IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF TEXAS, Plaintiff, v. UNITED STATES OF AMERICA, and ERIC H. HOLDER, JR. in his official capacity as Attorney General of the United States, Defendants.	)	Case No. 11-01303 RMC

PLAINTIFF'S MOTION TO EXPEDITE
AND STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT

Plaintiff, the State of Texas, respectfully moves this Court for expedited treatment of the pretrial scheduling and trial of this proceeding. In support of this motion, and pursuant to Local Rule 7(a), the State files the following statement of points and authorities.

Section 5 of the Voting Rights Act of 1965 (as amended) prohibits the State from implementing its newly enacted redistricting plans for the State Board of Education, the State House of Representatives, the State Senate, and the U.S. House of Representatives unless and until this Court issues a declaratory judgment preclearing those plans. 42 U.S.C. § 1973c.

In addition to enacting the four redistricting plans, the State also enacted new candidate qualification periods. As the term suggests, this is the period during which candidates register for election, and file the requisite applications and petitions specified by state law. The candidate qualification period for 2012 elections runs from November 12, 2011 to December 12, 2011. The revised qualification periods were enacted to comply with revised federal military

and overseas voting requirements, and are themselves the subject of an administrative preclearance action pending before the Department of Justice.[1]

In order to implement the new candidate qualifications period for the 2012 voting cycle – as required by the Texas Election Code – the State's redistricting plans must be precleared before the beginning of the candidate qualification period.

Since the day that it initiated the instant action, the State has worked diligently with counsel for the Department of Justice to provide information and draft an agreed-to schedule by which this case can be expeditiously presented to the Court for determination. Indeed, as noted in the Complaint, the State immediately provided the Department of Justice all of the data that would generally be included with an administrative preclearance proceeding. Both sides have worked in good faith since the day the State filed its declaratory judgment action, sharing information freely and interacting cordially. Both parties have been regularly exchanging information to facilitate the most expeditious resolution of this matter. Further, it is likely that the issues ultimately adjudicated by this Court may be greatly narrowed by consent of the parties.

The parties have come to an impasse, however, on the likely necessity for trial, its date and scope, and significant deadlines prior to trial.[2] In light of that impasse – and the State's need to implement its new redistricting maps in time for the 2012 election cycle – the State of Texas respectfully requests that the Court schedule a telephonic status conference to resolve

[1] The election filing window reflects a change to Texas law that is, itself, pending Section 5 preclearance in an administrative submission pending before the United States Department of Justice. *See* Senate Bill 100, 82d Tex. Leg., *Relating to the adoption of certain voting procedures and to certain elections, including procedures necessary to implement the federal Military and Overseas Voter Empowerment Act, deadlines for declaration of candidacy and dates for certain elections, and to terms of certain elected officials*, enacted May 31, 2011, signed June 17, 2011, effective September 17, 2011. [DOJ File No. 2011-2719]

[2] The parties do not substantially differ in their proposed dates for trial. The State would propose no later than October 10, 2011. The United States would propose no earlier than October 17, 2011.

outstanding the scheduling issues as soon as practicable.[3] Consistent with both parties' commitment to good faith pre-trial interaction and pursuant to Local Rule 7(m), the State has conferred with counsel for the Department of Justice prior to filing this motion and defense counsel consented to this request for a status conference.

Dated: August 11, 2011

Respectfully Submitted,

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/s/ David J. Schenck
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[3] If the Court prefers a hearing in open court rather than a telephonic status conference, the State stands ready to make the necessary appearance immediately.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been sent via the Court's electronic notification system and/or certified mail, return receipt requested to the following parties on August 11, 2011:

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PROPOSED ORDER GRANTING MOTION TO EXPEDITE

The Plaintiff, State of Texas, having moved the Court for an order expediting the instant proceeding and for conduct of a status conference, and the Defendant United States having agreed that a status conference for scheduling purposes would be appropriate for the proceeding, it is, therefore

ORDERED that a conference will be held (telephonically) before this Court on _____, 2011, at _____ o'clock.

_____
UNITED STATES DISTRICT JUDGE