for this claim, and summarize their expected testimony

4. what expert witnesses are expected to testify for this claim, and summarize their expected testimony

5. what are the key exhibits you expect to use to prove this claim

(d) CD23

1. identify the claims and the relevant pleading (including page or paragraph) asserting each claim
2. how does Plaintiff have standing to bring each claim
3. what lay witnesses are expected to testify for this claim, and summarize their expected testimony
4. what expert witnesses are expected to testify for this claim, and summarize their expected testimony
5. what are the key exhibits you expect to use to prove this claim

(e) CD27/Nueces County

1. identify the claims and the relevant pleading (including page or paragraph) asserting each claim
2. how does Plaintiff have standing to bring each claim
3. what lay witnesses are expected to testify for this claim, and summarize their expected testimony
4. what expert witnesses are expected to testify for this claim, and summarize their expected testimony
5. what are the key exhibits you expect to use to prove this claim

(f) include the same information for any additional areas/districts not already listed

Plan H358

(1) What claims are brought against Plan H358 as a whole, if any?

(a) identify the claims and the relevant pleading (including page or paragraph) asserting each claim

(b) how does Plaintiff have standing to bring each claim

(c) what lay witnesses are expected to testify for this claim, and summarize their expected testimony

(d) what expert witnesses are expected to testify for this claim, and summarize their expected testimony

(e) what are the key exhibits you expect to use to prove this claim

(2) What claims are brought against the following areas or specific districts in these areas, if any?

(a) El Paso County

1. identify the claims and the relevant pleading (including page or paragraph) asserting each claim

2. how does Plaintiff have standing to bring each claim

3. what lay witnesses are expected to testify for this claim, and summarize their expected testimony

4. what expert witnesses are expected to testify for this claim, and summarize their expected testimony

5. what are the key exhibits you expect to use to prove this claim

(b) Nueces County

1. identify the claims and the relevant pleading (including page or paragraph) asserting each claim
2. how does Plaintiff have standing to bring each claim
3. what lay witnesses are expected to testify for this claim, and summarize their expected testimony
4. what expert witnesses are expected to testify for this claim, and summarize their expected testimony
5. what are the key exhibits you expect to use to prove this claim

(c) Harris County

1. identify the claims and the relevant pleading (including page or paragraph) asserting each claim
2. how does Plaintiff have standing to bring each claim
3. what lay witnesses are expected to testify for this claim, and summarize their expected testimony
4. what expert witnesses are expected to testify for this claim, and summarize their expected testimony
5. what are the key exhibits you expect to use to prove this claim

(d) Fort Bend County

1. identify the claims and the relevant pleading (including

page or paragraph) asserting each claim

2. how does Plaintiff have standing to bring each claim

3. what lay witnesses are expected to testify for this claim,
and summarize their expected testimony

4. what expert witnesses are expected to testify for this claim,
and summarize their expected testimony

5. what are the key exhibits you expect to use to prove this
claim

(e) Dallas County

1. identify the claims and the relevant pleading (including
page or paragraph) asserting each claim

2. how does Plaintiff have standing to bring each claim

3. what lay witnesses are expected to testify for this claim,
and summarize their expected testimony

4. what expert witnesses are expected to testify for this claim,
and summarize their expected testimony

5. what are the key exhibits you expect to use to prove this
claim

(f) Tarrant County

1. identify the claims and the relevant pleading (including
page or paragraph) asserting each claim

2. how does Plaintiff have standing to bring each claim

3. what lay witnesses are expected to testify for this claim, and summarize their expected testimony
4. what expert witnesses are expected to testify for this claim, and summarize their expected testimony
5. what are the key exhibits you expect to use to prove this claim

(g) Bell/Lampasas Counties

1. identify the claims and the relevant pleading (including page or paragraph) asserting each claim
2. how does Plaintiff have standing to bring each claim
3. what lay witnesses are expected to testify for this claim, and summarize their expected testimony
4. what expert witnesses are expected to testify for this claim, and summarize their expected testimony
5. what are the key exhibits you expect to use to prove this claim

(h) West Texas – Midland/Ector County area

1. identify the claims and the relevant pleading (including page or paragraph) asserting each claim
2. how does Plaintiff have standing to bring each claim
3. what lay witnesses are expected to testify for this claim, and summarize their expected testimony

4. what expert witnesses are expected to testify for this claim,
and summarize their expected testimony

5. what are the key exhibits you expect to use to prove this
claim

(i) West Texas – Lubbock County area

1. identify the claims and the relevant pleading (including
page or paragraph) asserting each claim

2. how does Plaintiff have standing to bring each claim

3. what lay witnesses are expected to testify for this claim,
and summarize their expected testimony

4. what expert witnesses are expected to testify for this claim,
and summarize their expected testimony

5. what are the key exhibits you expect to use to prove this
claim

(j) include the same information for any additional areas or districts
not already discussed

(3) Defendants shall file a pre-trial bench brief by **Monday July 3, 2017** that
includes the following:

(a) any claims for which Defendants assert that Plaintiffs lack standing

(b) expected defenses to Plaintiffs' claims

(c) what lay witnesses are expected to testify, and summarize their

expected testimony

(d) what expert witnesses are expected to testify, and summarize their

expected testimony

(e) what are the key exhibits you expect to use

SIGNED this 1st day of June, 2017.

_____/s/_____

XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE
on behalf of the panel