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August 2, 2024

VIA CM/ECF

Mr. Lyle W. Cayce, Clerk
U.S. Court of Appeals for the Fifth Circuit

Re: No. 24-50620; *In re Abbott*

Dear Mr. Cayce:

Pursuant to Rule 28(j), I write to notify the Court of the attached Order and “Second Advisement” issued today by the district court.

Yesterday, the district court stated it would determine whether the unopposed motion for a continuance “is warranted and appropriate” “[a]t th[e] status conference” on Tuesday, August 6, 2024—the day trial was set to commence. Today, shortly before this Court’s 1 PM deadline for the United States to respond to Texas’s stay motion, the district court “grant[ed] the motion to continue for a period of 90 days.”

Although the district court asserts that it “wishes to avoid placing” the Fifth Circuit panel in a “time crunch,” it also indicates that it expects this Court “to make its ruling on the pending mandamus petition” before its new presumptive trial date of November 7, 2024. The district court provided no reason for giving this Court just 90 days to conduct briefing, hear oral argument, render decision, and prepare any written opinion on Texas’s constitutional arguments.

As this Court rightly recognized in this afternoon’s order denying the emergency motions as moot, the district court’s sudden change does obviate the need to rule on Texas’s stay motion in an emergency posture. But for the reasons I explained yesterday, this Court should still stay the trial proceedings pending full consideration of the mandamus petition, rather than allow the district court to set artificial deadlines for this Court’s own deliberative process.

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Respectfully submitted.

/s/ Lanora C. Pettit

Lanora C. Pettit
Principal Deputy Solicitor General

cc: all counsel of record (via e-mail)

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

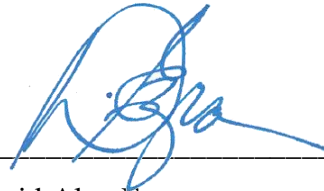
UNITED STATES OF AMERICA,	§	No. 1:23-CV-853-DAE
	§	
Plaintiff,	§	
	§	
vs.	§	
	§	
GREG ABBOTT, in his capacity as	§	
Governor of the State of Texas, and	§	
THE STATE OF TEXAS,	§	
	§	
Defendants.	§	
_____	§	

SECOND ADVISEMENT TO THE APPROPRIATE PANEL OF THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT AND TO THE PARTIES TO THIS LITIGATION

For the convenience of the appropriate Panel of the Fifth Circuit Court of Appeals, this Court hereby provides this advisement to notify the Panel that it has granted the unopposed motion to continue the trial in this matter scheduled for August 6, 2024. As noted in the attached order granting the continuance, this Court has continued the trial for an additional 30 days beyond the 60 days initially requested by the parties in order to give the Panel an opportunity to consider and rule on the writ of mandamus filed by the State of Texas and opposed by the United States, as well as allow the parties to prepare for trial in light of the Panel’s decision.

As noted above, the Court's order is attached to this advisement for the convenience of the Fifth Circuit Panel.

DATED: Austin, Texas, August 2, 2024



David Alan Ezra
Senior United States District Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA,	§	No. 1:23-CV-853-DAE
	§	
Plaintiff,	§	
	§	
vs.	§	
	§	
GREG ABBOTT, in his capacity as	§	
Governor of the State of Texas, and	§	
THE STATE OF TEXAS,	§	
	§	
Defendants.	§	
_____	§	

ORDER

The Court has before it an unopposed motion for a sixty-day stay of all district court proceedings and continuance of the trial in light of the en banc ruling of the Fifth Circuit Court of Appeals. (Dkt. # 201.) It is the Court’s understanding that there may be some dispute between the parties as to the effect of that ruling, which the Court hopes to address at a status conference set for Tuesday, August 6, 2024, at the Austin Federal Courthouse. (Dkt. # 202.)

While the parties have requested a sixty-day continuance, this Court wishes to avoid placing the Panel for Fifth Circuit Court of Appeals in the same time crunch that Texas placed on this Court when the Emergency Motion for a Continuance or Stay of Trial was initially filed. (Dkt. # 200.) Therefore, this Court grants the motion to continue for a period of 90 days in order for the Fifth Circuit

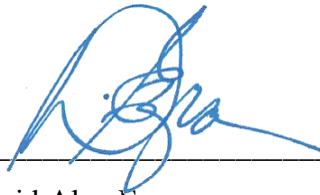
Panel to make its ruling on the pending mandamus and for the parties to adjust their trial preparation depending upon that order.

While this Court certainly does not presume anything, it is the hope that this may alleviate the need for the Fifth Circuit Panel to issue an administrative stay as the trial will not be going forward for a period of at least 90 days.

Therefore, the trial in this matter is hereby continued from August 6, 2024, to November 7, 2024.

IT IS SO ORDERED

DATED: Austin, Texas, August 2, 2024



David Alan Ezra
Senior United States District Judge