

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

LEAGUE OF UNITED LATIN AMERICAN
CITIZENS; TEXAS LEAGUE OF UNITED
LATIN AMERICAN CITIZENS; LEAGUE OF
UNITED LATIN AMERICAN
CITIZENS COUNCIL 102; and COMMON
CAUSE,

Plaintiffs,

v.

ROBERT S. HOWDEN, in his official capacity
as the Texas Secretary of State; PAUL
ADAMS, in his official capacity as Dallas
County Elections Department; FRANK
PHILLIPS, in his official capacity as Denton
County Elections Administrator; and KALEB
BREAUX, in his official capacity as Collin
County Elections Administrator,

Defendants.

Case No.: 1:26-CV-00729

**PLAINTIFFS' MOTION FOR LEAVE
TO AMEND COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 15(a)(2), Plaintiffs respectfully move for leave to amend their complaint against all Defendants and to file the attached proposed Amended Complaint. Rule 15(a)(2) “evinces a bias in favor of granting leave to amend” and shall be “granted freely.” *Herrmann Holdings Ltd. v. Lucent Techs. Inc.*, 302 F.3d 552, 566 (5th Cir. 2002) (quotation omitted). On July 24, 2026, Plaintiffs emailed Defendants a request for their consent to this motion, and a request that Defendants respond by July 27, 2026. The Secretary of State, Collin County, and Denton County Defendants oppose the motion. Defendant Dallas County does not oppose. The proposed Amended Complaint is filed as Exhibit A. For the Court’s reference, a redline showing the changes is filed as Exhibit B.

BACKGROUND

This case challenges Texas’s voter Purge Program that relies on unreliable, outdated citizenship data to remove voters from rolls in ways that are discriminatory and non-uniform across counties in violation of the National Voter Registration Act (“NVRA”). Plaintiffs filed suit against Defendants on March 26, 2026. ECF No. 1. Between June 10 and 12, 2026, all Defendants filed motions to dismiss the complaint. ECF Nos. 25, 27, 28. All of those motions remain pending.

Since Plaintiffs filed their Complaint, there have been changes that impact some of Plaintiffs’ allegations in the Complaint. Those changes include the following. Robert S. Howden has replaced Jane Nelson as Defendant Secretary of State. Defendant Joyce Hudman in her official capacity as Brazoria County Election Administrator settled with Plaintiffs, and Plaintiffs voluntarily dismissed Defendant Hudman from the case. ECF Nos. 20, 22. A federal court enjoined the use of the updated SAVE System features for voter verification, finding that the updated System “knowingly trampled on the privacy rights of American citizens in a manner that threatens the sacred right to vote.” *League of Women Voters v. U.S. Dep’t of Homeland Sec.*, No. 1:25-cv-03501-SLS, 2026 WL 1784297, at *1 (D.D.C. June 22, 2026), *appeal docketed*, No. 26-5243 (D.C.

Cir. June 26, 2026). Plaintiffs sent a letter via certified mail on July 6, 2026, through counsel, to Defendant Secretary of State that Texas was failing to meet its obligations under Section 8(i) of the NVRA by failing to disclose its public voter registration list. Prior to sending this letter, LULAC Plaintiffs, through their counsel, sent a records request for records pertaining to Defendant Secretary's "efforts to verify the citizenship status of registered voters or voter registration applicants and/or to remove noncitizens from the voter rolls, including but not limited to names identified by the federal government's Systematic Alien Verification for Entitlements, or 'SAVE,' program" pursuant to the public disclosure provision of the NVRA" on January 14, 2026. ECF No. 1-14 at 2. As such, Defendant Secretary was on notice that these records were requested and required to be released under the NVRA. Nonetheless, Plaintiffs sent the July 6 letter to provide further notice of their intent to sue.

Plaintiffs now file this motion to amend their Complaint to reflect these facts. Plaintiffs' proposed amendments do not add any new defendants or any new claims, but only additional facts in support of their pending claims against the previously named Defendants.

ARGUMENT

There is no "substantial reason" to deny Plaintiffs leave to file the amended Complaint. *See* Fed. R. Civ. P. 15(a)(2) ("The court should freely give leave [to amend] when justice so requires."). "[T]he language of this rule evinces a bias in favor of granting leave to amend," *Marucci Sports, LLC v. NCAA*, 751 F.3d 368, 378 (5th Cir. 2014) (citation omitted), and "[a]mendments should be liberally allowed." *Halbert v. City of Sherman*, 33 F.3d 526, 529 (5th Cir. 1994).

In deciding whether to grant leave to file an amended pleading, the district court may consider such factors as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party, and futility of amendment.

Wimm v. Jack Eckerd Corp., 3 F.3d 137, 139 (5th Cir. 1993) (citing *Foman v. Davis*, 371 U.S.

178, 182 (1962)). Because Plaintiffs’ Motion for leave will not cause undue delay or undue prejudice to Defendants, is not made in bad faith or with a dilatory motive, the amendments would not be futile, and denying the Motion would prejudice Plaintiffs, all factors counsel in favor of granting Plaintiffs’ Motion for leave to amend the Complaint.

Granting Plaintiffs’ Motion for leave to amend the Complaint will not cause undue delay and will not prejudice Defendants. Undue delay “must prejudice the nonmoving party or impose unwarranted burdens on the court.” *Mayeaux v. Louisiana Health Serv. & Indem. Co.*, 376 F.3d 420, 427 (5th Cir. 2004); *Dussouy v. Gulf Coast Inv. Corp.*, 660 F.2d 594, 598 (5th Cir. 1981) (finding no undue delay or bad faith when plaintiff promptly moved for leave to amend as soon as it became necessary). The Fifth Circuit has described prejudice as “denying the defendants notice of the nature of the complaint.” *Lowrey v. Texas A & M Univ. Sys.*, 117 F.3d 242, 246 (5th Cir. 1997). In other words, undue prejudice accrues if the amendments would “fundamentally alter the nature of the case[.]” *Mayeaux*, 376 F.3d at 427. That is not the case here, as litigation has barely begun: Defendants’ motions to dismiss are still pending, discovery has not yet started, and there is no scheduling order to reconfigure. *See N. Cypress Med. Ctr. Operating Co., Ltd. v. Aetna Life Ins. Co.*, 898 F.3d 461, 478 (5th Cir. 2018) (finding no “undue delay” even after some discovery had occurred); *Dussouy*, 660 F.2d at 598 (“Instances abound in which appellate courts on review have required that leave to amend be granted after dismissal or entry of judgment.”).

Plaintiffs’ Motion is not made in bad faith or with a dilatory motive because “a plaintiff is not dilatory in seeking to amend a complaint ‘when no trial or pre-trial dates [have been] scheduled and no significant activity beyond the pleading stage has occurred,’” *Boyce v. CitiMortgage, Inc.*, 992 F. Supp. 2d 709, 720–21 (W.D. Tex. 2014), and because Plaintiffs’ Motion to amend is not made for the purpose of delay. *Wimm*, 3 F.3d at 140–43. Again, no trial or pretrial dates have been

scheduled. The proposed amendments to the Complaint are not futile. “When futility is advanced as the reason for denying an amendment to a complaint, the court is usually denying leave because the theory presented in the amendment lacks legal foundation or because the theory has been adequately presented in a prior version of the complaint.” *Jamieson By & Through Jamieson v. Shaw*, 772 F.2d 1205, 1208 (5th Cir. 1985). This is particularly true if a plaintiff has sought to cure a deficiency multiple times to no avail. *See, e.g., Herrmann Holdings*, 302 F.3d at 567. Here, there has been no pattern of ineffectual amendments. Rather, Plaintiffs have filed no prior motions to amend the Complaint.

While there would be no undue prejudice to Defendants in granting the motion to amend, there would be substantial prejudice to Plaintiffs if the motion were denied. *See Jamieson*, 772 F.2d at 1208 (“Even if substantial reason to deny leave exists, the court should consider prejudice to the movant, as well as judicial economy, in determining whether justice requires granting leave.”). Plaintiffs had already provided notice to Defendant Secretary of State through their January 14, 2026 letter requesting records concerning voter removal. Nonetheless, Defendant Secretary of State argues that Plaintiffs lack statutory authority to assert a public disclosure violation because they failed to provide notice required by the NVRA. ECF No. 27 at 8. LULAC Plaintiffs’ January 2026 request for records under the NVRA was plainly notice to Defendant Secretary that those records were required to be released under the NVRA. Nonetheless, Plaintiffs sent an additional notice letter on July 6, 2026, to address Defendant’s argument. Plaintiffs seek leave to amend to include allegations concerning this notice letter in the amended Complaint. The sufficiency of Plaintiffs’ claims should be decided based on the full sweep of evidence now available, having sent the additional letter.

Finally, allowing Plaintiffs to amend their complaint is consistent with the NVRA notice

provision's purpose of providing a state actor the opportunity to cure an NVRA violation before litigation ensues. After Plaintiffs' July 6, 2026 notice letter, Defendant Secretary of State had 22 days to remedy the public disclosure provision violation. If he had done so, the violation would have been cured, and Plaintiffs would have no reason to litigate their Section 8(i) claim. Having failed to cure the violation, granting leave to amend is proper here. *See Voice of the Experienced v. Ardoin*, 813 F. Supp. 3d 600, 644–45 (M.D. La. 2025) (concluding that “the NVRA notice provision indicates that Plaintiffs can amend their complaint to allege subsequent notice[,]” because allowing subsequent notice allows defendants “the opportunity to correct any violations” prior to the filing of an amended complaint).

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Court grant Plaintiffs' Motion for leave to file the proposed amended complaint.

Dated: July 29, 2026

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2026, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Western District of Texas, using the electronic case filing system of the court. The electronic filing system sent a “Notice of Electronic Filing” to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

s/ Alexis Grady
Alexis Grady