

CAUSE NO. 348-367652-25

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
	§	
<i>Plaintiff,</i>	§	
v.	§	
	§	TARRANT COUNTY, TEXAS
ROBERT FRANCIS O'ROURKE and	§	
POWERED BY PEOPLE	§	
	§	
<i>Defendants.</i>	§	348th JUDICIAL DISTRICT

**THE STATE'S REQUEST FOR AN EMERGENCY TEMPORARY
RESTRAINING ORDER AND TEMPORARY INJUNCTION**

Defendant Powered by People (PxP) has brazenly forum-shopped its way to El Paso County, securing an anti-suit restraining order that purports to muzzle the State from prosecuting its *quo warranto* claims before this Court. This naked attempt to usurp Tarrant County's jurisdiction demands immediate action.

This Court has dominant jurisdiction as the first-filed proceeding over El Paso's second-filed case. To defend its rightful authority, this Court must respond with its own anti-suit injunction. Contrary to PxP's public posturing, there are referees in litigation and the rule of law matters.¹ PxP cannot simply change venues and rewrite the rules because it dislikes this Court's rulings.

Four compelling reasons justify anti-suit injunctive relief: (1) protecting this Court's dominant jurisdiction; (2) preventing judicial chaos from multiple courts deciding the same public policy questions; (3) eliminating vexatious forum shopping; and (4) shielding the State from PxP's harassing lawfare.

¹ Beto O'Rourke, *The People vs. The Power Grab: A Rally to Fight Texas Redistricting*, YOUTUBE (Aug. 9, 2025), https://www.youtube.com/watch?v=XXjSG_9XkT0 (timestamp 56:53).

Without swift action, the State suffers irreparable harm—hemorrhaging taxpayer dollars on duplicative litigation while PxP conducts discovery into the State’s litigation strategy before the September 2, 2025, temporary injunction hearing.

BACKGROUND

On August 6, 2025, the State served Plaintiff Powered by People (PxP) with a narrow Request to Examine (RTE) seeking only records from June 1, 2025, through the present, relating to the solicitation and expenditure of funds to aid and abet Texas legislators abandoning their offices and relating to any benefits or compensation offered or provided to the legislators for abandoning their offices. Ex. A (RTE). Given the exceedingly narrow scope of the request and the emergency nature of the issues at stake, production was demanded by 5 p.m. on August 8, 2025. *Id.*

On August 7, 2025, at 9:13 a.m., an out-of-state attorney for PxP emailed the State requesting a two-week extension while they obtained local counsel to “review and respond” to the RTE. Ex. B.

The same day, at 10:27 a.m., the State responded by noting that the investigation was time-sensitive such that a categorical two-week extension was impossible, but if there were specific requests for which timely compliance was impractical, they could discuss an extension on a case-by-case basis. *Id.*

On August 8, 2025, at 10:56 a.m., PxP emailed the State to confirm that they had obtained local counsel. *Id.*

Then, at 11:21 a.m., ignoring the offer from the State relating to extensions on a case-by-case basis, PxP emailed the State requesting another categorical 10-day extension to respond to the RTE. *Id.* PxP failed to identify which requests were impractical to timely respond to and provided

no details as to why it could not comply with *any* of the requests. *Id.* PxP made no effort to produce any responsive documents or comply with the RTE in any respect. In fact, PxP did not even produce a privilege log. See RTE, p. 5 (“[f]or each Document and any other requested information that you assert is privileged or for any other reason excludable from production, please provide a privilege log.”)

In the meantime, the State continued its investigation. And, after gathering additional evidence and learning that PxP planned to host a fundraiser in Fort Worth the following day, at 1:47 p.m., the State notified PxP that the State of Texas (the State), had filed a Deceptive Trade Practice Act (DTPA) suit in Tarrant County relating to the same conduct and documents at issue in the RTE and seeking an emergency temporary restraining order to prevent unlawful fundraising at the Fort Worth rally. Ex. B. The State attached a copy of the lawsuit to the email and asked if PxP wanted to be heard at the emergency temporary restraining order hearing. *Id.*

Nearly two hours later, at 3:26 p.m., PxP filed a 24-page lawsuit challenging the RTE. *See* Ex. C (PxP’s Orig. Pet.), The lawsuit reveals that PxP had no intention of ever producing responsive documents. *Id.* PxP claims in the lawsuit that the State’s investigation violates their constitutional rights and seeks a temporary and permanent injunction enjoining enforcement of the RTE or, alternatively, protection from compliance with the RTE. *Id.*

One minute after filing suit, at 3:27 p.m., PxP sent a colorful email claiming that the State had been “properly served” by email with the PxP lawsuit and claiming that the State had “an adequate chance to respond” to the lawsuit filed a minute earlier. Ex. B. The email went on to baselessly threaten sanctions (a threat later repeated on the phone to undersigned counsel). *Id.*

Importantly, PxP asked to be heard at the emergency temporary restraining order hearing in Tarrant County, Texas. *Id.*

Pursuant to the request to be heard, counsel for the State worked diligently to ensure that accommodations were made for PxP to appear and participate in the emergency temporary restraining order hearing in Tarrant County, Texas. *See* Ex. D (Orig. Temporary Restraining Order).

At approximately 4:30 p.m., counsel for both parties appeared and were heard by this Court at the emergency temporary restraining order hearing. *Id.* At the conclusion of the hearing, after considering the pleadings, evidence, and arguments of the parties, this Court entered a temporary restraining order restraining PxP and Robert Francis O'Rourke (Robert Francis) from:

- i. Using political funds for the improper, unlawful, and non-political purposes of (1) funding out-of-state travel, hotel, or dining accommodations or services to unexcused Texas legislators during any special legislative session called by the Texas Governor, or (2) funding payments of fines provided by Texas House rules for unexcused legislative absences;
- ii. Raising funds for non-political purposes, including to (1) fund out-of-state travel, hotel, or dining accommodations or services to unexcused Texas legislators during any special legislative session called by the Texas Governor, or (2) fund payments of fines provided by Texas House rules for unexcused legislative absences, through the ActBlue platform or any other platform that purports to exist for political fund-raising purposes;
- iii. Offering, conferring, or agreeing to confer, travel, hotel, or dining accommodations or services (or funds to support such accommodations or services) to unexcused Texas legislators during any special legislative session called by the Texas Governor as consideration for a violation of such legislators' Constitutional duties; and
- iv. Removing any property or funds from the State of Texas during the pendency of this lawsuit.

The next day, on August 9, 2025, at 1:15 p.m., the State notified PxP via email that effective immediately it withdrew the challenged RTE as moot, given that the issues under investigation and documents sought by the RTE were now being litigated in the first-filed suit before the 348th District Court in Tarrant County, Texas. Ex. E. The State asked PxP if it would dismiss its El Paso lawsuit as moot considering the withdrawn RTE. *Id.*

When PxP refused to non-suit its moot and baseless El Paso lawsuit, on August 11, 2025, at 12:42 p.m., the State filed a Plea to the Jurisdiction and Plea in Abatement in that cause. Ex. F.

The same day, at 5:00 p.m., the parties held a meet-and-confer wherein the State conferred with PxP on its motion for leave to add a *quo warranto* claim in the ongoing Tarrant County proceedings. See Ex. G (Email). PxP stated its opposition to the motion. *Id.*

Approximately two hours later, at 7:55 p.m., PxP used the information that it gathered from the State's good faith conference attempt to amend its lawsuit in El Paso to add requests for an anti-suit temporary restraining order and a temporary injunction that sought to restrain and enjoin the State from pursuing its *quo warranto* claims in the instant Tarrant County proceeding. Ex. G (PxP's Amen. Pet.).

On August 12, 2025, the State filed an Amended Petition in this proceeding adding a *quo warranto* claim and filed a motion for leave with this Court to add the claim. See State's Amen. Pet.

On August 13, 2025, the El Paso district court held an in person temporary restraining order hearing. See Ex. H (H'ring Trans.). After that hearing, and in apparent recognition of this Court's dominant jurisdiction, the El Paso Court entered an Order Abating Proceedings until August 18, 2025, "pending the decision of the 348th Judicial District Court in Tarrant County of proper venue and jurisdiction in its related-filed proceeding at a hearing on August 14, 2025. Reference Cause No. 348-6-367652-25 in the 348th Judicial District Court." Ex. I (Abate Order).

On August 14, 2025, this Court held a hearing on PxP's Motion to Transfer Venue and the State's Motion to Modify the Temporary Restraining Order. On August 15, 2025, this Court ruled that venue was proper in Tarrant County under Tex. Civ. Prac. & Rem. Code § 15.002(a)(1) because it is "the county in which all or a substantial part of the events or omissions giving rise to the

claim occurred.” Ex. J (MTV Order). The Court scheduled a temporary injunction hearing for September 2, 2025. *Id.*

On August 18, 2025, the El Paso Court held a status conference where it considered the State’s Plea in Abatement and Plea to the Jurisdiction, and PxP’s Temporary Restraining Order. Ex. M (TRO). Despite previously abating the proceeding to allow the Tarrant County Court to determine jurisdiction and venue, the El Paso Court abruptly changed course and granted PxP a temporary restraining order purporting to do the following:

[The State] is restrained and enjoined from initiating, filing, or prosecuting any quo warranto proceeding against Powered by People (or its officers, directors, or founders) without leave of this Court or leave of another El Paso County District Court. Nothing in this Order is intended to bind any court; rather, it binds Defendant and those in active concert or participation with him.

Id.

But this Court has already ruled that it is the appropriate venue for the claims raised by the State’s First Amended Petition, which included a *quo warranto* proceeding. Accordingly, the State asks that this Court protect its jurisdiction over these proceedings by entering a temporary restraining order and temporary injunction against PxP preventing it from pursuing the unlawful proceedings in El Paso intended to deprive this Court of jurisdiction.

TEMPORARY RESTRAINING ORDER AND TEMPORARY INJUNCTION

A temporary injunction is an extraordinary remedy that does not issue as a matter of right. *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002) (op. on reh’g). Its purpose is to preserve the status quo of the litigation’s subject matter until a trial on the merits. *Clint ISD v. Marquez*, 487 S.W.3d 538, 555 (Tex. 2016). The status quo is “the last, actual, peaceable, non-contested status which preceded the pending controversy.” *In re Newton*, 146 S.W.3d 648, 651 (Tex. 2004) (orig. proceeding). To obtain a temporary injunction, an applicant must show: “(1) a

cause of action against the defendant; (2) a probable right to the relief sought; and (3) a probable, imminent, and irreparable injury in the interim.” *Butnaru*, 84 S.W.3d at 204; *Marquez*, 487 S.W.3d at 556 n.12 (temporary restraining orders and temporary injunctions share the same purpose of preserving the status quo) (citing *Newton*, 146 S.W.3d at 651)).

This Court has **already found** that the State has alleged a cause of action and has a probable right to the relief sought. *Compare* State’s Amen. Pet. ¶¶ 22-26, 38-44 (alleging *quo warranto* claims based on PxP’s alleged violation of Tex. Pen. Code § 36.01(3), 36.08, 36.10, Tex. Elec. Code § 253.035; and Rule 5, § 3 of the House Rules of Procedure), *with* Ex. K (this Court’s ruling that “Defendants have and will continue to engage in unlawful fundraising practices and utilization of political funds in a manner that either directly violates or causes Texas legislators to violate: (1) Tex. Pen. Code § 36.01(3); (2) Tex. Ele. Code § 253.035; (3) Rule 5, § 3 of the House R. of Proc.; and (4) Tex. Pen. Code §§ 36.08, 36.10.” (cleaned up)). Absent intervention by this Court, the State will suffer an irreparable miscarriage of justice by being forced to defend a vexatious and harassing lawsuit in El Paso, contend with collateral attacks that undermine this Court’s authority, and remain barred from prosecuting its claims before this Court. *Golden Rule Ins. Co. v. Harper*, 925 S.W.2d 649, 652 (Tex. 1996).

I. The Court Should Issue an Anti-Suit Injunction Against PxP.

Texas courts have the power to restrain persons from proceeding with suits filed in other courts of this state by granting an “anti-suit injunction,” abating proceedings in a second forum. *Gannon v. Payne*, 706 S.W.2d 304, 305 (Tex. 1986). Texas law expressly authorizes this Court to issue an anti-suit injunction when “a party performs or is about to perform or is procuring or allowing the performance of an act *relating to the subject of pending litigation, in violation of the rights of*

the applicant, and the act would tend to render the judgment in that litigation ineffectual.” Tex. Civ. Prac. & Rem. Code § 65.011(2) (emphasis added). Exactly such a scenario exists here.

An anti-suit injunction is appropriate in four instances: 1) to address a threat to the court’s jurisdiction; 2) to prevent the evasion of important public policy; 3) to prevent a multiplicity of suits; or 4) to protect a party from vexatious or harassing litigation. *Id.* at 307. The party seeking the injunction must show that “a clear equity demands” the injunction. *Christensen v. Integrity Ins. Co.*, 719 S.W.2d 161, 163 (Tex. 1986). Here, all four of these independent bases for an anti-suit injunction apply. *First*, this Court has dominant jurisdiction that should be protected. *Second*, this lawsuit centers on the evasion of important public policy to the state (*i.e.* private actors paying or bribing lawmakers to flee the State or otherwise engage in unlawful activity to prevent the passage of legislation). *Third*, this suit is the first-filed suit of two lawsuits that involve the same subject matter. And *fourth*, PxP is now seeking to use its second-filed El Paso lawsuit to bleed the State of valuable resources and discover its litigation strategy. PxP agrees that all four factors exist—just in El Paso and not in Tarrant County. *See* Ex. H at 37:4-39:20 (PxP contending in El Paso that all four anti-suit injunction factors are present).

A. This Court Has Dominant Jurisdiction Over the Subject Matter—Not El Paso.

When a party files suit in a court of competent jurisdiction, that court acquires dominant jurisdiction, entitling it to proceed to judgment and to protect its jurisdiction by enjoining the parties from proceeding in a suit subsequently filed in another court of this state. *Perry v. Del Rio*, 66 S.W.3d 239, 252 (Tex.2001); *In re Henry*, 274 S.W.3d 185, 192 (Tex. App.—Houston [1st Dist.] 2008). This is known as the “first-filed” rule: when two suits are filed on a similar subject matter, “the court in which suit is first filed acquires dominant jurisdiction to the exclusion of other

coordinate courts.” *In re J.B. Hunt Transport, Inc.*, 492 S.W.3d 287, 299–300 (Tex. 2016) (orig. proceeding). (quoting *Curtis v. Gibbs*, 511 S.W.2d 263, 267 (Tex. 1974) (orig. proceeding)). When two suits are inherently interrelated, the court in which the second action was filed must grant a plea in abatement unless an exception to the general rule applies. *Id.* at 294.

A claim of dominant jurisdiction is asserted through a plea in abatement in the second-filed suit. *See In re Puig*, 351 S.W.3d 301, 305 (Tex. 2011) (per curiam) (orig. proceeding). If the party asserting dominant jurisdiction establishes that the doctrine applies, the trial court in the second-filed suit has no discretion to deny the plea unless the party resisting abatement establishes an exception to the rule of dominant jurisdiction. *See In re J.B. Hunt*, 492 S.W.3d at 294 (concluding real parties’ evidence “[fell] well below the legal standards” to establish exception to dominant jurisdiction); *accord In re Red Dot Bldg. Sys., Inc.*, 504 S.W.3d 320, 322–23 (Tex. 2016) (per curiam) (orig. proceeding); *In re Tex. Christian Univ.*, 571 S.W.3d 384, 389, 391 (Tex. App.—Dallas 2019, orig. proceeding). Abatement of a suit due to the pendency of a prior suit is based on the principles of comity, convenience, and the necessity for an orderly procedure in the trial of contested issues. *Miles v. Ford Motor Co.*, 914 S.W.2d 135, 138 (Tex. 1995).

The first question to address in the dominant-jurisdiction analysis is whether there is an inherent interrelationship between the two cases—in this case, between the first-filed suit in the in Tarrant County and the second-filed suit in the in El Paso County. *See J.B. Hunt Transp.*, 492 S.W.3d at 292; *In re Happy State Bank*, No. 02-17-00453-CV, 2018 WL 1918217, at *4 (Tex. App.—Fort Worth Apr. 23, 2018, orig. proceeding) (mem. op.). If the two cases *are* inherently interrelated, then dominant jurisdiction applies and the second-filed suit *must* be abated unless an exception applies. *J.B. Hunt Transp.*, 492 S.W.3d at 292; *see Happy State Bank*, 2018 WL 1918217, at *7.

If they are not, then both suits may proceed. The second question is whether any dominant jurisdiction exceptions apply. *Perry*, 66 S.W.3d at 252.

i. This case and the El Paso case are inherently interrelated.

To determine if cases are inherently interrelated, courts should look to “the compulsory counterclaim rule”—put differently, court examine whether “the same facts, which may or may not be disputed, are significant and logically relevant to both claims.” *Martens v. Lamkin Land & Cattle Co., LLC*, No. 25-BC08B-0009, 2025 WL 2366469, at *6 (Tex. Bus. Ct. Aug. 14, 2025) (quotation omitted).

The first-filed Tarrant County and second-filed El Paso proceedings are inherently interrelated. Both suits involve the same parties—PxP and the State. *See* Ex. G (the Attorney General sued in his official capacity). And both suits involve overlapping claims about the same set of facts. In Tarrant County, the State seeks to revoke PxP’s corporate charter through *quo warranto*, *see* State’s Amen. Pet., while in El Paso, PxP seeks to prevent the State from bringing *quo warranto* proceedings in Tarrant County, *see* Ex. G. Even the discovery disputes involve overlapping issues. In Tarrant County, this Court ordered PxP to produce documents and communications relevant to the claims in dispute. Ex. L. Meanwhile, the State made *substantially the same* requests to PxP two weeks ago during its presuit investigation, and the El Paso Court just held that seeking *the same* information from PxP violates its constitutional rights. *See* Ex. M. Pleas in Abatement are intended to address exactly these situations because inherently interrelated proceedings create the substantial risk of conflicting rulings incurring “inconsistent obligations” for the parties. *See Encore Enterprises, Inc. v. Borderplex Realty Tr.*, 583 S.W.3d 713, 724 (Tex. App. 2019).

ii. No exception to dominant jurisdiction applies.

“The first-filed rule admits of exceptions when its justifications fail, as when the first court does not have the full matter before it, or when conferring dominant jurisdiction on the first court will delay or even prevent a prompt and full adjudication, or when the race to the courthouse was unfairly run.” *Perry*, 66 S.W.3d at 252. None of those exceptions apply here. This Court has the full matter before it, and it is the El Paso matter that seeks to delay the prompt and full adjudication of *quo warranto* proceedings, not this Court. Furthermore, there is no evidence that the State acted unfairly in filing its lawsuit first. While PxP has complained in El Paso of the State’s so-called inequitable conduct in filing this lawsuit first, Texas courts have held that “[a] race to the courthouse by itself is not inequitable conduct.” *In re Texas Christian Univ.*, 571 S.W.3d 384, 392 (Tex. App. 2019); *see also Lee v. GST Transp. Sys., LP*, 334 S.W.3d 16, 18 (Tex. App.—Dallas 2008, pet. denied). Rather, a race to the courthouse is only unfair when the first-filing party “files suit on manifestly unripe claims.” *Perry*, 66 S.W.3d at 252. Here, that was far from the case—indeed, this Court granted the State temporary relief on its ripe claims only a few hours after it was filed. So, no exception to the first-filed rule applies and this Court has dominant jurisdiction.

Despite all this, instead of granting the State’s Plea in Abatement, the El Paso Court granted PxP’s Temporary Restraining Order, thereby restraining the State from prosecuting the *quo warranto* claims in the first-filed lawsuit pending before this Court. Ex. M. The El Paso Court’s ruling represents a collateral attack on this Court’s rulings and presents a clear and present threat to deprive this Court of jurisdiction that can only be protected through anti-suit injunctive relief.

iii. An Anti-Suit Injunction is Necessary to Defend Threats to this Court’s Jurisdiction.

After this Court correctly ruled venue is proper in Tarrant County, PxP went back to El Paso and obtained a ruling saying the opposite, specifically that all or a substantial part of the events

or omissions giving rise to the *quo warranto* claim occurred in El Paso and thus venue is appropriate there. *See* Ex. M (also citing Tex. Civ. Prac. & Rem. Code § 15.002(a)(1)). This is nothing more than a gussied up collateral attack on this Court’s ruling that venue is proper in Tarrant County. *Compare* Ex. J, *with* Ex M; *see* *Cleveland v. Ward*, 285 S.W. 1063, 1071 (1926) (resolving cross-anti-suit injunctions between Johnson County and Dallas County District Courts and explicitly authorizing the Johnson County Court with dominant jurisdiction to issue “an injunction enjoining the parties to the second action from maintaining it.”). It also conflicts with the representations made by counsel for PxP. In El Paso, PxP *repeatedly represented* that it would not argue that venue for the *quo warranto* during the Motion to Transfer Venue hearing in Tarrant County. *See* Ex. H at 99:5-10; 89:22-90:9. But the next day in Tarrant County, PxP did exactly that—arguing that venue for the *quo warranto* claim was only proper in El Paso County. *See* Ex. O at 17:3-24. Unsatisfied when this Court rejected its *quo warranto* venue arguments, PxP took a second bite at the apple by going back to El Paso to make the same argument—but this time obtaining their desired relief.

This alone is sufficient grounds for an anti-suit injunction, because this Court has already decided that it is the proper venue—not El Paso. Ex. J. Venue is proper in “the county in which all or a substantial part of the events or omissions giving rise to the claim occurred.” Tex. Civ. Prac. & Rem. Code § 15.002(a)(1). **The same factual allegations make up both the State’s DTPA and *quo warranto* claims.** *See* State’s Amen. Pet. The El Paso Court acknowledged as much by abating those proceedings “pending the decision of the 348th Judicial District Court in Tarrant County of proper venue and jurisdiction in its related-filed proceeding at a hearing on August 14, 2025.” Ex. I. When multiple suits are proceeding on the same subject matter, venue is proper in the first-filed court, and the second-filed case threatens to deprive the first court of jurisdiction, an anti-suit

injunction is not only justified—it is **necessary**. *See Gonzalez v. Reliant Energy, Inc.*, 159 S.W.3d 615, 623 (Tex. 2005) (holding that an anti-suit injunction was appropriate because the Hidalgo County court interfered with the jurisdiction of the Harris County court by directing the clerk of Harris County to remove the case from the docket altogether); *see also Henry v. McMichael*, 274 S.W.3d 185, 193 (Tex. App.—Houston [1st Dist.] 2008, pet. denied) (affirming an anti-suit temporary injunction issued in a first-filed suit in Brazoria County Court enjoining proceedings in the second-filed Harris County Court to protect its jurisdiction after the Harris County Court refused to grant a Plea in Abatement).

The El Paso Court’s ruling preventing the State from prosecuting its *quo warranto* claims before Tarrant County threatens to deprive this Court of jurisdiction and should be enjoined.

B. This Case Involves Important Questions of Public Policy.

It is undisputed that this case involves important questions of public policy—indeed, this Court has already repeatedly found that this case was brought “in the public interest” to address the ongoing crisis of Texas legislators using various illegal means to stop a vote on redistricting, and to address PXP’s unlawful actions in support of those illegal efforts. *See* Exs. D, K; *see also* Ex. H at 37:4-39:20 (PXP conceding in El Paso that all four anti-suit injunction factors are present).

The Judge in El Paso explained the historical importance of this case thusly:

Look, this is a—I’m very honored to be part of this case because it’s very historical in my opinion. It’s very legally significant and a lot—a lot is at stake here for our community and our state. And so to be part of this case is critical to me as a member of the judiciary to do it right.

Ex. H at 14:3-7.

But those important questions of public policy are in front of **this Court**. *See* State’s Amen. Pet. And it is hard to imagine any other matter of great public policy important that would justify the public policy exception to anti-suit injunctions.

The El Paso Court, understandably, wants to have a role in a matter of historical import. *See id.* at 80:1-4 (El Paso Judge explaining that “I feel this case is—as I said at the beginning, this is significant [to] the State of Texas—not just El Paso—not even just for the people here in the room...” (cleaned up)). But the desire to adjudicate a matter involving important public policy questions cannot justify the El Paso Court ripping out chapters from this Court’s book so that it can insert itself into the story. Should it stand idly by and permit the El Paso Court to assume jurisdiction and decide the important public policy questions, this Court may find itself no more than a footnote in the eventual Supreme Court decision. To protect its jurisdiction and ensure a single dominant jurisdiction deciding a matter of important public policy, this Court should restrain and then enjoin PxP from prosecuting its anti-suit injunction in El Paso County.

C. An Injunction Will Prevent a Multiplicity of Suits.

The Supreme Court of Texas has instructed that even a mirror image proceeding does not constitute a special circumstance requiring an anti-suit injunction. *Golden Rule*, 925 S.W.2d at 651. Rather, a parallel suit must be allowed to proceed “absent some other circumstances which render an injunction necessary ‘to prevent an irreparable miscarriage of justice.’” *Id.* at 652 (quoting *Gannon*, 706 S.W.2d at 307); *see also AVCO Corp. v. Interstate Sm., Ltd.*, 145 S.W.3d 257, 266 (Tex. App.—Houston [14th Dist.] 2004, no pet.) (stating multiplicity argument typically supports issuance of anti-suit injunction when party files numerous lawsuits to relitigate issues in different courts); *Forum Ins. Co. v. Bristol-Myers Squibb Co.*, 929 S.W.2d 114, 119 (Tex.App.-Beaumont

1996, writ denied) (finding multiplicity of suits); *see also Gonzalez*, 159 S.W.3d at 623 (finding that multiplicity of suits warranted anti-suit injunction because the *same party* filed the same claims, against the same defendants, in different Courts).

The Parties agree that a multiplicity of suits exists that warrants anti-suit injunctive relief. *See Ex. H* at 37:4-39:20 (PxP invoking the multiplicity of suits anti-suit injunction factor in El Paso). As discussed *supra*, the El Paso and Tarrant County proceedings are related matters with overlapping parties, facts, and facts. An irreparable miscarriage of justice will occur if El Paso is permitted to enjoin piece-by-piece the actions of this Court. *First*, El Paso has usurped this Court's jurisdiction to decide the *quo warranto* claims. *See Ex. M. Next*, it will enjoin the State from pursuing *any* claims in this Court and from seeking *the same* presuit information through discovery that it *deems* to be unconstitutional (and that this Court has already ordered PxP to produce). It is the interjection of the El Paso Court into the Tarrant County Court's proceedings that sets it apart from other situations where parallel litigation run concurrently without interference. For this reason, and all the others, this Court should enjoin PxP from prosecuting the anti-suit injunction claims in El Paso County.

D. The State is Entitled to Protection from the Harassing El Paso Proceedings.

Finally, an additional and independent reason to grant an anti-suit injunction is to shield the State from PxP's misuse of the El Paso litigation as a tool of harassment and a means to probe the State's litigation strategy ahead of this Court's September 2, 2025, temporary injunction hearing. Texas courts can issue anti-suit injunctions to protect a party from vexatious or harassing litigation. *Gannon*, 706 S.W.2d at 307; *Frost Nat'l Bank v. Fernandez*, 315 S.W.3d 494, 512 (Tex. 2010).

The El Paso court has deliberately scheduled its temporary injunction hearing for August 29, 2025—just one business day before this Court’s temporary injunction hearing on September 2, 2025. Ex. K. Today, the State was informed that PxP intends to seek expedited discovery in the El Paso matter, including depositions of State officials. Ex. N (Email). However, merits discovery is improper at this stage in the El Paso proceeding because the El Paso Court has refused to rule on the State’s Plea to the Jurisdiction.² But as many Texas courts have made clear, including the El Paso Court of Appeals, a trial court must not proceed on the merits, *including* discovery, until jurisdictional challenges are resolved. *See In re Congregation B’Nai Zion of El Paso*, 657 S.W.3d 578, 584 (Tex. App.—El Paso 2022, no pet.) (acknowledging the “fundamental precept that a court must not proceed on the merits of a case until legitimate challenges to its jurisdiction have been decided.” (quoting *Tex. Dep’t of Parks & Wildlife v. Miranda*, 133 S.W.3d 217, 228 (Tex. 2004))). PxP’s transparent attempt to extract merits discovery from the State—just days before the temporary injunction hearing in this Court—poses irreparable harm to the State. It seeks to uncover the State’s evidence and testimony, while draining resources needed to prepare for the September 2 hearing. This is textbook vexatious harassment.

CONCLUSION

For the reasons stated above, the State prays that the Court GRANT a Temporary Restraining Order and, after notice and a hearing, Grant a Temporary Injunction restraining and

² The El Paso Court and PxP both acknowledged during oral argument that if it ruled on the State’s pending Plea to the Jurisdiction it would appeal the ruling, thereby staying the proceedings pursuant to under Tex. Civ. Prac. & Rem. Code § 51.014(b); *see also* Ex. H at 13:3-18. Indeed, at the hearing on August 18, 2025, PxP advised the El Paso Court not to rule on the Plea to the Jurisdiction to prevent the State from staying the proceedings by filing a notice of appeal.

enjoining PxP from prosecuting the anti-suit injunction proceedings in El Paso County, and for all other relief, at law and in equity, to which it may show itself to be justly entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 20, 2025, a copy of the foregoing document was served to all counsel of record in accordance with the Texas Rules of Civil Procedure.

/s/ Johnathan Stone
JOHNATHAN STONE
Chief, Consumer Protection Division
State Bar No. 24071779

CERTIFICATE OF CONFERENCE

A conference was not held with counsel for PxP, Mimi Marziani, on the merits of this motion because of futility. Counsel for PxP has repeatedly declined to nonsuit the El Paso lawsuit. Moreover, when the State conferred with PxP on its motion for leave to file a *quo warranto*, PxP used the State's good faith effort to resolve the dispute to rush to El Paso and initiate the very anti-suit injunction claim giving rise to this motion. The State believes PxP would engage in the same conduct seeking to deprive the Court of the ability to decide this motion were the parties to confer before the filing of this motion.

/s/ Johnathan Stone
JOHNATHAN STONE
Chief, Consumer Protection Division
State Bar No. 24071779

DECLARATION

Pursuant to Tex. Civ. Rem. & Prac. Code § 132.001(f), JOHNATHAN STONE submits this unsworn declaration in lieu of a written sworn declaration, verification, certification, oath, or affidavit required by Texas Rule of Civil Procedure 682. I am an employee of the following governmental agency: Texas Office of the Attorney General. I am executing this declaration as part of my assigned duties and responsibilities.

I declare under penalty of perjury that the factual allegations in this motion are true and correct.

Executed in Travis County, State of Texas, on the 11th day of August 2025.

/s/ Johnathan Stone
JOHNATHAN STONE
Chief, Consumer Protection Division
State Bar No. 24071779

CAUSE NO. 348-367652-25

THE STATE OF TEXAS

Plaintiff,

v.

ROBERT FRANCIS O'ROURKE and
POWERED BY PEOPLE

Defendants.

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

348th JUDICIAL DISTRICT

**THE STATE'S REQUEST FOR AN EMERGENCY TEMPORARY
RESTRAINING ORDER AND TEMPORARY INJUNCTION**

EXHIBIT A



OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

REQUEST TO EXAMINE

To: Powered by People
13409 NW Military Hwy.
Suite 300
Shavano Park, Texas 78231

Return Date: August 8, 2025

c/o Registered Agent:
Christopher Koob
13409 NW Military Hwy.
Suite 300
Shavano Park, Texas 78231

Via Personal Service

c/o Director
Gwen Pulido
3127 Wheeling Ave.
El Paso, Texas 79930

Via Personal Service

c/o Director
Beto O'Rourke
1100 Los Angeles Dr.
El Paso, Texas 79902

Via Personal Service

c/o Director
David Wysong
824 Twin Hills Dr.
El Paso, Texas 79912

Via Personal Service

Re: The Office of the Attorney General's Investigation of Powered by People

The Office of the Attorney General, as the representative of the public's interest, has authority to examine any record of a filing entity or foreign filing entity within the meaning of the Texas Business Organizations Code. Tex. Bus. Org. Code § 12.151. Such examination of records may be

undertaken in accordance with an investigation under Texas Business Organizations Code Section 12.153 to determine whether a Texas-registered entity's conduct violates its governing documents or any laws of this state.

Powered by People is a filing entity within the meaning of the Texas Business Organizations Code. Pursuant to this Office's specific authority under Texas law, including Texas Business Organizations Code Section 12.151, *et seq.*, the Office of the Attorney General is issuing this Request to Examine (RTE) instructing that Powered by People permit the Office of the Attorney General to examine and make copies of, or otherwise produce, the records set forth in Attachment "A."

You are to make available the records described in Attachment "A" to the undersigned Assistant Attorney General or other authorized agent(s). The records may be sent electronically or by certified mail to the Office of the Attorney General, 300 W. 15th. Street, 9th Floor, Austin, TX 78701, and are due by **5 p.m. (CDT) on August 8, 2025**. Please contact one of the persons listed below upon receipt to discuss the logistics of producing physical copies of the requested documents to the Office of the Attorney General. If providing records electronically, please provide them to Rozanne Lopez at Rozanne.lopez@oag.texas.gov.

NOTICE OF RIGHTS AND PENALTIES

TAKE NOTICE THAT you are encouraged to meet and confer with the Office of the Attorney General if you contend that any of the information sought in Attachment A is constitutionally protected or otherwise legally exempt from production to the Office of the Attorney General.

If you cannot reach agreement with the Office of the Attorney General on the scope of documents sought, you may attempt to obtain pre-compliance judicial review of the RTE before 5 p.m. (CDT) on August 8, 2025. *See Paxton v. Annunciation House, Inc.*, No. 24-0573, 2025 WL 1536224, at *24 (Tex. May 30, 2025).

TAKE FURTHER NOTICE THAT penalties for a legally unexcused failure or refusal to timely produce records for the Attorney General's examination include the Office of the Attorney General initiating a legal action for the entity's "registration or certificate of formation" to "be revoked or terminated." Tex. Bus. Org. Code § 12.155. If the Office of the Attorney General deems such penalty warranted, proceedings to revoke or terminate an entity's registration or certificate of formation are initiated through a petition for leave to file an information in the nature of *quo warranto*. Tex. Civ. Prac. & Rem. Code § 66.002. In such a proceeding, the registered entity is "entitled to" the same rights "as in cases of trial in civil cases." Tex. R. Civ. P. 781.

ISSUED THIS 6th day of August 2025.

/s/ Rob Farquharson

Rob Farquharson
Deputy Chief
Consumer Protection Division
Office of the Attorney General
Rob.Farquharson@oag.texas.gov

Other Authorized Agents:
Rozanne Lopez, Investigator
Consumer Protection Division
Office of the Attorney General
rozanne.lopez@oag.texas.gov (email)

Johnathan Stone
Chief
Consumer Protection Division
Office of the Texas Attorney General
Johnathan.Stone@oag.texas.gov

ATTACHMENT “A”

Instructions

1. **Read These Instructions/Definitions Carefully.** Your production must comply with these instructions and definitions.
2. **Duty to Preserve Documents.** All documents and/or other data which relate to the subject matter or requests of this RTE must be preserved. *Any ongoing, scheduled, or other process of document or data destruction involving such documents or data must cease even if it is your normal or routine course of business for you to delete or destroy such documents or data and even if you believe such documents or data are protected from discovery by privilege or otherwise.* Failure to preserve such documents or data may result in legal action and may be regarded as spoliation of evidence under applicable law.
3. **Relevant Dates.** Unless otherwise noted, the requests in this RTE require production of documents from **June 1, 2025**, to the date of the production of documents in response to this RTE, herein called “the relevant time period.”
4. **Custody and Control.** In responding to this RTE, you are required to produce not only all requested documents in your physical possession, but also all requested documents within your custody and control. A document is in your custody and control if it is in the possession of another person and you have a right to possess that document that is equal or superior to that other person’s right of possession. On the rare occasion that you cannot obtain the document, you must provide an explanation as to why you cannot obtain the document which includes the following information:
 - a. the name of each author, sender, creator, and initiator of such document;
 - b. the name of each recipient, addressee, or party for whom such document was intended;
 - c. the date the document was created;
 - d. the date(s) the document was in use;
 - e. a detailed description of the content of the document;

- f. the reason it is no longer in your possession, custody, or control; and
- g. the document's present whereabouts.

If the document is no longer in existence, in addition to providing the information indicated above, state on whose instructions the document was destroyed or otherwise disposed of, and the date and manner of the destruction or disposal.

- 5. **Non-identical Copies to be Produced.** Any copy of a document that differs in any manner, including the presence of handwritten notations, different senders or recipients, etc. must be produced.
- 6. **No Redaction.** All non-privileged materials or documents produced in response to this RTE shall be produced in complete unabridged, unedited, and unredacted form, even if portions may contain information not explicitly requested, or might include interim or final editions of a document.
- 7. **Document Organization.** Each document and other tangible thing produced shall be clearly designated as to which request, and each sub-part of a request, that it satisfies. The documents produced shall be identified and segregated to correspond with the number and subsection of the request.
- 8. **Production of Documents.** You may submit photocopies (with color photocopies where necessary to interpret the document) in lieu of original hard-copy documents if the photocopies provided are true, correct, and complete copies of the original documents. If the requested information is electronically stored information, it shall be produced in electronic form. Electronically stored information shall be produced with the accompanying metadata, codes, and programs necessary for translating it into usable form, or the information shall be produced in a finished usable form. For any questions related to the production of documents you may consult with the Office of the Attorney General representatives above.
- 9. **Privilege Log.** For each Document and any other requested information that you assert is privileged or for any other reason excludable from production, please provide a privilege log, wherein you:
 - a. Identify that Document and other requested information;

- b. State each specific ground for the claim of privilege or other ground for exclusion and the facts supporting each claim of privilege or other ground for exclusion;
- c. State the date of the Document or other requested information; the name, job title, and address (including city, state and ZIP Code) of the person who prepared it; the name, address (including city, state, and ZIP Code), and job title of the person to whom it was addressed or circulated or who saw it; and the name, job title, and address (including city, state, and ZIP Code) of the person now in possession of it; and
- d. Describe the type and subject matter of the Document or other requested information.

Definitions

1. **“You,” “your,” or “Powered by People”** means Powered by People, its past and present directors, officers, employees, agents and representatives, parents and predecessors, divisions, subsidiaries, affiliates, political action committees, partnerships and joint ventures, and includes all persons and entities acting or purporting to act under the guidance or on behalf of any of the above. The terms “subsidiary,” “affiliate,” and “joint venture” refer to any firm in which there is total or partial ownership (25 percent or more) or control between the company and any other person or entity.
2. **“Benefit”** is used in a manner consistent with § 36.01 of the Texas Penal Code and means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.
3. The words **“and”** and **“or”** shall be construed either conjunctively or disjunctively as required by the context to bring within the scope of the request, any document(s) that might be deemed outside its scope by another construction.
4. **“Communication”** means any conversation (internal or external), discussion, letter, email, correspondence, memorandum, meeting, note, or other transmittal of information or message, whether transmitted in writing, orally, electronically, or by any other means.
5. **“Concerning,” or “Relating to,” or “Related to”** means related to, referring to, pertaining to, concerning, describing, regarding, evidencing, or constituting.
6. **“Document”** shall be construed in the broadest sense possible and encompasses any electronically stored information, writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation by Powered by People into a reasonably usable form. Although it does not limit the scope of this RTE, the definition and interpretation of “document” under the Texas Rules of Civil Procedure provides a useful reference point.
7. **“Including”** means including, but not limited to.
8. **“Person”** means any natural person or any legal entity, including, without limitation, any corporation, company, limited liability company or corporation, partnership, limited partnership, association, or firm.

Requests: Documents for Production

In accordance with the requirements set forth in the “Definitions” and “Instructions” sections of this RTE, You are specifically required produce the following no later than **5 p.m. (CDT) on August 8, 2025:**

Request No. 1:

Produce Communications between You and any other person or group relating to planned or actual travel arrangements, accommodations, or meals outside of Texas for any of the following persons:

Gina Hinojosa
Ron Reynolds
James Talarico
Ann Johnson
Gene Wu
John Bucy
Trey Martinez Fischer
Josey Garcia
Diego Bernal
Toni Rose
Jon Rosenthal
Jalonda Jones
Venton Jones
Rafael Anchia
Sheryl Cole
Ramon Romero
Nicole Collier
Harold Dutton
Chris Turner
Linda Garcia
Charlene Ward Johnson
Jessica González
Ana-María Rodríguez Ramos
Lauren Ashley Simmons
Donna Howard
Lulu Flores
Vikki Goodwin
Cassandra Garcia Hernandez
Mihaela Plesa
Suleman Lalani
Ray López

Christina Morales
Barbara Gervin-Hawkins
John Bryant
Rhetta Bowers
Terry Meza
Aicha Davis
Elizabeth Campos
Alma Allen
Ana Hernandez
Salman Bhojani
Erin Gamez
Christian Manuel
Vincent Perez
Mary Gonzalez
Claudia Ordaz
Penny Morales-Shaw
Senfronia Thompson
Hubert Vo
Yvonne Davis
Erin Zwiener
Armando Walle
Bobby Guerra
Mary Ann Perez

Request No. 2:

Produce Documents relating to planned or actual travel arrangements, accommodations, or meals for any of the persons identified in Request No. 1.

Request No. 3:

Produce Documents relating to, or discussing, quorum during Texas's current special legislative session.

Request No. 4:

Produce Communications relating to, or discussing, quorum during Texas's current special legislative session.

Request No. 5:

Produce Documents relating to the provision of any Benefit or compensation to the persons identified in Request No. 1.

Request No. 6:

Produce Communications regarding the provision of any Benefit or compensation relating to the persons identified in Request No. 1.

Request No. 7:

Produce Communications discussing, or relating to, the solicitation of funds to pay for planned or actual travel arrangements, accommodations, or meals for any of the persons listed in Request No. 1.

Request No. 8:

Produce Documents relating to the solicitation of funds to pay for planned or actual travel arrangements, accommodations, or meals for any of the persons listed in Request No. 1.

Request No. 9:

Produce Documents showing each expenditure that You have made relating to the persons identified in Request No. 1.

Request No. 10:

Produce Documents sufficient to show all agreements, contracts, or receipts for services between You and CommuteAir or United Express.

Request No. 11:

Produce Documents sufficient to show receipts or confirmations of every political contribution that You made to any of the persons identified in Request No. 1.

CAUSE NO. 348-367652-25

THE STATE OF TEXAS

Plaintiff,

v.

ROBERT FRANCIS O'ROURKE and
POWERED BY PEOPLE

Defendants.

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

348th JUDICIAL DISTRICT

**THE STATE'S REQUEST FOR AN EMERGENCY TEMPORARY
RESTRAINING ORDER AND TEMPORARY INJUNCTION**

EXHIBIT B

From: [Mimi Marziani](#)
To: [Johnathan Stone](#)
Cc: [Beth Stevens](#); [David Mitrani \(Sandler Reiff\)](#); [Rob Farquharson](#); [Joaquin Gonzalez](#); [Christina Bustos](#); [Pauline Sisson](#); [Rozanne Lopez](#); [Jacob Przada](#)
Subject: Re: Powered by People
Date: Friday, August 8, 2025 3:27:06 PM
Attachments: [image001.png](#)

Johnathan,

We just filed suit and motion for protective order in El Paso County -- the county where you served the RTE, where Powered by People principally operates, where Mr. O'Rourke lives and the county where venue is in fact proper for any related dispute. As you are aware, pursuant to TRCP 176.6(e), "A person need not comply with the part of a subpoena from which protection is sought under this paragraph unless ordered to do so by the court." *See also Paxton v. Annunciation House, Inc.*, No. 24-0573, 2025 WL 1536224, *24 (Tex. 2025) (determining that Rule 176.6(e) applies to the Attorney General's Requests to Examine). Unlike you, we followed the steps to ensure you are properly served with this lawsuit and have an adequate chance to respond.

You know Powered by People is represented by counsel. It is wholly improper to proceed with an ex parte legal action. We want to be heard on this matter, and request time for briefing and argument on any injunction. We reserve the right to seek sanctions for any violation of Texas ethical rules.

We are available for a call at your convenience.

Best,

Mimi

On Fri, Aug 8, 2025 at 1:47 PM Johnathan Stone <Johnathan.Stone@oag.texas.gov> wrote:

Thank you for your email. We are filing suit today against Robert Francis O'Rourke and Powered by People in Tarrant County, Texas. We are seeking an emergency ex parte TRO. We are reaching out to see if you wish to be heard. Please let us know as soon as possible.

Kind regards,

Johnathan Stone
Chief

Consumer Protection Division
Office of the Attorney General of Texas

Telephone: (512) 936-2613
Johnathan.Stone@oag.texas.gov

This is a confidential communication and intended for the addressee(s) only. Any unauthorized interception or disclosure of this transmission is prohibited pursuant to Tex. Gov't Code Ch. 552. If you are not the intended recipient of this message, please notify the sender and destroy this and all copies of this communication. Thank you.

From: Beth Stevens <bstevens@msgpllc.com>
Sent: Friday, August 8, 2025 11:21 AM
To: David Mitrani (Sandler Reiff) <mitrani@sandlerreiff.com>
Cc: Rob Farquharson <Rob.Farquharson@oag.texas.gov>; Johnathan Stone <Johnathan.Stone@oag.texas.gov>; rozanne.lopez@oag.texas.gov; Mimi Marziani <mmarziani@msgpllc.com>; Joaquin Gonzalez <jgonzalez@msgpllc.com>; Christina Bustos <bustos@sandlerreiff.com>; Pauline Sisson <Pauline.Sisson@oag.texas.gov>
Subject: Re: Powered by People

Mr. Farquharson,

We understand that you are unable to agree to a 2 week extension. Without waiving any potential objections to the RTE, we request an extension of the RTE deadline to August 16. Texas Rule of Civil Procedure 205.2, concerning subpoenas on nonparties, provides "A notice to produce documents or tangible things...must be served at least 10 days before the subpoena compelling production is served." Of course a party to civil litigation is entitled to even more time (30 days) to produce documents. At this juncture, we simply ask for the same amount of time that a nonparty in receipt of notice to produce documents receives. Will you all allow an extension of the deadline to respond to the RTE to August 16, 10 days from when the notice was received?

Thank you,

Beth

--

Beth Stevens

she/her/hers

Founding Partner, MS&G PLLC

bstevens@msgpllc.com

(361)437-9081



On Fri, Aug 8, 2025 at 10:56 AM David Mitrani (Sandler Reiff)
<mitrani@sandlerreiff.com> wrote:

All – I am adding Powered by People’s in-state counsel to the thread as well.

Thanks,

Dave

--

Dave Mitrani

Partner

Sandler Reiff Lamb Rosenstein & Birkenstock, P.C.

sandlerreiff.com

From: Rob Farquharson <Rob.Farquharson@oag.texas.gov>

Date: Thursday, August 7, 2025 at 10:27

To: David Mitrani (Sandler Reiff) <mitrani@sandlerreiff.com>, Johnathan Stone

<Johnathan.Stone@oag.texas.gov>, rozanne.lopez@oag.texas.gov
<rozanne.lopez@oag.texas.gov>
Cc: Christina Bustos <bustos@sandlerreiff.com>, Pauline Sisson
<Pauline.Sisson@oag.texas.gov>
Subject: RE: Powered by People

Mr. Mitrani:

Thank you for your email and for confirming receipt of the RTE.

As I am sure you are aware, this is a time-sensitive investigation, and to that end, we cannot agree to a categorical two-week extension.

If there are specific requests that you would like to discuss, or for which you believe compliance is impractical in the time provided, we are happy to speak and address those requests/ materials on a case-by-case basis.

Thanks,

Rob



Rob Farquharson
Assistant Attorney General
Consumer Protection Division
Office of the Attorney General of Texas

From: David Mitrani (Sandler Reiff) <mitrani@sandlerreiff.com>
Sent: Thursday, August 7, 2025 9:13 AM
To: Rob Farquharson <Rob.Farquharson@oag.texas.gov>; Johnathan Stone
<Johnathan.Stone@oag.texas.gov>; rozanne.lopez@oag.texas.gov
Cc: Christina Bustos <bustos@sandlerreiff.com>

Subject: Re: Powered by People

Messers Farquharson, Stone; Ms. Lopez:

My name is David Mitrani from the law firm Sandler Reiff in Washington, DC, our firm is counsel for Powered by People. We are in receipt of the Request to Examine dated August 6, 2025, which was received late last night, with an August 8 deadline.

The organization is in the process of securing Texas counsel for this particular matter. Given the very short timeline for response proposed, and that the organization is seeking Texas counsel, we would ask for a two-week extension to review and respond to the RTE, to Friday August 22, 2025.

Is such an extension amenable?

--

Dave Mitrani

Partner

Sandler Reiff Lamb Rosenstein & Birkenstock, P.C.

sandlerreiff.com

--

Beth Stevens

she/her/hers

Founding Partner, MS&G PLLC

bstevens@msgpllc.com

(361)437-9081



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--

Mimi M.D. Marziani

Founding Partner, MS&G PLLC

mmarziani@msgpllc.com

(615) 293-5003

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CAUSE NO. 348-367652-25

THE STATE OF TEXAS

Plaintiff,

v.

ROBERT FRANCIS O'ROURKE and
POWERED BY PEOPLE

Defendants.

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

348th JUDICIAL DISTRICT

**THE STATE'S REQUEST FOR AN EMERGENCY TEMPORARY
RESTRAINING ORDER AND TEMPORARY INJUNCTION**

EXHIBIT C

CAUSE NO. _____

POWERED BY PEOPLE,	§	IN THE DISTRICT COURT
<i>Plaintiff,</i>	§	
	§	
V.	§	____ JUDICIAL DISTRICT
	§	
KEN PAXTON,	§	
IN HIS OFFICIAL CAPACITY AS	§	
TEXAS ATTORNEY GENERAL	§	
<i>Defendants.</i>	§	EL PASO COUNTY, TEXAS

**VERIFIED ORIGINAL PETITION FOR DECLARATORY JUDGMENT,
MOTION FOR PROTECTIVE ORDER, APPLICATION FOR TEMPORARY
INJUNCTION, AND OTHER INJUNCTIVE RELIEF**

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff, Powered by People, a volunteer-driven Texas nonprofit composed of thousands of everyday Texans, files this verified original petition seeking a temporary restraining order and a protective order against Defendant, Texas Attorney General Ken Paxton, in his official capacity. As explained below, Defendant seeks reams of sensitive and burdensome information from Plaintiff — including privileged communications, detailed financial information and other materials — in less than 48 hours, and has refused multiple requests for a reasonable extension. The State provides no valid reason to support this urgent, invasive, expensive inquiry. On the contrary, Defendant Paxton publicly admitted that while he does not have “details” to support his allegations, he wants to use this “investigation” to “find out if they’ve done anything inappropriate,” pointing explicitly to Plaintiff’s recent political speech, organizing and advocacy.¹ In other words, the State is bluntly using the vast power of the Attorney General’s office to

¹ James Morley III, Texas AG Paxton to Newsmax: O’Rourke’s PAC to Be Investigated, NEWSMAX (Aug. 6, 2025, 5:40 PM EDT), <https://www.newsmax.com/newsmax-tv/ken-paxton-texas-redistricting/2025/08/06/id/1221553/>.

effectuate a fishing expedition, constitutional rights be damned. Even worse, Defendant Paxton — who is running for and actively fundraising for his 2026 run for U.S. Senate — has publicly identified former Congressman Beto O’Rourke, the prominent founder of Powered by People, as a potential 2026 political opponent. The true motivation behind Defendant’s action thus appears to be an unlawful desire to retaliate against Mr. O’Rourke, and to use the power of the State of Texas to try to intimidate Mr. O’Rourke from challenging Defendant in a free and fair election.

Plaintiffs respectfully show the Court as follows, in support of the requested relief:

I. PARTIES

1. Plaintiff, Powered by People, is a Texas nonprofit corporation. It operates as a political organization pursuant to 26 U.S.C. § 527(e)(1) for the purpose of “directly or indirectly accepting contributions or making expenditures, or both” to influence elections. As a political organization, Powered by People files regular campaign finance reports with the Texas Ethics Commission, and is registered within Texas as a general-purpose committee.

2. Defendant is Ken Paxton, in his official capacity as Texas Attorney General. He may be served at the Office of the Attorney General, 300 W. 15th Street, Austin, Texas 78701.

II. DISCOVERY-CONTROL PLAN

3. Plaintiff intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.3 and affirmatively pleads that this suit is not governed by the expedited-actions process in Texas Rule of Civil Procedure 169 because Plaintiff seeks injunctive relief.

III. RULE 47 STATEMENT

4. Pursuant to Texas Rule of Civil Procedure No. 47, Plaintiff is not seeking monetary relief, only non-monetary relief in the form of injunctive and declaratory relief.

IV. JURISDICTION & VENUE

5. This Court has statutory jurisdiction in that a substantial part of the events giving rise to this claim occurred in El Paso County. Venue is proper because the challenged Request to Examine was served in El Paso County. *See* Tex. R. Civ. Pro. 176.6(e) (“[a] person commanded to...produce...designated documents and things...may move for a protective order...either in the court in which the action is pending or in a district court in the county where the subpoena was served.”); *see also Paxton v. Annunciation House, Inc.*, No. 24-0573, 2025 WL 1536224, *24 (Tex. 2025) (determining that Rule 176.6(e) applies to the Attorney General’s Requests to Examine).

V. FACTS

6. In 2019, Mr. O'Rourke founded Powered by People, a voter registration and mobilization group that works to expand access to democracy through voter registration and direct voter engagement. Composed of thousands of volunteers in every region of Texas, and with seven full-time employees, Powered by People has spearheaded large voter mobilization efforts, registering hundreds of thousands of Texans to vote. In addition, at different times, Powered by People has taken on community-centered projects such as raising money for persons who suffered home damage as a result of Texas’s electric grid failure, coordinating volunteers at community food banks during the height of the COVID pandemic, going door-to-door to educate elderly members of the public about vaccines during the pandemic, and raising money for and delivering supplies during other national disasters.

7. Powered by People currently has seven employees and maintains its principal place of business in El Paso, Texas.

8. In addition to serving as its founder, Mr. O’Rourke sits on Powered by People’s Board of Directors, alongside David Wysong and Gwen Pulido.

9. In recent months, Mr. O’Rourke has been a prominent, outspoken critic of Texas Republicans’ attempts to re-draw Texas’ congressional map at the behest of President Donald J. Trump. For instance, on July 21, 2025, Mr. O’Rourke appeared on PBS Newshour and argued that President Trump “knows he will lose the slim majority they have in the House of Representatives unless they rig the game mid-decade, which is what they’re trying to do in Texas.”² On July 24, 2024, Mr. O’Rourke appeared at a large rally at the Capital and accused Republicans of “play[ing] games . . . in order to maximize [] political power” at the expense of flood victims.³

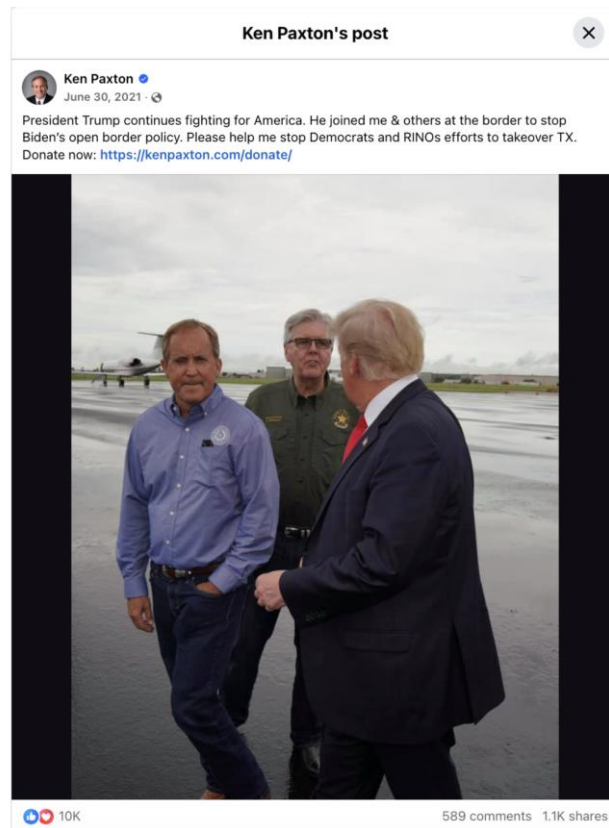
10. In support of his political views and the views of Powered by People, Mr. O’Rourke has made numerous successful grassroots fundraising appeals for donations to Powered by People, stating his desire to “have the backs of these heroic state lawmakers” and otherwise support Texas-based organizations who share his opposition to the newly introduced redistricting maps.⁴ It is, of course, commonplace for political figures and candidates to tie appeals for resources to achieving policy actions. Indeed, Defendant Paxton himself has implored donors to donate to help him “stop Biden’s open border policy” and “stop Democrats and RINOs efforts to takeover [sic] TX.”⁵

² Amna Nawaz, *Stephanie Kotuby & Alexa Gold, O’Rourke says ‘we have to fight back’ as Trump pushes Texas to redraw congressional maps*, PBS NEWSHOUR (July 21, 2025, 6:40 PM EDT), <https://www.pbs.org/newshour/show/orourke-says-we-have-to-fight-back-as-trump-pushes-texas-to-redraw-congressional-maps>.

³ Blaise Gainey, *‘We will not let Trump take over’: Texans rally as state lawmakers begin redistricting hearings*, KUT (July 24, 2025, 4:36 PM CDT), <https://www.kut.org/politics/2025-07-24/we-will-not-let-trump-takeover-texans-rally-as-state-lawmakers-begin-redistricting-hearings>.

⁴ Owen Dahlkamp, *Beto O’Rourke’s political group is a top funder for Texas Democrats’ exodus to block GOP congressional map*, Tex. Trib. (Aug. 5, 2025, 1:00 PM CT), <https://www.texastribune.org/2025/08/05/texas-democrats-quorum-break-beto-orourke-illinois-funding/>.

⁵ Ken Paxton, Facebook (Jun. 30, 2021, 2:04 PM EDT), <https://www.facebook.com/kenpaxtonTX/posts/4198758750185935>, (last visited Aug. 8, 2025).



11. Less than 48 hours ago, at 2:15pm MT on Wednesday August 6, 2025, Defendant Paxton issued a press release entitled “Attorney General Ken Paxton Launches Investigation into Beto O’Rourke’s Radical Group for Unlawfully Funding Runaway Democrats.” The release stated that, “[a]s part of the investigation, Attorney General Paxton has issued a Request to Examine, which demands documents and communications from the group regarding potentially unlawful activity, including its involvement in the Democrats’ scheme to break quorum.”⁶

⁶ Press Release, Office of the Texas Attorney General, Attorney General Ken Paxton Launches Investigation into Soros-Funded PAC for Unlawfully Funding Runaway Democrat Legislators (Aug. 7, 2025), <https://www.texasattorneygeneral.gov/news/releases/attorney-general-ken-paxton-launches-investigation-soros-funded-pac-unlawfully-funding-runaway>.

12. At 7:15pm MT on August 6, 2025, Mr. Wysong received the “Request to Examine” (RTE) via personal service at his home in El Paso, Texas. A true and accurate copy of the RTE, as served upon Mr. Wysong, is attached as Exhibit A.

13. Indeed, as of this filing, Mr. O’Rourke has not been served with the RTE, and in fact is outside of Texas.

14. The RTE demands eleven categories of potentially extensive documents that may be in the possession of Plaintiff. Several may be subject to privilege.

- a. For instance, Requests 1 and 2 seek communications between Powered by People and dozens of lawmakers. To the extent any such documents exist, they may be protected by legislative privilege.
- b. Requests 3 and 4 seek documents and communications “relating to, or discussing, quorum during Texas’s current special legislative session.” Requests 7 and 8 seek communications regarding the “solicitation of funds” to support certain lawmakers. To the extent any such documents exist, they may be protected by attorney-client privilege.

15. Upon information and belief, between Plaintiff’s numerous employees and volunteers, it would take several days, at a minimum, for Plaintiff to fully assemble the materials demanded, and additional time for counsel to thoroughly review those materials for privilege and to determine any necessary objections to lodge against each request.

16. Despite the extensive and burdensome requests, the likely privileged nature of the information sought, and constitutionally suspect motives involved, the RTE sets a compliance deadline of 4:00 pm MT (5:00pm CT) today, Friday, August 8.

17. While the RTE claims to encourage Plaintiff to “meet and confer with the Office of the Attorney General” over the scope of the production, when Powered by People’s national counsel asked first for a two-week extension the morning of Thursday, August 7, 2025, his request was promptly rejected. Similarly, a subsequent request sent by Texas counsel seeking an extension until August 16, 2025 (the same 10 days a nonparty subpoenaed for documents in a civil lawsuit under Tex. R. Civ. P. 205.2 would be entitled to), went, as of this filing, unresponded to by the Office of Attorney General.

18. Defendant purported to issue the RTE pursuant to Texas Business Organizations Code § 12.151 *et seq.*, which allows the Attorney General to inspect corporate records “as the attorney general considers necessary in the performance of a power or duty of the attorney general, of any record of the entity.”

19. The RTE threatened that if Powered by People does not comply, penalties “include the Office of the Attorney General initiating a legal action for the entity’s ‘registration or certificate of formation’ to be ‘revoked or terminated,’ Tex. Bus. Org. Code § 12.155. If the Office of the Attorney General deems such penalty warranted, proceedings to revoke or terminate an entity’s registration or certificate of formation are initiated through a petition for leave to file an information in the nature of *quo warranto*. Tex. Civ. Prac. & Rem. Code § 66.002.” It is also Class B misdemeanor to fail to or refuse to provide records requested by the Attorney General. *See* Tex. Bus. Orgs. Code § 12.156.

20. Defendant Paxton has identified Mr. O’Rourke as a prospective opponent in the 2026 U.S. Senate race, and has already used the prospect of running against Mr. O’Rourke in a fundraising appeal.⁷



21. Recently, through repeated comments, Defendant Paxton has made clear his intention to retaliate against Mr. O’Rourke personally through this RTE for Mr. O’Rourke’s First Amendment-protected activities, including his speech, association with others, and advocacy against the proposed congressional maps. As noted above, the press release announcing the RTE

⁷ Ken Paxton (@KenPaxtonTX), X (Apr. 29, 2025, 2:23 PM CDT), <https://x.com/KenPaxtonTX/status/1917298692438254050> (last visited Aug. 8, 2025).

characterizes lawful donations made by Powered by People as “Beto Bribes.”⁸ Defendant Paxton has gone on in recent days to call Mr. O’Rourke “delusional”⁹ and to claim he is “scared of accountability.”¹⁰ And, again, even though Defendant Paxton has publicly admitted that he does not have any “details” or actual proof to support allegations of unlawful behavior,¹¹ Defendant Paxton has stated that serving the RTE sparks “an investigation into Beto O’Rourke’s radical group for unlawfully funding runaway Democrats.”¹²

VI. CLAIMS FOR RELIEF

COUNT 1: U.S. Constitution, Freedom of Association (42 U.S.C. § 1983)

22. Plaintiff realleges and incorporates by reference the foregoing paragraphs as though fully set forth herein.

23. Freedom of association for the purpose of advancing ideas and airing grievances is a fundamental liberty guaranteed by the First Amendment. *In re Bay Area Citizens Against Lawsuit Abuse*, 982 S.W.2d 371, 375 (Tex. 1998) (quoting *NAACP v. Alabama*, 357 U.S. 449, 460 (1958)). The First Amendment’s protection of the freedom of association provides “protection to collective effort on behalf of shared goals.” *Roberts v. U.S. Jaycees*, 468 U.S. 609, 622 (1984). As the Supreme Court has noted, “[p]rotected association furthers a wide variety of political, social,

⁸ Press Release, Office of the Texas Attorney General, Attorney General Ken Paxton Launches Investigation into Beto O’Rourke’s Radical Group for Unlawfully Funding Runaway Democrats (Aug. 6, 2025),

<https://www.texasattorneygeneral.gov/news/releases/attorney-general-ken-paxton-launches-investigation-beto-orourkes-radical-group-unlawfully-funding>.

⁹ Ken Paxton (@KenPaxtonTX), X (Aug. 7, 2025 3:16 PM), <https://x.com/KenPaxtonTX/status/1953550789571424322> (last visited Aug. 8, 2025).

¹⁰ Ken Paxton (@KenPaxtonTX), X (Aug. 6, 2025, 6:19 PM CDT), <https://x.com/KenPaxtonTX/status/1953234509685768647> (last visited Aug. 8, 2025).

¹¹ James Morley III, *Texas AG Paxton to Newsmax: O’Rourke’s PAC to Be Investigated*, Newsmax (Aug. 6, 2025, 5:40 PM EDT).

¹² Ken Paxton (@KenPaxtonTX), X (Aug. 6, 2025, 3:18 PM CDT), <https://x.com/KenPaxtonTX/status/1953188955807273440> (last visited Aug. 8, 2025).

economic, educational, religious, and cultural ends, and is especially important in preserving political and cultural diversity and in shielding dissident expression from suppression by the majority.” *Americans for Prosperity Found. v. Bonta*, 594 U.S. 595, 606 (2021) (internal quotation marks omitted).

24. The RTE wrongly burdens association in several ways. First, political contributions and expenditures are a form of speech and association. *See In re Siroosian*, 449 S.W.3d 920, 925 (Tex. App.—Dallas 2014, no pet.) (quoting *McCutcheon v. Fed. Election Comm’n*, 134 S.Ct. 1434, 1441 (2014)) (“The right to participate in democracy through political contributions is protected by the First Amendment.”). Government actions that tend to limit political spending “operate in an area of the most fundamental First Amendment activities. Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution.” *Osterberg v. Peca*, 12 S.W.3d 31, 41 (Tex. 2000) (quoting *Buckley v. Valeo*, 424 U.S. 1 (1976) (per curiam)). Here, Defendant Paxton is overtly penalizing Plaintiff’s exercise of free speech, seeking to chill Plaintiff and Mr. O’Rourke from further political spending and donating. “The First Amendment does not permit the government to make any individual choose between the First Amendment right to engage in unfettered political speech and subjection to discriminatory” application of laws. *See Davis v. Fed. Election Comm’n*, 554 U.S. 724, 739 (2008).

25. Moreover, the Supreme Court has recognized for decades that “compelled disclosure of affiliation with groups engaged in advocacy may constitute as effective a restraint on freedom of association as [other] forms of governmental action.” *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 462 (1958). That is because disclosure can subject organizations and individuals to threats of harassment, reprisals, and “other manifestations of public hostility.” *Id.*

26. Harassment need not be certain to occur for a plaintiff to state an association claim. The Supreme Court has emphasized instead that the First Amendment is implicated “by ‘state action which may have the effect of curtailing the freedom to associate,’ and by the ‘possible deterrent effect’ of disclosure.” *Americans for Prosperity Found.*, 594 U.S. at 616 (quoting *NAACP*, 357 U.S. at 460–61); *see also id.* at 606 (“freedom of association may be violated . . . where individuals are punished for their political affiliation.”).

27. Further, the First Amendment protects the right to publish and distribute political writings while remaining anonymous. *Ex parte Odom*, 570 S.W.3d 900, 908 (Tex. App.—Houston [1st Dist.] 2018, pet. denied) (citing *McIntyre v. Ohio Elections Comm’n*, 514 U.S. 334, 342 (1995)).

28. As detailed above, the RTE is intended to, and would serve to, chill Powered by People’s speech and association by deterring their contributions and expenditures, by subjecting supporters and contributors to identification and potential harassment (including from Defendant himself, given his targeting of Mr. O’Rourke) and by forcing disclosure of anonymous political writings, which would in turn make at least some supporters think twice before associating with Powered by People. For particular example, Requests 3 and 4 appear to request any and all communications between Powered by People and any person regarding quorum break. This would implicate third parties, including Powered by People’s volunteers, supporters and contributors, and subject them to identification by a vindictive and politically-motivated bad-faith government actor.

COUNT 2: U.S. Constitution, Retaliation For Protected Speech (42 U.S.C. § 1983)

29. Plaintiff realleges and incorporates by reference the foregoing paragraphs as though fully set forth herein.

30. The Constitution prohibits the government from taking adverse action against a person for the exercise of their First Amendment rights. *E.g., Nieves v. Bartlett*, 587 U.S. 391, 398 (2019). Accordingly, the State cannot retaliate against a citizen who exercises the right of free speech on a matter of public concern. *Levine v. Maverick Cnty. Water Control & Imp. Dist. No. 1*, 884 S.W.2d 790, 795 (Tex. App.—San Antonio 1994, writ denied). There’s no question that “speech concerning illegal conduct, especially in the public sector is of ‘public concern,’” and includes Mr. O’Rourke’s condemnation of Texas Republicans’ attempt to re-draw the congressional maps, which he has characterized as unlawful. *Upton Cnty., Tex. v. Brown*, 960 S.W.2d 808, 826 (Tex. App.—El Paso 1997, reh’g overruled).

31. To demonstrate retaliation, “[a] claimant must show at least that a substantial and motivating factor for the complained-of action resulted from his exercise of free speech.” *Levine*, 884 S.W.2d 790 at 795. Here, as demonstrated by Defendant Paxton’s personal animus and vitriol against Plaintiff and Mr. O’Rourke based on their protected political speech, including speech criticizing Defendant Paxton himself and speech in the form of political donations, retaliation was wrongfully a “substantial and motivating factor” in the issuance of the RTE. *Id.*

COUNT 3: U.S. Constitution, Fourth Amendment (42 U.S.C. § 1983) & Art. I, § 9 of the Texas Constitution

32. Plaintiff incorporates by reference every allegation in the preceding paragraphs as if set forth fully herein.

33. The Fourth Amendment, which applies to the States through the Fourteenth Amendment, provides that “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated,” and that “no Warrants shall issue, but upon probable cause.” U.S. Const. amend. IV.

34. “Based on this constitutional text,” the Supreme Court “has repeatedly held that searches conducted outside the judicial process, without prior approval by a judge or a magistrate judge, are *per se* unreasonable subject only to a few specifically established and well-delineated exceptions.” *City of Los Angeles v. Patel*, 576 U.S. 409, 419 (2015) (internal quotation marks and alterations omitted).

35. The Attorney General’s demand for documents was not made pursuant to a judicial warrant backed by probable cause. In fact, Defendant’s demand for documents has not been ratified by any court. Nor does Defendant’s demand for documents constitute a permissible administrative search, which must be conducted pursuant to some “‘special need’ other than conducting criminal investigations.” *Id.* at 420. The Attorney General has identified no such special need for these documents, and none is apparent.

36. Instead, the RTE is an “administrative search” which must provide for pre-disclosure judicial review that permits the target to challenge the reasonableness of the inquiry, including its scope, relevance, and burden. While the Texas Supreme Court in *Annunciation House v. Paxton* declined to strike down a *facial* challenge to Texas Business Organizations Code § 12.152, it did so assuming that precompliance review would in fact be made available to those served with requests to examine and that such requests would otherwise adhere to Texas law. *Paxton v. Annunciation House, Inc.*, No. 24-0573, 2025 WL 1536224, at *24 (Tex. May 30, 2025); *see also Spirit Aerosystems, Inc. v. Paxton*, 142 F.4th 278, 291 (5th Cir. 2025) (“Although the RTE statute does not by its text incorporate Rule 176.6, the Texas Supreme Court recently held in *Annunciation House* that Rule 176.6 nevertheless provides a mechanism for precompliance review of RTEs. . . . The Texas Supreme Court also confirmed that ‘the term [immediately] cannot

reasonably be read literally,’ and that the Attorney General was ‘not permit[ted] ... to withhold precompliance review’ . . .”).

37. Accordingly, for the RTE to be constitutional, it must adhere to the Texas Rules of Civil Procedure governing administrative subpoenas, which incorporate the prohibitions on unreasonable search and seizures found in the U.S. Constitution and in the Texas Constitution. That means: “(1) the agency must conduct its investigation pursuant to an authorized purpose, and the subpoena must be relevant to that purpose; (2) the agency must follow the necessary statutory procedures; (3) the subpoena must describe the documents sought with adequate particularity, meaning that the scope of its demand for documents must be adequate, but not excessive, for the purposes of the inquiry; (4) the subpoena must not unnecessarily or excessively seek information that the agency already possesses; and (5) the respondent may show that the subpoena is unnecessarily burdensome.” *Schade v. Texas Workers’ Comp. Comm’n*, 150 S.W.3d 542, 551 (Tex. App.—Austin 2004).

38. The RTE here fails several of these factors: it was issued for the unauthorized purpose of retaliating against a political rival and to restrict protected rights; even if the purpose of the inquiry were proper, the RTE is vague, seeking a wide range of information with no stated justification; and—between the less-than-48-hour response deadline, requests for sensitive information, including likely attorney client privileged and legislatively privileged information, and far-reaching demands—is patently burdensome. The RTE does not even provide reasonable time to conduct a sufficient privilege search. By contrast, the Texas Rules of Civil Procedure require that, when serving a request for production, a “notice . . . must be served at least 10 days before the subpoena compelling production is served.” Tex. R. Civ. P. 205.2. Here, there was no notice, much less a 10 day notice *in advance* of actually serving the subpoena-equivalent RTE.

COUNT 4: Equal Protection Clauses of the U.S. and Texas Constitution--Selective and Vindictive Enforcement

39. “[T]he purpose of the equal protection clause of the Fourteenth Amendment is to secure every person within the State’s jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of a statute or by its improper execution through duly constituted agents.” *Vill. of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000).

40. “[T]o establish a claim of discriminatory enforcement, a party must first show he or she has been singled out for prosecution or enforcement of the regulation or ordinance while others similarly situated and committing the same acts have not.” *Maguire Oil Co. v. City of Houston*, 69 S.W.3d 350, 370 (Tex. App.—Texarkana 2002, pet. denied) (internal citations and quotation marks omitted). “Further, the party must also show the government has purposefully discriminated on the basis of an impermissible consideration such as race, religion, or the desire to prevent the exercise of constitutional rights.” *Id.* (citations/quotations omitted).

41. Similarly, “a constitutional claim of prosecutorial vindictiveness may be established in either of two distinct ways: 1) proof of circumstances that pose a ‘realistic likelihood’ of such misconduct sufficient to raise a ‘presumption of prosecutorial vindictiveness,’ which the State must rebut or face dismissal of the charges; or 2) proof of ‘actual vindictiveness’—that is, direct evidence that the prosecutor’s charging decision is an unjustifiable penalty resulting solely from the defendant’s exercise of a protected legal right.” *Neal v. State*, 150 S.W.3d 169, 173 (Tex. Crim. App. 2004); *cf. Hillside Prods., Inc. v. Duchane*, 249 F. Supp. 2d 880, 897–98 (E.D. Mich. 2003) (“[in] vindictive enforcement claims, Plaintiffs must show: (1) exercise of a protected right; (2) the enforcer’s ‘stake’ in the exercise of that right; (3) the unreasonableness of the enforcer’s conduct; and (4) that the enforcement was initiated with the intent to punish Plaintiffs for the exercise of the protected right.”).

42. Here, Defendant Paxton has made it a clear political priority to single-out and target Powered by People based on personal and political animus. Whereas he has never conducted this type of investigation on an organization that is identified as conservative leaning or supportive of him personally or politically. Notably, he himself has been impeached for charges relating to bribery and corrupt campaign and officeholders, and indicted for other criminal matters. Rather than utilizing his office to conduct a neutral third-party audit of those who contributed to him in order to gain political influence, he wasted millions of taxpayer dollars defending his corrupt practices. Defendant Paxton appears to have based his investigative priorities on advice that is commonly attributed to Joseph Goebbels: “Accuse the other side of that which you are guilty.” The fact that he uses the State as an instrumentality to accomplish his illegitimate goals violates the Equal Protection Clause.

VII. MOTION FOR PROTECTIVE ORDER, APPLICATION FOR TEMPORARY INJUNCTION, AND OTHER INJUNCTIVE RELIEF

Motion for Protective Order

43. Plaintiff re-alleges and incorporates by reference the preceding paragraphs for all purposes the same as if set forth herein verbatim.

44. Plaintiff seeks a protective order pursuant to Tex. R. Civ. Pro. 176.6(e) and Tex. R. Civ. Pro. 192.6(b). Rule 176.6(e) provides, in relevant part, “[a] person commanded to...produce...designated documents and things...may move for a protective order under Rule 192.6(b) — before the time specified for compliance — either in the court in which the action is pending or in a district court in the county where the subpoena was served.”

45. In order to “protect the movant from undue burden, unnecessary expense, harassment, annoyance, or invasion of personal, constitutional, or property rights,” Tex. R. Civ. P. 192.6(b) allows a court to “make any order in the interest of justice and may — among other things

— order that: (1) the requested discovery not be sought in whole or in part; (2) the extent or subject matter of discovery be limited; (3) the discovery not be undertaken at the time or place specified; (4) the discovery be undertaken only by such method or upon such terms and conditions or at the time and place directed by the court; (5) the results of discovery be sealed or otherwise protected, subject to the provisions of Rule 76a.”

46. Further, Tex. R. Civ. P. 192.4 provides protections against, *interalia*, inappropriate document requests, requiring that the “discovery methods permitted by these rules should be limited by the court if it determines, on motion or on its own initiative and on reasonable notice, that: (a) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; or (b) the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues.” *See In re Weekley Homes, L.P.*, 295 S.W.3d 309, 322-23 (Tex. 2009) (noting harm that the party resisting discovery might suffer as result of revealing private conversations, trade secrets, and privileged and other confidential information); *see also In re Houstonian Campus, L.L.C.*, 312 S.W.3d 178, 184 (Tex. App.—Houston [14th Dist.] 2010, orig. proceeding) (considering the harm that party resisting discovery might suffer as result of revealing members’ names).

47. Here, the RTE runs afoul of many of the prohibitions found in Rule 192.6(b) and 192.4, as it:

- *Harasses Plaintiff* — “Discovery is unnecessarily harassing where it is sought for an improper purpose.” *Centennial Psychiatric Assocs., LLC v. Cantrell*, No. 14-17-00380-CV, 2017 WL 6544283, at *9 (Tex. App. Dec. 21, 2017). The entire RTE

was sent for the purpose of retaliation against and harassing a political opponent, a clearly improper purpose and abuse of the RTE process. *See supra*, para. 20-21, 29-31.

- *Invades constitutional rights* — As thoroughly addressed in the preceding sections, Defendants’ RTE improperly invades on Plaintiffs’ Texas and federal constitutional rights. *See supra*, para. 22-42.
- *Is unduly burdensome because:*
 - *There is insufficient time to respond* — Defendants provided a wholly insufficient amount of time to respond and object to the individual document requests within the RTE. They further refused two requests for an extension of the RTE deadline. Requests for document production to a party in civil litigation allow for a 30 day response deadline. Tex. R. Civ. Pro. 196.2(a). A subpoena seeking documents from a nonparty requires at least 10 days notice. Tex. R. Civ. Pro. 205.2. Here, Defendants provided less than 48 hours notice to Plaintiff, an unreasonable amount of time to (1) gather responsive documents, (2) review those documents for privilege and, (3) compile and provide objections and responses. In the context of a nonparty subpoena, the Eighth Court of Appeals has said “[p]lainly...a day’s notice is not reasonable...” *In re State*, 599 S.W.3d 577, 597 (Tex.App.--El Paso, 2020, orig. proceeding). So too in this situation where Defendants provided less than 48 hours from notice of the RTE to deadline for response.

- *The requests are overly broad* — Additionally, the requests in the RTE are overly broad. An overly broad request for documents that is merely a “fishing expedition” into the other party’s files is prohibited. *In re American Optical Corp.*, 988 S.W.2d 711, 713 (Tex.1998); *Dillard Dept. Stores v. Hall*, 909 S.W.2d 491, 492 (Tex.1995). Here, the RTE is expressly a fishing expedition, and one initiated against a perceived political opponent. Neither the rules of civil procedure nor the U.S. or Texas Constitutions allow for such an assault.
- *There is an alternate source for some of the information* — A request is unduly burdensome when the discovery can be obtained from some other source that is more convenient, less burdensome, or less expensive. Tex. R. Civ. P. 192.4(a); *Brewer & Pritchard, P.C. v. Johnson*, 167 S.W.3d 460, 466 (Tex.App.—Houston [14th Dist.] 2005, pet. denied); e.g., *In re Arras*, 24 S.W.3d 862, 864 (Tex.App.—El Paso 2000, orig. proceeding) (deposition of nonparty for addresses of other parties was inconvenient and burdensome). The RTE requests information about political contributions and expenditures, which, as a candidate for office on multiple occasions himself, the Defendant knows are subject to public filings and therefore obtainable through other means. Powered by People is a nonprofit organization exempt from tax under 26 U.S.C § 527 as a political organization, and is registered with the Federal Election Commission under federal campaign finance law and with the Texas Ethics Commission under state campaign finance law. As an organization registered under these

campaign finance laws, Powered by People files regular, public reports of its contributions and expenditures. *See* 52 USC § 30104(a)(4); 11 CFR § 104.5(c); Tex. Elec. Code §§ 254.153, 254.154; 1 Tex. Admin. Code §§ 20.423, 20.425. On a regular basis according to schedules determined by these laws, Powered by People files *public* reports of the funds it has received and expenditures made, subject to thresholds for itemization on reports.

- *Requires unnecessary expenses* — Since some of the requests, including Nos. 9 and 11 encompass materials filed in TEC filings, the requests for additional production pursuant to the RTE would require unnecessary expense.

48. A trial court has “broad discretion” in determining whether to grant a protective order and “balances the parties’ competing interests” when making its determination. *Eurecat U.S., Inc. v. Marklund*, 527 S.W.3d 367, 376 (Tex. App.—Houston [14th Dist.], 2017, no. pet.).

49. Plaintiff’s injuries if required to respond to Defendants’ RTE are numerous and articulated above.

Request for Temporary and Permanent Injunctions

50. Plaintiff re-alleges and incorporates by reference the preceding paragraphs for all purposes the same as if set forth herein verbatim.

51. In addition to the protections afforded by a Rule 176.6(e) protective order, Plaintiff requests and is entitled to temporary and permanent injunctions against Defendant. While the grounds for Plaintiffs’ motion for protective order and requests for injunction overlap, there are additional constitutional bases for enjoining the RTE. *Cf. Annunciation House, Inc.*, 2025 WL

1536224, at *24 (determining that a recipient of an RTE may seek precompliance review “whether by Rule 176.6(e)’s protective orders or *other provisions of Texas law*”).

52. The Texas Supreme Court has explained that:

A temporary injunction’s purpose is to preserve the *status quo* of the litigation’s subject matter pending a trial on the merits. . . . To obtain a temporary injunction, the applicant must plead and prove three specific elements: (1) a cause of action against the defendant; (2) a probable right to the relief sought; and (3) a probable, imminent, and irreparable injury in the interim. An injury is irreparable if the injured party cannot be adequately compensated in damages or if the damages cannot be measured by any certain pecuniary standard.

Butnaru v. Ford Motor Co., 84 S.W.3d 198, 204 (Tex. 2002). “[T]he only question before the trial court in a temporary injunction hearing is whether the applicant is entitled to preservation of the status quo of the subject matter of the suit pending trial on the merits.” *Id.* (quoting *Pub. Util. Comm’n v. Water Servs., Inc.*, 709 S.W.2d 765, 767 (Tex.App.—Austin 1986, no writ). Moreover, “[w]hether to grant or deny a temporary injunction is within the trial court’s sound discretion,” and a reviewing court should not overturn absent a showing that such discretion was abused. *Id.*

53. Here, Plaintiff is entitled to preservation of the *status quo* because it will suffer imminent, irreparable harm for which no adequate remedy at law exists if Defendants are not restrained enforcing the RTE. *See Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002) (“An injury is irreparable if the injured party cannot be adequately compensated in damages or if the damages cannot be measured by any certain pecuniary standard.”) (citing *Canteen Corp. v. Republic of Tex. Props., Inc.*, 773 S.W.2d 398, 401 (Tex. App. —Dallas 1989, no writ)).

54. Plaintiff will suffer a violation of its constitutional rights, and “[u]nder Texas law, a violation of a constitutionally guaranteed right inflicts irreparable injury warranting injunctive relief.” *Operation Rescue-Nat’l v. Planned Parenthood of Houston & Se. Texas, Inc.*, 937 S.W.2d

60, 77 (Tex. App.—San Antonio 1996, writ granted and *aff'd as modified*, 975 S.W.2d 546 (Tex. 1998)) (citing *Southwestern Newspapers Corp. v. Curtis*, 584 S.W.2d 362, 368 (Tex. Civ. App.—Amarillo 1979, no writ); *Iranian Muslim Organization v. City of San Antonio*, 615 S.W.2d 202, 208 (Tex. 1981)).

55. Once sensitive information has been handed over and disclosure has been compelled, there can be no remuneration. Not only will Plaintiff suffer that irreparable harm, but compliance with the RTE would deprive this Court of its jurisdiction by effectuating the irreversible contested action that is the subject of this Petition. *Cf. Marketshare Telecom, L.L.C. v. Ericsson, Inc.*, 198 S.W.3d 908, 921 (Tex. App. —Dallas 2006, no pet.) (holding that a court “may protect its jurisdiction” by issuing appropriate injunctions).

56. Further, Plaintiff has stated numerous valid causes of action, *see supra para. 22-42*, and the verified factual allegations demonstrate a probable right to relief. Defendant Paxton has clearly violated the Texas and United States Constitution, as well as the Texas Rules of Civil Procedure.

57. Plaintiff is willing to post bond. Pursuant to Tex. R. Civ. P. 168, “[w]here the...temporary injunction is against...a subdivision of the State in its governmental capacity, and is such that the State...[and]...the subdivision of the State in its governmental capacity, has no pecuniary interest in the suit and no monetary damages can be shown, the bond shall be allowed in the sum fixed by the judge, and the liability of the applicant shall be for its face amount if the restraining order or temporary injunction shall be dissolved in whole or in part.”

58. Accordingly, Plaintiff asks the Court to set a briefing period for its request for temporary injunction, set the same for a hearing and, after the hearing, issue a temporary injunction against Defendants.

59. For these same reasons, Plaintiff seeks a permanent injunction prohibiting Defendants from enforcing the RTE.

PRAYER AND REQUEST FOR RELIEF

For the foregoing reasons, Plaintiff Powered by People requests an immediate protective order pursuant to Tex. R. Civ. Pro. 192.6(b) and Tex. R. Civ. Pro. 176.6(e), and a temporary restraining order issued to Defendants preventing enforcement of the RTE in its entirety. Further, Plaintiff requests that Defendants be cited to appear and answer, and that on hearing, issue Plaintiff judgment as follows:

- (a) A protective order against Defendants' enforcement of the RTE in its entirety;
- (b) A declaration that Defendants violated the U.S. Constitution and the Texas Constitution, and that the RTE is invalid and unenforceable;
- (c) A temporary and permanent injunction restraining Defendants from enforcing the RTE in its entirety;
- (d) Costs of court;
- (e) Reasonable and necessary attorneys' fees pursuant to 42 U.S.C. § 1988 and other applicable laws; and
- (f) Such other and further relief, at law or in equity, to which Plaintiff is justly entitled.

Respectfully submitted,

/s/ Mimi Marziani

Mimi Marziani
Texas Bar No. 24091906
mmarziani@msgpllc.com
Joaquin Gonzalez
Texas Bar No. 24109935
jgonzalez@msgpllc.com
Rebecca (Beth) Stevens
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Texas Bar No. 24065381
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Austin, TX 78701
Tel: (210) 343-5604

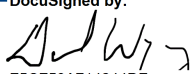
Lynn Coyle
Texas Bar No. 24050049
lynn@coylefirm.com
2700 Richmond Ave.
El Paso, TX 79930
Tel: (915)276-6700

ATTORNEYS FOR PLAINTIFF

VERIFICATION

My name is David Mills Wysong, my date of birth is May 9, 1972, and my address is 824 Twin Hills Dr., El Paso, Texas 79912, United States. I declare under penalty of perjury that the statements in the foregoing Facts section are true and correct.

Executed in El Paso County, State of Texas, on the 8th day of August, 2025.

DocuSigned by:

F5CF50A714244DF...

David Mills Wysong

CERTIFICATE OF SERVICE

By my signature below, I hereby certify that a true and correct copy of the foregoing pleading was served on the following as set forth below, on August 8, 2025.

Via e-service: Rob.Farquharson@oag.texas.gov

Rob Farquharson

Deputy Chief

Consumer Protection Division

Office of the Attorney General

Via e-service: Johnathan.Stone@oag.texas.gov

Johnathan Stone

Chief

Consumer Protection Division

Office of the Attorney General

/s/ Mimi Marziani

Mimi Marziani

CAUSE NO. _____

POWERED BY PEOPLE,
Plaintiff,

V.

KEN PAXTON,
IN HIS OFFICIAL CAPACITY AS
TEXAS ATTORNEY GENERAL

Defendant.

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IN THE DISTRICT COURT

____ JUDICIAL DISTRICT

EL PASO COUNTY, TEXAS

ORDER GRANTING PLAINTIFF'S MOTION FOR PROTECTIVE ORDER

On this day came to be heard, Plaintiff Powered By People's Motion for Protective Order. After considering the motion, response and evidence presented, the Court is of the opinion that Plaintiff's Motion for Protective Order should be GRANTED.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff's Motion for Protective Order is hereby GRANTED.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Request to Examine by Defendant Texas Attorney General Ken Paxton, in his official capacity, for information and documents in Plaintiff's possession _____ is not to be sought, in whole or in part.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that _____

SIGNED on this _____ day of _____, 2025.

JUDGE PRESIDING

CAUSE NO. 348-367652-25

THE STATE OF TEXAS

Plaintiff,

v.

ROBERT FRANCIS O'ROURKE and
POWERED BY PEOPLE

Defendants.

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

348th JUDICIAL DISTRICT

**THE STATE'S REQUEST FOR AN EMERGENCY TEMPORARY
RESTRAINING ORDER AND TEMPORARY INJUNCTION**

EXHIBIT D

CAUSE NO. 348-367652-25

THE STATE OF TEXAS,

Plaintiff,

v.

ROBERT FRANCIS O'ROURKE and
POWERED BY PEOPLE,

Defendants.

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

348th JUDICIAL DISTRICT

**TEMPORARY RESTRAINING ORDER AND ORDER
SETTING HEARING FOR TEMPORARY INJUNCTION**

After considering Plaintiff the State of Texas's application for Temporary Restraining Order, pleadings, affidavits, and arguments of counsel and after holding a Temporary Restraining Order hearing during which Plaintiffs attorneys appeared in person and via Zoom and Defendants' attorneys appeared via Zoom, the Court finds that harm is imminent to the State, and if the Court does not issue the Temporary Restraining Order, the State will be irreparably injured. Specifically, Defendants' fundraising conduct constitutes false, misleading, or deceptive acts under the Texas Deceptive Trade Practices Act, Tex. Bus. & Com. Code §§ 17.46(a), (b)(2), (b)(5), (b)(7), and (b)(24) because Defendants are raising and utilizing political contributions from Texas consumers to pay for the personal expenses of Texas legislators, in violation of Texas law. Because this conduct is unlawful and harms Texas consumers, restraining this conduct is in the public interest. DTPA § 17.47(a); *see also* Tex. Const. art. III, § 5.

Furthermore, Defendants have and will continue to engage in unlawful fundraising practices and utilization of political funds in a manner that either directly violates or causes Texas Democratic Legislators to violate: (1) Texas Penal Code, § 36.01(3); (2) Texas Elections Code, § 253.035; (3) Rule 5, § 3 of the House Rules of Procedure; and (4) Tex. Pen. Code §§ 36.08, 36.10. Consumers have and continue to suffer irreparable harm through these unlawful acts

because they are making political contributions that are being used to fund personal expenses and violate State law.

Therefore, by this Order, the Court issues this Temporary Restraining Order, immediately restraining Defendants from the following:

- i. Using political funds for the improper, unlawful, and non-political purposes of (1) funding out-of-state travel, hotel, or dining accommodations or services to unexcused Texas legislators during any special legislative session called by the Texas Governor, or (2) funding payments of fines provided by Texas House rules for unexcused legislative absences;
- ii. Raising funds for non-political purposes, including to (1) fund out-of-state travel, hotel, or dining accommodations or services to unexcused Texas legislators during any special legislative session called by the Texas Governor, or (2) fund payments of fines provided by Texas House rules for unexcused legislative absences, through the ActBlue platform or any other platform that purports to exist for political fundraising purposes;
- iii. Offering, conferring, or agreeing to confer, travel, hotel, or dining accommodations or services (or funds to support such accommodations or services) to unexcused Texas legislators during any special legislative session called by the Texas Governor as consideration for a violation of such legislators' Constitutional duties; and
- iv. Removing any property or funds from the State of Texas during the pendency of this lawsuit

The foregoing Order shall remain in effect from the date and time of the entry of this Order until fourteen days after entry or until further agreed by the parties or as otherwise ordered by this Court, whichever occurs first.

This Court further Orders the Clerk to issue notice to Defendants Robert Francis O'Rourke and Powered by People that the hearing on the State's Application for Temporary Injunction is set for **August 19, 2025, at 10:00 a.m.** The purpose of the hearing will be to determine whether a temporary injunction should be issued upon the same grounds and particulars as specified herein or as requested in Plaintiffs then-current petition. This hearing will take place in person in the courtroom of the 348th District Court, Tom Vandergriff Civil Courts Building, 100 North Calhoun Street, Fort Worth, Texas 76196.

The Clerk shall, forthwith, issue a temporary restraining order in conformity with the law and the terms of this Order.

Pursuant to Texas Civil Practice & Remedies Code § 6.001(a), the State is exempt from bond requirements. *See also* DTPA § 17.47(b).

SIGNED on August 8, 2025, at 5:32 p.m.


JUDGE PRESIDING

CAUSE NO. 348-367652-25

THE STATE OF TEXAS

Plaintiff,

v.

ROBERT FRANCIS O'ROURKE and
POWERED BY PEOPLE

Defendants.

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

348th JUDICIAL DISTRICT

**THE STATE'S REQUEST FOR AN EMERGENCY TEMPORARY
RESTRAINING ORDER AND TEMPORARY INJUNCTION**

EXHIBIT E

From: [Rob Farquharson](#)
To: [Beth Stevens](#); [Johnathan Stone](#)
Cc: [Jacob Przada](#); NDBentley@tarrantcountytx.gov; [Mimi Marziani](#); [Joaquin Gonzalez](#); [Emily Samuels](#); [Pauline Sisson](#)
Subject: RE: 348-367652-25 STATE OF TEXAS VS ROBERT FRANCIS OROURKE, ET AL
Date: Saturday, August 9, 2025 1:15:17 PM
Attachments: [image001.png](#)

Beth:

We will take a look at this issue on Monday and get back with you.

In the meantime, effective immediately, we are withdrawing our RTEs issued to Robert Francis O'Rourke and PxP. Can you confirm that you will dismiss the second-filed suit in El Paso?

If not, we will move to dismiss as moot, or, in the alternative, move to consolidate/abate the El Paso suit as soon as your Petition is accepted. Please confirm ASAP your opposition or agreement to the consolidation/abatement requests if you do not intend to dismiss the El Paso suit.

Thanks,

Rob



Rob Farquharson
Deputy Chief
Consumer Protection Division
Office of the Attorney General of Texas

From: Beth Stevens <bstevens@msgpllc.com>
Sent: Friday, August 8, 2025 8:46 PM
To: Johnathan Stone <Johnathan.Stone@oag.texas.gov>
Cc: Jacob Przada <Jacob.Przada@oag.texas.gov>; NDBentley@tarrantcountytx.gov; Mimi Marziani <mmarziani@msgpllc.com>; Joaquin Gonzalez <jgonzalez@msgpllc.com>; Rob Farquharson <Rob.Farquharson@oag.texas.gov>; Emily Samuels <Emily.Samuels@oag.texas.gov>; Pauline Sisson <Pauline.Sisson@oag.texas.gov>
Subject: Re: 348-367652-25 STATE OF TEXAS VS ROBERT FRANCIS OROURKE, ET AL

Johnathan,

The petition's prayer for relief requests "Injunctive relief prohibiting Defendant PBP from removing any property or funds from the State of Texas during the pendency of this lawsuit." The TRO says "Therefore, by this Order, the Court issues this Temporary Restraining Order, immediately restraining Defendants from the following: iv. Removing any property or funds from the State of Texas during the pendency of this lawsuit." The order is broader than the petition as it includes both defendants in the last provision.

During the hearing, counsel for the State confirmed to the Court that the language in the proposed order (which Defendants' counsel did not have a copy of at the time) tracked the language in the petition (which we had a copy of). Of course it is elementary that temporary relief cannot be greater than the final relief sought in the petition, so we assume and are operating with the understanding that this was a clerical error and that you all will be willing to request an order nunc pro tunc from the court immediately.

Please advise.

Beth

On Fri, Aug 8, 2025 at 5:43 PM Johnathan Stone <Johnathan.Stone@oag.texas.gov> wrote:

Enclosed is the TRO signed by the Court.

Kind regards,

Johnathan Stone

Chief

Consumer Protection Division

Office of the Attorney General of Texas

Telephone: (512) 936-2613

Johnathan.Stone@oag.texas.gov

This is a confidential communication and intended for the addressee(s) only. Any unauthorized interception or disclosure of this transmission is prohibited pursuant to Tex. Gov't Code Ch. 552. If you are not the intended recipient of this message, please notify the sender and destroy this and all copies of this communication. Thank you.

From: Jacob Przada <Jacob.Przada@oag.texas.gov>

Sent: Friday, August 8, 2025 5:19 PM

To: NDBentley@tarrantcountytx.gov; Beth Stevens <bstevens@msgpllc.com>; Mimi Marziani <mmarziani@msgpllc.com>; Joaquin Gonzalez <jgonzalez@msgpllc.com>

Cc: Johnathan Stone <Johnathan.Stone@oag.texas.gov>; Rob Farquharson <Rob.Farquharson@oag.texas.gov>; Emily Samuels <Emily.Samuels@oag.texas.gov>; Pauline Sisson <Pauline.Sisson@oag.texas.gov>

Subject: 348-367652-25 STATE OF TEXAS VS ROBERT FRANCIS OROURKE, ET AL

Good evening,

Please see the attached Proposed Temporary Restraining Order.

Best,



Jacob E. Przada
Assistant Attorney General
Consumer Protection Division
Office of the Attorney General of Texas

--

Beth Stevens

she/her/hers

Founding Partner, MS&G PLLC

bstevens@msgpllc.com

(361)437-9081

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CAUSE NO. 348-367652-25

THE STATE OF TEXAS

Plaintiff,

v.

ROBERT FRANCIS O'ROURKE and
POWERED BY PEOPLE

Defendants.

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

348th JUDICIAL DISTRICT

**THE STATE'S REQUEST FOR AN EMERGENCY TEMPORARY
RESTRAINING ORDER AND TEMPORARY INJUNCTION**

EXHIBIT F

CAUSE NO: 2025DCV3641

POWERED BY PEOPLE	§	IN THE DISTRICT COURT
<i>Plaintiff,</i>	§	
	§	
v.	§	
	§	41ST JUDICIAL DISTRICT
KEN PAXTON, IN HIS OFFICIAL	§	
CAPACITY AS TEXAS ATTORNEY	§	
GENERAL	§	
<i>Defendant.</i>	§	EL PASO COUNTY, TEXAS

**THE ATTORNEY GENERAL’S PLEA TO
THE JURISDICTION AND PLEA IN ABATEMENT**

This lawsuit is moot. On August 8, 2025, Defendant Ken Paxton (the Attorney General) filed a lawsuit against Plaintiff Powered by People (PxP) alleging violations of the Deceptive Trade Practices Act and, correspondingly, withdrew the presuit investigative RTE issued on August 6, 2025. There is no longer a presuit investigation nor a live RTE. Thus, PxP’s lawsuit challenging the RTE is moot.

Even if it wasn’t, this case must still be abated because the Attorney General’s lawsuit against PxP in Tarrant County was first-filed and involves the same underlying issues and claims brought by PxP in this second-filed lawsuit in El Paso County. Tarrant County, therefore, has dominant jurisdiction.

This Court should dismiss this suit as moot or, in the alternative, abate this suit as the issues are already being litigated in the first-filed Tarrant County proceedings.

BACKGROUND

On August 6, 2025, the Attorney General served Plaintiff with a narrow Request to Examine (RTE) seeking only records from June 1, 2025, through the present, relating to the solicitation and expenditure of funds to aid and abet Texas legislators abandoning their offices and relating to

any benefits or compensation offered or provided to the legislators for abandoning their offices. Ex. A. Given the exceedingly narrow scope of the request and the emergency nature of the issues at stake, production was demanded by 5 p.m. on August 8, 2025. *Id.*; *see also* PxP’s Orig. Pet. ¶ 15 (PxP admitting that it would only take “several days” to gather the documents for production).

On August 7, 2025, at 9:13 a.m., PxP emailed the Attorney General requesting a two-week extension while they obtained local counsel to “review and respond” to the RTE. Ex. B.

The same day, at 10:27 a.m., the Attorney General responded by noting that the investigation was time-sensitive such that a categorical two-week extension was impossible, but if there were specific requests for which timely compliance was impractical, they could discuss an extension on a case-by-case basis. *Id.*

On August 8, 2025, at 10:56 a.m., PxP emailed the Attorney General to confirm that they had obtained local counsel. *Id.*

The same day, at 11:21 a.m., ignoring the offer from the Attorney General relating to extensions on a case-by-case basis, PxP emailed the Attorney General requesting a categorical 10-day extension to respond to the RTE. *Id.* PxP failed to identify which requests were impractical to timely respond to and provided no details as to why it could not comply with *any* of the requests. *Id.* PxP, further, failed to offer to produce responsive documents on a rolling basis. *Id.*

At 1:47 p.m., the Attorney General notified PxP that the State of Texas (the State), had filed a Deceptive Trade Practice Act (DTPA) suit relating to the same conduct and documents at issue in the RTE and that the State sought an emergency *ex parte* temporary restraining order. Ex. B. The Attorney General attached a copy of the lawsuit to the email and asked if PxP wanted to be heard at the emergency temporary restraining order hearing. *Id.*; *see also* Ex. C (State’s Orig. Pet.)

Nearly two hours later, at 3:26 p.m., PxP filed the instant 24-page lawsuit challenging the RTE. PxP's Orig. Pet. The lawsuit reveals that PxP had no intention of ever producing responsive documents. *Id.* PxP claims in the lawsuit that the Attorney General's investigation violates their constitutional rights and seeks a temporary and permanent injunction enjoining enforcement of the RTE or, alternatively, protection from compliance with the RTE. *Id.*

One minute after filing suit, at 3:27 p.m., PxP sent a colorful email claiming that the Attorney General had been "properly served" by email with the PxP lawsuit and claiming that the Attorney General had "an adequate chance to respond" to the lawsuit filed a minute earlier. Ex. B. The email went on to baselessly threaten sanctions (a threat later repeated on the phone to undersigned counsel). *Id.* Importantly, PxP asked to be heard at the emergency temporary restraining order hearing in Tarrant County, Texas. *Id.*

Pursuant to the request to be heard, counsel for the Attorney General worked diligently with the Court to ensure that accommodations were made for PxP to appear and participate in the emergency temporary restraining order hearing in Tarrant County, Texas.

At approximately 4:30 p.m., counsel for both parties appeared and were heard at the emergency temporary restraining order hearing in Cause No. 348-367652-25 before the 348th District Court in Tarrant County, Texas. Ex. D (Temporary Restraining Order). At the conclusion of the hearing, after considering the pleadings, evidence, and arguments of the parties, the Honorable Megan Fahey entered a temporary restraining order restraining PxP and Robert Francis O'Rourke (Robert Francis) from:

- i. Using political funds for the improper, unlawful, and non-political purposes of (1) funding out-of-state travel, hotel, or dining accommodations or services to unexcused Texas legislators during any special legislative session called by the Texas

- Governor, or (2) funding payments of fines provided by Texas House rules for unexcused legislative absences;
- ii. Raising funds for non-political purposes, including to (1) fund out-of-state travel, hotel, or dining accommodations or services to unexcused Texas legislators during any special legislative session called by the Texas Governor, or (2) fund payments of fines provided by Texas House rules for unexcused legislative absences, through the ActBlue platform or any other platform that purports to exist for political fund-raising purposes;
- iii. Offering, conferring, or agreeing to confer, travel, hotel, or dining accommodations or services (or funds to support such accommodations or services) to unexcused Texas legislators during any special legislative session called by the Texas Governor as consideration for a violation of such legislators' Constitutional duties; and
- iv. Removing any property or funds from the State of Texas during the pendency of this lawsuit.

The 348th District Court scheduled a hearing on the State's request for a temporary injunction for August 19, 2025. *Id.*

On August 9, 2025, at 1:15 p.m., the Attorney General notified PTP via email that effective immediately it withdrew the challenged RTE as moot, given that the issues under investigation and documents sought by the RTE were now being litigated before the 348th District Court. Ex. E. The Attorney General asked PxP if it would dismiss the instant lawsuit as moot considering the withdrawn RTE. *Id.* No response was received at the time of this filing and it is assumed that PxP is opposed.

PLEA TO THE JURISDICTION

The burden is on the plaintiff to affirmatively demonstrate the trial court's jurisdiction. *Tex. Dep't of Parks & Wildlife v. Miranda*, 133 S.W.3d 217, 226 (Tex. 2004). Subject matter jurisdiction is "never presumed and cannot be waived." *Tex. Ass'n of Bus. v. Tex. Air Ctr. Bd.*, 852 S.W.2d 440, 443–44 (Tex. 1993).

A plea to the jurisdiction challenges the court's authority to determine the subject matter of the controversy. *Bland Indep. Sch. Dist. v. Blue*, 34 S.W.3d 547, 553–54 (Tex. 2000). "In deciding

a plea to the jurisdiction, a court may not weigh the claims' merits but must consider only the plaintiff's pleadings and the evidence pertinent to the jurisdictional inquiry." *County of Cameron v. Brown*, 80 S.W.3d 549, 555 (Tex. 2002) (quoting *Texas Natural Res. Conservation Comm'n v. White*, 46 S.W.3d 864, 868 (Tex. 2001)). The Court must grant a plea to the jurisdiction if the plaintiff's pleadings affirmatively negate the existence of jurisdiction or if the defendant presents evidence that negates the existence of the court's jurisdiction. *Miranda*, 133 S.W.3d at 226-27.

I. PxP's claims are moot because the Attorney General withdrew the challenged RTE.

Mootness, like standing, is a prerequisite of subject matter jurisdiction and it may be raised in a plea to the jurisdiction. *See e.g. Heckman v. Williamson Cnty.*, 369 S.W.3d 137 (Tex. 2012); *see also Tex. Dep't of Family & Protective Services v. Grassroots Leadership, Inc.*, Cause No. 23-0192, 2025 WL 1642437, at *1 (Tex. May 30, 2025) (explaining that "the only proper judgment in a moot case is one of dismissal for lack of jurisdiction."). Courts "do not have the power to decide moot cases." *Morath v. Lewis*, 601 S.W.3d 785, 789 (Tex. 2020) (per curiam) (citing *City of Krum v. Rice*, 543 S.W.3d 747, 750 (Tex. 2017) (per curiam)).

"A case becomes moot if, since the time of filing, there has ceased to exist a justiciable controversy between the parties—that is, if the issues presented are no longer 'live,' or if the parties lack a legally cognizable interest in the outcome." *Heckman*, 369 S.W.3d at 162. "Put simply, a case is moot when the court's action on the merits cannot affect the parties' rights or interests." *Id.*; *see Glassdoor, Inc. v. Andra Grp., LP*, 575 S.W.3d 523, 530 (Tex. 2019).

Assessing mootness generally proceeds in two steps. First, the Court determines if the case is moot on its face—that is, has the live controversy come to an end. *See Travelers Ins. Co. v.*

Joachim, 315 S.W.3d 860, 865 (Tex. 2010). If the answer is yes, then the Court determines if any “exception” to mootness applies. *See Williams v. Lara*, 52 S.W.3d 171, 184 (Tex. 2001).

A. PxP’s challenge to the RTE is moot on its face because the RTE is withdrawn.

PxP’s seeks protection from the RTE requests and an injunction enjoining the Attorney General from enforcing compliance with the RTE. *See* PxP’s Orig. Pet. at Prayer. These claims are facially mooted by the Attorney General withdrawing the challenged RTE. Ex. B; *see e.g. Villafani v. Trejo*, 251 S.W.3d 466, 469 (Tex. 2008) (nonsuiting renders a case moot); *see also Speer v. Presbyterian Child. Home & Serv. Agency*, 847 S.W.2d 227, 229 (Tex. 1993) (suit becomes moot when the action sought to be enjoined has been accomplished). Because no exceptions to the mootness doctrine exist this Court must dismiss PxP’s suit for lack of jurisdiction.

B. PxP’s claims are not subject to an exception to the mootness doctrine.

PxP will likely wrongly contend that that two exceptions to the mootness doctrine applies: (i) the voluntary cessation exception and (ii) the capable-of-repetition exception. *Gen. Land Office of State of Tex. v. OXY U.S.A., Inc.*, 789 S.W.2d 569, 571 (Tex. 1990); *Grassroots Leadership*, 2025 WL 1642437 at *19 (explaining that exception is a bit of a misnomer because the exceptions only helps determine whether a case that seems moot at first glance really is—there is no “exception” allowing courts to adjudicate cases for which there is live controversy). Yet neither exception applies.

- (i) ***PxP cannot rely on voluntary cessation as a mootness exception because it is absolutely clear that reissuance of the challenged RTE is not reasonably likely to occur.***

Generally, voluntary cessation is not a basis for mootness because it often represents not a defendant’s surrender but its attempt to avoid a binding loss. *Grassroots Leadership*, 2025 WL 1642437 at *14. If voluntary cessation always required dismissal, a defendant unilaterally “could

control the jurisdiction of courts with protestations of repentance and reform, while remaining free to return to their old ways.” *Matthews v. Kountze Indep. Sch. Dist.*, 484 S.W.3d 416, 418 (Tex. 2016).

However, as is the case in this suit, voluntary cessation *can* serve as a basis for mootness when subsequent events make “absolutely clear that the [challenged conduct] could not reasonably be expected to recur.” *Bexar Metro. Water Dist. v. City of Bulverde*, 234 S.W.3d 126, 129 (Tex. App.—Austin 2007) (quoting *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 189 (2000)).

The Texas Supreme Court has held that for it to be “absolutely clear” that the challenged conduct is not reasonably likely to reoccur, there must be no qualification or prevarications in the representations by the defendant. *See e.g., In re Cont. Freighters, Inc.*, 646 S.W.3d 810, 812–14 (Tex. 2022) (holding that a plaintiff’s withdrawal of a discovery request after the court indicated interest in reviewing a mandamus petition did not moot the issue where the withdrawal lacked any guarantees that the same demands would not be made in the future).

The U.S. Supreme Court case *DeFunis v. Odegaard* is instructive. 416 U.S. 312 (1974). In *DeFunis*, the Court found that voluntary cessation of the challenged conduct mooted the case when the defendant’s representations made it absolutely clear to the court that the challenged conduct was unlikely to reoccur. *Id.* at 316–20. DeFunis alleged that a state law school denied him admission based on his race. *Id.* at 314. DeFunis was provisionally admitted after obtaining an injunction from a trial court. *Id.* When the case was argued before the U.S. Supreme Court, DeFunis was in his final term of last school. *Id.* at 315–16. The law school represented during oral argument that whether it won or lost the appeal, it would allow DeFunis to complete that term and graduate—

thereby eliminating the injury of being wrongly denied admission based on race. *Id.* at 316. The U.S. Supreme Court dismissed the case as moot, reasoning that even if there was voluntary cessation of the challenged conduct, the school’s representation satisfied the principle that it was not reasonably likely to recur as to DeFunis. *Id.* at 316–20. In doing so, the majority rejected as mere speculation the dissent’s hypotheticals that the case was not moot because unexpected events such as illness, economic necessity, or academic failure might prevent DeFunis from graduating at the end of the term. *Id.* at 348 (Brennan, J., dissenting). The majority opinion observed, however, that the kind of “voluntary cessation” that would not lead to mootness would have existed if the law school had simply (and not irrevocably) changed its admission procedures, leaving it free upon dismissal of the case to restore those procedures and eject DeFunis. *Id.* at 318.

Texas courts have held similarly. For example, in *Robinson v. Alief Indep. Sch. Dist.*, Robinson sought injunctive and declaratory relief against his employer, a school district, including expungement of his personnel file and a declaration that the school district violated his constitutional rights. 298 S.W.3d 323 (Tex. App. - Houston [14th Dist.] 2009, pet. denied). After Robinson sued, the school district voluntarily expunged Robinson’s personnel records as requested. *Id.* at 323, 327 n.2. The school district then filed a plea to the jurisdiction alleging mootness, which the trial court granted. *Id.* at 324. On appeal, Robinson argued his claim was not moot because, without a judicial admission of wrongdoing or judicial action barring the school district from reversing its decision, the school district could later retract its expungement of the records. *Id.* at 325. The Fourteenth Court of Appeals rejected this argument, finding that Robinson had no evidence of any reasonable expectation that the school district would later return the expunged documents to his personnel file; thus, his request for injunctive relief “*in the event [the school district] reinstates the documents*

sometime in the future” was “merely conjunctural and hypothetical” and would result in an advisory opinion. *Id.* at 326-27.

These cases are in sharp contrast with your typical findings of voluntary cessation, which involve state actors *not* making it clear that the challenged conduct will not recur, and instead reserving discretion to themselves to repeat the conduct again in the future. For example, in *Mathews v. Kountze Independent School District*, a group of middle and high school cheerleaders brought a constitutional challenge to the school districts policy prohibiting the display of banners containing religious signs or messages at school-sponsored events. 484 S.W.3d at 417. The school district filed a plea to the jurisdiction asserting mootness through voluntary cessation after it adopted a resolution providing that the school district was “not *required* to prohibit messages on school banners ... that display fleeting expressions of community sentiment solely because the source or origin of such message is religious,” but retained “the right to restrict the content of school banners.” *Id.* The trial court denied the plea to the jurisdiction, but the court of appeals held that the suit was moot. *Id.* The Texas Supreme Court reversed and remanded because the new policy merely stated that the school district was not *required* to prohibit the cheerleaders from displaying the challenged banners, and *reserved* to the school district unfettered discretion in regulating same, including the apparent authority to do so based solely on their religious content. *Id.* at 420. The case was not moot because the school district’s voluntary cessation provided “no assurance that the District will not prohibit the cheerleaders from displaying banners with religious signs or messages at school-sponsored events in the future.”¹ *Id.* at 419–20.

¹ See *Texas Health Care Info. Council v. Seton Health Plan, Inc.*, 94 S.W.3d 841 (Tex.App.–Austin 2002, pet. denied) (State’s voluntary abandonment of attempts to collect the challenged penalty did not render the controversy moot nor deprive the trial court of jurisdiction); see also *Austin Parents for Med. Choice v. Austin Indep. Sch. Dist.*,

This Court must dismiss PxP’s lawsuit as moot. The instant suit is like the circumstances in *DeFunis* because the Attorney General withdrew the challenged RTE, and affirmatively and irrevocably represents that the agency will not reissue the challenged RTE nor send any other RTE to PxP seeking records relating to (1) the solicitation and expenditure of funds to aid and abet Texas legislators abandoning their offices, or (2) relating to any benefits or compensation offered or provided to the legislators for abandoning their offices during the 89th Special Legislative Session. *See* Stone Declaration. Unlike the representations made in *Matthews*, this unequivocal representation by the Attorney General makes it “absolutely clear” that the challenged RTE will not be reissued—thereby establishing mootness through voluntary cessation. The Texas Supreme Court has recently admonished an El Paso District Court “that respect is owed” to the Attorney General and it has a “duty to extend to the [Attorney General]—a member of a coordinate branch—a presumption of regularity, good faith, and legality.” *Annunciation House*, 2025 WL 1536224 at *25 (quoting *Webster v. Comm’n for Lawyer Discipline*, 704 S.W.3d 478, 501 (Tex. 2024)). PxP has not and cannot overcome the Stone Declaration that the challenged RTE will not be reissued.

And, just as in *Robinson*, PxP cannot present any evidence—only conjecture and hypotheticals—that the Attorney General is reasonably likely to reissue the challenged RTE despite the Stone Declaration. *See Grassroots Leadership*, 2025 WL 1642437 at *15 (holding that “mootness poses a practical test, not one that turns on speculative, theoretical, contingent, or unlikely events that might happen.”). This is especially true because RTEs are presuit investigative tools. Tex. Bus. Orgs. Code § 12.153 (“The attorney general may *investigate* the organization, conduct, and

No. 03-21-00681-CV, 2023 WL 5109592, at *2 (Tex. App.—Austin Aug. 10, 2023, no pet.) (holding that voluntary cessation of a challenged policy by a school district did not moot a challenge to same where the school district had never expressed the position that it could not and would not reinstate the challenged policy.).

management of a filing entity or foreign filing entity and determine if the entity has been or is engaged in acts or conduct in violation of ... any law of this state.” (emphasis added)). But that presuit investigation ended when the State filed suit in Tarrant County. *See* Ex. C. Now, the allegations relating to the challenged RTE will be addressed in the pending lawsuit in Tarrant County, and any relevant records will be requested via the ordinary civil discovery process. *Id.* Any attempt to reissue the challenged RTE could be construed as an attempt to use a presuit investigatory tool circumvent the ordinary discovery process set forth in the Texas Rules of Civil Procedure. So even if the Attorney General *did* reissue the RTE—which he has repeatedly assured he will not—it may not even be enforceable. Accordingly, this Court, like the U.S. Supreme Court in *DeFunis* and the Fourteenth Court in *Robinson*, should find that the PxP’s claims are moot because of the Attorney General’s withdrawal of the RTE and unqualified representation that the challenged conduct will not reoccur.

(ii) *The capable-of-repetition exception is inapt.*

The capable-of-repetition exception likewise applies only in rare circumstances, and this is not one of them. *Williams v. Lara*, 52 S.W.3d 171, 184 (Tex. 2001). To invoke it, a plaintiff must prove that “(1) the challenged action was too short in duration to be litigated fully before the action ceased or expired; and (2) a reasonable expectation exists that the same complaining party will be subjected to the same action again.” *Id.* The “mere physical or theoretical possibility” is insufficient to invoke the capable-of-repetition exception. *Murphy v. Hunt*, 455 U.S. 478, 482 (1982). “[T]here must be a ‘reasonable expectation’ or a ‘demonstrated probability’ that the same controversy will recur involving the *same* complaining party.” *Id.* (emphasis added); *see also Uresti*, 377

S.W.3d at 696 (observing that “a reasonable expectation must exist that the ‘same complaining party will be subjected to the same action again’” (quoting *Williams*, 52 S.W.3d at 184)).

PxP fails on both counts. *First*, the challenged action, compliance with the challenged RTE or a future similar RTE, is not so short in duration that PxP cannot fully litigate its challenge before compliance with the challenged RTE ceases or expires. The Texas Supreme Court held in *Annunciation House* that all RTE recipients must have an opportunity to seek to precompliance review from district courts. 2025 WL 1536224 at *24 (identifying requests for protection pursuant to Tex. R. Civ. P. 176.6 as one such method of precompliance review). PxP sought protection from the challenged RTE under Tex. R. Civ. P. 176.6 and 192.6. PxP’s Orig. Pet. ¶¶ 43-49. And, correspondingly, Tex. R. Civ. P. 176.6(e) provides that “a person need not comply with the part of a subpoena from which protection is sought under this paragraph unless ordered to do so by the court.” PxP is aware of this because it emailed the Attorney General to advise that the filing of the instant suit relieved PxP of its duty to comply. *See* Ex. B (quoting Tex. R. Civ. P. 176.6(e)). These rules affording precompliance review of RTEs and relieving the party seeking review of their obligations to comply with the RTE during until the matter is adjudicated render the circumstances in the instant suit entirely distinguishable from other cases where courts have found that the challenged action was too short in duration to be litigated before the challenged action expires. *See e.g., Tex. Parks & Wildlife Dep’t v. RW Trophy Ranch, Ltd.*, 712 S.W.3d 943 (Tex. App. [15th Dist.] 2025).

Second, and as discussed *supra*, the burden is on PxP to show a “reasonable likelihood” that the Attorney General will reissue the same RTE. None exists where the Stone Declaration makes absolutely clear that the same, or similar, RTE will not be sent to PxP in the future. *See* Stone

Declaration. PxP cannot produce any evidence otherwise. PxP's speculation and hypotheticals are insufficient to satisfy this burden. *Murphy*, 455 U.S. at 482.

PxP has failed to meet both necessary elements to show entitlement to the capable-of-repetition exception to the mootness doctrine; consequently, this Court must grant the Attorney General's Plea to the Jurisdiction and dismiss this suit as moot.

In the alternatively, should the Court conclude that this suit is *not* moot, it should abate this proceeding as Tarrant County has acquired dominant jurisdiction over the issues in dispute.

PLEA IN ABATEMENT

As a general rule, "the court in which suit is first filed acquires dominant jurisdiction to the exclusion of other coordinate courts." *In re J.B. Hunt Transport, Inc.*, 492 S.W.3d 287, 299–300 (Tex. 2016) (orig. proceeding). (quoting *Curtis v. Gibbs*, 511 S.W.2d 263, 267 (Tex. 1974) (orig. proceeding)). When two suits are inherently interrelated, the court in which the second action was filed must grant a plea in abatement unless an exception to the general rule applies. *Id.* at 294. "Filing a plea in abatement is the proper method for drawing a court's attention to another court's possible dominant jurisdiction." *In re Puig*, 351 S.W.3d 301, 305 (Tex. 2011) (orig. proceeding).

A claim of dominant jurisdiction is asserted through a plea in abatement in the second-filed suit. *See In re Puig*, 351 S.W.3d 301, 305 (Tex. 2011) (per curiam) (orig. proceeding). If the party asserting dominant jurisdiction establishes that the doctrine applies, the trial court in the second-filed suit has no discretion to deny the plea unless the party resisting abatement establishes an exception to the rule of dominant jurisdiction. *See In re J.B. Hunt*, 492 S.W.3d at 294 (concluding real parties' evidence "[fell] well below the legal standards" to establish exception to dominant jurisdiction); *see also In re Red Dot Bldg. Sys., Inc.*, 504 S.W.3d 320, 322–23 (Tex. 2016) (per curiam)

(orig. proceeding); *In re Tex. Christian Univ.*, 571 S.W.3d 384, 389, 391 (Tex. App.—Dallas 2019, orig. proceeding). Because the dominant jurisdiction doctrine applies and PxP have not demonstrated the existence of an exception, this Court should grant an abatement pending resolution of the first-filed suit in Tarrant County.

I. The Tarrant County and El Paso County suits are inherently interrelated.

Generally, a plea in abatement must be granted when an inherent interrelation of the subject matter exists in two pending lawsuits. *Perry v. Del Rio*, 66 S.W.3d 239, 252 (Tex. 2001). Abatement of a suit due to the pendency of a prior suit is based on the principles of comity, convenience, and the necessity for an orderly procedure in the trial of contested issues. *Miles v. Ford Motor Co.*, 914 S.W.2d 135, 138 (Tex. 1995).

The first question to address in the dominant-jurisdiction analysis is whether there is an inherent interrelationship between the two cases—in this case, between the first-filed suit in the 348th District Court in Tarrant County and the second-filed suit in the in El Paso County. *See J.B. Hunt Transp.*, 492 S.W.3d at 292; *In re Happy State Bank*, No. 02-17-00453-CV, 2018 WL 1918217, at *4 (Tex. App.—Fort Worth Apr. 23, 2018, orig. proceeding) (mem. op.). If yes, then dominant jurisdiction applies and, absent an exception, the second-filed suit must be abated. *J.B. Hunt Transp.*, 492 S.W.3d at 292; *see Happy State Bank*, 2018 WL 1918217, at *7. If not, then both suits may proceed. *J.B. Hunt Transp.*, 492 S.W.3d at 292; *see generally Happy State Bank*, 2018 WL 1918217, at *4.

In determining whether the suits are inherently interrelated, courts are *guided* by the compulsory counterclaim rule, Tex. R. Civ. P. 97(a), and joinder of a party rule, Tex. R. Civ. P. 39.

Wyatt v. Shaw Plumbing Co., 760 S.W.2d 247 (Tex. 1988); *In re J.B. Hunt Transp., Inc.*, 492 S.W.3d at 292.

The Court should find that the Tarrant County and El Paso County proceedings are inherently interrelated. A counterclaim is compulsory if it meets the following six characteristics: (1) it is within the jurisdiction of the court; (2) it is not at the time of the filing of the answer the subject of a pending action; (3) the action is mature and owned by the defendant at the time of filing the answer; (4) it arises out of the transaction or occurrence that is the subject matter of the opposing party's claim; (5) it is against an opposing party in the same capacity; and (6) it does not require for its adjudication the presence of third parties over whom the court cannot acquire jurisdiction. *See Tex. R. Civ. P. 97(a)*; *see also Ingersoll-Rand Co. v. Valero Energy Corp.*, 997 S.W.2d 203, 207 (Tex. 1999). All six of those elements are met here, and the undersigned counsel is not aware of any dispute on that point. The allegations and claims in the Tarrant County suit involve *the same* allegations underlying the investigation challenged by PxP in El Paso. *Compare* Ex. C *with* PxP's Orig. Pet. The first-filed Tarrant County suit, moreover, will necessarily involve the same underlying records and challenges that form the basis for this second-filed El Paso suit. *Id.* Tarrant County, therefore, has dominant jurisdiction and should adjudicate these issues.

The Tarrant County and El Paso County suits are, moreover, inherently interrelated due to the substantial risk of conflicting rulings creating "inconsistent obligations" for the parties. *Encore Enterprises, Inc. v. Borderplex Realty Tr.*, 583 S.W.3d 713, 724 (Tex. App. 2019) (applying Rule 39(a) in a dominant jurisdiction analyses). Should this Court rule that the withdrawn RTE requests to PxP are unconstitutional, it will create inconsistent obligations and confusion for the parties, because the same requests will be made to PxP in the Fort Worth suit under the Texas Rules of

Civil Procedure, and the Tarrant County Court will address the same questions about their scope and constitutionality. Not only will this create confusion and conflicting rulings, but it will also waste judicial resources by having two Courts consider the same issues involving the same parties.

This Court should abate this proceeding where Tarrant County has dominant jurisdiction.

II. There is no exception to the “first-filed” rule.

Exceptions to this “first-filed” rule may apply when its justifications fail, such as when the first court does not have the full matter before it, when conferring dominant jurisdiction on the first court will delay or even prevent a prompt and full adjudication, or “when the race to the courthouse was unfairly run.” *Perry*, 66 S.W.3d at 252. A plaintiff who filed the first suit may be estopped from asserting the dominant jurisdiction of the first court if it is found that he is guilty of inequitable conduct. *Hiles v. Arnie & Co.*, 402 S.W.3d 820, 825–26 (Tex. App.—Houston [14th Dist.] 2013, pet. denied).

A race to the courthouse by itself is not inequitable conduct. *In re Texas Christian Univ.*, 571 S.W.3d 384, 392 (Tex. App. 2019). In fact, one of the justifications for the first-filed rule is “simple fairness: in a race to the courthouse, the winner’s suit should have dominant jurisdiction.” *In re J.B. Hunt Transport, Inc.*, 492 S.W.3d at 296 (citing *Perry*, 66 S.W.3d at 252); *Lee v. GST Transp. Sys., LP*, 334 S.W.3d 16, 18 (Tex. App.—Dallas 2008, pet. denied). Moreover, this entire matter will come before the Tarrant county court, because as mentioned, the exact legal issues, records, and constitutional challenges will all be at issue.

No exception in the present case exists, nor have PxP alleged that one does. Accordingly, because the Tarrant County case is first filed, the dominant jurisdiction doctrine applies, and this the El Paso County case must be abated pending resolution of the Tarrant County matter.

PRAYER

For the reasons stated above, the Attorney General prays that the Court GRANT the Attorney General's Plea to the Jurisdiction, dismiss PxP's lawsuit and all claims and causes of action stated therein with prejudice, and render judgment that PxP take nothing; that the Attorney General recover its reasonable and necessary attorneys' fees and costs of court; and for all other relief, at law and in equity, to which it may show itself to be justly entitled. Alternatively, the Attorney General asks that the Court to abate this proceeding pending resolution of the first-filed Tarrant County suit and for all other relief, at law and in equity, to which it may show itself to be justly entitled, including attorneys' fees.

Respectfully submitted,

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Deputy First Assistant Attorney General

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Deputy Attorney General for Civil Litigation

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CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2025, a copy of the foregoing document was served to all counsel of record in accordance with the Texas Rules of Civil Procedure.

/s/ Johnathan Stone
JOHNATHAN STONE
Chief, Consumer Protection Division
State Bar No. 24071779

DECLARATION

Pursuant to Tex. Civ. Rem. & Prac. Code § 132.001(f), JOHNATHAN STONE submits this unsworn declaration in lieu of a written sworn declaration, verification, certification, oath, or affidavit required by Texas Rule of Civil Procedure 682. I am an employee of the following governmental agency: Texas Office of the Attorney General. I am executing this declaration as part of my assigned duties and responsibilities.

I declare under penalty of perjury that the Office of the Texas Attorney General will not reissue the challenged RTE nor send any other RTE to PxP seeking records relating to the solicitation and expenditure of funds to aid and abet Texas legislators abandoning their offices and relating to any benefits or compensation offered or provided to the legislators for abandoning their offices during the 89th Special Legislative Session.

Executed in Travis County, State of Texas, on the 11th day of August 2025.

/s/ Johnathan Stone
JOHNATHAN STONE
Chief, Consumer Protection Division
State Bar No. 24071779

CAUSE NO. 348-367652-25

THE STATE OF TEXAS

Plaintiff,

v.

ROBERT FRANCIS O'ROURKE and
POWERED BY PEOPLE

Defendants.

§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

348th JUDICIAL DISTRICT

**THE STATE'S REQUEST FOR AN EMERGENCY TEMPORARY
RESTRAINING ORDER AND TEMPORARY INJUNCTION**

EXHIBIT G

CAUSE NO. 2025DCV3641

POWERED BY PEOPLE,	§	IN THE DISTRICT COURT
<i>Plaintiff,</i>	§	
	§	
V.	§	41st JUDICIAL DISTRICT
	§	
KEN PAXTON,	§	
IN HIS OFFICIAL CAPACITY AS	§	
TEXAS ATTORNEY GENERAL	§	
<i>Defendants.</i>	§	EL PASO COUNTY, TEXAS

**VERIFIED AMENDED PETITION FOR DECLARATORY JUDGMENT,
MOTION FOR PROTECTIVE ORDER, APPLICATION FOR EMERGENCY
TEMPORARY RESTRAINING ORDER, TEMPORARY INJUNCTION,
AND OTHER INJUNCTIVE RELIEF**

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff Powered by People, a volunteer-driven Texas nonprofit composed of thousands of everyday Texans, files this verified amended petition seeking a temporary restraining order and a protective order against Defendant, Texas Attorney General Ken Paxton, in his official capacity. As explained below, in under a week’s time, the State has initiated two unlawful, retaliatory new legal actions against Plaintiff — and is imminently planning to initiate a third. The State has admitted that its actions are in direct response to Plaintiffs’ exercise of First Amendment rights in the form of political speech and organizing. “[T]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976); *accord Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 295 (5th Cir. 2012). And so, “political speech must prevail” against those who act to suppress it. *Citizens United v. Fed. Election Comm’n*, 558 U.S. 310, 340 (2010). This Court must act immediately and provide the protection requested herein to avoid such grave constitutional injuries.

Specifically, on August 6, 2025, Defendant launched a retaliatory and unlawful investigation into Powered by People, serving Mr. David Wyson and Ms. Gwen Pulido, Board members of Powered by People, with a Request to Examine (“RTE”) seeking reams of sensitive and burdensome information from Plaintiff in less than 48 hours time. The State provided no valid reason to support this urgent, invasive, expensive inquiry — instead simply claiming to counsel that it was an “emergency.” At the same time, Defendant Paxton admitted publicly that while he does not have “details” to support his allegations, but planned to use this “investigation” to “find out if they’ve done anything inappropriate,” pointing explicitly to Plaintiff’s recent political speech, organizing and advocacy.¹ In other words, with the August 6, 2025 action, the State was bluntly using the vast power of the Attorney General’s office to effectuate a fishing expedition, constitutional rights be damned.² Defendant gave Petitioner a hard deadline of 4:00pm MT August 8, 2025 to respond.

Earlier on August 8, 2025, and unbeknownst to the Defendants, the Attorney General abruptly changed directions, and started heading to north Texas. As Plaintiff was finalizing its El Paso lawsuit, the Attorney General announced the filing of a new court action in Tarrant County against Plaintiff and Robert “Beto” O’Rourke (the founder of Powered by People). Despite that, as of 9:56 am MT on Friday, counsel for the Attorney General knew that Powered by People was represented by the undersigned counsel, and while the one member of the Attorney General’s

¹ James Morley III, Texas AG Paxton to Newsmax: O’Rourke’s PAC to Be Investigated, NEWSMAX (Aug. 6, 2025, 5:40 PM EDT), <https://www.newsmax.com/newsmax-tv/ken-paxton-texas-redistricting/2025/08/06/id/1221553/>.

² Even worse, Defendant Paxton — who is running for and actively fundraising for his 2026 run for U.S. Senate — has publicly identified former Congressman Beto O’Rourke, the prominent founder of Powered by People, as a potential 2026 political opponent. Another motivation behind Defendant’s action thus appears to be an unlawful desire to retaliate against Mr. O’Rourke, and to use the power of the State of Texas to try to intimidate Mr. O’Rourke from challenging Defendant in a free and fair election.

lawyer group apparently drove the approximately three hour drive from Austin to Fort Worth, the Attorney General did not inform the undersigned counsel of an imminent “emergency” *ex parte* TRO filing and hearing until almost four hours later. Despite the failure to identify any substantial connection to the Tarrant County venue, the State sought a temporary restraining order seemingly aimed to achieve similar goals as the RTE: namely, to chill the exercise of constitutionally protected rights.

Later, a hearing was held before Judge Fahey in Tarrant County. The Tarrant County court entered a Temporary Restraining Order at 5:32pm.³ The next day, on August 9, 2025, counsel for the State indicated that “effectively immediately” it was withdrawing its RTE issued to Petitioner, Powered by People, and asked counsel for Petitioner to dismiss this instant action.⁴

This evening, in the latest egregious misuse of power, staff at Defendant’s office has indicated that that Defendant will be immediately seeking to institute *quo warranto* proceedings in Tarrant County, a County where there is not even a colorable argument for proper venue for such a proceeding. Defendant is abusing the legal system, and his authority within that system, solely for the purpose of harassing and intimidating Plaintiff in order to curtail Plaintiff’s protected constitutional activity. He cannot be allowed to run roughshod over the Texas and United States Constitution.

And so, Defendant’s withdrawal of the RTE served on Petitioner on August 6, 2025, does not justify dismissal of the instant action. Indeed, far from mooted the controversy between the

³ Earlier today, Plaintiff and Mr. O’Rourke filed a motion to change venue to El Paso County in the Tarrant County case since a substantial part of the events giving rise to the State’s alleged claims occurred in El Paso County and venue is not proper in Tarrant County. That motion is attached as Exhibit B. Shortly, Plaintiff and Mr. O’Rourke will also seek to dissolve the TRO issued by Judge Fahey since it lacks support in law and fact.

⁴ Attorney Farquharson also indicated that it was withdrawing its RTE issued to Mr. O’Rourke; however to date, Mr. O’Rourke has not been served with an RTE.

parties, the State instead plans to continue to escalate it. Thus, this Court continues to have jurisdiction to hear Petitioner’s claims for declaratory and injunctive relief under the First and Fourth Amendment of the U.S. Constitution, since without such relief, Defendant will be free to reserve the RTE at any time, free to file a retaliatory action in *quo warranto*, and free to continue to infringe on Plaintiff’s constitutional rights. *See, Paxton v. Annunciation House, Inc.*, No. 24-0573, 2025 WL 1536224, *56 (Tex. 2025) (finding that even though the attorney general ceased pressing for records, “the records dispute is not moot as the attorney general remains free to simply file more requests if there is no ruling that deems the relevant requests unconstitutional.”). Further, Plaintiff now seeks injunctive relief, including an emergency temporary restraining order, enjoining Defendant from harassing Plaintiff and violating its rights by instituting *quo warranto* proceedings against Plaintiff in an improper county.

Plaintiffs respectfully show the Court as follows, in support of the requested relief:

I. PARTIES

1. Plaintiff, Powered by People, is a Texas nonprofit corporation. It operates as a political organization pursuant to 26 U.S.C. § 527(e)(1) for the purpose of “directly or indirectly accepting contributions or making expenditures, or both” to influence elections. As a political organization, Powered by People files regular campaign finance reports with the Texas Ethics Commission, and is registered within Texas as a general-purpose committee.

2. Defendant is Ken Paxton, in his official capacity as Texas Attorney General. He may be served at the Office of the Attorney General, 300 W. 15th Street, Austin, Texas 78701.

II. DISCOVERY-CONTROL PLAN

3. Plaintiff intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.3 and affirmatively pleads that this suit is not governed by the expedited-actions process in Texas Rule of Civil Procedure 169 because Plaintiff seeks injunctive relief.

III. RULE 47 STATEMENT

4. Pursuant to Texas Rule of Civil Procedure No. 47, Plaintiff is not seeking monetary relief, only non-monetary relief in the form of injunctive and declaratory relief.

IV. JURISDICTION & VENUE

5. This Court has statutory jurisdiction in that a substantial part of the events giving rise to this claim occurred in El Paso County. Venue is proper because the challenged Request to Examine was served in El Paso County. *See* Tex. R. Civ. Pro. 176.6(e) (“[a] person commanded to...produce...designated documents and things...may move for a protective order...either in the court in which the action is pending or in a district court in the county where the subpoena was served.”); *see also Paxton v. Annunciation House, Inc.*, No. 24-0573, 2025 WL 1536224, *24 (Tex. 2025) (determining that Rule 176.6(e) applies to the Attorney General’s Requests to Examine). Moreover, jurisdiction remains with this court and the dispute is not moot simply because Defendant has withdrawn the RTE. *Id.* at *56 (Tex. 2025) (Finding that even though the attorney general ceased pressing for records, “the records dispute is not moot as the attorney general remains free to simply file more requests if there is no ruling that deems the relevant requests unconstitutional.”)

V. FACTS

6. In 2019, Mr. O'Rourke founded Powered by People, a voter registration and mobilization group that works to expand access to democracy through voter registration and direct

voter engagement. Composed of thousands of volunteers in every region of Texas, and with seven full-time employees, Powered by People has spearheaded large voter mobilization efforts, registering thousands of Texans to vote. In addition, at different times, Powered by People has taken on community-centered projects such as raising money for persons who suffered home damage as a result of Texas's electric grid failure, coordinating volunteers at community food banks during the height of the COVID pandemic, going door-to-door to educate elderly members of the public about vaccines during the pandemic, and raising money for and delivering supplies during other national disasters.

7. Powered by People currently has seven employees and maintains its principal place of business in El Paso, Texas.

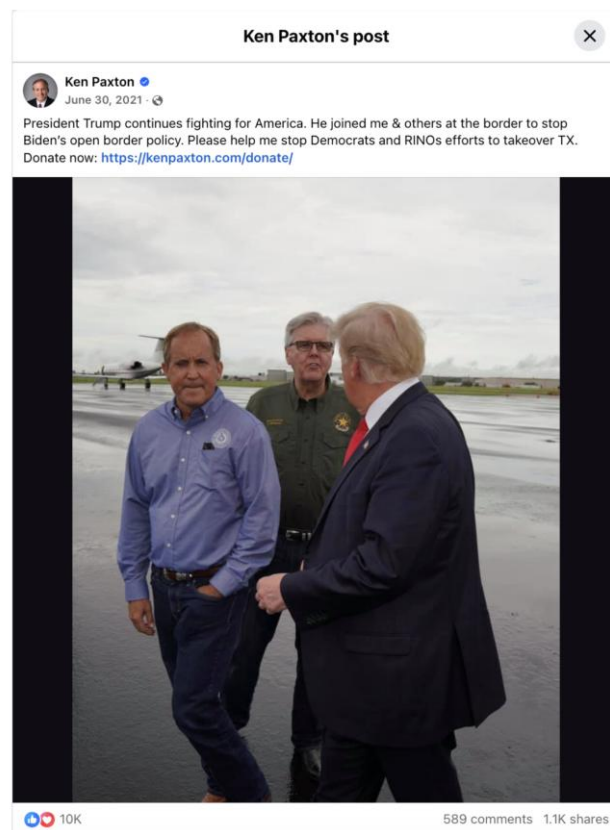
8. In addition to serving as its founder, Mr. O'Rourke sits on Powered by People's Board of Directors, alongside David Wysong and Gwen Pulido.

9. In recent months, Mr. O'Rourke has been a prominent, outspoken critic of Texas Republicans' attempts to re-draw Texas' congressional map at the behest of President Donald J. Trump. For instance, on July 21, 2025, Mr. O'Rourke appeared on PBS Newshour and argued that President Trump "knows he will lose the slim majority they have in the House of Representatives unless they rig the game mid-decade, which is what they're trying to do in Texas."⁵ On July 24, 2024, Mr. O'Rourke appeared at a large rally at the Capital and accused Republicans of "play[ing] games . . . in order to maximize [] political power" at the expense of flood victims.⁶

⁵ Amna Nawaz, *Stephanie Kotuby & Alexa Gold, O'Rourke says 'we have to fight back' as Trump pushes Texas to redraw congressional maps*, PBS NEWSHOUR (July 21, 2025, 6:40 PM EDT), <https://www.pbs.org/newshour/show/orourke-says-we-have-to-fight-back-as-trump-pushes-texas-to-redraw-congressional-maps>.

⁶ Blaise Gainey, *'We will not let Trump take over': Texans rally as state lawmakers begin redistricting hearings*, KUT (July 24, 2025, 4:36 PM CDT), <https://www.kut.org/politics/2025-07-24/we-will-not-let-trump-takeover-texans-rally-as-state-lawmakers-begin-redistricting-hearings>.

10. In support of his political views and the views of Powered by People, Mr. O’Rourke has made numerous successful grassroots fundraising appeals for donations to Powered by People, stating his desire to “have the backs of these heroic state lawmakers” and otherwise support Texas-based organizations who share his opposition to the newly introduced redistricting maps.⁷ It is, of course, commonplace for political figures and candidates to tie appeals for resources to achieving policy actions. Indeed, Defendant Paxton himself has implored donors to donate to help him “stop Biden’s open border policy” and “stop Democrats and RINOs efforts to takeover [sic] TX.”⁸



⁷ Owen Dahlkamp, *Beto O’Rourke’s political group is a top funder for Texas Democrats’ exodus to block GOP congressional map*, Tex. Trib. (Aug. 5, 2025, 1:00 PM CT), <https://www.texastribune.org/2025/08/05/texas-democrats-quorum-break-beto-orourke-illinois-funding/>.

⁸ Ken Paxton, Facebook (Jun. 30, 2021, 2:04 PM EDT), <https://www.facebook.com/kenpaxtonTX/posts/4198758750185935>, (last visited Aug. 8, 2025).

11. At 2:15pm MT on Wednesday August 6, 2025, Defendant Paxton issued a press release entitled “Attorney General Ken Paxton Launches Investigation into Beto O’Rourke’s Radical Group for Unlawfully Funding Runaway Democrats.” The release stated that, “[a]s part of the investigation, Attorney General Paxton has issued a Request to Examine, which demands documents and communications from the group regarding potentially unlawful activity, including its involvement in the Democrats’ scheme to break quorum.”⁹

12. At 7:15pm MT on August 6, 2025, Mr. Wysong received the “Request to Examine” (RTE) via personal service at his home in El Paso, Texas. A true and accurate copy of the RTE, as served upon Mr. Wysong, is attached as Exhibit A.

13. Indeed, as of this amended filing, Mr. O’Rourke has not been served with the RTE.

14. The RTE demands eleven categories of potentially extensive documents that may be in the possession of Plaintiff. Several may be subject to privilege.

- a. For instance, Requests 1 and 2 seek communications between Powered by People and dozens of lawmakers. To the extent any such documents exist, they may be protected by legislative privilege.
- b. Requests 3 and 4 seek documents and communications “relating to, or discussing, quorum during Texas’s current special legislative session.” Requests 7 and 8 seek communications regarding the “solicitation of funds” to support certain lawmakers. To the extent any such documents exist, they may be protected by attorney-client privilege.

⁹ Press Release, Office of the Texas Attorney General, Attorney General Ken Paxton Launches Investigation into Soros-Funded PAC for Unlawfully Funding Runaway Democrat Legislators (Aug. 7, 2025), <https://www.texasattorneygeneral.gov/news/releases/attorney-general-ken-paxton-launches-investigation-soros-funded-pac-unlawfully-funding-runaway>.

15. Despite the extensive and burdensome requests, the likely privileged nature of the information sought, and constitutionally suspect motives involved, the RTE set a compliance deadline of 4:00 pm MT (5:00pm CT) Friday, August 8, 2025. While the State purports to have withdrawn the RTE, thus suspending this deadline, it apparently intends to use a proceeding in *quo warranto* and/or discovery in the ongoing Tarrant County case to access the same or similar information.

16. While the RTE claimed to encourage Plaintiff to “meet and confer with the Office of the Attorney General” over the scope of the production, when Powered by People’s national counsel asked first for a two-week extension the morning of Thursday, August 7, 2025, his request was promptly rejected. Similarly, a subsequent request sent by Texas counsel seeking an extension until August 16, 2025 (the same 10 days a nonparty subpoenaed for documents in a civil lawsuit under Tex. R. Civ. P. 205.2 would be entitled to), went unresponded to by the Office of Attorney General.

17. Defendant purported to issue the RTE pursuant to Texas Business Organizations Code § 12.151 *et seq.*, which allows the Attorney General to inspect corporate records “as the attorney general considers necessary in the performance of a power or duty of the attorney general, of any record of the entity.”

18. The RTE threatened that if Powered by People does not comply, penalties “include the Office of the Attorney General initiating a legal action for the entity’s ‘registration or certificate of formation’ to be ‘revoked or terminated,’ Tex. Bus. Org. Code § 12.155. If the Office of the Attorney General deems such penalty warranted, proceedings to revoke or terminate an entity’s registration or certificate of formation are initiated through a petition for leave to file an information in the nature of *quo warranto*. Tex. Civ. Prac. & Rem. Code § 66.002.” It is also Class

B misdemeanor to fail to or refuse to provide records requested by the Attorney General. *See* Tex. Bus. Orgs. Code § 12.156.

19. On August 11, 2025, during a conversation with the undersigned counsel, Defendant's counsel indicated that Defendant plans to file a motion for leave to file a petition for *quo warranto* against Powered by People in Tarrant County. The purpose of a *quo warranto* proceeding is to revoke a corporation's charter and ability to conduct business in this state.

20. As defense counsel well knows, a *quo warranto* proceeding in Tarrant County would be completely improper and filing such a pleading there would likely violate attorney ethical rules. Nonetheless, defense counsel indicated they will do so imminently while refusing to identify any basis for doing so.¹⁰

21. In that same conversation, in response to Plaintiffs indicating that their position was that no discovery should occur in the case until the Motion To Transfer Venue had been decided, Defendant's counsel stated that, in that case, Defendant would instead "ambush" them with discovery.

¹⁰ Tex.Civ. Prac. & Rem. Code 66.002(a), the controlling *quo warranto* statute, says a *quo warranto* petition should be filed with "the district court of the proper county or a district judge." The general venue statute, Tex.Civ. Prac. & Rem. Code 15.002(a), provides, in relevant part, that venue is only proper in the county "in which all or a substantial part of the events or omissions giving rise to the claim occurred,"...or "in the county of the defendant's principal office in this state, if the defendant is not a natural person." Here, that county can only be El Paso County as Powered by People's principal place of business, Board members, senior team are all in El Paso and its and main activities primarily occur in El Paso County. As attested to in the attached declaration, and as Defendants is aware, no activities that Defendant has (unjustifiably) targeted actually occurred in Tarrant County. *See* Ex. A (Declaration of David Wysong).

22. Defendant Paxton has identified Mr. O’Rourke as a prospective opponent in the 2026 U.S. Senate race, and has already used the prospect of running against Mr. O’Rourke in a fundraising appeal.¹¹



23. Recently, through repeated comments, Defendant Paxton has made clear his intention to retaliate against Mr. O’Rourke personally through this RTE for Mr. O’Rourke’s First Amendment-protected activities, including his speech, association with others, and advocacy against the proposed congressional maps. As noted above, the press release announcing the RTE

¹¹ Ken Paxton (@KenPaxtonTX), X (Apr. 29, 2025, 2:23 PM CDT), <https://x.com/KenPaxtonTX/status/1917298692438254050> (last visited Aug. 8, 2025).

characterizes lawful donations made by Powered by People as “Beto Bribes.”¹² Defendant Paxton has gone on in recent days to call Mr. O’Rourke “delusional”¹³ and to claim he is “scared of accountability.”¹⁴ And, again, even though Defendant Paxton has publicly admitted that he does not have any “details” or actual proof to support allegations of unlawful behavior,¹⁵ Defendant Paxton has stated that serving the RTE sparks “an investigation into Beto O’Rourke’s radical group for unlawfully funding runaway Democrats.”¹⁶

VI. CLAIMS FOR RELIEF

COUNT 1: U.S. Constitution, Freedom of Association (42 U.S.C. § 1983)

24. Plaintiff realleges and incorporates by reference the foregoing paragraphs as though fully set forth herein.

25. Freedom of association for the purpose of advancing ideas and airing grievances is a fundamental liberty guaranteed by the First Amendment. *In re Bay Area Citizens Against Lawsuit Abuse*, 982 S.W.2d 371, 375 (Tex. 1998) (quoting *NAACP v. Alabama*, 357 U.S. 449, 460 (1958)). The First Amendment’s protection of the freedom of association provides “protection to collective effort on behalf of shared goals.” *Roberts v. U.S. Jaycees*, 468 U.S. 609, 622 (1984). As the Supreme Court has noted, “[p]rotected association furthers a wide variety of political, social,

¹² Press Release, Office of the Texas Attorney General, Attorney General Ken Paxton Launches Investigation into Beto O’Rourke’s Radical Group for Unlawfully Funding Runaway Democrats (Aug. 6, 2025),

<https://www.texasattorneygeneral.gov/news/releases/attorney-general-ken-paxton-launches-investigation-beto-orourkes-radical-group-unlawfully-funding>.

¹³ Ken Paxton (@KenPaxtonTX), X (Aug. 7, 2025 3:16 PM), <https://x.com/KenPaxtonTX/status/1953550789571424322> (last visited Aug. 8, 2025).

¹⁴ Ken Paxton (@KenPaxtonTX), X (Aug. 6, 2025, 6:19 PM CDT), <https://x.com/KenPaxtonTX/status/1953234509685768647> (last visited Aug. 8, 2025).

¹⁵ James Morley III, *Texas AG Paxton to Newsmax: O’Rourke’s PAC to Be Investigated*, Newsmax (Aug. 6, 2025, 5:40 PM EDT).

¹⁶ Ken Paxton (@KenPaxtonTX), X (Aug. 6, 2025, 3:18 PM CDT), <https://x.com/KenPaxtonTX/status/1953188955807273440> (last visited Aug. 8, 2025).

economic, educational, religious, and cultural ends, and is especially important in preserving political and cultural diversity and in shielding dissident expression from suppression by the majority.” *Americans for Prosperity Found. v. Bonta*, 594 U.S. 595, 606 (2021) (internal quotation marks omitted).

26. The RTE and threatened *quo warranto* proceeding wrongly burdens association in several ways. First, political contributions and expenditures are a form of speech and association. *See In re Siroosian*, 449 S.W.3d 920, 925 (Tex. App.—Dallas 2014, no pet.) (quoting *McCutcheon v. Fed. Election Comm’n*, 134 S.Ct. 1434, 1441 (2014)) (“The right to participate in democracy through political contributions is protected by the First Amendment.”). Government actions that tend to limit political spending “operate in an area of the most fundamental First Amendment activities. Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution.” *Osterberg v. Peca*, 12 S.W.3d 31, 41 (Tex. 2000) (quoting *Buckley v. Valeo*, 424 U.S. 1 (1976) (per curiam)). Here, Defendant Paxton is overtly penalizing Plaintiff’s exercise of free speech, seeking to chill Plaintiff and Mr. O’Rourke from further political spending and donating. “The First Amendment does not permit the government to make any individual choose between the First Amendment right to engage in unfettered political speech and subjection to discriminatory” application of laws. *See Davis v. Fed. Election Comm’n*, 554 U.S. 724, 739 (2008).

27. Moreover, the Supreme Court has recognized for decades that “compelled disclosure of affiliation with groups engaged in advocacy may constitute as effective a restraint on freedom of association as [other] forms of governmental action.” *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 462 (1958). That is because disclosure can subject organizations and individuals to threats of harassment, reprisals, and “other manifestations of public hostility.” *Id.*

28. Harassment need not be certain to occur for a plaintiff to state an association claim. The Supreme Court has emphasized instead that the First Amendment is implicated “by ‘state action which may have the effect of curtailing the freedom to associate,’ and by the ‘possible deterrent effect’ of disclosure.” *Americans for Prosperity Found.*, 594 U.S. at 616 (quoting *NAACP*, 357 U.S. at 460–61); *see also id.* at 606 (“freedom of association may be violated . . . where individuals are punished for their political affiliation.”).

29. Further, the First Amendment protects the right to publish and distribute political writings while remaining anonymous. *Ex parte Odom*, 570 S.W.3d 900, 908 (Tex. App.—Houston [1st Dist.] 2018, pet. denied) (citing *McIntyre v. Ohio Elections Comm’n*, 514 U.S. 334, 342 (1995)).

30. As detailed above, the RTE and the threatened *quo warranto* proceeding are intended to, and would serve to, chill Powered by People’s speech and association by deterring their contributions and expenditures, by subjecting supporters and contributors to identification and potential harassment (including from Defendant himself, given his targeting of Mr. O’Rourke) and by forcing disclosure of anonymous political writings, which would in turn make at least some supporters think twice before associating with Powered by People. For particular example, Requests 3 and 4 appear to request any and all communications between Powered by People and any person regarding quorum break. This would implicate third parties, including Powered by People’s volunteers, supporters and contributors, and subject them to identification by a vindictive and politically-motivated bad-faith government actor.

COUNT 2: U.S. Constitution, Retaliation For Protected Speech (42 U.S.C. § 1983)

31. Plaintiff realleges and incorporates by reference the foregoing paragraphs as though fully set forth herein.

32. The Constitution prohibits the government from taking adverse action against a person for the exercise of their First Amendment rights. *E.g., Nieves v. Bartlett*, 587 U.S. 391, 398 (2019). Accordingly, the State cannot retaliate against a citizen who exercises the right of free speech on a matter of public concern. *Levine v. Maverick Cnty. Water Control & Imp. Dist. No. 1*, 884 S.W.2d 790, 795 (Tex. App.—San Antonio 1994, writ denied). There’s no question that “speech concerning illegal conduct, especially in the public sector is of ‘public concern,’” and includes Mr. O’Rourke’s condemnation of Texas Republicans’ attempt to re-draw the congressional maps, which he has characterized as unlawful. *Upton Cnty., Tex. v. Brown*, 960 S.W.2d 808, 826 (Tex. App.—El Paso 1997, reh’g overruled).

33. To demonstrate retaliation, “[a] claimant must show at least that a substantial and motivating factor for the complained-of action resulted from his exercise of free speech.” *Levine*, 884 S.W.2d 790 at 795. Here, as demonstrated by Defendant Paxton’s personal animus and vitriol against Plaintiff and Mr. O’Rourke based on their protected political speech, including speech criticizing Defendant Paxton himself and speech in the form of political donations, retaliation was wrongfully a “substantial and motivating factor” in the issuance of the RTE. *Id.*

COUNT 3: U.S. Constitution, Fourth Amendment (42 U.S.C. § 1983) & Art. I, § 9 of the Texas Constitution

34. Plaintiff incorporates by reference every allegation in the preceding paragraphs as if set forth fully herein.

35. The Fourth Amendment, which applies to the States through the Fourteenth Amendment, provides that “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated,” and that “no Warrants shall issue, but upon probable cause.” U.S. Const. amend. IV.

36. “Based on this constitutional text,” the Supreme Court “has repeatedly held that searches conducted outside the judicial process, without prior approval by a judge or a magistrate judge, are *per se* unreasonable subject only to a few specifically established and well-delineated exceptions.” *City of Los Angeles v. Patel*, 576 U.S. 409, 419 (2015) (internal quotation marks and alterations omitted).

37. The Attorney General’s demand for documents was not made pursuant to a judicial warrant backed by probable cause. In fact, Defendant’s demand for documents has not been ratified by any court. Nor does Defendant’s demand for documents constitute a permissible administrative search, which must be conducted pursuant to some “‘special need’ other than conducting criminal investigations.” *Id.* at 420. The Attorney General has identified no such special need for these documents, and none is apparent.

38. Instead, the RTE is an “administrative search” which must provide for pre-disclosure judicial review that permits the target to challenge the reasonableness of the inquiry, including its scope, relevance, and burden. While the Texas Supreme Court in *Annunciation House v. Paxton* declined to strike down a *facial* challenge to Texas Business Organizations Code § 12.152, it did so assuming that precompliance review would in fact be made available to those served with requests to examine and that such requests would otherwise adhere to Texas law. *Paxton v. Annunciation House, Inc.*, No. 24-0573, 2025 WL 1536224, at *24 (Tex. May 30, 2025); *see also Spirit Aerosystems, Inc. v. Paxton*, 142 F.4th 278, 291 (5th Cir. 2025) (“Although the RTE statute does not by its text incorporate Rule 176.6, the Texas Supreme Court recently held in *Annunciation House* that Rule 176.6 nevertheless provides a mechanism for precompliance review of RTEs. . . . The Texas Supreme Court also confirmed that ‘the term [immediately] cannot

reasonably be read literally,’ and that the Attorney General was ‘not permit[ted] ... to withhold precompliance review’ . . .”).

39. Accordingly, for the RTE to be constitutional, it must adhere to the Texas Rules of Civil Procedure governing administrative subpoenas, which incorporate the prohibitions on unreasonable search and seizures found in the U.S. Constitution and in the Texas Constitution. That means: “(1) the agency must conduct its investigation pursuant to an authorized purpose, and the subpoena must be relevant to that purpose; (2) the agency must follow the necessary statutory procedures; (3) the subpoena must describe the documents sought with adequate particularity, meaning that the scope of its demand for documents must be adequate, but not excessive, for the purposes of the inquiry; (4) the subpoena must not unnecessarily or excessively seek information that the agency already possesses; and (5) the respondent may show that the subpoena is unnecessarily burdensome.” *Schade v. Texas Workers’ Comp. Comm’n*, 150 S.W.3d 542, 551 (Tex. App.—Austin 2004).

40. The RTE here fails several of these factors: it was issued for the unauthorized purpose of retaliating against a political rival and to restrict protected rights; even if the purpose of the inquiry were proper, the RTE is vague, seeking a wide range of information with no stated justification; and—between the less-than-48-hour response deadline, requests for sensitive information, including likely attorney client privileged and legislatively privileged information, and far-reaching demands—is patently burdensome. The RTE does not even provide reasonable time to conduct a sufficient privilege search. By contrast, the Texas Rules of Civil Procedure require that, when serving a request for production, a “notice . . . must be served at least 10 days before the subpoena compelling production is served.” Tex. R. Civ. P. 205.2. Here, there was no notice, much less a 10 day notice *in advance* of actually serving the subpoena-equivalent RTE.

COUNT 4: Equal Protection Clauses of the U.S. and Texas Constitution--Selective and Vindictive Enforcement

41. “[T]he purpose of the equal protection clause of the Fourteenth Amendment is to secure every person within the State’s jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of a statute or by its improper execution through duly constituted agents.” *Vill. of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000).

42. “[T]o establish a claim of discriminatory enforcement, a party must first show he or she has been singled out for prosecution or enforcement of the regulation or ordinance while others similarly situated and committing the same acts have not.” *Maguire Oil Co. v. City of Houston*, 69 S.W.3d 350, 370 (Tex. App.—Texarkana 2002, pet. denied) (internal citations and quotation marks omitted). “Further, the party must also show the government has purposefully discriminated on the basis of an impermissible consideration such as race, religion, or the desire to prevent the exercise of constitutional rights.” *Id.* (citations/quotations omitted).

43. Similarly, “a constitutional claim of prosecutorial vindictiveness may be established in either of two distinct ways: 1) proof of circumstances that pose a ‘realistic likelihood’ of such misconduct sufficient to raise a ‘presumption of prosecutorial vindictiveness,’ which the State must rebut or face dismissal of the charges; or 2) proof of ‘actual vindictiveness’—that is, direct evidence that the prosecutor’s charging decision is an unjustifiable penalty resulting solely from the defendant’s exercise of a protected legal right.” *Neal v. State*, 150 S.W.3d 169, 173 (Tex. Crim. App. 2004); *cf. Hillside Prods., Inc. v. Duchane*, 249 F. Supp. 2d 880, 897–98 (E.D. Mich. 2003) (“[in] vindictive enforcement claims, Plaintiffs must show: (1) exercise of a protected right; (2) the enforcer’s ‘stake’ in the exercise of that right; (3) the unreasonableness of the enforcer’s conduct; and (4) that the enforcement was initiated with the intent to punish Plaintiffs for the exercise of the protected right.”).

44. Here, Defendant Paxton has made it a clear political priority to single-out and target Powered by People based on personal and political animus. Whereas he has never conducted this type of investigation on an organization that is identified as conservative leaning or supportive of him personally or politically. Notably, he himself has been impeached for charges relating to bribery and corrupt campaign and officeholders, and indicted for other criminal matters. Rather than utilizing his office to conduct a neutral third-party audit of those who contributed to him in order to gain political influence, he wasted millions of taxpayer dollars defending his corrupt practices. Defendant Paxton appears to have based his investigative priorities on advice that is commonly attributed to Joseph Goebbels: “Accuse the other side of that which you are guilty.” The fact that he uses the State as an instrumentality to accomplish his illegitimate goals violates the Equal Protection Clause.

**VII. EMERGENCY APPLICATION FOR TEMPORARY RESTRAINING ORDER,
MOTION FOR PROTECTIVE ORDER, APPLICATION FOR TEMPORARY
INJUNCTION, AND OTHER INJUNCTIVE RELIEF**

Application for Emergency Temporary Restraining Order

45. Defendant has indicated that his office intends to imminently initiate baseless *quo warranto* proceedings in Tarrant County, where there are no grounds for venue. This will be the third baseless action that Defendant initiates against Plaintiff in less than a week.

46. As demonstrated by the foregoing facts, Defendant is abusing the legal system solely for the purpose of harassing Plaintiff and chilling Plaintiffs’ First Amendment rights.

47. Defendant has no good faith basis for his threatened legal action, and the action is intended to and would have the effect of imminently and irreparably harming Plaintiff by violating Plaintiffs’ constitutional rights, as laid out in the preceding legal counts. This matter must be

heard immediately, including ex parte if necessary, as Plaintiff will suffer irreparable harm in the absence of temporary relief until a hearing on a temporary injunction can be had.

48. Plaintiff is willing to post bond.

Motion for Protective Order

49. Plaintiff re-alleges and incorporates by reference the preceding paragraphs for all purposes the same as if set forth herein verbatim.

50. Plaintiff seeks a protective order pursuant to Tex. R. Civ. Pro. 176.6(e) and Tex. R. Civ. Pro. 192.6(b). Rule 176.6(e) provides, in relevant part, “[a] person commanded to...produce...designated documents and things...may move for a protective order under Rule 192.6(b) — before the time specified for compliance — either in the court in which the action is pending or in a district court in the county where the subpoena was served.”

51. In order to “protect the movant from undue burden, unnecessary expense, harassment, annoyance, or invasion of personal, constitutional, or property rights,” Tex. R. Civ. P. 192.6(b) allows a court to “make any order in the interest of justice and may — among other things — order that: (1) the requested discovery not be sought in whole or in part; (2) the extent or subject matter of discovery be limited; (3) the discovery not be undertaken at the time or place specified; (4) the discovery be undertaken only by such method or upon such terms and conditions or at the time and place directed by the court; (5) the results of discovery be sealed or otherwise protected, subject to the provisions of Rule 76a.”

52. Further, Tex. R. Civ. P. 192.4 provides protections against, *interalia*, inappropriate document requests, requiring that the “discovery methods permitted by these rules should be limited by the court if it determines, on motion or on its own initiative and on reasonable notice, that: (a) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from

some other source that is more convenient, less burdensome, or less expensive; or (b) the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues.” *See In re Weekley Homes, L.P.*, 295 S.W.3d 309, 322-23 (Tex. 2009) (noting harm that the party resisting discovery might suffer as result of revealing private conversations, trade secrets, and privileged and other confidential information); *see also In re Houstonian Campus, L.L.C.*, 312 S.W.3d 178, 184 (Tex. App.—Houston [14th Dist.] 2010, orig. proceeding) (considering the harm that party resisting discovery might suffer as a result of revealing members’ names).

53. Here, the RTE runs afoul of many of the prohibitions found in Rule 192.6(b) and 192.4, as it:

- *Harasses Plaintiff* — “Discovery is unnecessarily harassing where it is sought for an improper purpose.” *Centennial Psychiatric Assocs., LLC v. Cantrell*, No. 14-17-00380-CV, 2017 WL 6544283, at *9 (Tex. App. Dec. 21, 2017). The entire RTE was sent for the purpose of retaliation against and harassing a political opponent, a clearly improper purpose and abuse of the RTE process. *See supra*, para. 20-21, 29-31.
- *Invades constitutional rights* — As thoroughly addressed in the preceding sections, Defendants’ RTE improperly invades on Plaintiffs’ Texas and federal constitutional rights. *See supra*, para. 22-42.
- *Is unduly burdensome because:*
 - *There is insufficient time to respond* — Defendants provided a wholly insufficient amount of time to respond and object to the individual

document requests within the RTE. They further refused two requests for an extension of the RTE deadline. Requests for document production to a party in civil litigation allow for a 30 day response deadline. Tex. R. Civ. Pro. 196.2(a). A subpoena seeking documents from a nonparty requires at least 10 days notice. Tex. R. Civ. Pro. 205.2. Here, Defendants provided less than 48 hours notice to Plaintiff, an unreasonable amount of time to (1) gather responsive documents, (2) review those documents for privilege and, (3) compile and provide objections and responses. In the context of a nonparty subpoena, the Eighth Court of Appeals has said “[p]lainly...a day’s notice is not reasonable...” *In re State*, 599 S.W.3d 577, 597 (Tex.App.--El Paso, 2020, orig. proceeding). So too in this situation where Defendants provided less than 48 hours from notice of the RTE to deadline for response.

- *The requests are overly broad* — Additionally, the requests in the RTE are overly broad. An overly broad request for documents that is merely a “fishing expedition” into the other party’s files is prohibited. *In re American Optical Corp.*, 988 S.W.2d 711, 713 (Tex.1998); *Dillard Dept. Stores v. Hall*, 909 S.W.2d 491, 492 (Tex.1995). Here, the RTE is expressly a fishing expedition, and one initiated against a perceived political opponent. Neither the rules of civil procedure nor the U.S. or Texas Constitutions allow for such an assault.
- *There is an alternate source for some of the information* — A request is unduly burdensome when the discovery can be obtained from some other

source that is more convenient, less burdensome, or less expensive. Tex. R. Civ. P. 192.4(a); *Brewer & Pritchard, P.C. v. Johnson*, 167 S.W.3d 460, 466 (Tex.App.—Houston [14th Dist.] 2005, pet. denied); e.g., *In re Arras*, 24 S.W.3d 862, 864 (Tex.App.—El Paso 2000, orig. proceeding) (deposition of nonparty for addresses of other parties was inconvenient and burdensome). The RTE requests information about political contributions and expenditures, which, as a candidate for office on multiple occasions himself, the Defendant knows are subject to public filings and therefore obtainable through other means. Powered by People is a nonprofit organization exempt from tax under 26 U.S.C. § 527 as a political organization, and is registered with the Federal Election Commission under federal campaign finance law and with the Texas Ethics Commission under state campaign finance law. As an organization registered under these campaign finance laws, Powered by People files regular, public reports of its contributions and expenditures. *See* 52 USC § 30104(a)(4); 11 CFR § 104.5(c); Tex. Elec. Code §§ 254.153, 254.154; 1 Tex. Admin. Code §§ 20.423, 20.425. On a regular basis according to schedules determined by these laws, Powered by People files *public* reports of the funds it has received and expenditures made, subject to thresholds for itemization on reports.

- *Requires unnecessary expenses* — Since some of the requests, including Nos. 9 and 11 encompass materials filed in TEC filings, the requests for additional production pursuant to the RTE would require unnecessary expense.

54. A trial court has “broad discretion” in determining whether to grant a protective order and “balances the parties’ competing interests” when making its determination. *Eurecat U.S., Inc. v. Marklund*, 527 S.W.3d 367, 376 (Tex. App.—Houston [14th Dist.], 2017, no. pet.).

55. Plaintiff’s injuries if required to respond to Defendants’ RTE are numerous and articulated above.

Request for Temporary and Permanent Injunctions

56. Plaintiff re-alleges and incorporates by reference the preceding paragraphs for all purposes the same as if set forth herein verbatim.

57. In addition to the protections afforded by a Rule 176.6(e) protective order, Plaintiff requests and is entitled to temporary and permanent injunctions against Defendant. While the grounds for Plaintiffs’ motion for protective order and requests for injunction overlap, there are additional constitutional bases for enjoining the RTE. *Cf. Annunciation House, Inc.*, 2025 WL 1536224, at *24 (determining that a recipient of an RTE may seek precompliance review “whether by Rule 176.6(e)’s protective orders or *other provisions of Texas law*”).

58. The Texas Supreme Court has explained that:

A temporary injunction’s purpose is to preserve the *status quo* of the litigation’s subject matter pending a trial on the merits. . . . To obtain a temporary injunction, the applicant must plead and prove three specific elements: (1) a cause of action against the defendant; (2) a probable right to the relief sought; and (3) a probable, imminent, and irreparable injury in the interim. An injury is irreparable if the injured party cannot be adequately compensated in damages or if the damages cannot be measured by any certain pecuniary standard.

Butnaru v. Ford Motor Co., 84 S.W.3d 198, 204 (Tex. 2002). “[T]he only question before the trial court in a temporary injunction hearing is whether the applicant is entitled to preservation of the status quo of the subject matter of the suit pending trial on the merits.” *Id.* (quoting *Pub. Util. Comm’n v. Water Servs., Inc.*, 709 S.W.2d 765, 767 (Tex. App.—Austin 1986, no writ). Moreover,

“[w]hether to grant or deny a temporary injunction is within the trial court’s sound discretion,” and a reviewing court should not overturn absent a showing that such discretion was abused. *Id.*

59. Here, Plaintiff is entitled to preservation of the *status quo* because it will suffer imminent, irreparable harm for which no adequate remedy at law exists if Defendants are not restrained enforcing the RTE. *See Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002) (“An injury is irreparable if the injured party cannot be adequately compensated in damages or if the damages cannot be measured by any certain pecuniary standard.”) (citing *Canteen Corp. v. Republic of Tex. Props., Inc.*, 773 S.W.2d 398, 401 (Tex. App. —Dallas 1989, no writ)).

60. Plaintiff will suffer a violation of its constitutional rights, and “[u]nder Texas law, a violation of a constitutionally guaranteed right inflicts irreparable injury warranting injunctive relief.” *Operation Rescue-Nat’l v. Planned Parenthood of Houston & Se. Texas, Inc.*, 937 S.W.2d 60, 77 (Tex. App.—San Antonio 1996, writ granted and *aff’d as modified*, 975 S.W.2d 546 (Tex. 1998)) (citing *Southwestern Newspapers Corp. v. Curtis*, 584 S.W.2d 362, 368 (Tex. Civ. App.—Amarillo 1979, no writ); *Iranian Muslim Organization v. City of San Antonio*, 615 S.W.2d 202, 208 (Tex. 1981)).

61. Once sensitive information has been handed over and disclosure has been compelled, there can be no remuneration. Not only will Plaintiff suffer that irreparable harm, but compliance with the RTE would deprive this Court of its jurisdiction by effectuating the irreversible contested action that is the subject of this Petition. *Cf. Marketshare Telecom, L.L.C. v. Ericsson, Inc.*, 198 S.W.3d 908, 921 (Tex. App. —Dallas 2006, no pet.) (holding that a court “may protect its jurisdiction” by issuing appropriate injunctions).

62. Further, Plaintiff has stated numerous valid causes of action, *see supra para.* 22-42, and the verified factual allegations demonstrate a probable right to relief. Defendant Paxton has clearly violated the Texas and United States Constitution, as well as the Texas Rules of Civil Procedure.

63. Plaintiff is willing to post bond. Pursuant to Tex. R. Civ. P. 168, “[w]here the...temporary injunction is against...a subdivision of the State in its governmental capacity, and is such that the State...[and]...the subdivision of the State in its governmental capacity, has no pecuniary interest in the suit and no monetary damages can be shown, the bond shall be allowed in the sum fixed by the judge, and the liability of the applicant shall be for its face amount if the restraining order or temporary injunction shall be dissolved in whole or in part.”

64. Accordingly, Plaintiff asks the Court to set a briefing period for its request for temporary injunction, set the same for a hearing and, after the hearing, issue a temporary injunction against Defendants.

65. For these same reasons, Plaintiff seeks a permanent injunction prohibiting Defendants from enforcing the RTE.

PRAYER AND REQUEST FOR RELIEF

For the foregoing reasons, Plaintiff Powered by People requests an immediate protective order pursuant to Tex. R. Civ. Pro. 192.6(b) and Tex. R. Civ. Pro. 176.6(e), and a temporary restraining order issued to Defendants preventing enforcement of the RTE in its entirety. Further, Plaintiff requests that Defendants be cited to appear and answer, and that on hearing, issue Plaintiff judgment as follows:

- (a) A protective order against Defendants’ enforcement of the RTE in its entirety;

- (b) A declaration that Defendants violated the U.S. Constitution and the Texas Constitution, and that the RTE is invalid and unenforceable;
- (c) A temporary and permanent injunction restraining Defendants from enforcing the RTE in its entirety;
- (d) A temporary restraining order restraining Defendants from instituting *quo warranto* proceedings without leave of this court or another district court in El Paso County.
- (e) A temporary and permanent injunction enjoining Defendants from instituting *quo warranto* proceedings without leave of this court or another district court in El Paso County until such date as this Court deems fit.
- (f) Costs of court;
- (g) Reasonable and necessary attorneys' fees pursuant to 42 U.S.C. § 1988 and other applicable laws; and
- (h) Such other and further relief, at law or in equity, to which Plaintiff is justly entitled.

Respectfully submitted,

/s/ Mimi Marziani

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ATTORNEYS FOR PLAINTIFF

VERIFICATION

My name is David Mills Wysong, my date of birth is May 9, 1972, and my address is 824 Twin Hills Dr., El Paso, Texas 79912, United States. I declare under penalty of perjury that the statements in the foregoing Facts section are true and correct.

Executed in El Paso County, State of Texas, on the 11th day of August, 2025.

Signed by:

6CAD8FCC6CE546F...

David Mills Wysong

VERIFICATION

My name is Joaquin Gonzalez, my date of birth is November 27, 1984, and my address is 1533 Austin Hwy. #102-402, United States. I declare under penalty of perjury that the statements in paragraphs 19-21 in the fact section are true and correct.

Executed in Bexar County, State of Texas, on the 11th day of August, 2025.

/s/ Joaquin Gonzalez
Joaquin Gonzalez

CERTIFICATE OF SERVICE

By my signature below, I hereby certify that a true and correct copy of the foregoing pleading was served on the following as set forth below, on August 11, 2025.

Via e-service: Rob.Farquharson@oag.texas.gov

Rob Farquharson

Deputy Chief

Consumer Protection Division

Office of the Attorney General

Via e-service: Johnathan.Stone@oag.texas.gov

Johnathan Stone

Chief

Consumer Protection Division

Office of the Attorney General

/s/ Mimi Marziani

Mimi Marziani

CAUSE NO. 348-367652-25

THE STATE OF TEXAS

Plaintiff,

v.

ROBERT FRANCIS O'ROURKE and
POWERED BY PEOPLE

Defendants.

§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

348th JUDICIAL DISTRICT

**THE STATE'S REQUEST FOR AN EMERGENCY TEMPORARY
RESTRAINING ORDER AND TEMPORARY INJUNCTION**

EXHIBIT H

COPY

REPORTER'S RECORD

TRIAL COURT CAUSE NO. 2025DCV3641

VOLUME 1 OF 1 VOLUMES

POWERED BY PEOPLE,)
)
 Plaintiff,) IN THE DISTRICT COURT
)
 vs.)
) 41ST JUDICIAL DISTRICT
 KEN PAXTON)
 IN HIS OFFICIAL CAPACITY AS)
 TEXAS ATTORNEY GENERAL,) EL PASO COUNTY, TEXAS
)
 Defendant.)

TEMPORARY RESTRAINING ORDER

The 13th day of August 2025, the following
 proceedings came on to be heard in the above-entitled
 and numbered cause before the Honorable Annabell Perez,
 Judge Presiding, held in El Paso, El Paso County, Texas:
 Proceedings reported by machine shorthand
 utilizing computer-assisted realtime transcription.

APPEARANCES

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-and-

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ATTORNEYS FOR PLAINTIFF

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1 (Open court, counsel present)

2 THE COURT: The Court calls Cause Number
3 2025DCV3641, Powered by People, plaintiff v. Ken Paxton,
4 In His Official Capacity as Texas Attorney General,
5 defendant.

6 May I have announcement of counsel,
7 please?

8 MS. COYLE: Good morning, Your Honor.
9 Lynn Coyle serving as local counsel for plaintiff,
10 Powered by People. And I'm joined today by
11 Joaquin Gonzalez and Beth Stevens, who will be acting as
12 lead counsel for this hearing.

13 THE COURT: Thank you. Good morning.

14 MS. STEVENS: Good morning.

15 THE COURT: Thank you.

16 MS. COYLE: We're ready to proceed.

17 THE COURT: Good morning. Thank you.

18 MS. STEVENS: Good morning.

19 MR. STONE: And on behalf of the
20 Attorney General, I am Johnathan Stone and I am joined
21 by my colleague, Scott Froman. And we're also ready to
22 proceed.

23 THE COURT: Mr. Scott, what is your last
24 name again?

25 MR. FROMAN: Froman, F-R-O-M-A-N.

1 THE COURT: Good morning.

2 The Court has received the verified
3 amended petition for declaratory relief filed by the
4 plaintiff in this cause.

5 This morning I did receive the response
6 filed by the Attorney General, which was filed this
7 morning. I've had an opportunity to read that response.

8 They have also filed a plea to the
9 jurisdiction, which I don't think was set today, but I
10 don't know. I'll let the plaintiff address that, but it
11 was not set. What was set today and what we're
12 scheduled to discuss is the temporary restraining order
13 that's being requested in the plaintiff's petition, and
14 then we proceed from there.

15 Let me set it up the way I think we should
16 proceed. I want to be as efficient as possible with
17 everybody's time. I feel that because we have a
18 similar -- I'm not going to go all out and say "same
19 case" but a similar -- involving the same parties, a
20 case is pending in Tarrant County. We have some -- some
21 preliminary procedural questions to answer, and that's
22 the Court's jurisdiction, the first-filed rule, Tarrant
23 County's jurisdiction -- because I understand that's
24 being challenged there -- or at least the choice of
25 venue there. -- and whether that plays any part on

1 whether we should proceed here in El Paso County.

2 So those are the issues that I think we
3 need to sort out before we get to the merits of the
4 complaints, those primarily being the constitutional
5 complaints on the actions made by the Attorney General
6 against Powered by People.

7 Any thoughts on my posture here?

8 MS. COYLE: If I may, Judge?

9 Yeah. I understand how you see the
10 issues, but if we can help to clarify. So this morning,
11 we're seeking emergency temporary relief, which as you
12 know, is to maintain the status quo and prevent
13 irreparable harm.

14 And as our proposed order shows, we are
15 not asking the Court for a ruling on the merits, and
16 we're not asking the Court for a ruling on jurisdiction.
17 And the Eighth Court of Appeals has spoken to this very
18 issue --

19 THE COURT: Okay.

20 MS. COYLE: -- which is that the Court
21 absolutely has jurisdiction to hear a request for
22 emergency relief. Because without yet making a ruling
23 on jurisdiction, even though the pleading has been
24 filed, because of the nature of emergency relief, which
25 is to maintain the status quo and avoid irreparable

1 harm.

2 That case, Your Honor, is *Fernandez v.*
3 *Pimentel*. That's 360 S.W.3d 643, and that was authored
4 by Justice Antcliff. And he addressed this exact issue,
5 which is that the Court noted that -- let me find the
6 quote here.

7 Since the judge -- in that case what
8 happened is, there was a request to extend the temporary
9 restraining order. A plea to the jurisdiction had
10 already been filed and the district court judge said,
11 "Well, I'm going to extend it," and then set a hearing
12 on the plea to the jurisdiction. The parties took that
13 extension of the TRO as a denial of the plea to the
14 jurisdiction. They sought an interlocutory appeal. And
15 the Eighth Court of Appeals said: No. The ruling on
16 the extension for the TRO is explicitly not a denial of
17 the plea to the jurisdiction. It is only a ruling on
18 whether emergency relief should be extended.

19 And so they dismissed that interlocutory
20 appeal. And that's almost --

21 If I may, Judge? I can provide you with a
22 copy of that case.

23 THE COURT: Well, you know, I have it
24 here.

25 MS. COYLE: Okay.

1 THE COURT: If you -- I have my Lexis
2 here, so it's not a problem to pull it up.

3 MS. COYLE: So, Your Honor, I'm not
4 disagreeing with you. If you want to have a
5 discussion -- some sort of preliminary discussion about
6 jurisdiction, but we think -- first of all, I will tell
7 you our presentation on our application for the
8 temporary restraining order is going to carefully walk
9 the Court through everything that's happened in what is
10 a remarkable last seven days, okay? This started seven
11 days ago on August 6th.

12 So we will walk you through exactly what
13 happened here in El Paso and what happened in Tarrant
14 and why emergency relief is being sought today. So that
15 may help the Court understand all the other issues and
16 the context in which they're arising.

17 THE COURT: The -- and I understand the
18 point you're making, is that's what the case says. And
19 I'm going to read the case to make sure.

20 Unlike that case, I feel that -- in that
21 case, the trial court had the case from its onset
22 without the interference of another pending case, a
23 pre-filed case. In that case where the judge extended
24 that temporary restraining order -- I can understand
25 that's not a ruling on the plea.

1 But here, first hearing upon filing of the
2 lawsuit, there already existed another court in another
3 county that claimed proper venue, claimed -- you know, I
4 don't know. I'm going to assume but I don't know if
5 that judge went through that exercise of determining
6 whether she had the proper jurisdiction to entertain it,
7 but she issued an order, a TRO.

8 So that's a little different for me than
9 maybe the case that you're explaining. Because at the
10 onset, I am aware of another court exercising
11 jurisdiction on the -- at least the parties without
12 commenting on that similarity between the case because I
13 think the causes of action are a little bit different.
14 The claims are different. And maybe you can argue that
15 they're reciprocal. The Attorney General doesn't think
16 he's violating the Constitution but exercising his
17 statutory authority, but then we have the reciprocal
18 argument that this is clearly a violation of the
19 First Amendment. So -- but I already have a court
20 already moving on this.

21 So I don't feel like I can just summarily
22 ignore that. And maybe we develop a record on whether I
23 should or should not. I completely agree with the
24 concept of keeping the status quo -- maybe keep the
25 status quo until you hash it out in Tarrant County.

1 Let's keep the status quo so that Mr. O'Rourke doesn't
2 go to jail. You know, whatever the concerns might be,
3 keeping the status quo is intended to kind of keep the
4 peace until we get through some of these issues, in
5 fairness to both sides.

6 So that's my thinking on your proffer with
7 that case, without having read it, but I immediately saw
8 that distinction.

9 MR. STONE: Your Honor, can I add
10 something?

11 MS. COYLE: I'm sorry. I didn't mean to
12 interrupt, but can I just respond real quick to that?

13 THE COURT: Yes.

14 MS. COYLE: That -- you are correct. That
15 is a difference. There was not another action filed in
16 a separate venue, but I -- the argument that we have on
17 why emergency relief is being sought and why the
18 status quo needs to be maintained and the urgency with
19 that is, in part, what you've already identified. But
20 our argument is going to explain carefully -- because
21 there is a lot of procedure that's happened. There's
22 a lot that's happened, and so our argument in support of
23 our request for relief will walk you through why this
24 court has authority, notwithstanding the action that the
25 AG filed in Tarrant County. And we're ready to address

1 the Court's concerns on that right now.

2 THE COURT: Okay. Yes, sir?

3 MR. STONE: Your Honor, if we can just add
4 one more thing to what the Court has already concluded.
5 Another distinction that I think is significant is we
6 filed the plea to the jurisdiction on Monday before they
7 ever sought this temporary restraining order, I think --
8 I believe the next day they sought the temporary
9 restraining order. So there's already a preexisting
10 plea to the jurisdiction before they ever sought the
11 TRO.

12 And one more fact that I think is really
13 notable, all the arguments I'm going to be making today
14 go to mootness and dominant jurisdiction by the other
15 court, which is exactly the same argument we made in our
16 plea to the jurisdiction and plea in abatement.

17 So to have a second hearing in a week or
18 two weeks where both sides get together and make the
19 same argument is a waste of judicial resources. I'm
20 going to be arguing that same thing today, so the Court
21 should just rule on it today.

22 Does the Court have jurisdiction? Yes or
23 no?

24 Does Tarrant County have dominant
25 jurisdiction over the issues? Yes or no?

1 THE COURT: Yeah. I haven't concluded
2 anything, just for purposes of the record. I'm just
3 reacting to the explanation and I'm just thinking out
4 loud.

5 What I would contemplate that if the TRO
6 is granted or denied, the next hearing would be on
7 addressing your plea to the jurisdiction and then
8 delving into that probability of -- of the plaintiff
9 being able to stay in their claims -- their underlying
10 claims, with evidence or any of those things.

11 I think while this is a status quo
12 conversation, I do think we need to talk about whether
13 or not I have the authority to issue an order to
14 maintain that status quo.

15 I understand the purpose of the request,
16 but do I have that underlying authority? And if that
17 equates to a plea to the jurisdiction question, perhaps.

18 What I'll do -- what I'm going to do is
19 I'm going to let you present what you were going to
20 present here today and then make a decision on the TRO
21 based on that. But having spoken out loud on what my
22 concerns are, I hope that you do tailor a little bit of
23 your argument to address some of that.

24 If I -- because if I deny the TRO, the
25 case doesn't go away.

1 MR. STONE: It doesn't go away,
2 Your Honor, but we'd still be coming back.

3 If the Court concludes today that it has
4 jurisdiction to take up their TRO request and get into
5 it, then we would ask the Court to just go ahead and
6 sign an order denying our PTTJ -- our plea to the
7 jurisdiction. We don't need to come back and do the
8 same argument again. You've already heard all the
9 arguments today, and you can just deny it today if
10 that's the -- if you reach the TRO, you might as well
11 just deny our plea to the jurisdiction and deny the TRO.

12 THE COURT: So that you can take your
13 interlocutory appeal?

14 MR. STONE: Yes, Your Honor.

15 THE COURT: Right.

16 MR. GONZALEZ: And stay the proceedings.

17 MS. COYLE: And stay -- and press out on
18 the issue before the Court.

19 But we are very mindful, Your Honor, of
20 your concern. That is a valid concern. I mean, it's an
21 unusual posture; we agree.

22 THE COURT: Yeah.

23 MS. COYLE: And we are absolutely ready to
24 address that thoroughly, including with the white board,
25 to walk you through it to address your concern about the

1 Court's power here, today's temporary restraining order,
2 in the context of our application.

3 THE COURT: Sure. And that's why I want
4 to allow it. Look, this is a -- I'm very honored to be
5 part of this case because it's very historical in my
6 opinion. It's very legally significant and a lot --
7 a lot is at stake here for our community and our state.

8 And so to be part of this case is critical
9 to me as a member of the judiciary to do it right. And
10 part of that duty is to ensure that your record is
11 complete. So I will never -- have never with any
12 party -- it could be the simplest car accident or
13 something of this magnitude, as I perceive it, would
14 never cut off anybody's ability to properly preserve
15 your record and take your procedural steps as you think
16 deem appropriate.

17 I think to get there, though, we need to
18 fully develop the record, and I can be as thoughtful as
19 I can and mindful of the law on when I make that call,
20 okay?

21 MS. COYLE: Thank you.

22 THE COURT: Let's go ahead and start.

23 And just so you know, my way of doing
24 things is I type out my notes. So as I'm typing, I am
25 listening. I'm basically writing down what you're

1 telling me, okay?

2 MS. STEVENS: Understood. Thank you,
3 Your Honor.

4 May it please the Court, counsel.

5 Your Honor, I'm here today representing
6 Powered by People, which is a political action committee
7 and Texas organization. But before I jump into
8 argument, I want to emphasize to the Court, the sole
9 question we're here today is on whether the Court should
10 issue the TRO to preserve the status quo because of
11 imminent irreparable injury to Powered by People.

12 The RTE that's been referenced thus far
13 in the lead-up to discussing this hearing is a key
14 background back that goes to the constitutional
15 violations of the heart of the lawsuit, but it is not
16 the subject of today's hearing, rather we're here to ask
17 the Court to stop Defendant Paxton from proceeding on
18 his third abusive legal maneuver in the last week.

19 Powered by People, the organization, was
20 created in 2019 by Beto O'Rourke, David Wysong, and
21 Gwen Pulido. It is an El Paso organization. All
22 members of the board live in El Paso. Their senior
23 leadership is in El Paso. And their business office is
24 in El Paso. All key decision-makers are in El Paso.

25 Again, Your Honor, we are here today to

1 ask you to grant a temporary restraining order against
2 Defendant Ken Paxton. We do not do so lightly. Quick
3 action through a TRO is required to prevent the
4 irreparable harm that my client faces through
5 Defendant Paxton's abuse of process, actions which
6 violate my client's constitutional rights.

7 In a few moments, I'm going to talk the
8 Court through details to explain why we are entitled to
9 the TRO, including that courts frequently bring up
10 anti-suit injunctions. But before I turn to that, it's
11 important to walk the Court through the larger picture.

12 This larger context is crucial to why we
13 are entitled to relief -- the relief we seek today --
14 and to understand how we got here in an emergency
15 posture less than a week after the Defendant
16 Attorney General began legal proceedings against my
17 client to stifle their First Amendment right to free
18 speech and association.

19 It is no secret that the ideals that
20 Powered by People fight for are in direct contravention
21 to actions taken by Defendant Ken Paxton. It is no
22 secret that Defendant Paxton has identified
23 Mr. O'Rourke, who is the founder of Powered by People,
24 as a political opponent in his upcoming 2026 Senate
25 race. He has said as much on social media postings.

1 And it is no secret that Defendant Paxton has it out for
2 Mr. O'Rourke and Powered by People as a result of that
3 political ire. We need only see the recent reference to
4 attempting to jail Mr. O'Rourke and shut down Powered by
5 People.

6 Now, Defendant Paxton, through this -- his
7 attempt to file an action *quo warranto* seeks nothing
8 short of shutting down an organization that is his
9 political opponent. This is a direct assault on Powered
10 by People's right to free speech and association under
11 the Constitution. He does so in flagrant violation of
12 our judicial system rules. In a county that cannot have
13 jurisdiction over a *quo warranto* proceeding and doing so
14 in naked effort to rest jurisdiction from El Paso
15 County, the rightful venue, for such a proceeding.

16 Defendant Paxton has demonstrated over the
17 last week that he will abuse every process, every
18 procedure, every rule to get his way. Despite the very
19 short timeline -- it has literally been less than a week
20 since this ordeal started. This story is quite a saga,
21 so I ask the Court's patience when I describe everything
22 that's gone on here.

23 And I do have a demonstrative for the
24 Court, a timeline.

25 May I approach?

1 THE COURT: Yes. The -- he'll hand it to
2 me. Thank you.

3 MS. STEVENS: Okay. Thank you.

4 THE COURT: So for purposes of the record,
5 I have received a three-page Word document with what
6 appears to be a timeline.

7 MS. STEVENS: Thank you, Your Honor.

8 I'm not going to go through every bullet
9 point on this timeline, but I am going to hit the key
10 points of what happened, all of which, I believe, is in
11 the record before you in various filings -- separate
12 filings.

13 So, again, less than a week ago, on the
14 evening of Wednesday, August 6th, Defendant Paxton
15 served a "Request to Examine" to Powered by People
16 seeking a plethora of documents -- documents related to
17 an ongoing very political fight between Texas
18 Republicans and Texas Democrats about those Republican's
19 efforts to further racially gerrymander the State's
20 political maps, a political fight that Mr. O'Rourke and
21 Powered by People participating in by publicly pushing
22 for support of those Democrats.

23 Defendant Paxton asked for these plethora
24 of documents to be turned over by the organization to
25 Defendant Paxton with a less than 48-hour deadline --

1 less than 48-hour timeline. The deadline set was
2 Friday, August 8th, at 4 o'clock, Mountain Time;
3 5 o'clock, Central.

4 Powered by People sought two different
5 extensions of this patently unreasonable timeline
6 provided by the Attorney General. One was denied.
7 The corporate counsel sent a request. That was denied.
8 The second request was sent by me, Ms. Stevens, at
9 10:21 a.m., Mountain Time, on Friday August 8th --
10 less than an hour after we had been looped in a
11 conversation with the Attorney General. This email put
12 Defendant Paxton on notice that Powered by People was
13 represented by Texas counsel.

14 Then before the deadline to respond to the
15 Request to Examine, and over three hours after
16 Defendant Paxton was on notice that Powered by People is
17 represented by Texas counsel, at 1:46 p.m., Mountain
18 Time, and without previously notifying counsel for
19 Powered by People about their intent to seek an *ex parte*
20 TRO, Defendant Paxton filed a Deceptive Trade Practices
21 Act petition and request for TRO in Tarrant County
22 district court.

23 Again, this was despite the fact that
24 Defendant Paxton had already kicked off legal
25 proceedings in El Paso County when he served the Request

1 to Examine. And despite the fact that there is a
2 mandatory venue provision in the Civil Practice and
3 Remedies Code requiring that late filing DTPA filing
4 also be filed in El Paso.

5 These procedural manipulations were only
6 the first in a long string of abuse of process by
7 Defendant Paxton over the last three business days.

8 Literally one minute after filing suit in
9 Tarrant County, Defendant Paxton's counsel emailed in
10 the same email chain through which we had asked for an
11 extension to the RTE response and indicated that they
12 were filing suit seeking a TRO and asking if counsel
13 wished to be heard on the TRO.

14 We responded that it was completely
15 inappropriate to notify us of the filing -- to not
16 notify us of the filing and request for an *ex parte* TRO
17 when they knew full well that Powered by People was
18 represented and that, yes, we wanted to be heard on the
19 hearing.

20 After contacting Defendant Ken Paxton's
21 counsel over the phone, we learned that one of
22 Defendant Paxton's Austin-based attorneys was in person
23 in Tarrant County, drove the three hours to Tarrant
24 County, and was actively working on getting a TRO
25 hearing. Then less than two hours after the suit was --

1 the DTPA suit was filed, Defendant Paxton's counsel
2 obtained a hearing before the Tarrant County court.
3 Counsel for Powered by People with no time to prepare
4 or to brief this complicated DTPA argument and the
5 First Amendment issues that are inherent in those
6 arguments but in -- of course, in an effort to defend
7 our client against this manufactured emergency process,
8 counsel attended that hearing. After business hours on
9 Friday the 8th, the Tarrant County issued the TRO.

10 The maneuvering between Wednesday and
11 Friday were not enough for Defendant Paxton. He
12 accelerated his abuse of my client and the rules
13 governing our process from there.

14 On Saturday, August 9th, Defendant Paxton
15 notified counsel for Powered by People -- actually,
16 excuse me, Your Honor. On Friday afternoon, we filed
17 the instant matter in El Paso seeking relief -- before
18 the 5 o'clock deadline seeking relief from the "Request
19 to Examine."

20 On Saturday, August 9th, Defendant Paxton
21 notified counsel for Powered by People that he was,
22 quote, withdrawing the "Request to Examine" and asking
23 that we dismiss this case.

24 We know this was another effort to try to
25 rob this court and El Paso County, more generally --

1 which I think is an important issue -- of jurisdiction;
2 something that Defendant Paxton can't actually do
3 himself.

4 On Monday afternoon, Powered by People and
5 Mr. O'Rourke filed an emergency motion to transfer venue
6 in the Tarrant County case, as there is a mandatory
7 venue provision which requires Defendant Paxton's DTPA
8 lawsuit be filed in El Paso County.

9 That is set for hearing tomorrow morning
10 in Tarrant County.

11 THE COURT: May I stop you right there?

12 MS. STEVENS: Yes, Your Honor.

13 THE COURT: So Saturday morning -- by
14 Saturday morning, August 9th, the Attorney General's
15 Office had already filed and obtained their TRO in
16 Tarrant County. And then Saturday morning are telling
17 you they are withdrawing the request for -- I keep
18 calling it request for production -- request to examine
19 for -- for examination.

20 Had you replied to any part of the request
21 at that point?

22 MS. STEVENS: No, Your Honor. We filed
23 the -- the instant lawsuit -- the original petition in
24 this lawsuit, by seeking a protective order, the Rules
25 of Civil Procedure indicate that you are protected from

1 having to respond --

2 THE COURT: So -- okay. I missed that
3 part. You did file for a protective order.

4 MS. STEVENS: Yes, Your Honor.

5 THE COURT: In Tarrant County?

6 MS. STEVENS: In this court --

7 THE COURT: In this court?

8 MS. STEVENS: -- and before the 5 o'clock
9 deadline.

10 THE COURT: On Friday?

11 MS. STEVENS: Yes.

12 THE COURT: Okay. And then they withdraw,
13 again -- but all that happened after they had already
14 filed their petition in Tarrant County?

15 MS. STEVENS: That's correct, Your Honor.

16 THE COURT: And on Friday afternoon at
17 1:45?

18 MS. STEVENS: At 1:45, Mountain Time.

19 THE COURT: So my point is this. They
20 proceeded with their action in Tarrant County without
21 the benefit of their investigative efforts, their -- the
22 records they needed to prove their allegations or to
23 support, presumably, their claims in their petition?

24 MS. STEVENS: Yes, Your Honor.

25 THE COURT: Okay.

1 MS. STEVENS: And I would also like to
2 note that the -- the venue provision in the Rule of
3 Civil Procedure that allows us to move for a protective
4 order against the RTE, that was specifically invoked by
5 the Texas Supreme Court in the Annunciation House case;
6 dictates that we seek that protective order in El Paso.

7 THE COURT: Uh-huh. Yeah. I got that.

8 I'm just trying to, again, either
9 reconcile the two causes of action or distinguish them.
10 And I just found it interesting that you went ahead and
11 filed your DTPA, or whatever the claims were, in Tarrant
12 County without the benefit of meeting that
13 investigation.

14 That's -- that's how it's supposed to
15 happen. You get your evidence and then you proceed with
16 a decision on whether you're going to file a petition or
17 not, but --

18 MR. STONE: I think the Court is making a
19 conclusion that we haven't represented to the Court at
20 all that was the case. We continued to collect
21 information. Once we reached a critical mass, we
22 believed that we had enough information to proceed under
23 a DTPA lawsuit. We filed the DTPA lawsuit, and it was
24 good enough evidence that the Tarrant County court gave
25 us a TRO. And we have -- as to venue and the

1 sufficiency of our evidence to establish venue in
2 Tarrant County, of course, that will be heard tomorrow.
3 We would have withdrawn the RTE on Friday, but they
4 filed their lawsuit before we had an opportunity to talk
5 to them and we were trying to get a TRO hearing
6 scheduled because there was a rally in Fort Worth the
7 very next day.

8 THE COURT: Right. I know it's all
9 pivoted around Tarrant County because of this public
10 rally --

11 MR. STONE: Right.

12 THE COURT: -- and a lot of social media
13 and that business. I mean, if that's enough for that
14 court to conclude that there's a -- enough facts for a
15 DTPA cause of action, I have -- that's not my call at
16 this point, but for me of interest is the timing.

17 You had a TRO hearing on Zoom with that
18 court and you're telling me now at that point you had
19 the intention of withdrawing the request but never said
20 anything.

21 MR. STONE: Well, I mean, Your Honor,
22 we -- again, we filed that afternoon and they filed
23 their lawsuit challenging the RTE, which froze it in
24 place within two hours.

25 If we -- even if we had contacted them --

1 if we filed the Tarrant County lawsuit and I called
2 opposing counsel and told them, "I'm withdrawing the
3 RTE," which I did the next day, they would have sued us
4 here anyway. I don't think it would have made any
5 difference.

6 THE COURT: I'm not suggesting that you
7 should have set it to preempt this lawsuit. I'm saying
8 that if that was your intention all along, then --

9 MR. STONE: It was not our intention all
10 along. Once we had sufficient information, we pursued
11 the DTPA lawsuit.

12 THE COURT: Right.

13 MR. STONE: We did not have sufficient
14 information at the time we sent the RTE, but we
15 continued to conduct investigations and collect evidence
16 and information.

17 So once we had enough, we determined that
18 we could proceed with a DTPA lawsuit based on statements
19 and a lot of information that had occurred after we sent
20 the RTE to them.

21 Now, the information from the RTE would
22 have been helpful --

23 THE COURT: Just -- but, again, I'm not
24 commenting on the sufficiency of your evidence for your
25 DTPA. There's a judge that felt that there was. All

1 I'm saying is that the timing is a little odd on your
2 intent to withdraw. It seems reactive to this lawsuit
3 as opposed to, "Hey, I have enough evidence for my DTPA
4 lawsuit. I'm going to withdraw it. Let's just proceed
5 with" -- "with the cause of action."

6 MR. STONE: We would have had to withdraw
7 it no matter what, in our reading of the law.

8 THE COURT: Well, it didn't happen that
9 way. That's all I'm commenting on, that it didn't
10 happen that way.

11 MR. STONE: Okay.

12 THE COURT: But let her finish, and then
13 I'm going to let you fully give me how you see it, okay?

14 MR. STONE: (Moving head up and down).

15 THE COURT: I'm sorry. Go ahead.

16 MS. STEVENS: Thank you, Your Honor.

17 May I respond just a moment to the
18 representation just made by counsel?

19 He indicated that they intended to
20 withdraw the RTE at the time of the hearing on Friday
21 afternoon. A few hours before that, we had asked for an
22 extension of the RTE deadline, and they did not respond
23 to that. They didn't grant it. They didn't say, "We're
24 about to withdraw." They didn't do that.

25 And counsel just represented to you that

1 they did not have sufficient evidence to pursue the DTPA
2 lawsuit at the time that they served this "Request to
3 Examine." They represented to the Tarrant County court
4 that they learned of the -- the political rally that was
5 to occur on Saturday on Wednesday, which is when our
6 client was served with a "Request to Examine." And so
7 there is a need to really delve into the representations
8 made to both courts, if the court is inclined to care
9 about that timeline between Wednesday and Friday.

10 THE COURT: Well, I'm -- I'm taking it in.

11 MS. STEVENS: Yes, Your Honor.

12 THE COURT: I'm taking it in, and I'm not
13 going to -- like when I ask questions, it's only to
14 clarify this timeline. I think the timeline is
15 important. I just want to make sure I'm clear with it
16 on when things happened. And if there's an underlying
17 explanation on why, I'll give both sides that
18 opportunity to explain it.

19 Go ahead.

20 MS. STEVENS: Thank you, Your Honor.

21 So then -- let me find it. One moment.

22 Yes. Monday afternoon, Powered by People
23 filed its emergency motion to transfer venue in Tarrant.
24 Again, that is to be heard tomorrow.

25 Then at 4:00 p.m., Mountain Time, also on

1 Monday afternoon, Defendant Paxton's counsel over the
2 telephone with Powered by People's counsel informed us
3 that they planned to file a motion for expedited
4 discovery in Tarrant County seeking many of the
5 same materials that they sought and they requested to
6 examine in the first place, and that they were going to
7 file -- seek to -- leave to file, excuse me, an
8 information in the nature of *quo warranto* in Tarrant
9 County. We objected and responded that we opposed -- we
10 had opposed both of those.

11 Also on Monday -- Monday evening,
12 plaintiff filed its amended petition -- so it's a live
13 pleading in this matter -- and request for temporary
14 restraining order, asking this court to stop
15 Defendant Paxton from pursuing *quo warranto*
16 proceedings -- if they're to go forward at all --
17 from filing them in any venue but El Paso County.

18 THE COURT: On this -- you already have
19 this petition, *quo warranto*, and then underlying
20 challenges to their intent and the effect it has on the
21 constitutional rights.

22 Why would you not take it up on a -- like
23 some sort of expedited emergency appeal? And I'm not an
24 appellate lawyer, so I don't know. But it seems that --
25 and if you feel that Tarrant County doesn't have

1 jurisdiction, this is a targeted effort, you know,
2 unfettered authority of the Attorney General, why
3 wouldn't you just take it up to the Tarrant County Court
4 of Appeals?

5 MS. STEVENS: All right. Two things on
6 that, Your Honor. One, is we had requested an
7 opportunity to respond. Because they have to seek
8 leave. They have sought leave. They have not gotten
9 leave. There is no live petition -- or live
10 information, excuse me.

11 THE COURT: Okay.

12 MS. STEVENS: And so it's important to
13 note that we're asking this court for a TRO before
14 making that filing for a petition for leave. We filed
15 our request for TRO on Monday evening at about 1:30 in
16 the morning. On Tuesday, they filed their petition for
17 leave to file the information in the nature of
18 *quo warranto*, and that was despite our request for a
19 TRO in this matter.

20 MR. STONE: But, Your Honor, can I just
21 make sure --

22 MS. STEVENS: Your Honor, may I proceed
23 with my presentation?

24 THE COURT: Yeah.

25 MR. STONE: I'm sorry. I didn't mean

1 to --

2 THE COURT: That's fine. Thank you.

3 MR. STONE: It's just the timeline --

4 THE COURT: And I'm going to assert my own
5 authority to interrupt. But, again, this is just for me
6 to take it in. I'm going to give both sides a full
7 opportunity to develop their record and make sure I'm
8 clear on what things are.

9 Thank you, sir.

10 MS. STEVENS: So, again, plaintiff's --
11 plaintiff, excuse me, filed our amended petition and
12 request for this temporary restraining order on Monday
13 evening after we had been informed by counsel that they
14 planned to file this *quo warranto* proceeding in a wholly
15 improper County.

16 At 1:32 in the morning on Tuesday, they
17 did just that. Defendant filed a petition for leave
18 for -- to file an information in the nature of
19 *quo warranto* in Tarrant County, despite this pending
20 request for TRO.

21 And then to highlight the abusive nature
22 of the proceedings that have occurred thus far by
23 Defendant Paxton, yesterday he filed three emergency
24 motions in Tarrant County district court: An emergency
25 motion for discovery, again, seeking almost exactly the

1 same documents that were in the RTE; a motion to modify
2 the TRO; and a motion to hold our client in this case,
3 Powered by People and Mr. O'Rourke, in contempt -- in
4 civil contempt but also in criminal contempt,
5 threatening to jail Mr. O'Rourke.

6 And we think it's important for the Court
7 to actually see that contempt motion because it does a
8 couple of things. You see the political animus that is
9 running through this situation, and you see that the
10 statements that they are quoting by Mr. O'Rourke and
11 thus attributing to Powered by People are protected core
12 political speech protected by the Constitution.

13 And if I might approach? We have a couple
14 of copies of the motion to --

15 THE COURT: Thank you.

16 MS. STEVENS: It's right here.

17 Thank you so much.

18 THE COURT: Thank you.

19 THE BAILIFF: Thank you.

20 THE COURT: Now, I, for the record, have
21 been handed a copy of -- in Tarrant County, Cause Number
22 348-367652-25, in the State of Texas v. Robert Francis
23 O'Rourke and Powered by People, "Plaintiff's State of
24 Texas's Emergency Motion For Contempt and Show Cause."

25 MS. STEVENS: And, Your Honor, if I might

1 direct the Court to page 5 of this pleading. Robert
2 Francis O'Rourke.

3 THE COURT: I'm going to mark this as
4 Court's Exhibit 1.

5 (Exhibit offered and admitted, Court's 1)

6 MS. STEVENS: Okay. Thank you,
7 Your Honor.

8 THE COURT: Go ahead.

9 MS. STEVENS: Directing the Court's
10 attention to paragraph 9. I'm just going to read a
11 few portions of speech that they -- that the
12 Defendant Paxton highlights and that are core political
13 speech protected by the Constitution.

14 It -- paragraph 9 starts with what happens
15 when a consumer opens a link. And then it says: That
16 page states it is taking the fight "to Paxton, Abbott,
17 and Trump," in quote. That's it.

18 Taking the fight "to Paxton, Abbott, and
19 Trump."

20 And requests, it quotes: Requests a show
21 of "support for our fight for Texas." The page
22 hyperlinks an address to support Texas Dems.

23 And then further down, paragraph 11, it
24 talks about the Fort Worth rally that was to occur on
25 Saturday -- that did occur on Saturday. And their --

1 the speech that they highlight, the stated statements by
2 Mr. O'Rourke and Powered by People, are, quote, Texas
3 FIGHT to 20377 to help Texas Democrats stop Trump's
4 power grab, end quote.

5 These are the type of statements by
6 Mr. O'Rourke and Powered by People that Defendant Paxton
7 unconstitutionally seeks to silence.

8 Moving to, Your Honor -- with all of that
9 background, it's key to highlight for the Court what
10 we're not here to consider today. We are not here on
11 defendant's motion to transfer venue in Tarrant County,
12 even though the filing of the DTPA lawsuit in Tarrant
13 County was a flagrant violation of Civil Procedure.
14 That matter will be heard tomorrow in front of the
15 Tarrant County court.

16 We're not here to talk about the TRO in
17 Tarrant County. We're not here to collaterally attack
18 that TRO. The court in Tarrant County will consider
19 some of the substance of that tomorrow.

20 What we are here about is the
21 Attorney General's abuse of the judicial process.
22 The Attorney General's attempt to end-run El Paso's
23 jurisdiction in a *quo warranto* proceeding. And the
24 narrow issue for this court to consider is that we're
25 asking for a TRO to enjoin Defendant Paxton from

1 pursuing a *quo warranto* action against Powered by People
2 in any venue but El Paso.

3 THE COURT: But El Paso?

4 MS. STEVENS: But El Paso, yes,
5 Your Honor.

6 I promised the Court I would walk through
7 why Powered by People is entitled to the TRO relief we
8 seek, and I'm going to proceed to do that.

9 The misuse and abuse of the judicial
10 process by Defendant Paxton over the last only three
11 business days is drastically outside the bounds of the
12 Rules of Civil Procedure and the process provided by the
13 Texas Supreme Court and lower courts. Both the Texas
14 and United States Constitutions prohibit abuse of power
15 in this way.

16 Plaintiffs ask Your Honor to reinstate
17 key -- a key part of that process and procedure by
18 preserving the status quo, requiring the defendant if
19 he's going to pursue a *quo warranto* proceeding at all --
20 which we will vigorously fight -- against Powered by
21 People, to do so in El Paso County with leave of court
22 where Powered by People can defend against such further
23 harassment in the proper venue.

24 I would note for the Court, we do believe
25 it would be warranted for this court to enjoin the

1 defendant from even seeking leave to file an
2 information, but we recognize the -- this necessarily
3 narrowly tailored ask of the Court. And so that we're
4 asking for is to provide the procedural safeguard to
5 ensure that if they're going to pursue this, they do so
6 in El Paso.

7 Now, why is this relief proper, why we're
8 entitled to the TRO, including that courts frequently
9 grant anti-suit injunctions.

10 Although we are seeking the narrowest
11 possible relief, it's important to note for the Court
12 anti-suit -- excuse me -- anti-suit injunctions are
13 well-recognized -- a well-recognized remedy when equity
14 demands it, including temporarily -- temporary equitable
15 relief to avoid subjecting a party to harassing
16 litigation for improper purposes.

17 As the Texas Supreme Court wrote in *Gannon*
18 v. *Payne* -- the cite is 706 S.W.2d 304 -- quote, Texas
19 state courts do have the power to restrain persons from
20 proceeding with suits filed in other courts of this
21 state, end quote.

22 The El Paso --

23 THE COURT: Say it again. Texas state
24 courts do have the power to --

25 MS. STEVENS: Restrain persons from

1 proceeding with suits filed in other courts of this
2 state.

3 THE COURT: Okay.

4 MS. STEVENS: The El Paso Court of Appeals
5 in *Chandler v. Chandler*, the -- I just have the pin site
6 for that, but we'll pull the full site. 991 S.W.2d --
7 it's at 403. The Court noted, quote, an anti
8 injunction -- anti-suit injunction is appropriate in
9 four instances: One, to address a threat to the Court's
10 jurisdiction; two, to prevent the evasion of important
11 public policy; three, to prevent a multiplicity of
12 suits; or, four, to protect a party from vexatious or
13 harassing litigation.

14 In that El Paso case, the Court found it
15 was proper to enjoin an individual from any further
16 vexatious litigation against his former wife because he
17 had filed, quote, a continuous barrage of lawsuits
18 against her.

19 Here, all four situations are at issue.
20 Of particular importance are Defendant Paxton's
21 contravening public policy in having the chief law
22 enforcement officer of this state unconstitutionally
23 target and chill the speech of political opponents -- of
24 admittedly and publicly stated political opponents. It
25 defies the Constitution on its face, especially when

1 this is accomplished through vexatious and harassing
2 litigation.

3 As courts have recognized in the anti-suit
4 injunction context, merely being subject to improper
5 court processes and particularly in proper processes in
6 incorrect venues can constitute the irreparable harm in
7 and of itself.

8 When the act of subjecting a private party
9 to that sort of vexatious improper process is a
10 government actor, then the Constitution is implicated
11 and there can be no question that it creates irreparable
12 harm, which is the question before the Court today. Is
13 there irreparable harm by having Defendant Paxton run to
14 Tarrant County to file -- to proceed with a *quo warranto*
15 proceeding?

16 THE COURT: Well, do you think --

17 MS. STEVENS: And --

18 THE COURT: Do you think -- assuming that
19 is the objective with the litigation here that you've
20 started in El Paso, but do you think those things would
21 be protected nonetheless if presented to the Court in
22 Tarrant County? And if you said, "Hey, look, this is
23 harassing, and this is contrary to public policy, and
24 this is intended to be a political maneuver instead,"
25 and all those things you just explained, you would have

1 those same protections in Tarrant County, especially
2 during these preliminary stages.

3 Do you think that's the case?

4 MS. STEVENS: We don't, Your Honor,
5 because of one of the quotes that I just read about
6 being subjected to the improper processes and improper
7 venue in and of itself is an abuse of his office and
8 irreparable harm to our client.

9 And this is not a typical -- the plaintiff
10 filed in the wrong venue, and we will have a motion to
11 transfer venue argument. This is harassing and abusive
12 maneuvers against a political opponent over the course
13 of three business days. It is -- boggles the mind, the
14 things that have been filed by Defendant Paxton against
15 Powered by People and -- in Tarrant County --
16 Mr. O'Rourke as well.

17 And I'd just like to note for the Court,
18 of course, the definition of "irreparable harm" is harm
19 that cannot be compensated adequately with money damages
20 and that is certainly the case here.

21 In conclusion, we seek a narrow injunction
22 here today that this court require Defendant Paxton, if
23 he is bound and determined to file this *quo warranto*
24 proceeding -- which we don't think he should do -- but
25 if he's determined to do so against my client, he can

1 only do so in the county of proper venue.

2 Your Honor, that's the end of my
3 presentation, but I'd be happy to answer the Court's
4 questions.

5 THE COURT: Have any of these emergency
6 motions filed yesterday by the defendant -- by the
7 Attorney General been set for hearing?

8 MS. STEVENS: Yes, Your Honor. The -- so
9 tomorrow's hearing covers the motion to transfer venue,
10 the motion for expedited discovery and their motion to
11 modify the TRO. Notably, the motion for contempt has
12 been set for, I think, the 26th. So --

13 THE COURT: Okay. And the motion to
14 modify the TRO, what is the -- what modification is
15 being sought?

16 MS. STEVENS: They seek to further chill
17 my client's speech. They want the TRO to --

18 Actually, do we have a copy of that?

19 (Sotto voce discussion between attorneys
20 for the plaintiff)

21 MS. STEVENS: They want their TRO to be
22 sent to other political actors in the political space.

23 I have it here, Your Honor. Thank you.

24 THE COURT: They want to include other
25 respondents, I guess? The -- other than O'Rourke --

1 Mr. O'Rourke and Powered by People?

2 MS. STEVENS: They specifically ask --
3 well, that's the original TRO. My apologies,
4 Your Honor. These look similar.

5 Actually, might I provide a copy to
6 Your Honor?

7 THE COURT: Yes, we -- you can.

8 MS. STEVENS: Okay.

9 THE COURT: And we -- I think, probably,
10 the defendant would be better able to answer my question
11 anyway.

12 So if there's nothing further, let me hear
13 from the Attorney General's Office.

14 MS. STEVENS: Thank you, Your Honor.

15 THE COURT: Yes, sir -- yes, ma'am.

16 MR. STONE: Thank you, Your Honor. I'll
17 take up that issue first and just address it.

18 The motion to modify the TRO just seeks to
19 enjoin -- or to expand the restraint to officers,
20 employees, and anyone acting in concert with the
21 defendants in that lawsuit. And it orders them to
22 provide a copy to anyone else that might be acting in
23 concert with them, such as a bank or ActBlue, which is
24 the fundraising platform.

25 This is in response to the motion to --

1 for contempt, which got brought up a moment ago, and
2 show cause order. This relates to allegations that the
3 defendants in that lawsuit -- which involve Powered by
4 People and Mr. O'Rourke -- they have not complied with
5 the TRO and they're in violation of the TRO.

6 THE COURT: How did they not comply?

7 MR. STONE: Your Honor, that's before the
8 Tarrant County court. But in summary, as we've
9 discussed in our motion for contempt, we contend that
10 Mr. O'Rourke presented -- sent Tweets out and made
11 representations that he was going to keep fundraising,
12 and he was going to keep raising money and that he
13 wasn't constrained by the Court's temporary restraining
14 order.

15 Now, I'm not prepared to argue all that on
16 the merits today --

17 THE COURT: No.

18 MR. STONE: I've prepared for this
19 hearing, so I -- we have a number of lawyers in Dallas
20 that are handling that portion, I believe -- which goes
21 to one of the representations made. We have an attorney
22 that drove from Austin all the way up to Fort Worth.
23 That's just not true. We have an office in Dallas, and
24 some of our Dallas attorneys that are working on this
25 case. And it was one of our Dallas attorneys that drove

1 to Fort Worth.

2 Small things, but I think it's worth
3 correcting because it goes to their so much belief that
4 everything we did was in bad faith and that we're acting
5 with such animus. And it's just not true. And I'm
6 going to go through the timeline with the Court and
7 explain what happened and hopefully -- and address any
8 concerns.

9 So if the Court -- if you were concerned
10 that there's animus or that we acted in bad faith, stop
11 me as I go through this timeline and I will do my best
12 to explain to you so at that you will see we were acting
13 in good faith. We're just acting on an expedited
14 timeline because of circumstances related to the special
15 session and what's going on and the harm that's
16 occurring currently from the fundraising issues.

17 THE COURT: Okay.

18 MR. STONE: Okay. I know that's a lot.

19 THE COURT: I don't want to -- I don't
20 want to. I don't want to say that there's malice or any
21 of those things by you or any of your colleagues. But,
22 you know, that -- I'm very annoyed by -- as in a lot of
23 context, social media. And we take, you know, "I'm
24 going to keep doing this," blah-blah-blah, versus, "Beto
25 bribes." You know, all that is such noise and I want to

1 be fair to the legal issues.

2 Just so you know, that's in my head, that
3 there's a lot of noise happening by really both sides.
4 And we're here to make sure that we adhere to Texas law
5 and make sure we protect people's constitutional rights.
6 And I don't -- I haven't concluded in any way that
7 you're intentionally trampling on somebody's but, you
8 know, the facts will be the facts.

9 Go ahead.

10 MR. STONE: Thank you, Your Honor.

11 And I'm not lecturing, but the
12 Attorney General's Office is entitled to a presumption
13 that we're acting in good faith and that we are trying
14 to comply with the law and that we're acting with
15 normality. And hopefully, again, you're going to
16 understand that as I walk through the same timeline as
17 they are.

18 So let's jump back just a couple of days
19 before we sent the "Request to Examine." That's when a
20 number of legislators from the Texas legislature left
21 the state on private-chartered jets and are -- in an
22 attempt -- with an intent to deprive the legislature of
23 quorum, okay?

24 So this issue only began a few days before
25 we sent the RTE. It's not like we were sitting on this

1 for months and months and then like, "Oh, well, we
2 launched an investigation." Everything was moving very,
3 very quickly all at once. So we're acting in an
4 emergency posture when we sent the "Request to Examine."
5 And we sent that on August 6th, the afternoon of
6 August 6th. They got served that evening.

7 In that "Request to Examine," we expressly
8 say that we're acting in an emergency posture because
9 these things are happening right now. If there's
10 deceptive practices or there's violations of law that
11 occurring, they're occurring right now. And it's time
12 sensitive; that we figure out if they are or are not
13 happening. And act or not act, depending on what we
14 then determine.

15 THE COURT: So just for clarification, are
16 you pursuing a deceptive trade practices conduct --

17 MR. STONE: Yes.

18 THE COURT: -- or action, or are you
19 utilizing these processes to -- to close in on these
20 legislators that left the jurisdiction? One is by far
21 not even close to the other.

22 MR. STONE: Correct. Yes. I completely
23 agree with Your Honor. The issue that we're zoning in
24 on is, is there fraud? Is there misrepresentations in
25 the fundraising that is going on to fund the

1 legislators?

2 So the legislators are a whole separate
3 issue. There is a *quo warranto* up in the Supreme Court
4 that's going on.

5 THE COURT: Right.

6 MR. STONE: That's totally different
7 attorneys. I don't have a lot of insight into that, but
8 there's a different group of folks that are working *quo*
9 *warranto* and relates to that, and the governor's
10 involved. I can't really speak all of that. I can talk
11 about the Consumer Protection Division's focus on
12 representations made to Texans, made to consumers about
13 what their money was being raised for and what it's
14 going to be used for.

15 So that's what the focus of our
16 investigation was. And if that money was being raised
17 for an unlawful purpose or being used for an unlawful
18 purpose without disclosure to consumers, that is
19 something that the Consumer Protection Division is going
20 to act on. So that's what we were looking at when we
21 sent the RTE.

22 Okay. So we sent it out on Wednesday. It
23 gets served on them Wednesday evening. Meanwhile, we
24 are continuing to conduct an investigation. We're
25 looking into things. I believe at some point that day

1 we found out that there was going to be an upcoming
2 Fort Worth rally that was going to be -- and we started
3 watching the Tweets and the information that was going
4 out and the representations that were made relating to
5 that rally and representations to consumers about
6 fundraising and what -- at that rally and what that
7 money was being used for.

8 So we're looking at that. On Thursday,
9 they reach out to us. It's out-of-state counsel. They
10 asked for a two-week extension. We respond to them and
11 said because of the exigencies of the circumstances
12 here -- and I -- by way of a catch-all correspondence to
13 my plea in abatement -- and so the Court can review that
14 if you'd like, and you'll see that we acted with extreme
15 professionalism at all times.

16 We told them in response: You guys wanted
17 a two-week extension but because this is time sensitive
18 and we need information ASAP; but listen, we're willing
19 to talk to you about narrowing the scope.

20 And we were willing to talk to them about
21 maybe rolling production. We were willing to engage in
22 some conversation to see what we can do to get what we
23 needed. So we sent them an offer expressing our
24 willingness to narrow the scope and to work with them,
25 but we couldn't give them a blanket two-week extension.

1 And we also asked them to give us some more details.

2 For example -- we can give the Court an
3 example. This isn't in an email but we -- if they had
4 called us, but -- you know, they emailed back and said,
5 "Yes, let's talk" -- we could have explained this to
6 them. If they told us, "Hey, we got 10,000 records and
7 it's going to take a long time to review," we could have
8 worked out some kind of rolling production or the normal
9 things that people do in discovery and when we send out
10 requests to examine. It's pretty normal. They didn't
11 respond, though. We asked them to provide us more
12 information, and they ignored us.

13 So at that point, we continued to collect
14 information and we started working on a draft lawsuit
15 because we thought there -- we might have enough, and it
16 started -- the next day, we got an email from them.
17 We're discussing it internally, and I don't want to get
18 into attorney-client privilege, but we were thinking
19 about it like that night -- like late that night on
20 Thursday.

21 Friday morning, they -- at 10:56 a.m.,
22 Mountain Time, they email us and they're making a lot
23 about like this Texas counsel was involved, like that
24 triggered something or it makes a difference. We're
25 willing to extend the same courtesy to an out-of-state

1 counsel as we would an in-state counsel. It makes no
2 difference to us. We're willing to work with them.

3 So they send us an email at 10:00 a.m.,
4 saying that "Hey, we've added this new counsel." About
5 30 minutes later, they sent us a follow-up email asking
6 for a 10-day extension. And once, again, they've
7 ignored our prior request to talk about scope, talk
8 about rolling -- there's none of that. They just asked
9 for a categorical 10-day extension.

10 At that point, we had concluded -- we
11 concluded that we had had -- that we had enough
12 information. And given the looming rally that was going
13 to be held the next day in Tarrant County, the Tweets
14 and the advertising and solicitations around that, we
15 determined that we needed to act.

16 So we went into high-speed mode. We're
17 drafting, and we're finalizing a lawsuit and we get it
18 on file at 1:46 p.m. in Tarrant County. We asked for it
19 ex parte if necessary, which is without opposing
20 counsel, but there's no hidden agenda there. We
21 contacted opposing counsel.

22 And then what they don't tell you is I
23 must have sent them ten emails, and I had a phone call
24 with them helping coordinate to ensure that they would
25 be able to appear at a Zoom hearing for the temporary

1 restraining order. We went out of our way.

2 We didn't walk into court and just say,
3 "Hey, sign this order, Judge. We're not going to tell
4 the other side." We were blowing up the phones and
5 emails to make sure that they -- once they told us that
6 they wanted to be at the hearing, to make sure that they
7 would be at the hearing so they could be heard. Again,
8 nothing irregular. We're acting in good faith and with
9 professionalism.

10 So while we're communicating to them about
11 the temporary -- the request for a temporary restraining
12 order -- which was, again, not ex parte. Ultimately, it
13 was not ex parte. It says it in the temporary
14 restraining order because they appeared. They had
15 notice of it. They appeared. They made their
16 arguments. They -- I think the hearing lasted
17 45 minutes.

18 That afternoon, after we filed our
19 lawsuit, they filed their lawsuit -- I don't know, about
20 an hour and a half, two hours later. It says 2:25 p.m.
21 here. The notice we got was, I think -- it looked more
22 like two hours to us, but we get a notice of their
23 lawsuit.

24 They sent us an email about it notifying
25 us that they had filed a lawsuit. But at that point,

1 all the conversations really going on at that point were
2 about getting them scheduled for the TRO and getting
3 them there for the hearing that afternoon.

4 So we have the hearing -- the Mountain
5 time's throwing me off, Your Honor.

6 So we have a hearing in Tarrant County.
7 And, again, it was attended by one of our attorneys in
8 the Dallas office who drove -- I don't know --
9 20 minutes over to the courthouse. He didn't drive
10 three hours from Austin.

11 We were there. We were waiting. We
12 arrived early. Actually, we were waiting in the hallway
13 so that we could get opposing counsel on the phone so
14 that we could proceed with the TRO and make sure that
15 they were there. So, eventually, we had the hearing.
16 Both sides made their arguments and the Court entered a
17 TRO, given that there was going to be a rally the next
18 day in Fort Worth.

19 The next day -- that went until after
20 hours. And then we had them go back and forth to get
21 the temporary restraining order language right and then
22 get it signed by the judge. So that's Friday night.

23 The next morning, we email opposing
24 counsel and we withdraw the "Request to Examine" and let
25 them know, "Hey, there is no pre-suit investigation

1 anymore. We're not" -- everything we were
2 investigating, like we just proceeded to litigation.
3 So there's no -- "Will you" -- we ask asked them, "Will
4 you withdraw the" -- "will you dismiss the El Paso
5 lawsuit? There's no need to continue on with the
6 El Paso lawsuit. Like, let's go," both sides, "go fight
7 this out in Tarrant County. There's a live suit now."

8 They didn't respond. They ignored us --
9 which is a bit of a pattern, but they just didn't
10 respond at all to us.

11 On -- on Monday, we had a -- they filed an
12 emergency motion to transfer venue. This is really
13 important. Their motion to transfer venue makes exactly
14 the same argument that they are making to you today.
15 They are -- they argue in their motion to -- emergency
16 motion to transfer venue in Tarrant County, that Tarrant
17 County lacks -- is the improper venue because there is a
18 mandatory venue statute that says that all -- all or
19 substantially all of the events giving rise to the -- to
20 the facts giving rise to the claims, that's the county
21 that has proper venue.

22 And the site for that -- sorry. My
23 computer's locked up.

24 THE COURT: I have it. I have the rule.

25 MR. STONE: Yeah. Exactly.

1 Well, Your Honor, if you compare that with
2 what they've argued here today and what they put in
3 their TRO for today, with the motion to transfer venue,
4 it is exactly the same argument. So they filed that on
5 Monday afternoon, about 3 o'clock, Central Time.

6 We set up a call with them -- and we
7 previously set up a call with them for 5:00 p.m.,
8 Central Time, to confer to see if we could work out some
9 agreed discovery, so that we could -- so we're not doing
10 the TI by -- the temporary injunction hearing by trial
11 by ambush. Like, we want to work out discovery,
12 exchanges of exhibits and witness lists; all that stuff
13 that makes it orderly so you don't show up and get
14 surprised.

15 So we scheduled a call with them at
16 5 o'clock that evening. And during that call, we
17 discussed that. They said they won't agree to any
18 discovery. It's attached, the memorialization of that
19 meet and confer.

20 During that meet and confer, we notified
21 them that we would be seeking leave to add a
22 *quo warranto* claim in our Tarrant County proceeding.
23 This is at 5 o'clock. We're in our meet and confer with
24 them, and that's what we tell them.

25 Two hours later, they amended their

1 petition in this lawsuit here in El Paso County to seek
2 a TRO, preventing us from initiating or seeking -- I
3 think the word that they used was "instituting" --
4 instituting a *quo warranto* claim in Tarrant County.

5 Nonetheless, we proceeded with amending
6 our petition that Monday night -- this all happened
7 Monday night -- and filing a motion for leave to -- for
8 leave to add the *quo warranto* claim in Tarrant County.
9 That all happened on Monday.

10 We also filed our plea to the jurisdiction
11 and plea of abatement here in El Paso on Monday. They
12 added the TRO late Monday night to their claims.

13 So Tuesday. Now we're Tuesday. And I
14 know this is a lot of history, but I'm trying to flush
15 out and helping you understand that we're not acting
16 with animus. Things are just happening fast.

17 On Tuesday, we -- yeah, it was in the
18 middle of the night. Yeah, they're correct. It was in
19 the middle of the night. We were working late.

20 On Tuesday, we filed a motion to hold
21 Mr. O'Rourke and Powered by People in contempt based on
22 statements that were made over the course of the weekend
23 that our office felt violated the temporary restraining
24 order.

25 Again, that will be adjudicated by the

1 Tarrant County court on August 26th. The Court will say
2 yay or nay.

3 We also filed a request for an emergency
4 motion to modify the temporary restraining order in
5 light of what we think are violations of the TRO. And
6 we filed that on Tuesday as well, and that's going to be
7 heard tomorrow in Tarrant County. And we filed a motion
8 for expedited discovery. Since they wouldn't agree to
9 any discovery, we've asked for expedited discovery. And
10 that will be heard tomorrow, along with their emergency
11 motion to transfer venue.

12 And I want to flag the motion to transfer
13 venue, Your Honor, because this is really important.
14 Under the rules and statute, we're entitled -- you're
15 not supposed to set a motion to transfer venue for
16 45 days, right? We're supposed to get a 45 days' notice
17 before you can take up a motion to transfer venue. But
18 the court in Tarrant County is going to take it up
19 anyway tomorrow.

20 And the court in Tarrant County is going
21 to hear the arguments -- the same arguments with the
22 same issues about whether or not, substantially -- a
23 substantial portion of the events giving rise to why
24 we're seeking relief in our Tarrant County lawsuit
25 occurred in Tarrant County or in El Paso County. That's

1 going to be decided by a Tarrant County judge tomorrow
2 in a first-filed lawsuit and in a response to a
3 first-filed motion to transfer venue.

4 Because, remember, they filed their motion
5 to transfer venue, making the same arguments they're
6 doing here today about the TRO before they filed a TRO
7 request in this case, in El Paso.

8 THE COURT: Say that last sentence again.

9 MR. STONE: Yes. They filed their motion
10 to transfer venue in Tarrant County three or four hours
11 before they filed -- I'm sorry, four hours before they
12 sought a temporary restraining order in El Paso County
13 on the same arguments and allegations.

14 THE COURT: Okay.

15 MR. STONE: So --

16 THE COURT: And so two questions. Why
17 does that matter, legally, number one?

18 Number two, well --

19 MR. STONE: Well, I've got an answer for
20 that.

21 THE COURT: Answer that one first.

22 MR. STONE: Yes. Oh, yes, Your Honor.
23 Because they're going to create conflicting rulings.

24 If you rule in response to this TRO -- and
25 what -- the order they've given you, that El Paso is the

1 appropriate venue to hear the *quo warranto* proceeding
2 because that's where all or substantially all of the
3 acts giving rise to that allegation occurred, in
4 El Paso. There's going to be, potentially, a
5 conflicting ruling between this court and the Tarrant
6 County court who is going to hear the same argument and
7 make a determination of whether all or substantially all
8 of the facts giving rise to the claims in that lawsuit
9 happened in El Paso or happened in Tarrant County.

10 So you're both considering -- you and
11 Tarrant County are considering exactly the same
12 arguments as to venue. This is -- it's an attempt to
13 get two bites of the apple. They can argue today here
14 before you that venue is here because all their
15 substantial elements happened here. And then tomorrow
16 they're going to argue in Tarrant County that all or
17 substantially all of the events occurred in El Paso, so
18 the court must transfer venue to El Paso. It's improper
19 because it's going to create conflicts.

20 THE COURT: So you -- you -- I understand
21 your argument. Certainly, that's a point of concern.

22 If I grant the TRO, set it for 14 days, in
23 those 14 days we will have a ruling from Tarrant County
24 on jurisdiction without necessarily a ruling from me on
25 jurisdiction on the venue.

1 MR. STONE: To be clear, the order that
2 they're asking you to sign expressly finds that all our
3 substantially all of the events happened in El Paso
4 County. And exactly the same issues -- exactly the same
5 fact pattern for the *quo warranto* proceeding and the
6 DTPA proceeding, exactly the same fact pattern is at
7 issue here. So there's going to necessarily --

8 THE COURT: Well -- but those are
9 different things. That's why I clarified earlier, why
10 is the AG proceeding against this entity? And you said
11 your consumer protection section feels that there is
12 a -- there are fraudulent statements being made to the
13 people on how and why they should contribute to Power of
14 the People. So you raised -- you narrowed it to a DTPA
15 claim.

16 MR. STONE: Well --

17 THE COURT: Here, what we have are
18 complaints of -- constitutional complaints --
19 First Amendment, Fourth Amendment -- all those other
20 complaints.

21 And so you might be able to adjudicate a
22 DTPA matter in Tarrant County, theoretically -- and I
23 know it has to do with some of the same evidence and
24 statements made publicly, and all those things, but
25 the -- my only question here are the constitutional

1 questions.

2 And, I mean -- and I know I'm going kind
3 of beyond the initial venue question, but I think -- I
4 think there's a way to reconcile the two separate causes
5 of action.

6 MR. STONE: I think that -- Your Honor, if
7 I may? I don't mean to be impudent, but the -- there's
8 a difference in the *quo warranto* proceedings going on.
9 The *quo warranto* proceeding in the Supreme Courts that
10 are against the legislators, seeks to remove them from
11 office. That is totally different than the *quo warranto*
12 proceeding that we're initiating in Tarrant County. The
13 *quo warranto* proceeding that we seek to initiate in
14 Tarrant County relates to representations that were made
15 during the Fort Worth rally and whether or not those
16 representations made in the lead-up to and at the
17 Fort Worth rally violated Texas law.

18 THE COURT: Right.

19 MR. STONE: So if it did, then we can
20 revoke their charter, but we're not seeking to remove
21 the legislators from office --

22 THE COURT: No, I'm not referring to that.

23 MR. STONE: Okay. Okay.

24 THE COURT: Yeah. No, I'm sorry if I --
25 I'm understanding that you're -- that what you're --

1 your business in Tarrant County and the business here,
2 I'm saying that they're distinguishable and they're two
3 different claims.

4 And -- I mean, I think there may be some
5 overlapping pieces of evidence, but the ultimate
6 decisions to be made by the courts are different, and --

7 MR. STONE: Well, Your Honor, the burden
8 is very high if you're going to issue an anti- -- an
9 anti-suit injunction, which is what they're asking for.

10 You heard them say it themselves. They're
11 asking for an anti-suit injunction, so the burden is
12 quite high if you're going to do that. You're
13 effectively depriving the Tarrant County court of
14 deciding this very issue.

15 Because, remember, there's a motion for
16 leave pending in Tarrant County to file an action in *quo*
17 *warranto*. So this issue is already before the Tarrant
18 County district court.

19 THE COURT: Uh-huh.

20 MR. STONE: What you're doing is saying --
21 to the Tarrant County district court and to the
22 Attorney General's Office -- this cannot be decided in
23 Tarrant County. I'm saying today that the
24 Attorney General's Office must come back to El Paso and
25 they have to first argue in El Paso whether or not this

1 is the appropriate venue.

2 I'm not going to let them select the venue
3 that they think is appropriate -- based on the evidence
4 they have, based on the declarations that they have.
5 I'm not going to let them make that decision. I'm going
6 to make them come to me, and I'll make that decision.

7 THE COURT: Yeah, but the story didn't
8 start with that Tarrant County rally. The story started
9 with your service of a request for examination before
10 you even knew about a Fort Worth rally. So the story
11 doesn't start there.

12 MR. STONE: The Court is narrowed to the
13 facts that are within our verified petition in Tarrant
14 County. That's the allegations that we're making as the
15 basis for establishing venue in Tarrant County.

16 So to the extent that they disagree and
17 that they think that there's more to the story because
18 the RTE that we sent somehow relates to what happened in
19 Fort Worth -- which we didn't even know about the time
20 that we issued the --

21 THE COURT: I think you're relying on
22 that. I think what they're doing is just arguing the
23 rule. This is -- what the rule says is -- where it
24 substantially happened.

25 And so you have to point to where it

1 started, rather than subsequent events for you to pick
2 your venue. They're relying on the rule. You're
3 relying on, "Okay, now we can hang our hat in Tarrant
4 County and proceed that way."

5 MR. STONE: Respectfully, that is exactly
6 wrong, Your Honor.

7 THE COURT: Okay.

8 MR. STONE: The -- we, as the moving
9 party, get to choose our venue, number one. We get to
10 choose. But, number two, let's take that to a logical
11 conclusion. To suggest that all or substantially all of
12 the events giving rise to our *quo warranto* lawsuit
13 occurred when we sent a pre-suit investigative RTE that
14 we later withdrew, and not the rally that happened for
15 multiple hours and the advertising that happened around
16 that and the fundraising that happened all around that,
17 all in Tarrant County --

18 THE COURT: Do you have evidence of actual
19 fundraising and -- other than the Tweets about "Come" --
20 "Come to the rally and" -- but do you have evidence of
21 any of that?

22 MR. STONE: Yes, Your Honor. And that's
23 going to be adjudicated on Tuesday -- next Tuesday at
24 the upcoming temporary injunction hearing. We also
25 attached a verification to our amended petition that

1 alleges all of this, and we attached screenshots of the
2 web flow -- the fundraising web flow that folks go
3 through. We have lots of representations in evidence,
4 and we may have more by the time the temporary
5 injunction hearing happens on Tuesday.

6 So we absolutely have evidence. But
7 you're getting into that right now; right? Like you're
8 sort of asking us, like, "State, can you present your
9 evidence showing that venue is proper" --

10 THE COURT: No. I'm trying to get to that
11 substantial -- where it substantially happened
12 question --

13 MR. STONE: Exactly --

14 THE COURT: -- and for venue purposes
15 only.

16 MR. STONE: Right. And that's the very
17 issue that we're going to be arguing tomorrow in front
18 of the district court in Tarrant County.

19 I think the question today is whether or
20 not this court has jurisdiction to consider the
21 temporary restraining order. And we would urge the
22 Court not to reach that venue question. The Court
23 doesn't have all the record before it.

24 We don't have witnesses here. We're going
25 to present actual evidence tomorrow during the hearing

1 on the -- on the motion to transfer venue tomorrow in
2 Tarrant County. And then we've got an upcoming
3 temporary injunction hearing in Tarrant County that's
4 going to be presenting all of the evidence showing that
5 all or substantially all of the events occurred in
6 Tarrant County, but we're not going to have an
7 opportunity to do all of that if this court is already
8 prejudging that and saying: "Without knowing any of
9 that, I'm going to enter a TRO saying that venue is
10 proper in El Paso. And before you seek to file a *quo*
11 *warranto* proceeding anywhere else, you have to first
12 come to me and I'm going to review your evidence and
13 then I will decide whether or not I will let you file a
14 lawsuit in" -- "seek a *quo warranto* proceeding in
15 Tarrant County," or seek -- initiate a *quo warranto*
16 proceeding somewhere else.

17 Like, they're asking you to take all of
18 that out of Tarrant County and take the authority that
19 we have as a plaintiff to pick our venue where we file
20 suit and it restrains us from making that decision with
21 an anti-suit injunction per the rules. I'm not arguing
22 outside of those. I'm arguing in the rules.

23 THE COURT: Uh-huh.

24 MR. STONE: So -- okay. I have a little
25 bit more, Your Honor.

1 THE COURT: Go ahead. Go ahead.

2 Thank you.

3 MR. STONE: So I'm going wrap that as the
4 timeline -- my response to the timeline.

5 I want to get into the mootness question
6 because we think it's extremely relevant. We withdrew
7 the RTE on Saturday. And in our plea to the
8 jurisdiction and plea in abatement, we attached a
9 declaration affirmatively representing that we will not
10 reissue it.

11 It's not an issue before the Court. It is
12 absolutely clear that we're not going to reissue it. I
13 think if we even tried, it would be an issue because
14 there's an ongoing lawsuit in Tarrant County and any
15 attempt to conduct a pre-suit investigation, including
16 using pre-suit investigative tools to gather evidence
17 for an ongoing lawsuit, violates the Texas Rules of
18 Civil Procedure. It's wholly improper.

19 If we're going to conduct discovery on
20 them at this point, it needs to happen within the
21 confines of ongoing litigation, not a pre-suit discovery
22 tool like a "Request to Examine." So it will not be
23 reissued. We have sworn to the Court that it will not
24 be reissued.

25 And in the absence of any evidence to the

1 contrary from them that it's reasonably likely that we
2 would reissue it, the Court must dismiss it as moot --
3 both the lawsuit itself, the claim, as well as the
4 request to restrain us from enforcing the RTE. There's
5 no RTE to enforce. It's been withdrawn, and it will not
6 be issued. So there's no live issue before the Court to
7 decide as it relates to the RTE.

8 As it relates to instituting a
9 *quo warranto* lawsuit, we have already initiated or
10 instituted the *quo warranto* lawsuit. We filed an
11 amended pleading adding a *quo warranto* claim on Monday
12 night in Tarrant County. We also filed a motion seeking
13 leave from Tarrant County to initiate that *quo warranto*
14 or to add that *quo warranto* claim.

15 So that's also moot. They're not trying
16 to stop us from instituting it. What they're trying to
17 do is have the -- prevent the Tarrant County court from
18 deciding an issue that is already before it.

19 Finally, Your Honor, as to dominant
20 jurisdiction. I want to talk a little bit about that as
21 well. I mentioned before the same arguments involving
22 the motion to transfer venue and the problem with
23 conflicting rulings that are potential to come out --
24 potentially could come out because you're both looking
25 at exactly the same thing -- the fact pattern that is in

1 our verified petition and determining whether or not the
2 facts in that petition weren't venue, either in Tarrant
3 County or in El Paso County.

4 And I want to add one more thing because I
5 think I made a misstatement before, Your Honor. You
6 asked me what evidence I have that shows that venue is
7 proper in Tarrant County. And my response was we have
8 lots of evidence and you're going to see that at the
9 upcoming TI hearing, but that's improper. That's not
10 what happens.

11 When you do a motion to transfer venue,
12 you look at the pleading itself. That is what
13 determines whether or not venue is proper. It's the
14 pleading.

15 The TI hearing will happen next week, and
16 that's when we will present lots of additional evidence.
17 But the only issue as to venue, needs to be tied to what
18 is in the pleading itself. And if the Court looks at
19 our pleading that we filed in Tarrant County -- and
20 we've attached it as one of our exhibits -- the Court
21 will see that the allegations all relate to conduct that
22 is alleged to have occurred in Fort Worth -- or in
23 Tarrant County. That's why it's the appropriate venue
24 to get to the merits.

25 But I want to give my junior attorney

1 here, Scott Froman -- if the Court will indulge us. I
2 want to give him an opportunity to make an argument
3 about dominant jurisdiction so that he can get some time
4 in front of the Court and make the argument if the Court
5 will allow it.

6 THE COURT: Don't let him call you junior.

7 MR. STONE: I'm his boss.

8 MR. FROMAN: So we are arguing that these
9 two suits are inherently related. And as a general
10 rule, for dominant jurisdiction, the court in which suit
11 is first filed requires dominant jurisdiction to the
12 exclusion of all the coordinate courts.

13 So if the party asserting dominant
14 jurisdiction establishes that this doctrine applies, the
15 trial court in the second filed suit, here, has no
16 discretion to deny the plea in abatement if the party
17 establishes -- unless the other party establishes an
18 exception to that rule, which we're arguing that there's
19 no exception here.

20 So we are arguing that because there
21 is dominant -- the dominant jurisdiction doctrine
22 applies, and opposing counsel has not stated any kind of
23 exception here, that the Court should grant an abatement
24 pending resolution of the first-filed suit in Tarrant
25 County.

1 So, generally, a plea in abatement must be
2 granted when an inherent interrelation of the subject
3 matter exists in two pending suits, here and the one in
4 Tarrant County. So the first question to address in
5 that is whether there is an inherent relationship here,
6 which we've already addressed somewhat before.

7 So in this case, the first-filed suit and
8 the second filed case -- I mean, sorry. In the
9 first-filed suit in Tarrant County and this, the second
10 filed suit, so if yes, then dominant jurisdiction
11 applies. And absent an exception, the second filed suit
12 must be abated.

13 Courts are guided by the compulsory
14 counterclaim rule, and we have a list of factors there
15 in our pleading for that. Opposing counsel, I don't
16 think, has made any objection to any of those. But on
17 top of all of that, the same allegations are made
18 between these suits. It's our position that, and
19 they'll necessarily involve the same underlying records
20 and challenges that form the basis of this second filed
21 El Paso suit between those two suits.

22 So as the courts already pointed out, this
23 could create conflicting rulings and inconsistent
24 obligations, particularly if the Court rules that the
25 RTE statute is unconstitutional. Should this court rule

1 that the withdrawn RTE requests are unconstitutional,
2 those inconsistent obligations between the two courts
3 will almost certainly occur.

4 THE COURT: I think there's already
5 Supreme Court ruling saying that it's not facially
6 unconstitutional; right?

7 MR. FROMAN: I'm sorry?

8 THE COURT: Yeah, it's in that
9 Annunciation House --

10 MR. FROMAN: Right. Correct.

11 THE COURT: So I'm going to follow what my
12 bosses say, that it's not going to be unconstitutional.
13 But in its application by -- you know, with the
14 aggression, it could be used unconstitutionally.

15 MR. FROMAN: Uh-huh.

16 THE COURT: So that's, I think, the
17 allegation.

18 MR. FROMAN: Correct.

19 THE COURT: But go ahead.

20 MR. FROMAN: Okay. And then -- and I
21 agree with that.

22 And so -- also, just -- you know, these
23 two suits are going to address the same questions of
24 unconstitutionality, and it's going to create confusion.
25 But not only that, it's going to waste judicial

1 resources between these two courts.

2 So we're also arguing that there's no
3 exception to the first-filed rule. A race to the
4 courthouse is not by itself inequitable conduct. And
5 that's cited by the -- in the *Texas Christian University*
6 case.

7 And, basically, because the Tarrant County
8 case is first filed and it has the dominant jurisdiction
9 and there isn't any kind of exception to that rule,
10 based on the race to the courthouse, then we are arguing
11 that this case must be abated pending the resolution of
12 the Tarrant County matter.

13 THE COURT: Okay. A motion to abate
14 instead.

15 So if I would grant a motion to abate, can
16 I put conditions on that, such as: Don't pursue your
17 request to examine? Without necessarily touching the
18 motions -- the subject of the motions pending in Tarrant
19 County, such as, you know, the motion for leave --

20 MR. FROMAN: Right.

21 THE COURT: -- the motion to modify the
22 TRO, the motion to -- any of those things?

23 MR. FROMAN: Well, I'll let my colleague
24 speak here, but I know that we've already addressed that
25 there is a declaration that he made about the RTE, but

1 if he wants to fill in more on that.

2 THE COURT: I know. I'm not comfortable
3 with that because I have to trust you. You know, I
4 don't know you. I don't know if you're really not going
5 to do it, unless we tack on some consequences if you do.

6 MR. STONE: Your Honor --

7 THE COURT: So that's kind of what I'm
8 getting at, on whether I can put conditions on a motion
9 to -- on an order to abate.

10 MR. STONE: Your Honor, we're the
11 Attorney General's Office and we're also offices of the
12 court. If we represent to the Court that we will not
13 reissue an RTE, our office will not issue -- reissue an
14 RTE.

15 You have a sworn declaration from me that
16 we will not reissue the RTE. There is no other evidence
17 or document or anything that we could give you. My bar
18 license is on the line, and I'm the one that decides
19 whether another RTE will be issued. There will be no
20 further RTEs, and the Court does not need to attach any
21 conditions. We're representing that we will not reissue
22 it, and we will not reissue any RTE that is similar to
23 that one to Powered by People.

24 So it's moot. There's nothing -- there is
25 no live controversy before the Court to decide.

1 But as to abatement, could you thread the
2 needle? Could you abate part of the case and then maybe
3 do like some kind of tailored --

4 THE COURT: Yeah. Kind of like a
5 tailored: I'm going to abate this proceeding pending
6 rulings of the Tarrant County that will maybe shed some
7 clarification on the arguments being made in both
8 courts. Pending those rulings, thou shall not do
9 another RTE. You shall not impede -- you know, some of
10 the -- I can't remember some of the things they
11 requested, but -- really, that's just the only one that
12 comes to mind.

13 MR. STONE: The --

14 THE COURT: Because I don't want to
15 interfere unlawfully in another court's -- things
16 happening in another court. I'm following your
17 argument, and -- but I need to -- I need to research
18 how -- how I and the Tarrant County district court need
19 to conduct ourselves as we proceed.

20 MR. STONE: Your Honor --

21 THE COURT: And you both can make
22 arguments about it, but there's a process in place.
23 You've given me information about some of those tools
24 that we can use, but I still feel compelled to factor in
25 protections in place for a citizen against the powers of

1 the State. I think that's an important part of it
2 without -- I can't ignore that.

3 So, respectfully, I don't have any doubt
4 on your proffer to me on your -- putting your bar
5 license on the line and those things. I'm not trying to
6 put you in bad light, but you have a boss. And you
7 have -- your office has very strong constitutional and
8 statutory powers that defy any other tools any other
9 regular litigant might have. So I need to make sure
10 that we're both clear on the scope of those powers, the
11 limits of those powers, and really some heightened
12 authority that your office might have despite court
13 rulings and arguments made in the courtroom.

14 The power of the Attorney General is very
15 strong, very -- and I would be remiss in my duties in
16 justice to ignore any impact it would have to the
17 litigants in this court. So that's where I'm coming
18 from.

19 MR. STONE: Your Honor, I would like to
20 direct the Court -- because we feel very strongly
21 that -- I have the authority by the Attorney General's
22 Office -- and because there's not a live controversy --
23 the Court would -- if it issues a TRO relating to
24 protecting them from future RTEs -- from future
25 challenged RTEs, it is an advisory opinion because there

1 is no live controversy and we will not reissue it.

2 And I want to direct the Court to the
3 *Annunciation House* --

4 THE COURT: No. There's legal authority
5 cited by the plaintiff about how -- even if you withdraw
6 it, it's moot. The potential of this continuing on,
7 this -- this exercise of authority over a citizen in a
8 constitutional context, that in and of itself still
9 creates a justiciable issue of live controversies, just
10 the potential.

11 And so you're asking me -- "The
12 potential's not there because I'm promising you it won't
13 happen."

14 MR. STONE: Correct.

15 THE COURT: And I'm saying, let me explore
16 the law and the -- and the force of the Attorney General
17 to make sure that is -- because without the protections
18 of a court in light of consequences if you do that, or
19 would there be any consequences if you did it anyway, or
20 Mr. Paxton said you're going to do it anyway, then where
21 would we be and what's the point of a court of law?

22 MR. STONE: Your Honor, that is a
23 hypothetical. It will not happen. I bind the
24 Attorney General when I stand before a court and a
25 representative as an officer of the court on behalf of

1 the Attorney General's Office that something will not
2 happen. We have a long tradition of that. It will not
3 be overridden by the Attorney General or anyone else.
4 And my bar license is not only on the line, but the
5 agency's reputation and its history of being able to
6 make forthright representations to courts is at stake.

7 So it is very big deal to us. We have a
8 presumption that when we say something to a judge, that
9 we mean it and that we will stand by it.

10 Here, there is nothing else I can do
11 beyond a sworn declaration to the Court that we will
12 never reissue the challenged RTE. We cite the case law
13 that repeatedly says they are correct. If I equivocate,
14 if I qualify, if I say, "Well, maybe. I'll withdraw
15 this RTE, but maybe another one in the future might go
16 out. I'm only withdrawing as to this one," if I were to
17 prevaricate or equivocate, then, yes, then there is the
18 potential that it could be reissued in the future.
19 There is none of that. It is absolutely --

20 THE COURT: So you're saying you will
21 never --

22 MR. STONE: Correct.

23 THE COURT: -- ever, under any
24 circumstances issue another RTE against Powered by the
25 People or Robert O'Rourke?

1 MR. STONE: Related to any of the issues
2 in this case; correct. That is -- and that's what we're
3 here about. You can't enjoin me from ever issuing an
4 RTE ten years from now related to a completely different
5 thing.

6 THE COURT: No. No. You're right, but
7 you're a completely different thing. It could be very,
8 very similar to this thing and that would be something
9 that you would hash out in the future.

10 So I agree with you that any restriction
11 would have to be carefully craftily to not usurp the
12 authority of the Attorney General in -- forever,
13 absolutely. I would not do that, but that's where my
14 thoughtfulness on the decision has to come in, is -- you
15 know, the government is going to call another special
16 session. He's already said that. I don't know what
17 50 Democrats are going to do that in that session, and I
18 don't know what Mr. O'Rourke might be doing during that
19 next session if the issue of restricting is still on the
20 table.

21 That -- this is evolving as we go. And
22 what if there's another rally in Houston? There's a
23 rally in Texarcana?

24 MR. STONE: But this is all hypothetical.

25 THE COURT: It is hypothetical.

1 MR. STONE: If you're going to be doing
2 hypotheticals --

3 THE COURT: It is. It is.

4 MR. STONE: That is an advisory opinion.

5 THE COURT: No.

6 MR. STONE: That is the definition of an
7 advisory opinion, Your Honor.

8 THE COURT: It's not advisory when I'm
9 trying to preempt future bad conduct.

10 MR. STONE: But --

11 THE COURT: And that's what -- that's not
12 advisory. Advisory is something that's not based on any
13 facts. Here, we have an ongoing situation. As you've
14 said, an ongoing emergency situation for the legislator
15 and the governor's office.

16 So -- so it's not -- this is not a
17 hypothetical. This is -- he's called another special
18 session, and it's a hotly contested problem in the
19 House. So how do we protect people's rights in the
20 interim?

21 MR. STONE: Yes, Your Honor. Absolutely.
22 We can do that right now by myself making a
23 representation to you we will not issue an RTE related
24 to the special session and related to fundraising or
25 expenditures of funds by Powered by the People or

1 Mr. O'Rourke. We're not going to issue another RTE.
2 We are in litigation.

3 So if the governor calls more special
4 sessions here because they're out of state, I'm not
5 issuing another RTE. We will not issue another RTE to
6 Powered by the People or Mr. O'Rourke.

7 THE COURT: So what would be the harm in
8 me putting it in an order abating this case and the
9 Attorney General shall not issue any RTE associated with
10 fundraising on the issue -- by Powered by the People and
11 Beto O'Rourke and his affiliates.

12 MR. STONE: Yes, Your Honor. Please don't
13 take this the wrong way, okay? This is going to sound a
14 little strong. But from our perspective, you're
15 essentially calling us liars. You're saying that we're
16 not trustworthy.

17 THE COURT: I'm not.

18 MR. STONE: Your Honor, I don't mean to
19 interrupt you. I'm just telling you like from our --
20 what our office will see this as. We are making a
21 representation to you that we will not do something.
22 And you're saying, like, "I'm going to have to order" --
23 that I don't believe you. I don't trust you that you
24 will do what you say.

25 THE COURT: Let me just tell you that that

1 is -- while I feel this case is -- as I said at the
2 beginning, this is significant through the State of
3 Texas -- not just El Paso -- not even just for the
4 people here in the room, but that's what courts do.
5 They issue orders saying, "Don't do this."

6 And I've had lawyers tell me, "Judge, I
7 promise I'm going to turn over the discovery in two
8 weeks. I promise." And so if I put it in the order,
9 "You shall turn it over in two weeks," and then they
10 don't, then there's remedies. There's -- I'm not
11 treating you any differently than I would any issue that
12 I have to -- to make a decision on and make sure that my
13 ruling stands and it's not going to be interrupted.

14 What if you win the lottery tomorrow and
15 you leave and the next guy appointed in your position
16 could feel otherwise.

17 MR. STONE: He could not. He doesn't have
18 a choice. Our office would say, "You do not have a
19 choice."

20 And you just gave some examples of
21 misrepresentations. None of them involve the
22 Attorney General's Office. Our office is --

23 THE COURT: Not misrepresentations, but "I
24 really thought, Your Honor, that my client was going to
25 give me all the documents, and he didn't."

1 So things happen, so I'm not -- and with
2 all due respect to you, I have integrity, too. I have
3 responsibility, too. I have canons -- judicial canons
4 that I need to abide by aside from professional
5 responsibilities. I'm a lawyer, too. I litigated, too.
6 And so I do not take kindly anyone calling anyone a
7 liar, but you need to understand that I have a duty to
8 make sure that the rule of law is followed and that my
9 rulings are followed and that I'm not treating you any
10 differently than I would any other party.

11 And so I think we've spent way too much
12 time in you trying to convince me that you're not a liar
13 and that --

14 MR. STONE: Yeah.

15 THE COURT: -- you can bind the
16 Attorney General.

17 That's not what the point is. The point
18 is that I need to make some rulings here that keep the
19 status quo, that protect the parties from each other, if
20 needed -- whatever it may be -- that I respect the -- my
21 sister court, having a responsibility to her case that
22 was filed before mine; that I have those
23 responsibilities.

24 And so your credibility and your law
25 license on the line really doesn't make a difference

1 because I have to follow my duties as an officer of the
2 court -- as the judicial officer of this court. And so
3 it's not swaying me that you make your promises. You
4 seem like a good person. You seem like an excellent
5 lawyer, but that doesn't sway me. I have
6 responsibilities as well.

7 So the more we talk about it, the more
8 agitated I'm going to get.

9 MR. STONE: Yes. Yes, Your Honor. I got
10 you. I understand. I understand completely. I'm not
11 going to argue it further.

12 I will leave it at this. There may be a
13 way that the Court could thread the needle by talking
14 about how -- the representations that the Attorney
15 General's Office has made and relying on those. There
16 might be a way to thread it where our office would not
17 take offense that we, again --

18 THE COURT: You shouldn't take offense;
19 right?

20 MR. STONE: I understand, Your Honor.

21 THE COURT: There's separate branches of
22 government that have separate duties. I'm on the
23 record, and I don't find you to be either a liar or a
24 bad lawyer. That's not what this is about, and so you
25 should never take offense by any ruling. That's why we

1 have processes. That's why we have appeals. That's why
2 we have things that we need to abide by. And so same
3 way you have -- you take your job seriously, so do I.

4 Is there anything further on this?

5 MR. STONE: No, Your Honor. I will -- I
6 think we can wrap with this. We just want to close by
7 saying that in all times we've acted in good faith.
8 We've just been acting very quickly because of the
9 exigencies of the circumstances. We hope the Court can
10 appreciate that.

11 And we believe for all the reasons that
12 we've stated and discussed today, that the Court should
13 grant our plea to the jurisdiction. And it should find
14 that if it doesn't have jurisdiction to reach these
15 issues, and that even if it did, it should abate this
16 proceeding because there was a first-filed lawsuit in
17 Tarrant County that has dominant jurisdiction. Things
18 need to play out there. And tomorrow this whole case
19 may be back down here. We might be here tomorrow after
20 the Tarrant County judge considers their motion to
21 transfer venue. The whole case would come down here.

22 So I think that -- we'd ask the Court to
23 let it play out in Tarrant County.

24 Thank you, Your Honor.

25 THE COURT: Thank you, sir. I appreciate

1 that.

2 Can we address their argument on the
3 dominant jurisdiction first-filed rule?

4 MS. STEVENS: Yes, Your Honor.

5 I had a whole presentation. Do you want
6 me to start there? Or as long as I get there, is that
7 okay?

8 THE COURT: Let's start there. I mean --
9 yes. Sorry. I don't mean to throw you off.

10 MS. STEVENS: I think it's important to
11 note -- and our understanding of this discussion is --
12 as we understand it, the Court is inquiring as to
13 mootness, abatement, and those arguments are all couched
14 in determining whether you have probable jurisdiction
15 vis-à-vis the TRO only and that we are not hearing
16 somehow with -- bootstrapped in the plea to the
17 jurisdiction or the plea in abatement, which are set for
18 hearing on Monday.

19 THE COURT: Yes. And I haven't seen your
20 proposed order. But if your proposed TRO says: Tarrant
21 County, you cannot proceed with their motion for leave
22 to pursue their *quo warranto*, that might be problematic.

23 So that's what I'd like to hash out with
24 you.

25 MS. STEVENS: Yes, Your Honor. Yes.

1 May we approach and provide the Court with
2 a copy?

3 THE COURT: Yes. Thank you.

4 And now what I've been handed is the draft
5 temporary restraining order that I think you've emailed
6 me; I just haven't had a chance to look at.

7 MS. STEVENS: Yes, Your Honor. And it is
8 several pages, but I will represent to the Court that I
9 don't believe it speaks in the terms that Your Honor
10 just articulated, rather it seeks to enjoin the
11 Attorney General from proceeding at all in *quo warranto*
12 unless it's filed in El Paso County.

13 THE COURT: Well, that decision is the
14 Tarrant County court. Wouldn't it?

15 MS. STEVENS: Respectfully, Your Honor, we
16 disagree with their characterization of "this is in the
17 Tarrant County court case." In fact, what they have
18 done is sought leave. They have not gotten leave.

19 THE COURT: Right.

20 MS. STEVENS: There is no active
21 information in front of Tarrant County court, and so it
22 is -- and they filed that after we filed this amended
23 pleading that -- the live pleading on file with
24 Your Honor and requested this TRO hearing.

25 So they have gone outside the bounds of

1 this Court's jurisdiction where we specifically asked
2 for a TRO to stop them from taking the further steps
3 that they're going to take related to *quo warranto*.

4 THE COURT: So is there authority that
5 does that to their case, separates their -- they filed a
6 lawsuit first.

7 MS. STEVENS: Uh-huh.

8 THE COURT: But what you're telling me is
9 they filed a lawsuit, and then you filed your petition
10 for TRO and then they filed their petition for
11 *quo warranto* in their original lawsuit.

12 Is there any authority or rule or
13 procedure that can help me do what you're saying; that
14 it separates them into, essentially, two causes of
15 action?

16 Because you're saying your TRO preempts,
17 or is the first filed against their petition for
18 *quo warranto*?

19 MS. STEVENS: That's right, Your Honor.
20 And I think it's important -- this is important to the
21 Court's jurisdiction in the first place, is -- two
22 things are equally important here. One, the RTE is not
23 the subject of this TRO; and their issuance of the RTE
24 in El Paso started the legal proceedings in El Paso.

25 I will direct the Court's attention --

1 there's not a page number. It's the second page of the
2 RTE.

3 THE COURT: Okay. I have it marked.

4 MS. STEVENS: Yes, Your Honor.

5 At the -- towards the bottom where it says
6 "Notice of Right and Penalties" on the second page --

7 THE COURT: Yes.

8 MS. STEVENS: -- the very last paragraph
9 says: Take further notice that penalties for a legally
10 unexcused failure or refusal to timely produce records
11 for the Attorney General's examination include the
12 Office of the Attorney General initiating a legal action
13 for the entities, quote, "Registration of Certificate of
14 Formation" to be revoked or terminated.

15 Those are the *quo warranto* proceedings.

16 If the Office of the Attorney General
17 deems such penalty warranted, proceedings to revoke or
18 terminate an entity's registration or certificate of
19 formation are initiated through a petition for leave to
20 file an information in the nature of *quo warranto*.

21 It cites the Rule of Civil -- excuse me,
22 from the Civil Practice and Remedies Code. They chose
23 the venue. They chose El Paso County when they served
24 this RTE and started this legal process. That is key.

25 The other thing that is key --

1 THE COURT: So, counsel -- hold on.

2 MS. STEVENS: Yes, Your Honor?

3 THE COURT: I'm sorry. Don't lose that
4 thought.

5 MS. STEVENS: Yes.

6 THE COURT: So by this document, this
7 mechanism, the request to examination, it's based on the
8 statute, on the -- this Business Organization Code. By
9 them initiating this in El Paso County, that sets the
10 proper venue, the proper jurisdiction --

11 MS. STEVENS: Yes.

12 THE COURT: -- the proper court in El Paso
13 County?

14 MS. STEVENS: Yes.

15 THE COURT: And where's -- okay.

16 Where's that authority? number one. And
17 number two -- so you have -- they have lawsuits going
18 all over the place; right? And they decide: We're
19 going to sue this company in Harris County. And then
20 for this other thing, we're going to sue this company in
21 El Paso County. But now we're just going to drop this
22 one because of the efficiency. You know, this one's
23 stronger.

24 Whatever reason they want to drop one and
25 not the other, by them withdrawing the RTE, is that

1 initially abandoning their cause of action or process in
2 El Paso County? Is that the next thought, that that
3 would happen? If they set the venue with this -- with
4 this RTE, by them withdrawing it, it's like nonsuiting a
5 case?

6 MS. STEVENS: The problem with that is
7 they can't nonsuit the case because we filed the case in
8 El Paso pursuant to the process invoked by them in the
9 RTE. So they started it. We filed this lawsuit, and so
10 they can't nonsuit now and deprive this court of
11 jurisdiction.

12 And -- I think this is important for a
13 couple of things. They -- they not only put
14 jurisdiction in El Paso County for the RTE, they cite
15 the *quo warranto* statute here for El Paso County.

16 The two venue provisions in the Code --
17 it's Civil Practices and Remedies Code and Rules of
18 Civil Procedure that dictate where these things can be
19 filed -- are two different provisions. But they're two
20 different mandatory provisions that say this should be
21 filed in El Paso County.

22 We are going to argue the DTPA venue
23 transfer tomorrow in Tarrant County. That in no way
24 touches on the venue -- mandatory venue provisions for
25 the *quo warranto* -- which they have not had time to

1 file. There is no active pleading in Tarrant County on
2 *quo warranto*. They've just asked for leave to file.
3 They have not done it.

4 That is different from the DTPA venue
5 transfer question before the Tarrant County court
6 tomorrow. We are not asking this court to touch that.
7 We are asking this court to tackle something completely
8 different, which is where the *quo warranto* can be filed.
9 And the only place it can be filed is El Paso County.

10 THE COURT: I know, but wouldn't that
11 point be decided by the Tarrant County judge in
12 consideration of their motion for leave?

13 MS. STEVENS: We have not gotten a hearing
14 set. We have asked for time to brief that. We don't
15 know what that court will determine.

16 THE COURT: We don't know, but she will.
17 She's going to make a ruling on that; right?

18 I'm not saying that you know. I'm just
19 saying that there's a motion for leave to do it. And in
20 that context, she's going to hear arguments about the
21 proper venue and may or may not decide that it's Tarrant
22 County or not. I don't know. The point being is that
23 that question is in her court already by the motion for
24 leave.

25 MS. STEVENS: And we would submit that

1 that question was before your court first. That
2 question was before your court when we filed our amended
3 petition and request for TRO to stop the
4 Attorney General from proceeding on a *quo warranto* at
5 any time in El Paso. They tried to do an end-run. They
6 tried to go and file this in Tarrant County despite this
7 being before this court. But it is squarely before this
8 court on the -- our request for TRO well before they
9 filed in Tarrant County.

10 THE COURT: So your petition was based on
11 their telling you, "Hey, we plan to file"?

12 MS. STEVENS: Yes, Your Honor.

13 THE COURT: And when they said, "We plan
14 to file," did you know it was going to happen in Tarrant
15 County or -- I guess you would have. That's the
16 petition.

17 MS. STEVENS: They indicated it at the
18 phone call that afternoon --

19 THE COURT: Okay.

20 MS. STEVENS: -- that they planned to file
21 in the improper county -- not their words; mine.

22 THE COURT: Yes.

23 She's the one saying --

24 MR. STONE: Oh, okay. Yeah.

25 THE COURT: She's the one saying it's

1 improper.

2 MS. STEVENS: Sorry.

3 THE COURT: My words; not yours.

4 Okay. So that's the significance of
5 that -- those events -- the timing of those events.

6 MS. STEVENS: Yes, Your Honor.

7 THE COURT: Okay.

8 MS. STEVENS: In addition -- so my
9 statement at the --

10 THE COURT: So I -- hold on. Just to
11 follow through.

12 MS. STEVENS: Yes.

13 THE COURT: If I follow your argument that
14 the question on proper venue is -- was first in this
15 court -- on a *quo warranto* stemming from the activity in
16 question -- the fundraising and all those things. If it
17 was filed -- that question was filed here first because
18 of virtue of the RTE being served here in El Paso
19 County -- and I issue a TRO today saying proper venue
20 for *quo warranto* is in El Paso County, and I did so with
21 a finding that that question of law in fact was
22 presented first in El Paso County, does that trump any
23 ruling that the judge would make in Tarrant County?
24 Because that question in law in fact was presented to a
25 court first in El Paso.

1 That's what you're saying?

2 MS. STEVENS: We would -- Your Honor, if
3 Your Honor grants that temporary restraining order
4 today, we would notify the Tarrant County wherein the
5 petition for leave is pending of your ruling.

6 But, yes.

7 MR. GONZALEZ: And we would be asking you
8 to restrain the activity of the Attorney General from
9 proceeding with that -- not to in any way restrain a
10 sister court. The restraint is on the part -- and
11 that's what an anti-injunction suit is.

12 THE COURT: Uh-huh. Okay. I think I'm
13 following the argument.

14 MS. STEVENS: Your Honor, as I -- as I
15 said when I got back up here, we understand the
16 arguments about jurisdiction are related to whether you
17 have proper jurisdiction such that you can grant the TRO
18 today. I will note we have not had the opportunity to
19 brief and respond to their motion -- or, excuse me, to
20 their plea to the jurisdiction and their plea in
21 abatement. That hearing, of course, is set for Monday.

22 Arguing -- or, excuse me, focusing on the
23 arguments that were raised by counsel related to
24 mootness and abatement, just to state the obvious, as
25 the defendant acknowledges in their own briefing one of

1 the exceptions for a plea in abatement is equitable
2 conduct -- inequitable, excuse me, conduct. Here, of
3 course, their overall inequitable conduct that is the
4 subject matter of our lawsuit. That is to say that the
5 unconstitutional harassment and attempt to restrain the
6 First Amendment rights of his political opponent. And
7 there is particular inequitable conduct related to how
8 Defendant Paxton has proceeded with his abuse of process
9 in multiple filings.

10 We just went over this, but he initiated
11 the legal process in El Paso County -- the proper
12 venue -- for seeking a protective order; was here. Then
13 they obfuscated. They did not tell Power of the People
14 that -- Powered by People that despite knowing they were
15 represented by counsel, that they were working behind
16 the scenes to go to Tarrant County.

17 One of -- one of the fundamental elements
18 of their argument is that it arises out of a transaction
19 or occurrence that is the subject matter of the opposing
20 party's claim. The subject matter of our claim is his
21 abuse; his unconstitutional harassment of our client.
22 That is wholly different from the subject matter of
23 their suit.

24 And I -- it's important to note for
25 Your Honor, the key -- I think this goes under

1 harassment and abuse. It also goes under the argument
2 that there's -- that Defendant Paxton has been
3 forthright to all the courts at issue here.

4 Yesterday they filed a motion for
5 contempt, which we provided to the Court in my initial
6 presentation. But what I did not address at the time
7 is, we quickly filed what we termed a notice to the
8 Tarrant County court because there were blatant
9 misrepresentations about what Mr. O'Rourke and Powered
10 by People said at the Tarrant County rally that were the
11 basis of this request for contempt in front of the
12 Tarrant County court and our -- part of the basis for
13 their request to modify the TRO.

14 We don't want this court to get into
15 any of that. Of course, those are in front of the
16 Tarrant County, but it's important to note because it
17 reemphasizes the harassment and abuse by Defendant
18 Paxton here.

19 We have a copy of that notice report if I
20 might provide it to --

21 THE COURT: Yes. Thank you.

22 I've been handed what's styled in the
23 Tarrant County case notice to the Court filed by
24 August 12th, 2025, at 1:04 p.m. on -- yeah, August 12th.

25 Go ahead.

1 MS. STEVENS: And, Your Honor, I apologize
2 that I don't have the -- I have a copy for counsel.
3 And, actually, I gave you my copy.

4 THE COURT: Can you make a copy?

5 MS. STEVENS: But I will note on page 2,
6 we -- there is a quote that is used multiple times in
7 their motion for contempt and their motion to modify the
8 TRO where they quote Mr. O'Rourke in a way that makes it
9 sound like he undermines and disrespects the Tarrant
10 County court based on -- based on the quote that they
11 misleadingly -- that is putting it mildly --
12 misleadingly quote him as on those motions.

13 We provided to the Tarrant County court
14 and to Your Honor, when you read the notice, the full
15 text of Mr. O'Rourke's statement at Tarrant County and
16 then to compare with how they quoted him.

17 It is beyond the pale the way that that
18 was quoted. I don't know what counsel drafted that. I
19 don't know who, but it is attributable to Defendant
20 Ken Paxton; that he is continuing to abuse the process
21 to target our client's protected constitutional speech.
22 And we are asking this court for a very narrow decision
23 today to stop him from engaging in another abuse of
24 process by filing a *quo warranto* process in a venue that
25 is not proper.

1 The case law demonstrates that it is
2 irreparable harm -- it can be irreparable harm for a
3 party to have to go through an abuse of process and
4 particularly using improper venue for that abuse of
5 process. That in and of itself can be irreparable harm
6 sufficient to require a temporary restraining order.

7 The last thing on the abuse of process
8 that is note for this court, last night while on our way
9 to this court, we were informed that the State is
10 attempting to subpoena Powered by People and
11 Mr. O'Rourke for -- to have them testify next week in
12 Tarrant County -- not take a deposition in El Paso
13 County, in Tarrant County. We believe this is further
14 evidence of the bad faith.

15 And I would like to apologize to
16 Your Honor about the characterization of the attorney,
17 he drove from Austin to Dallas. I misunderstood based
18 on his -- his address on the State Bar website. My
19 apologies to the Court. But the -- whether he drove an
20 hour to get there from his office in Dallas or he drove
21 three hours, they did not inform represented Powered by
22 People that they intended to go seek a TRO later that
23 afternoon. We believe that is evidence of
24 Defendant Paxton's bad faith.

25 I'm just making sure I've addressed

1 several things.

2 THE COURT: When would -- when should you
3 have known? Because there's emails saying, "Hey, we're
4 going to have a TRO hearing. Let me know if you want to
5 make an appearance."

6 And what was represented earlier was
7 there were calls and emails about that and trying to
8 accommodate to make sure that you got the Zoom link and
9 things like that.

10 When -- what should have happened?

11 MS. STEVENS: They -- when we asked for an
12 extension on that RTE, they knew we were actively
13 working on these matters. And they knew that they were
14 going to go file in Tarrant County to seek a TRO against
15 our client with -- we had less than two hours' notice
16 to -- it wasn't even notice. We had less than two hours
17 from when we got notified about their suit and -- that
18 they were seeking a TRO to actually being in a Zoom
19 hearing.

20 And I -- I don't think counsel meant to
21 misrepresent it this way. The email notifying us that
22 they were filing the suit and were seeking the TRO and
23 asked if we wanted to be heard, that was the first
24 notice we had.

25 The later conversations trying to get a

1 Zoom link happened after that email and after we called
2 the court coordinator to ask respectfully that we be
3 heard at that hearing.

4 THE COURT: Okay.

5 MS. STEVENS: A few things to note about
6 *quo warranto*. The -- again, the motion to transfer
7 venue is not -- tomorrow will not address the *quo*
8 *warranto*. It is about their active pleading. It is a
9 different mandatory statute than the venue statute we
10 are going to argue about tomorrow.

11 The thing to come back to multiple times
12 is -- the sole question before the Court today is not a
13 ruling on the merits. It is preserving the status quo
14 as it's -- only as it relates to the *quo warranto*.
15 We're not asking for anything outside of that, but we
16 are asking this court to preserve the status quo.

17 And that despite the protestations by the
18 Attorney General's Office, that has not been instituted.
19 They have asked for leave to file something. That is
20 all. That has not been instituted and this court can
21 and still enjoin them from pursuing *quo warranto*
22 proceedings in an improper venue.

23 May I just consult with counsel
24 momentarily?

25 (Sotto voce discussion between attorneys

1 for the plaintiff)

2 THE COURT: You were going to point
3 something out about your draft TRO?

4 MS. STEVENS: Yes, Your Honor.

5 THE COURT: And I -- and we went on to
6 something else.

7 MS. COYLE: Your Honor -- if I may,
8 Your Honor? I think we may have given you the wrong
9 one. Can I --

10 THE COURT: Okay.

11 MS. COYLE: I want to make sure. I want
12 to make sure that this is the final, okay?

13 I'll take this one.

14 THE COURT: I think this is the one I was
15 handed.

16 MS. COYLE: Okay. Just in case. Thank
17 you.

18 THE COURT: All right. And this draft
19 TRO --

20 MS. STEVENS: Yes, Your Honor. I believe
21 that I provided it to the Court, just so that you can
22 verify yourself that we were not asking you to stop the
23 Tarrant County court from doing anything. We're asking
24 Your Honor to enjoin the Attorney General.

25 THE COURT: Okay. The way it's proposed

1 is: Defendant is restrained and enjoined from
2 initiating, filing, or prosecuting any *quo warranto*
3 proceeding against Powered by People, or it's officers,
4 directors, or founders, without leave of this court or
5 leave of another El Paso County district court. Nothing
6 in this order is intended to bind any court, rather it
7 binds defendant and those in active concert from
8 participation with them.

9 Okay. And no findings about
10 constitutionality about anything or any of those things?

11 MS. STEVENS: Correct, Your Honor.

12 THE COURT: Okay.

13 Anything further?

14 MS. STEVENS: No, Your Honor. Thank you.

15 THE COURT: One last word.

16 MR. STONE: Yes, Your Honor. I'll be
17 brief. I've got five things.

18 THE COURT: Five?

19 MR. STONE: I know. There was supposed to
20 be three, but they kept -- I kept accruing things. I'll
21 try to be quick.

22 THE COURT: Go ahead.

23 MR. STONE: The first one, I did not -- in
24 their motion for request for temporary restraining
25 order, they did ask for you to restrain us from

1 enforcing the RTE that's in their petition. So I was
2 not aware that --

3 MS. STEVENS: I'll respond when -- sorry.

4 MR. STONE: To the extent that they're --
5 I'll be more specific, Your Honor, since there might be
6 confusion.

7 Paragraph 59 of their petition says the
8 following: Here, plaintiff is entitled to preservation
9 of the status quo because it will suffer immediate
10 irreparable harm if there is not adequate -- for which
11 no adequate remedy at law exists if defendants are not
12 restrained from enforcing the RTE.

13 That's paragraph 59.

14 And then in their prayer for relief, it
15 says here: For the foregoing reasons, Plaintiff Powered
16 by People are requesting immediately -- immediate
17 protective order -- and then it cites to the Texas Rules
18 of Civil Procedure.

19 And then it says: And a temporary
20 restraining order issued to defendants preventing
21 enforcement of the RTE in its entirety.

22 A temporary restraining order issued to
23 defendants preventing enforcement on the RTE in its
24 entirety.

25 I'm reading from their prayer for relief,

1 so...

2 MR. GONZALEZ: It says temporary
3 injunction, Your Honor. That's not the -- our TRO at
4 issue.

5 MR. STONE: I'm reading it, Your Honor.
6 Please look at page 26 of their amended petition and
7 their prayer for relief. It says, and I quote: And a
8 temporary restraining order issued to defendants
9 preventing enforcement of the RTE in its entirety.

10 I'm reading it.

11 MR. GONZALEZ: I think it might have been
12 a typo, Your Honor. Obviously, when we enumerate the
13 request for relief in our actual proposed order,
14 Your Honor can see that we're not requesting that.

15 THE COURT: So I -- when I first read
16 it -- because we kind of talked -- when we were talking
17 about enforcement of the RTE and stuff, I read that part
18 of it to see -- you know, how would I create an order
19 that doesn't violate any rules?

20 I skipped into that next sentence that
21 says: Further, plaintiff requests that defendant be
22 cited to appear and answer; and that on hearing, issue
23 plaintiff judgment --

24 MR. STONE: Judgment.

25 THE COURT: Judgment -- which to me is

1 later --

2 MR. STONE: Yeah.

3 THE COURT: -- on numbers (a) through (h).

4 I didn't see the sentence that you -- or I
5 probably did, but like I said, I skipped into the next
6 sentence.

7 It does read: For the foregoing reasons,
8 plaintiff requests immediate protective order and a
9 temporary restraining order issued to defendant
10 preventing enforcement of the RTE.

11 MR. GONZALEZ: Your Honor --

12 THE COURT: So are we you asking for that
13 or not?

14 MR. GONZALEZ: No, Your Honor. In the
15 application itself and the petition does not talk about
16 that and the proposed order does not talk about that,
17 and then the enumerated relief does not talk about it.
18 I think it must have been a typo that was overlooked or
19 something.

20 THE COURT: Yeah. It's a lengthy
21 pleading, so...

22 MR. GONZALEZ: Yes, Your Honor.

23 MR. STONE: And I'm not fighting with them
24 on that. I'm okay with that. So if the RTE is not an
25 issue --

1 THE COURT: Now your promise not to do is
2 really important.

3 MR. STONE: Exactly. Exactly, Your Honor.
4 We don't have to even address it because it doesn't come
5 up, so we're very happy with that. And we'll just note
6 that for -- I thought it was an issue, and I apologize
7 to the Court for taking a bunch of time on this issue
8 when it wasn't even an issue.

9 MR. GONZALEZ: And we apologize for the
10 typo.

11 THE COURT: Somebody could have said
12 something sooner; right?

13 MR. FROMAN: I wish.

14 THE COURT: But, okay. So that's clear,
15 that's not the relief being requested today in the
16 requested TRO.

17 MR. STONE: Okay. And second, Your Honor,
18 the question of whether or not this court acquired
19 jurisdiction as to *quo warranto* proceedings because we
20 sent an RTE to the defendants who are domiciled in this
21 jurisdiction.

22 I want to talk a minute about what an
23 RTE -- first, I want to pause for a second and say this
24 assumes that we only issued one RTE in this case. When
25 we conduct investigations -- an RTE is a pre-suit

1 subpoena that asks for the production of records. We
2 have a similar tool under the DTPA called a "civil
3 investigative demand." So it's a variety of pre-suit
4 investigative subpoenas that we can send out regarding
5 documents.

6 If every time I send a pre-suit subpoena
7 asking for documents, I -- whoever I send it to suddenly
8 acquires jurisdiction as to the ultimate lawsuit that I
9 filed, then -- if I send five -- five pre-suit
10 subpoenas, do all five jurisdictions have the same
11 jurisdiction over the resulting claims when we finally
12 decide who we're going to sue?

13 So even just by analogy, if you think
14 about like sending a subpoena while you're conducting
15 discovery, it doesn't make any sense for the ultimate
16 lawsuit that you may or may file at some point in the
17 future, is suddenly -- that it's mandatory venue that it
18 be filed where you send in the subpoena at some point to
19 collect records.

20 I'll note for the Court they couldn't cite
21 to any actual case law or any statute that said that.
22 The statute that they mentioned only says that the *quo*
23 *warranto* must be initiated in the proper county. That's
24 all it says.

25 And they have gone on to argue that the

1 proper county should revert to the standard rules, which
2 are where all or a substantial amount of the actions
3 giving rise to the claims occurred.

4 In this case, where the claim -- the
5 claims that are at issue are the ones in Tarrant County
6 about the Fort Worth rally, okay? Not other information
7 from beforehand.

8 So we think that -- the fact that they
9 can't cite to any authority and then just, logically, it
10 doesn't make sense because we send pre-suit subpoenas
11 all the time. It doesn't make any sense what they're
12 arguing, and that's -- there's a reason they don't have
13 any legal authority they can cite to.

14 Third -- unless you want to ask me any
15 questions?

16 THE COURT: No.

17 MR. STONE: Third, inequitable conduct and
18 the sort of abuse of process argument, I need to address
19 it. I've walked the Court through the timeline, and I
20 hope that I have assuaged any concerns that the Court
21 might have about us acting in bad faith or acting
22 quickly, but that doesn't mean that we're trying to harm
23 the other side. We're communicating with them. We're
24 giving them notice. We are working with them in trying
25 to cooperate to make sure that they have opportunities

1 to be heard. An abuse of process would occur if we were
2 trying to preempt them or prevent them from being able
3 to make their arguments.

4 So, for example, they're upset that we
5 believe that they may have violated the temporary
6 restraining order and that we filed a motion for
7 contempt. That's an abuse of process. That's going to
8 go before a judge in two weeks. She's going to hear out
9 both sides and issue a ruling.

10 We filed a lawsuit, and we're not --
11 they're not -- if -- they're not entitled for us to call
12 them up and say, "Hey, we want to sue you," before we
13 file a lawsuit. We don't do that to any party, and it's
14 not an abuse of process or punishment because we believe
15 that we have evidence that and we initiate a lawsuit.

16 If you listen to their list of grievances,
17 it's every single thing we did. It's everything that
18 we've done. But when we withdraw the RTE on Saturday,
19 that was an abuse of process. When we called them on
20 Monday to confer about the temporary injunction hearing,
21 it was an abuse of process. Everything we do is an
22 abuse of process. Like, they're presuming there's bad
23 faith on our part, and there's just not bad faith.

24 THE COURT: So what is -- what is -- like
25 if you want to discuss that, we can, but I'm actually

1 trying to stay away from --

2 MR. STONE: I understand.

3 THE COURT: -- some of those
4 communications.

5 So how is that point of assistance to me
6 in the questions I have to answer today?

7 MR. STONE: Well, I don't think it is,
8 Your Honor. But I wanted to just, for the record,
9 defend -- to defend our -- kind of integrity if that's
10 okay.

11 THE COURT: Yeah.

12 MR. STONE: I'm done. I'll move on.
13 That's all I had to say about that.

14 THE COURT: No. But, you know, like I
15 said earlier, there's just a lot of noise --

16 MR. STONE: Agreed.

17 THE COURT: -- happening, frankly, with --
18 you know, from what's in the pleadings also happening
19 from the Attorney General himself.

20 Mr. O'Rourke is a political person, not
21 just through his -- this entity, but he's been a
22 statewide candidate, a national candidate, but certainly
23 he's a presence in the State of Texas.

24 And, you know, when he interjects things
25 like -- that Mr. O'Rourke is going to be his opponent

1 and picking on Mr. O'Rourke as a Democrat that's trying
2 to further the Democrat agenda on restricting or any
3 other issue, you know, Austin is very partisan. The
4 capital is very partisan. And I don't know if you want
5 to sign bad faith but people move forward on that
6 partisanship line.

7 And so there's definitely evidence on
8 that, statements that are beyond your control attributed
9 to the Attorney General, beyond your control. You --

10 MR. STONE: Yes.

11 THE COURT: You work with what you've got;
12 right?

13 MR. STONE: Yes.

14 THE COURT: And so to the extent there
15 isn't bad faith -- I'm not going to make a finding of
16 one or the other. You're the one that kind of keeps
17 interjecting that, but there are -- there are concerns
18 about that, and that's -- and I can admit to you that's
19 part of the reason why I need to really pause and make
20 sure that constitutional -- fundamental constitutional
21 mandates -- you know, constitutional law 101 are not
22 stepped on regardless of that partisanship line.

23 MR. STONE: I understand, Your Honor. Can
24 I add one more clarifying thing?

25 And I know I'm bringing up the bad faith

1 part because I feel like we're being attacked. But I
2 keep hearing the other side arguing that we're abusing
3 the process or that there's inequitable conduct, and so
4 I'm trying to -- I'm being reactive here.

5 THE COURT: Yes.

6 MR. STONE: I'm not responding to it --

7 THE COURT: I understand.

8 MR. STONE: And just one final thing about
9 Powered by People. The reason that they got an RTE and
10 the reason that there is a lawsuit in Tarrant County
11 involving them is because of the Fort Worth rally and
12 because there are representations in the media that that
13 is the entity that is primarily doing -- engaging in
14 this conduct. If we had a --

15 THE COURT: What conduct?

16 MR. STONE: The misrepresentations related
17 to the fundraising for political purposes, yet
18 disbursing money for personal purposes that --

19 THE COURT: It's not personal purposes.
20 I can tell you -- well, I can't tell you, I guess.

21 My guess is that those individuals, those
22 legislators did not jet off to another state for
23 vacation, for personal purposes. This is -- whether we
24 like it or not -- political conduct. Whether it's legal
25 or not, that's for the Supreme Court to decide. And,

1 you know, they have rules on how you try to manage those
2 situations.

3 But there's political conduct and then
4 there's personal conduct. Personal conduct is not at
5 play here, in my mind, not in the causes of action,
6 certainly not in your own claims whether here or in
7 Tarrant County.

8 But, you know, I think we're getting
9 really philosophical about things that I really want to
10 avoid interjecting in the decision, but I do want to
11 put on the record that I am very mindful of what is
12 happening, way beyond the control of you as counsel and
13 any of us, really, doing our jobs. It is what it is,
14 but let's not color it with --

15 MR. STONE: Yes, Your Honor.

16 THE COURT: -- with what it's not.

17 So anyway. Point number four?

18 MR. STONE: Number four, yes. And this
19 one's quick. Just in the venue statute. There was a
20 mention that there are different venue statutes at play,
21 and I just want to bring to the Court's attention that
22 that is -- we don't believe that's true.

23 If you compare their verified petition and
24 you look at the citation that they relied on, it's in --
25 and other petition is in paragraph -- let me give you

1 the specifics cite. It is in footnote 10 to paragraph
2 20.

3 The citation that they give is Texas Civil
4 Practice and Remedies Code, Section 15.002(a). And it
5 provides that: In relevant part, that venue is only
6 proper in the county in which all or substantial -- or a
7 substantial part of the events or omissions giving rise
8 to the claim occurred, or in the county of the
9 defendant's principal office in the state.

10 And that's in footnote 10, again, on
11 paragraph 20. It's what they've been arguing today.
12 And if you compare that with their motion to transfer
13 venue -- that will be heard tomorrow -- it is the same
14 citation. So they are -- it is the same argument.

15 The final thing. Fifth. Anti-injunction.
16 They're trying to kind of craft this thing of, "Well,
17 we're not allowing" -- you're only enjoining the State
18 from proceeding and engaging and instituting the *quo*
19 *warranto*. You're not enjoining the Tarrant County court
20 from deciding it. But the fact of the matter is,
21 there's already a pending motion before the Tarrant
22 County court, and we've already amended our petition to
23 add the claim. We've now asked her for leave to
24 authorize it. That's all before the Tarrant County
25 judge.

1 So whether you enjoin us from proceeding
2 on that, the pending thing that's in front of that
3 court, or you enjoin that court itself, it is all the
4 same thing because you're preventing the Tarrant County
5 court from being able to adjudicate the merits.

6 And for that reason, we ask that, again,
7 the Court either dismiss -- deny the TRO and dismiss the
8 suit for lack of jurisdiction; or in the alternative,
9 abate this proceeding, let it play out in Tarrant
10 County. We might be back here tomorrow.

11 So that's all. Thank you, Your Honor.

12 THE COURT: Yes. Thank you.

13 MS. STEVENS: May I point out two quick
14 things, Your Honor?

15 THE COURT: Yes, ma'am.

16 MS. STEVENS: One, on that last point
17 about whether we're talking about the same venue
18 provisions. We've provided Your Honor with a copy of
19 the motion to transfer venue. A key point of the motion
20 to transfer venue that will be heard tomorrow is that
21 there is a mandatory venue provision for injunctions,
22 and it's not the rule that counsel just referenced.
23 Rather, it's Civil Practice and Remedies Code 65.023,
24 which, of course, is referenced in the motion to
25 transfer venue, but it is not at issue here.

1 And then the second point is, counsel
2 said --

3 I put the quote down.

4 -- that they're attempting to revoke the
5 charter of Powered by People because of statements made
6 in a lead-up to -- and at the rally in Fort Worth, and
7 those are the bases for the *quo warranto*.

8 But I have here their motion that is in
9 front of the -- that has been filed before the Tarrant
10 County court, and it says: The State seeks to revoke
11 Powered by People's registration on the grounds that
12 it's operating in violation of criminal laws of the
13 State and have done so in a manner that brought the
14 Texas House of Republicans to a legislative standstill
15 and prevented the State's ability to address critical
16 State interests, including flood relief, property tax
17 relief, public school reforms, matters related to the
18 protection of women's privacy, and congressional
19 restricting for the people of this state.

20 Nowhere in there, of course, is reference
21 to Tarrant County. Nowhere in there is even tieing the
22 conduct that they claim is the basis for this
23 *quo warranto* to Tarrant County.

24 It underscores why this court should grant
25 the TRO prohibiting Defendant Paxton from pursuing

1 *quo warranto* in any other county in the state besides
2 El Paso.

3 THE COURT: All right.

4 MS. STEVENS: Thank you, Your Honor.

5 MR. STONE: Your Honor, may I make a
6 representation to you that I think may make your job
7 easier? I'll make a representation today. It binds us,
8 okay?

9 I know the Court -- but I'll make a
10 representation to you. If they win tomorrow on the
11 motion to transfer venue and we get transferred to
12 El Paso County, we will similarly bring the *quo warranto*
13 proceeding to El Paso County. This whole case moves
14 together, okay?

15 So if El Paso -- if the proceedings get
16 transferred for El Paso tomorrow, all of it gets
17 transferred to El Paso. We're not going to bring
18 another *quo warranto* proceeding in some other county.
19 We will bring it with the DTPA suit, wherever that DTPA
20 suit ultimately is decided for that DTPA lawsuit.

21 MS. STEVENS: May I respond, Your Honor?

22 THE COURT: Yes.

23 MS. STEVENS: With all due respect to
24 counsel, that's -- it's not really relevant to the
25 question here, which is, El Paso County being the proper

1 venue. And the direction that we're asking this court
2 to give to the Defendant Paxton, that he can only bring
3 that suit. If he's going to bring it at all -- and we
4 vehemently will oppose it -- it has to be in El Paso
5 County.

6 Thank you, Your Honor.

7 THE COURT: All right. Is there anything
8 further by the plaintiff?

9 MS. STEVENS: No, Your Honor.

10 THE COURT: Anything further by the
11 defendant?

12 MR. STONE: No, Your Honor.

13 THE COURT: All right. I am going to
14 think this through. I'm going to consider the authority
15 that you've provided me, and I hope to have a ruling for
16 you before you appear in tomorrow's Tarrant County
17 hearing. And so I'm working on it.

18 MR. STONE: May we submit to the Court a
19 proposed order on the PTTJ issue? Just a proposed
20 order. You don't have to -- may we present one to the
21 Court?

22 MS. STEVENS: May I respond, Your Honor?

23 THE COURT: Yes.

24 MS. STEVENS: The Rules of Civil Procedure
25 provide us three days notice before we have a hearing on

1 that. We're entitled to briefing on this plea to the
2 jurisdiction.

3 THE COURT: Yes, you are. You can send me
4 the order. People send me the order weeks in advance.

5 MR. STONE: Thank you, Your Honor.

6 THE COURT: But we're set. And if you
7 would, though, send it to me on Word.

8 MR. STONE: Yes, Your Honor.

9 THE COURT: I'm not going to rule on the
10 plea to the jurisdiction.

11 MR. STONE: Thank you, Your Honor.

12 THE COURT: All right.

13 MS. STEVENS: Thank you.

14 THE COURT: Thank you all for your time.
15 I really appreciate your travel to El Paso and the work
16 that you do.

17 At this time, we're adjourned.

18 (Proceedings concluded)

19

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1 STATE OF TEXAS)

2 COUNTY OF EL PASO)

3

4 I, Bertha A. Prieto, Official Court Reporter in and
 5 for the 41st Judicial District Court of El Paso County,
 6 State of Texas, do hereby certify that the above and
 7 foregoing contains a true and correct transcription of
 8 all portions of evidence and other proceedings requested
 9 in writing by counsel for the parties to be included in
 10 this volume of the Reporter's Record, in the
 11 above-styled and numbered cause, all of which occurred
 12 in open court or in chambers and were reported by me.

13 I further certify that this Reporter's Record of
 14 the proceedings truly and correctly reflects the
 15 exhibits, if any, offered by the respective parties.

16 I further certify that the total cost for the
 17 preparation of this Reporter's Record is \$400.00 and was
 18 paid/will be paid by Mr. Johnathan Stone, Esq.

19 WITNESS MY OFFICIAL HAND this the 14th day of
 20 August 2025.

21

22 /s/ Bertha A. Prieto
 23 BERTHA A. PRIETO, Texas CSR# 7222
 24 Official Court Reporter
 41st Judicial District Court
 500 E. San Antonio, Rm. 1006
 El Paso, TX 79901
 25 (915) 273-3728
 Expires July 31, 2027

TRIAL COURT CAUSE NO. 2025DCV3641

POWERED BY PEOPLE,)
)
 Plaintiff,) IN THE DISTRICT COURT
)
 vs.)
) 41ST JUDICIAL DISTRICT
 KEN PAXTON)
 IN HIS OFFICIAL CAPACITY AS)
 TEXAS ATTORNEY GENERAL,) EL PASO COUNTY, TEXAS
)
 Defendant.)

I, Bertha A. Prieto, Official Court Reporter in and
 for the 41st Judicial District Court of El Paso County,
 State of Texas, do hereby certify that the following
 exhibits constitute true and complete duplicates of the
 original exhibits, excluding physical evidence, offered
 into evidence during the Temporary Restraining Order in
 the above-entitled and numbered cause as set out herein
 before the Honorable Annabelle Perez, Presiding Judge of
 the 41st Judicial District of El Paso, El Paso County,
 Texas.

WITNESS MY OFFICIAL HAND this the 14th day of
August 2025.

/s/ Bertha A. Prieto
 BERTHA A. PRIETO, Texas CSR# 7222
 Official Court Reporter
 41st Judicial District
 500 E. San Antonio, Rm. 1006
 El Paso, TX 79901
 (915) 546-2149
 Expires July 31, 2027

CAUSE NO. 348-367652-25

THE STATE OF TEXAS

Plaintiff,

v.

ROBERT FRANCIS O'ROURKE and
POWERED BY PEOPLE

Defendants.

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

348th JUDICIAL DISTRICT

**THE STATE'S REQUEST FOR AN EMERGENCY TEMPORARY
RESTRAINING ORDER AND TEMPORARY INJUNCTION**

EXHIBIT I

**IN THE 41ST JUDICIAL DISTRICT COURT OF TEXAS
EL PASO COUNTY, TEXAS**

POWERED BY PEOPLE

Plaintiff,

v.

**KEN PAXTON, IN HIS OFFICIAL
CAPACITY AS TEXAS ATTORNEY
GENERAL**

Defendant.

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CAUSE NO. 2025DCV3641

ORDER ABATING PROCEEDINGS

On August 13, 2025, the Court held an in person hearing to consider Plaintiff, Powered by People's Application for a Temporary Restraining Order and Defendant Ken Paxton's oral request to abate the proceedings in response. After considering the pleadings, the attachments, affidavits, and the arguments of counsel, the Court hereby abates this proceeding pending the decision of the 348th Judicial District Court in Tarrant County of proper venue and jurisdiction in its related-filed proceeding at a hearing on August 14, 2025. *Reference Cause No. 348-6-367652-25 in the 348th Judicial District Court.*

This matter will be set for status hearing on Monday, August 18, 2025 at 1:30 p.m. in the 41st Judicial District Court, El Paso, Texas. The Plaintiff's Application for Temporary Restraining Order and Defendant's Plea to the Jurisdiction will also be considered at that time.

SIGNED on August 13, 2025.



JUDGE ANNABELL PEREZ
41st Judicial District Court of Texas

CAUSE NO. 348-367652-25

THE STATE OF TEXAS

Plaintiff,

v.

ROBERT FRANCIS O'ROURKE and
POWERED BY PEOPLE

Defendants.

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

348th JUDICIAL DISTRICT

**THE STATE'S REQUEST FOR AN EMERGENCY TEMPORARY
RESTRAINING ORDER AND TEMPORARY INJUNCTION**

EXHIBIT J

CAUSE NO. 348-367652-25

THE STATE OF TEXAS

Plaintiff,

v.

ROBERT FRANCIS O'ROURKE and
POWERED BY PEOPLE

Defendants.

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

348th JUDICIAL DISTRICT

**ORDER DENYING DEFENDANTS'
EMERGENCY MOTION TO TRANSFER VENUE**

On August 14, 2025, the Court heard Defendants' Emergency Motion to Transfer Venue. After considering Defendants' Motion, the State's Response, the State's First Amended Petition, Defendants' Supplemental Motion to Transfer Venue, relevant legal authority, admissible evidence, and arguments of counsel, the Court finds venue is proper in Tarrant County, Texas, pursuant to Texas Business & Commerce Code § 17.47(b) and Texas Civil Practice & Remedies Code § 15.002(a)(1).

IT IS THEREFORE ORDERED that Defendants' Emergency Motion to Transfer Venue is DENIED.

Signed: August 15, 2025, at 12:55 p.m.


JUDGE PRESIDING

CAUSE NO. 348-367652-25

THE STATE OF TEXAS

Plaintiff,

v.

ROBERT FRANCIS O'ROURKE and
POWERED BY PEOPLE

Defendants.

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

348th JUDICIAL DISTRICT

**THE STATE'S REQUEST FOR AN EMERGENCY TEMPORARY
RESTRAINING ORDER AND TEMPORARY INJUNCTION**

EXHIBIT K

CAUSE NO. 348-367652-25

THE STATE OF TEXAS

Plaintiff,

v.

ROBERT FRANCIS O'ROURKE and
POWERED BY PEOPLE

Defendants.

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

348th JUDICIAL DISTRICT

**MODIFIED TEMPORARY RESTRAINING ORDER
AND ORDER RE-SETTING HEARING FOR TEMPORARY INJUNCTION**

After considering Plaintiff State of Texas's Emergency Motion to Modify the Court's August 8, 2025, Temporary Restraining Order, Defendants' Opposition to State's Motion to Modify the Temporary Restraining Order, pleadings, affidavits, relevant legal authority, and arguments of counsel, and after holding a hearing on the State's Motion to Modify, wherein attorneys for all parties appeared in person before the Court, the Court grants the State's motion and issues this Modified Temporary Restraining Order.

The Court finds that harm is imminent to the State, and if the Court does not issue this order, the State will be irreparably injured. Specifically, Defendants' fundraising conduct constitutes false, misleading, or deceptive acts under the Texas Deceptive Trade Practices Act, TEX. BUS. & COM. CODE §§ 17.46(a), (b)(2), (b)(5), (b)(7), and (b)(24), because Defendants are raising and utilizing political contributions from Texas consumers to pay for the personal expenses of Texas legislators, in violation of Texas law. Because this conduct is unlawful and harms Texas consumers, restraining this conduct is in the public interest. TEX. BUS. & COM. CODE § 17.47(a); *see also* TEX. CONST. art. III, § 5.

Furthermore, Defendants have and will continue to engage in unlawful fundraising practices and utilization of political funds in a manner that either directly violates or causes Texas

legislators to violate: (1) TEX. PENAL CODE § 36.01(3); (2) TEX. ELEC. CODE § 253.035; (3) Rule 5, § 3 of the House Rules of Procedure; and (4) TEX. PENAL CODE §§ 36.08, 36.10. Consumers have and continue to suffer irreparable harm through these unlawful acts because they are making political contributions that are being used to fund personal expenses and violate State law.

Therefore, by this order, the Court issues this Modified Temporary Restraining Order, immediately restraining Defendants, their officers, agents, servants, employees, and attorneys, and those persons or entities in active concert or participation with Defendants, who receive actual notice of this Modified Temporary Restraining Order by personal service or otherwise, from the following:

- i. Using political funds for the improper, unlawful, and non-political purposes of (1) funding out-of-state travel, hotel, or dining accommodations or services to unexcused Texas legislators during any special legislative session called by the Texas Governor, or (2) funding payments of fines provided by Texas House rules for unexcused legislative absences;
- ii. Raising funds for non-political purposes, including to (1) fund out-of-state travel, hotel, or dining accommodations or services to unexcused Texas legislators during any special legislative session called by the Texas Governor, or (2) fund payments of fines provided by Texas House rules for unexcused legislative absences, through the ActBlue platform or any other platform that purports to exist for political fundraising purposes; and

- iii. Offering, conferring, or agreeing to confer, travel, hotel, or dining accommodations or services (or funds to support such accommodations or services) to unexcused Texas legislators during any special legislative session called by the Texas Governor as consideration for a violation of such legislators' Constitutional duties.

Additionally, by this Modified Temporary Restraining Order, Defendant Powered by People, and any filing entity or foreign filing entity in active concert or participation with Defendant Powered by People and/or Defendant O'Rourke (including banks, financial institutions, and ActBlue), are immediately restrained from removing any property or funds that belong to, or are being held for, Defendant Powered by People and/or Defendant O'Rourke, from the State of Texas during the pendency of this lawsuit.

Defendants are ordered to immediately serve a copy of this Modified Temporary Restraining Order on the registered agent of ActBlue and any bank or financial institution with whom such Defendant(s) does business.

This Modified Temporary Restraining Order shall remain in effect until September 5, 2025, or as agreed by the parties or as otherwise ordered by this Court, whichever occurs first.

This Court further orders the Clerk to issue notice to Defendants Robert Francis O'Rourke and Powered by People that the hearing on the State's Application for Temporary Injunction is set for **September 2, 2025, at 10:00 a.m.** The purpose of the hearing will be to determine whether a temporary injunction should be issued upon the same grounds and particulars as specified herein or as requested in Plaintiff's then-current petition. This hearing will take place in person in the courtroom of the 348th District Court, Tom Vandergriff Civil Courts Building, 100 North Calhoun Street, Fort Worth, Texas 76196.

The Clerk shall, forthwith, issue a temporary restraining order in conformity with the law and the terms of this Order.

Pursuant to TEX. CIV. PRAC. & REM. CODE § 6.001(a), the State is exempt from bond requirements. *See also* TEX. BUS. & COM. CODE § 17.47(b).

Signed: August 15, 2025, at 3:11 p.m.



DISTRICT COURT JUDGE

CAUSE NO. 348-367652-25

THE STATE OF TEXAS

Plaintiff,

v.

ROBERT FRANCIS O'ROURKE and
POWERED BY PEOPLE

Defendants.

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

348th JUDICIAL DISTRICT

**THE STATE'S REQUEST FOR AN EMERGENCY TEMPORARY
RESTRAINING ORDER AND TEMPORARY INJUNCTION**

EXHIBIT L

CAUSE NO. 348-367652-25

THE STATE OF TEXAS

Plaintiff,

v.

ROBERT FRANCIS O'ROURKE and
POWERED BY PEOPLE

Defendants.

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

348th JUDICIAL DISTRICT

ORDER ON EXPEDITED DISCOVERY

On August 14, 2025, the Court considered the State's Emergency Request for an Expedited Discovery Scheduling Order. After due consideration and in light of the time-sensitive circumstances of this case, including the upcoming temporary injunction hearing set for September 2, 2025, the Court rules that expedited discovery is merited in this cause and rules as follows:

1. Defendant Powered by People (PxP) shall confer with the State and produce a corporate representative for a deposition lasting no more than two hours to occur no later than close of business on Friday, August 29, 2025, that is limited to the following topics covering the period **from June 1, 2025, through the present**:
 - a. Advertising, marketing, and representations directed toward Texans about the purpose and intended use of funds received;
 - b. Benefits and compensation provided, or offered to, Texas legislators, their staff, or their families;
 - c. Expenditure of funds on Texas legislators, their staff, or their families;
 - d. The total amount of funds raised; and
 - e. Compliance with the Court's Temporary Restraining Order and Modified Temporary Restraining Order.
2. Defendant Robert Francis O'Rourke (O'Rourke) shall confer with the State and appear for a deposition lasting no more than two hours to occur no later than close of business on Friday, August 29, 2025.
3. PxP and O'Rourke shall produce the following records covering the period **from June 1, 2025, through the present** to the State no later than close of business on August 29, 2025, along with any corresponding privilege logs relating to same:

- a. Documents and communications relating to planned or actual travel arrangements, accommodations, or meals outside of Texas for any Texas legislator, their staff, or their families;
- b. Documents and communications relating to, or discussing, depriving the Texas Legislature quorum during Texas's current special legislative session;
- c. Documents and communications relating to the provision of any benefit or compensation to a Texas legislator, their staff, or families, and offers to provide any benefit or compensation to same;
- d. Documents and communications discussing, or relating to, the solicitation of funds to pay for planned or actual travel arrangements, accommodations, or meals for any Texas legislator, their staff, or their families;
- e. Documents and communications relating to expenditures made for travel arrangements, accommodations, or meals outside of Texas for any Texas legislator, their staff, or their families;
- f. Documents and communications directed toward Texans advertising, marketing, or otherwise making representations about the purpose and intended use of funds received; and
- g. Documents sufficient to show the total amount raised since June 1, 2025.

IT IS SO ORDERED.

Signed: August 15, 2025.



JUDGE PRESIDING

CAUSE NO. 348-367652-25

THE STATE OF TEXAS

Plaintiff,

v.

ROBERT FRANCIS O'ROURKE and
POWERED BY PEOPLE

Defendants.

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

348th JUDICIAL DISTRICT

**THE STATE'S REQUEST FOR AN EMERGENCY TEMPORARY
RESTRAINING ORDER AND TEMPORARY INJUNCTION**

EXHIBIT M

CAUSE NO. 2025DCV3641

POWERED BY PEOPLE,	§	IN THE DISTRICT COURT
<i>Plaintiff,</i>	§	
	§	
V.	§	41st JUDICIAL DISTRICT
	§	
KEN PAXTON,	§	
IN HIS OFFICIAL CAPACITY AS	§	
TEXAS ATTORNEY GENERAL	§	
<i>Defendants.</i>	§	EL PASO COUNTY, TEXAS

TEMPORARY RESTRAINING ORDER

On this day, the Court considered Plaintiff Powered by People’s Application for Emergency Temporary Restraining Order. Having reviewed the verified pleadings and exhibits and having held a hearing on the matter, the Court finds that immediate and irreparable injury will result absent a restraining order. Therefore, the Court issues the following Temporary Restraining Order to preserve the status quo until a hearing on Plaintiff’s Application for Temporary Injunction may be held. The Court issues this Order to prevent imminent, irreparable injury, and this Order expressly is not a ruling on the merits or a ruling on the Court’s jurisdiction. Defendants’ Plea to the Jurisdiction is held open for further consideration by this Court. Plaintiffs filed a response brief on the Plea to the Jurisdiction on August 18, 2025. Defendants may submit a reply within 7 days of today’s order. The court further finds and concludes as follows:

Required factual findings and conclusions of law:

1. Based on the verified record, Plaintiff has shown a probable right to relief on its constitutional claims arising from Defendant’s actions, including the challenged Request to Examine (“RTE”) served August 6, 2025, demanding sensitive information on an

abbreviated timeline, and Defendant's stated intent to imminently institute and prosecute quo warranto proceedings in Tarrant County.

2. Absent immediate restraint, and as more fully set out below, Plaintiff will suffer violations of its constitutional rights—including rights of political speech and association and equal protection under the law—which constitute irreparable injury not compensable by monetary damages. These violations include outright restraint on protected speech as well as retaliatory and chilling court processes in improper venues.
3. Further, temporary restraint is appropriate because Defendants' proposed course of action poses a severe risk of improper proceedings that would jeopardize the Court's jurisdiction to afford effective relief.
4. The threatened harms are immediate; entry of this Order is necessary to prevent the harms before they occur and to preserve the Court's jurisdiction to hear and decide the merits.
5. These findings are made pursuant to Texas Rule of Civil Procedure 680 and the Court's equitable authority. The acts restrained are described in reasonable detail below.

Additional factual findings and conclusions of law:

6. Plaintiff, Powered by People, is a Texas nonprofit corporation. It operates as a political organization pursuant to 26 U.S.C. § 527(e)(1) for the purpose of "directly or indirectly accepting contributions or making expenditures, or both" to influence elections.
7. Powered by People's principal place of business is in El Paso County; all members of its Board of Directors reside in El Paso County; and none of its staff reside in Tarrant County.
8. On August 6, 2025, Defendant launched an investigation and served Powered by People board members David Wyson and Gwen Pulido in El Paso with an RTE. The RTE demanded a broad range of internal materials—including strategy and communications—

on fewer than 48 hours' notice. The State gave no specific justification for the abbreviated deadline or the RTE itself. It demanded these extensive records within 48 hours while publicly announcing the investigation in a press release.

9. Defendant Paxton has publicly identified Mr. O'Rourke as a prospective opponent in the 2026 U.S. Senate race, and has already used the prospect of running against Mr. O'Rourke in a fundraising appeal.
10. The RTE expressly threatened that failure to comply could result in revocation or termination of the organization's registration or certificate of formation through an information in the nature of quo warranto.
11. Defendant Paxton admitted at or around that time that he did not have "details" to support his allegations, but planned to use this "investigation" to "find out if [Powered by People] has done anything inappropriate," pointing explicitly to Plaintiff's recent political speech, organizing and advocacy. Nevertheless, Defendant Paxton publicly characterized his potential future political opponent's protected political activity as "Beto Bribes."
12. Powered by People requested an extension of twenty days, which Defendants denied. Powered by People then requested a ten-day extension, to which Defendants did not respond.
13. Rather than responding to Powered by People's reasonable request for extension, Defendants abruptly headed to Tarrant County, Texas to institute an ex parte legal proceeding against Powered by People. Despite knowing for days that Powered by People was represented by counsel--given that counsel for Powered by People requested the two extensions--Defendant did not inform the undersigned counsel of an imminent

“emergency” *ex parte* TRO filing and hearing until almost four hours later, and minutes before it filed.

14. On August 11, 2025, Defendant announced his intention to seek a writ of quo warranto against Powered by People for the purpose of revoking the organization’s charter and ability to do business in Texas.
15. Since that time, Defendant has publicly threatened to jail Powered by People’s founder for engaging in political speech such as “support these brave Texas Democrats.”
16. A quo warranto proceeding prosecuted in Tarrant County would immediately force Plaintiff’s El Paso-based officers, employees, and records custodians to defend and respond in a distant forum, diverting time and resources from ongoing political organizing and speech. Plaintiff is a nonprofit political organization that sells no goods or services and exists to promote political association and speech; restraint of its political speech and diversion of its limited staff and volunteer resources is non-compensable.
17. Defendant has not presented any allegations or evidence to demonstrate that venue would be proper for its threatened enforcement action in Tarrant County. Rather, Defendant’s action is part of a larger course of attempting to use the legal system to impinge on Powered by People’s constitutionally protected activity.
18. The specter and pendency of a charter-revocation action in an improper forum threatens Plaintiff’s ability to maintain its operations statewide, undermines confidence among volunteers and partners, and chills ongoing political activity both in the form of speech (contributions, expenditures, and fundraising) and association with likeminded individuals. These constitutional harms cannot be remedied by damages after the fact.

19. Defendants' entire course of conduct exhibits a purpose and effect of singling out one organization for targeted enforcement based solely on that organization's protected constitutional activity--to wit, its support for Democratic political causes and opposition to Republican political causes. In particular, Defendant has targeted Powered by People for its support for Texas Democratic lawmakers who are opposing a current proposal at the Texas Legislature. Defendant has further exhibited a purpose and effect of targeting Powered by People because its founder is a potential political opponent. As numerous courts have recognized, the state and federal constitution protect an individual's ability to seek political office.
20. Defendant's enforcement actions and public conduct associated with those enforcement actions, including its threatened quo warranto proceeding, demonstrate that Plaintiff has stated a probable right to relief under the Equal Protection Clauses of the Texas and United States Constitutions.
21. Powered by People acted in a timely manner to seek relief from this Court to restrain Defendant from continuing to subject it to chilling and selective enforcement actions. Powered by People sought relief from this Court prior to the institution or attempted institution of any quo warranto proceedings in Tarrant County.
22. Powered by People is currently suffering irreparable constitutional harm from Defendant's enforcement actions. Forcing Powered by People to defend a quo warranto action in an improper venue would cause additional irreparable harm for which money damages cannot provide full relief.

It is, therefore, ORDERED that, pending further order of this Court or expiration of this

Order:

Defendant is restrained and enjoined from initiating, filing, or prosecuting any quo warranto proceeding against Powered by People (or its officers, directors, or founders) without leave of this Court or leave of another El Paso County District Court. Nothing in this Order is intended to bind any court; rather, it binds Defendant and those in active concert or participation with him.

Security

As security for this Order, Plaintiff shall post a bond in the amount of \$500.00 with the Clerk of this Court, conditioned as the rules require, on or before August 22, 2025. The Court sets the bond at a nominal amount in light of the non-pecuniary nature of the harm and the lack of any demonstrated monetary injury to Defendant.

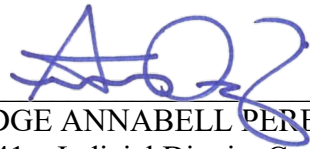
Setting and Notice of Temporary Injunction

Hearing on Temporary Injunction. The Court sets Plaintiff's Application for temporary injunction for hearing on August 29, 2025 at 8:30 a.m. MST in the courtroom of the 41st Judicial District Court, El Paso County, Texas. Defendant may appear and show cause why a temporary injunction should not issue.

Effective Date and Duration

This Temporary Restraining Order takes effect upon signing and shall expire 14 days thereafter, on September 2, 2025 unless extended by the Court for good cause, by agreement of the parties, or until it is superseded by a temporary injunction.

SIGNED on 19th day of August, 2025 at 2:10 p.m.(MST).



JUDGE ANNABELL PEREZ
41st Judicial District Court

CAUSE NO. 348-367652-25

THE STATE OF TEXAS

Plaintiff,

v.

ROBERT FRANCIS O'ROURKE and
POWERED BY PEOPLE

Defendants.

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

348th JUDICIAL DISTRICT

**THE STATE'S REQUEST FOR AN EMERGENCY TEMPORARY
RESTRAINING ORDER AND TEMPORARY INJUNCTION**

EXHIBIT N

From: [Rob Farquharson](#)
To: MMARZIANI@MSGPLLC.COM; bstevens@msgpllc.com; jgonzalez@msgpllc.com
Cc: [Johnathan Stone](#); [Abby Smith](#); [Clayton Watkins](#); [Emily Samuels](#); [Pauline Sisson](#)
Subject: State v. O'Rourke; Discovery
Date: Wednesday, August 20, 2025 11:39:39 AM
Attachments: [image001.png](#)

Mimi and Beth:

Thanks again for your time this morning.

To confirm our conversation, we understand that you do not yet have a count of responsive expedited discovery materials, but that you are gathering that now and will be meeting with Mr. O'Rourke today to confirm deposition availability for he and a corporate rep. We also understand that, in light of the new El Paso TRO, you are planning to seek discovery and depositions from our office through that case.

With respect to the expedited discovery that has been ordered by Tarrant County, as Johnathan mentioned on the call, once you have a count on the number of materials that are responsive to each of the production categories, we'd like to keep the dialogue open so that we can refine search terms and try to ask for your pre-production review efforts to be prioritized in certain areas.

As a final request, can you plan to give us an update on the collection before noon tomorrow?

Thanks,

Rob



Rob Farquharson
Deputy Chief
Consumer Protection Division
Office of the Attorney General of Texas

CAUSE NO. 348-367652-25

THE STATE OF TEXAS

Plaintiff,

v.

ROBERT FRANCIS O'ROURKE and
POWERED BY PEOPLE

Defendants.

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

348th JUDICIAL DISTRICT

**THE STATE'S REQUEST FOR AN EMERGENCY TEMPORARY
RESTRAINING ORDER AND TEMPORARY INJUNCTION**

EXHIBIT O

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CAUSE NO. 348-367652-25

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
vs.	§	TARRANT COUNTY, TEXAS
	§	
ROBERT FRANCIS O'ROURKE and	§	
POWERED BY PEOPLE	§	
	§	
Defendants.	§	348TH JUDICIAL DISTRICT

Plaintiff's Emergency Motion to Modify Temporary
Restraining Order

Plaintiff's Opposed Emergency Request for an Expedited
Discovery Scheduling Order

Defendants' Emergency Motion to Transfer Venue

On the 14th day of August, 2025, the following
proceedings came on to be heard in the above-entitled
and -numbered cause before the Honorable Megan Fahey,
Judge Presiding, held in Fort Worth, Tarrant County,
Texas.

Proceedings reported by machine shorthand
method.

Pennie Futrell, CSR,
Official Court Reporter
348th Judicial District Court
Tarrant County, Texas

A P P E A R A N C E S

FOR THE PLAINTIFF:

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Ms. Abigail Smith
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(None)

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PLAINTIFF'S EXHIBIT
NO. DESCRIPTION

OFFERED ADMITTED VOL.

1 Flash drive containing video
of rally

22 24

DEFENDANTS' EXHIBIT
NO. DESCRIPTION

OFFERED ADMITTED VOL.

(None)

P R O C E E D I N G S

Thursday
August 14, 2025
11:02 a.m.

THE BAILIFF: All rise.

THE COURT: Thank you very much. Please
be seated.

Okay. We're here in Cause Number
348-367652-25, State of Texas vs. Robert Francis
O'Rourke. Would the attorneys please make their
appearances?

MR. FARQUHARSON: Yes, Your Honor. This
is Rob Farquharson, with my co-counsel Abigail Smith, on
behalf of the State of Texas.

THE COURT: Thank you very much.

MR. QUESADA: Your Honor, we have
Ms. Beth -- Rebecca Stevens, Mr. Joaquin Gonzalez,
Rebecca Neumann, and I'm Tex Quesada here on behalf of
the defendants.

THE COURT: All right. Thank you very
much.

I believe we have three motions set for
hearing today, two for the plaintiff and one for the
defendants. Where would y'all like to start?

MR. QUESADA: From my perspective, it
probably makes sense to start with the motion to

1 transfer venue.

2 MR. FARQUHARSON: I agree.

3 THE COURT: Okay.

4 MR. QUESADA: If it's okay with the
5 Court, I was going to present the argument on the motion
6 to transfer venue, and let Mr. Gonzalez make the
7 argument about modifying the TRO.

8 THE COURT: Okay. That's great.

9 Would you please stand at the lectern and
10 speak into the microphone? It would really help the
11 court reporter.

12 Yes, sir.

13 MR. QUESADA: Your Honor, this case
14 started in El Paso. This proceeding started in El Paso,
15 and that's where it belongs. The Court may recall that
16 the proceeding begins with delivering a letter demanding
17 records, et cetera, in El Paso.

18 Responding to that, there was a -- a
19 motion under 176, a petition under 176, that was filed
20 there. And, after that, the state decided to refile
21 here.

22 Let me start first by explaining that we
23 believe that the mandatory venue provision requires this
24 case to go back to El Paso.

25 Suits for injunction under the Civil

1 Practice and Remedies Code have a mandatory venue
2 provision. Absolutely, positively suit must be filed
3 and maintained only in the county of the defendant's
4 domicile. Everyone agrees that that domicile, that
5 residence, is El Paso County, both for the company, both
6 for the organization, and for Mr. O'Rourke.

7 How do we tell when the pleading asks for
8 different things? It's pretty simple.

9 The Fort Worth Court of Appeals says that
10 you look to the plain language of the petition and see
11 what they asked for, the plaintiff, and see how they
12 asked. That case is cited in our paperwork, and that is
13 the Fort Worth Court of Appeals, confusingly named, In
14 re Dallas. It is a 1998 opinion, but it involves DFW
15 Airport, so I'm going to refer to it as the DFW Airport
16 case.

17 And, in that case, there were claims
18 brought for a declaratory judgment and injunctive
19 relief. The argument for the motion to transfer
20 venue -- it turned into a mandamus -- is that this
21 really was a request for an injunction, and so shouldn't
22 it be in the county of -- in another county.

23 The Fort Worth Court of Appeals says it's
24 pretty simple. You look to the relief sought and see
25 what they're asking for.

1 Now, that case gets echoed in a 2020
2 Texas Supreme Court opinion called Fox River. Now, the
3 Fox River case involved a suit over corporate
4 governance. And, in that case, they asked for so-and-so
5 to be removed as an official within that organization --
6 that was part of the declaratory judgment -- but also
7 asked for injunctive relief.

8 In that case, the Texas Supreme Court
9 looks to the follow-up from the DFW case and says you
10 look to the paperwork to see what they were asking.
11 And, in that case, the -- the Texas Supreme Court says
12 you look to see what they were requesting.

13 There's another Texas Supreme Court case
14 that -- that is -- pre-stages that, and that is Brown
15 vs. Gulf Television. That's a 1957 case, and it goes
16 the other way. And here's what happens in the Brown --
17 in the Brown-Television case -- the Brown vs. Gulf
18 Television case. There was a suit for injunctive relief
19 and damages. Which is it? Is it an injunctive relief
20 case or is it a damages case? Because if it is
21 injunctive relief, it's mandatory venue. And if it's
22 damages, it's not.

23 The Texas Supreme Court in the 1950s,
24 later in 2020, just like the Fort Worth Court of
25 Appeals, says you look to the pleadings to see what the

1 plaintiff is asking for. Okay. Well, let's do that.

2 When we -- the state says that we should
3 focus on the amended petition. If we do that, if we
4 look at the amended petition, what is it that the state
5 asks for? After you get past the first recitals, the
6 first rattle out of the box, on page 2, the state says
7 injunctive relief is necessary to prevent, et cetera, et
8 cetera, et cetera.

9 And, Your Honor, that -- that's not my
10 pleading. That's nothing the Court generated. That's
11 what the State of Texas says, first rattle out of the
12 box, injunctive relief is -- is necessary. It goes on,
13 in the same paragraph, that they filed this request for
14 -- for temporary and permanent injunctions.

15 Now, the Supreme Court says maybe, if
16 you're only asking for a temporary injunction, it's not
17 really injunctive relief. But if you're asking for a
18 permanent one, it certainly is. That is repeated in the
19 Fox River case.

20 And here the state asks for -- in its
21 amended petition, it asks for permanent injunctive
22 relief. So it does that at the beginning of its amended
23 petition. It does it again at the end. The courts are
24 very clear, the opinion is very clear, that you should
25 look to the relief sought.

1 Okay. When we go to the relief sought in
2 this petition, in this live petition -- it's on page 14
3 of their material -- prayer for relief, A, temporary and
4 permanent injunctive relief.

5 How long is the injunctive -- what type
6 of injunctive relief? In this context, they're asking
7 to prevent the organization, prevent Mr. O'Rourke from
8 funding payment of the fines provided by the Texas House
9 rules for unexcused legislative absences.

10 How long is that injunction requested
11 for? It doesn't say. It says that it's permanent. It
12 doesn't say only during the special session, only during
13 the next legislative session, only during the term of
14 this attorney general or the governor or -- it doesn't
15 say at all. It says only -- it asks only for a
16 permanent injunctive relief, which is exactly what Fox
17 River says you look to to determine whether or not it's
18 really mainly injunctive or something else.

19 What's the next thing the state asks for?
20 It's in subpoint B on page 14 of the material. It asks
21 for temporary and permanent injunctive relief from
22 doing -- from soliciting funds through a website or a
23 platform. We'll come back to that, because it matters,
24 in just a moment.

25 But, again, the term of that requested

1 permanent injunction is not limited in any way, shape,
2 or form. It's not limited to the time during the
3 special session. It's not limited to the time of the
4 next session or the next session or the next session.

5 They -- the state asks for permanent
6 injunctive relief. They do the same thing in subpoint
7 C. And they explain, later on, we didn't really mean it
8 in subpoint C. Regardless, when the state comes out and
9 asks for permanent injunctive relief in the beginning of
10 the document, at the end of the document, as the primary
11 requests under the prayer for relief, the very first
12 two, it's clearly -- it is clearly a request for an
13 injunction.

14 Now, the state says, well, but we'd
15 really like some damages, too. Look, we're going to ask
16 for a million dollars in damages.

17 First of all, there's absolutely nothing
18 in the pleadings indicating that -- that it would be
19 entitled to a million dollars in damages. It says that
20 in its response. It doesn't say it in its pleadings.

21 The fines or the penalties under the DTPA
22 are limited to, I think, \$10,000 per transaction.
23 Nowhere near the figure that is claimed. But the point
24 I think -- by the way, the same is true with the
25 original petition. The original petition was a petition

1 for injunctive relief. And the original petition asks
2 for the same thing: Permanent injunctive relief.

3 Now, I will tell you, venue law is
4 confusing in the sense that we are told that we should
5 look to the facts at the time the lawsuit is filed. And
6 there's some case law that says you can also look at the
7 amended petition. Those are, obviously, two different
8 things.

9 But it doesn't matter here. It doesn't
10 matter here because the state asked for permanent
11 injunctive relief in both of their petitions, the first
12 one and the amended petition, and that makes it a suit
13 for injunctive relief. And, as such, venue is --
14 according to the Fort Worth Court and the Supreme Court,
15 venue is mandatory in the -- in the county where the
16 defendants reside.

17 What about the general venue statute?
18 What about a claim that a substantial part of the cause
19 of action accrued here in -- in Tarrant County? Tarrant
20 County is not a county where a substantial part of the
21 allegedly violative conduct occurs.

22 There's an interesting case out of the
23 15th Court of Appeals, a brand-new Court of Appeals out
24 of Austin. They were complaining about actions taken in
25 Harrison County, way out in East Texas. I think it

1 was -- it was not a DTPA case, Your Honor. I think it's
2 a False Claims Act case, which is pretty close.

3 And the claim went something like this:
4 You have violated this consumer protection or this --
5 this antifraud statute by indicating to people in
6 Harrison County that, if they go to your website, your
7 platform, kind of like Power -- kind of like ActBlue, if
8 you go to their platform, we will give you a discount on
9 nursing services. And that ran afoul of some -- some of
10 the consumer protection statutes. Fine.

11 The 15th Court of Appeals says it doesn't
12 work that way. In construing the claim under the False
13 Claims Act, the Court determined that sufficient facts
14 to support venue required that a person not only be able
15 to access the website in a particular county, but also
16 expect to receive something from the defendant as a
17 result.

18 Even if -- there was no evidence -- in
19 that case, there was no evidence that -- that anyone in
20 Harrison County received or was going to receive
21 anything as a result of going to that website. The
22 Court of Appeals says, listen, if you're -- if you
23 really are just talking about websites or platforms,
24 under that argument, any county in the state would
25 always be a proper county, and that is not what the law

1 says.

2 In this case, there is absolutely no
3 indication that all of these causes of action, certainly
4 not the ones in the original petition nor in the -- in
5 the amended petition, had any connection to Tarrant
6 County. There's no evidence that anyone in Tarrant
7 County received anything in return for receiving a
8 political donation, there's no -- regardless of whether
9 that solicitation originated in Tarrant County.

10 There's no evidence that the defendants
11 promised any goods or services to anyone in Tarrant
12 County, conducted any transactions in Tarrant County.
13 Even assuming that a political contribution was made in
14 or from Tarrant County, there's no indication that there
15 were any goods or services or anything else provided to
16 anyone in Tarrant County.

17 Now, that's the -- that's the most recent
18 explanation we have from a Court of Appeals of what it
19 -- what requires to be part of -- or what it requires in
20 order to prove that a -- or to at least allege that a
21 substantial part of the causes of action accrued in a
22 particular county. And there is no indication that that
23 is the case. None whatsoever.

24 Well, what about the other venue
25 provisions? There's an argument that, well, they --

1 they must have been doing business in Tarrant County.
2 Now, that's interesting because doing business in a
3 particular county is another section of the DTPA that
4 provides venue.

5 Well, what does doing business in Tarrant
6 County mean? It means conducting transactions in
7 Tarrant County.

8 Well, how do we know that? Because early
9 on in the development of the DTPA, there was litigation
10 over what counted as business -- doing business. And
11 it's pretty clear that in order to do business in a
12 county, you must engage in transactions.

13 The San Antonio Court of Appeals faced
14 that. The question was whether or not selling a
15 hospital insurance policy in Frio County was enough to
16 be doing business. They said yes, yes, it is enough to
17 do business because that's a transaction that occurred
18 in the county.

19 The Supreme Court takes that case,
20 assigns it a writ ref'd n.r.e. history, and writes an
21 opinion, also, that says, yes, the San Antonio court
22 gets it right. You have to have -- if there is a
23 transaction in the county, that's enough under the DTPA
24 for doing business.

25 But we have none of that, none of that

1 here. None -- there's absolutely no indication that
2 that happens here.

3 El Paso is certainly the proper county.
4 That's what the statute authorizing quo warranto
5 proceedings talks about is filing it in the proper
6 county. It makes it sound almost jurisdictional or
7 mandatory.

8 At any rate, it doesn't say, "a county"
9 or "some proper county" or "one of the proper counties."
10 It does say, "the proper county." And there's
11 absolutely no dispute that El Paso is probably the
12 proper county for this sort of thing. That's where the
13 organization is headquartered. There's -- there's
14 evidence that that's where the decision-makers are.
15 That's where Mr. O'Rourke is -- that is his residence.
16 That is in El Paso County.

17 And what else happens in El Paso County?
18 That's where the state starts everything. In this
19 proceeding, the state started the proceeding in El Paso
20 County by initiating a request for information.

21 The El Paso County court -- or the court
22 in El Paso County, in my understanding, is going to wait
23 for Your Honor to make a decision on the motion to
24 transfer venue, and we're waiting for that.

25 Now, sometimes the state says, well, you

1 know what? You didn't make any specific denials, and
2 so it doesn't count.

3 Well, there are specific denials that are
4 contained in our motion to transfer venue. We deny
5 having engaged in any sort of business or transaction in
6 Tarrant County. We indicated that there were no
7 transactions here. We indicate that no one's domiciled
8 here, that the headquarters are not here, et cetera, et
9 cetera. Once that happened, the burden shifts to the
10 state.

11 Now, why do we not have an affidavit from
12 someone saying these transactions, this conduct occurred
13 in Tarrant County? That's not my decision. It's not
14 Your Honor's decision. That's the state's decision.
15 Once there is a denial of those claims, it is the
16 state's burden to put evidence before you and in the
17 record indicating that they have evidence that these
18 transactions occurred in Dallas -- in Tarrant County,
19 that the transactions had anything to do with, well,
20 what the claims are based on.

21 There is no harm in sending this case to
22 El Paso. That's where it originated. That's where the
23 witnesses are. That's where the headquarters are.
24 That's where the state started it.

25 Your Honor, that's mandatory venue, is

1 the proper county, and we believe the case should go
2 back to El Paso County.

3 THE COURT: Thank you very much.

4 From the plaintiff?

5 MR. FARQUHARSON: Good morning. May it
6 please the Court.

7 I want to start off: Your Honor, there's
8 a suggestion that we filed something in El Paso before
9 this lawsuit. That is not -- if that was a suggestion,
10 that is not true. In the event that the Court has not
11 got it, yesterday the state filed an advisory regarding
12 the 41st Judicial District Court's order. I have a
13 copy.

14 THE COURT: I've seen it.

15 MR. FARQUHARSON: Okay.

16 THE COURT: Yes.

17 MR. FARQUHARSON: So I assume you've also
18 seen the state's response, which was also filed
19 yesterday --

20 THE COURT: Yes.

21 MR. FARQUHARSON: -- in the afternoon.

22 THE COURT: It came through this morning.

23 MR. FARQUHARSON: Great.

24 Then the last thing that I will offer to
25 the Court is a declaration that was filed this morning

1 from an investigator on behalf of the Office of the
2 Attorney General.

3 May I approach?

4 THE COURT: Yes, sir.

5 MR. FARQUHARSON: So, before we begin,
6 the declaration that I've just provided to the Court, I
7 want to explain that.

8 In light of the expedited scheduling of
9 this motion to transfer venue and the fact that we just
10 received the latest supplemental filing from the
11 defendants on the venue issue less than 12 hours ago, I
12 would like to note that we filed this document. And it
13 contains the links to two videos. One is of the -- of
14 the Fort Worth rally, and the other one is of an
15 interview between Defendant O'Rourke and California
16 Governor Gavin Newsom.

17 The relevant portion of the interview
18 with Governor Gavin Newsom starts at about 3 minutes and
19 29 seconds. I don't believe that the authenticity of
20 either of these videos could be reasonably disputed, and
21 so we'd like to offer them for the Court's
22 consideration.

23 MR. QUESADA: I do object, having not
24 seen them. I think that they contain hearsay. But,
25 other than that, I -- I cannot -- I cannot stipulate to

1 the authenticity, and I don't know what all is on them.

2 THE COURT: Okay.

3 MR. QUESADA: I've made my objection. I
4 just didn't want it to go unchallenged.

5 THE COURT: Thank you very much.

6 How are you intending to offer them to
7 the Court? Are you looking for Plaintiff's Exhibits 1
8 and 2? Do you have them on a thumb drive?

9 MR. FARQUHARSON: If -- if we want to
10 enter them into evidence, I do have the video of the
11 Fort Worth rally on a thumb drive. I do not have the
12 interview with Governor Newsom on a flash drive. I
13 think it is sufficient for the Court's consideration
14 that we have a link. I think that, obviously, we have
15 to -- the evidentiary rules have to be relaxed here;
16 otherwise, it's impossible for us to respond to a filing
17 from midnight last night.

18 THE COURT: Sure. I'm going to allow you
19 to play them. My concern is just making sure that we
20 preserve it for purposes of appeal, which I think is
21 probably important in this case --

22 MR. FARQUHARSON: Yes.

23 THE COURT: -- as in any case, but I may
24 not be the only judge reviewing this material.

25 MR. FARQUHARSON: I do not -- I do not

1 intend to -- I'll make references to them. It is not my
2 intention to play them in full for the Court today. But
3 if we want to --

4 THE COURT: Well, my concern --

5 MR. FARQUHARSON: Maybe it makes sense
6 for me to offer the thumb drive of the video. I'll
7 offer the thumb drive of the video of the Fort Worth
8 rally because that is the longer of the two videos. And
9 I think that the portion of the interview with Governor
10 Newsom is capable of being played in full here in the
11 courtroom today.

12 THE COURT: Okay. I just want to make
13 sure that if these links go down that another judge
14 that's trying to review this has this material
15 available.

16 Okay. So --

17 MR. FARQUHARSON: So, with that, I will
18 represent that this flash drive contains the video of
19 the Fort Worth rally hosted by Powered By People on
20 August 9. And we'll offer it to the Court, into
21 evidence.

22 (Plaintiff's Exhibit 1 offered.)

23 THE COURT: Okay. Defense, you can make
24 your objections.

25 MR. QUESADA: Yes, I -- I -- and I would

1 also -- I would suggest this as well, Your Honor: Under
2 the rule of optional completeness, if they're going to
3 play part of it, I think they have to play all of it.
4 And I don't think -- that's -- that has to do with what
5 is -- what I believe to be on the flash drive.

6 With regards to the other one that is the
7 link, I don't know that that's been offered. And I
8 don't know, if it is offered, if this is a proper way to
9 do it. I would object to the authenticity of the second
10 one, the interview with Newsom.

11 And, again, if they're going to play some
12 portion of that or offer some portion of it, we would
13 expect the whole thing be offered.

14 MR. FARQUHARSON: Your Honor, may I
15 respond in two ways?

16 THE COURT: Yes.

17 MR. FARQUHARSON: The first is, if they
18 want the expedited hearing, then they're going to have
19 to allow us to enter evidence. They cannot deprive
20 us -- deprive us of our ability to offer evidence to the
21 Court.

22 The second item that I'll -- I'll offer
23 to the Court is that I'll represent that the -- the
24 video on the flash drive is the full Fort Worth rally.
25 There -- it is not cut.

1 THE COURT: Okay. I'm going to go ahead
2 and admit the full thumb drive of the rally as
3 Plaintiff's Exhibit 1.

4 (Plaintiff's Exhibit 1 admitted.)

5 THE COURT: Certainly, this was granted
6 on a very expedited and quick basis, at the defendants'
7 request, so we're having to deal with that at this
8 point.

9 If you want to play any part of that
10 rally -- I assume you've probably seen the whole rally.
11 I'm going to let the plaintiff play what portion they
12 think is relevant. If there's any other portion you'd
13 like to play, that's fine. And we can play the full
14 other YouTube of the second one. And, that way, it's
15 part of the record.

16 MR. QUESADA: I understand. Thank you,
17 Your Honor.

18 THE COURT: Okay. To the extent I need
19 to, the objections are overruled.

20 Okay. You may continue.

21 MR. FARQUHARSON: Thank you, Your Honor.

22 So I'll move to the substantive legal
23 points now. The fundamental question before this Court
24 is whether the specific venue provision that is set
25 forth in the Deceptive Trade Practices Act, which we

1 discussed on Friday is Section 17.47(b), prevails over
2 the general venue statute for injunctions in the Civil
3 Practice and Remedies Code Section 62.023.

4 Section 17.47(b) is a specific venue
5 statute that only applies to the attorney general and
6 only applies to the attorney general in deceptive trade
7 practices lawsuits.

8 The Civil Practice and Remedies Code
9 provision is a general venue statute that relates to
10 suits where the primary relief sought is an equitable
11 injunction.

12 So, in the first instance, I'll just note
13 that a DTPA injunction is not an equitable injunction.
14 It is a statutory injunction that is provided by
15 17.47(b).

16 As a matter of basic statutory
17 interpretation, the answer here is that 17.47 prevails.
18 And I'd like to offer the Court a case that did not make
19 its way into our briefing. And I will tender a copy to
20 opposing counsel.

21 May I approach?

22 THE COURT: Yes, sir.

23 MR. FARQUHARSON: This case is Fourco
24 Glass Company vs. Transmirra Products, and it is a
25 United States Supreme Court cite at 7 -- 77 S.Ct. 787.

1 I've highlighted the portion at the end of the -- of the
2 document that is most relevant to the Court's
3 consideration.

4 And that case, like the one here,
5 considered a conflict between the generic venue statute
6 and a venue statute that was specific to patent
7 lawsuits.

8 What the Court held -- and -- and that
9 language is highlighted. I believe it's on page 4. It
10 held that the specific venue statute prevailed over the
11 general venue statute.

12 Importantly, here, the defendants do not
13 dispute that Section 17.47 is the, quote, in their --
14 their words, "more specific venue statute." And that is
15 in their motion to transfer venue at page 2.

16 Beyond the -- the specificity issue, the
17 venue provision of 17.47 must prevail over the generic
18 venue provision in 62.03 for a wholly separate matter of
19 statutory construction. That is, that if all
20 injunctions that are -- including those that are brought
21 by the Attorney General's Consumer Protection Division,
22 must flow through 62.023, then 17.47's venue provision
23 is meaningless.

24 That's because 17.47 exists for the
25 exclusive use of the Attorney General's Consumer

1 Protection Division in deceptive trade practices
2 lawsuits. And the Consumer Protection Division exists
3 to keep Texas corporations in check. That's established
4 by Texas statutes, and it's a constitutional duty of the
5 Texas Attorney General.

6 Those -- those duties are created by the
7 Government Code, 402.023, and Article 4, Section 22 of
8 the Texas Constitution, both of which provide that,
9 quote, "The attorney general shall," quote, "take --
10 take such action in the courts as may be proper and
11 necessary to prevent any private corporation from
12 exercising any power not authorized by law."

13 Defendants' argument that Section 17.47
14 yields to 62.023 is incorrect, and it misses the point.
15 The issue here has been framed by defendants as a matter
16 of permissive versus mandatory venue. But we don't even
17 get there because the first step in the analysis is is
18 it a -- is it a generic venue statute or a specific
19 statute. Because if it's specific, we start there.
20 That's where we have to go.

21 Similarly, for the same reason, the issue
22 about whether our suit is primarily a suit for
23 injunctive relief also never comes up. But, even if it
24 did, I represent to the Court that our petition
25 demonstrates that the primary purpose of our -- of our

1 lawsuit is civil penalties. It is not injunctive
2 relief. And I think that, if the Court will look at our
3 prayer, our prayer very thoughtfully goes through and
4 divides the places where -- where temporary injunctive
5 relief is sought and where permanent injunctive relief
6 is sought.

7 We are dealing a lot with injunctive
8 relief right now, and we did on Friday, because
9 injunctive relief is necessary to get -- get the parties
10 back on track and make sure that the law is followed.

11 I also want to point out some
12 distinctions with what opposing -- with the cases that
13 opposing counsel offered. Those cases were, in the
14 first instance, not deceptive trade practices cases.
15 They were cases that concern lawsuits for both
16 declaratory and/or injunctive relief.

17 Here, the primary suit is, as I said,
18 civil penalties. And opposing counsel also referenced
19 suits for damages. It's important. And I -- as
20 somebody who practices in the consumer protection space,
21 I see -- I see that it is not always appreciated, but
22 damages and civil penalties are distinct. And I'll
23 offer the -- the Court the citation of Nazari v. State,
24 561 S.W.3d 495. That's a Texas Supreme Court case, and
25 that demonstrates that civil penalties are not equal of

1 damages.

2 Now, beyond the conflict that exists
3 between 17.47 and 62.023, I think, as my friend on the
4 other side's argument highlighted, the real arguments
5 that -- that the motion to transfer raises are quibbles
6 about the applicability of the Deceptive Trade Practices
7 Act. They're not venue arguments. These are arguments
8 that should be made in a 91a motion to dismiss, or they
9 should be made in a motion for summary judgment, but
10 they're not about venue.

11 And what do I mean by that? Prior to
12 midnight last night, the only -- the only affidavit that
13 was on file with respect to -- well, not the only; there
14 was one from the attorney. But there was an affidavit
15 on file from David Wysong -- or a declaration from David
16 Wysong. The only relevant portion of the declaration to
17 venue is Section 5.

18 And I want to note, at the outset, that
19 the declaration concedes that they -- that defendants
20 engaged in fundraising in Tarrant County on August --
21 August 9, as the state alleges. I'll point the Court to
22 paragraph 5b of the declaration. That ends the inquiry.
23 They admitted that they engaged in fundraising in
24 Tarrant County, Texas.

25 The real thrust of the declaration,

1 though, as I said, is arguments about whether the type
2 of conduct that underlies this lawsuit is conduct that
3 the Deceptive Trade Practices Act actually prohibits.

4 Specifically, the declaration from
5 Mr. Wysong narrowly disputes that they did not, quote,
6 "sell any goods or services." The supplemental denials
7 that were filed last night use the term -- use different
8 variations of referencing defendants' transactions in
9 Tarrant County as not, quote/unquote, DTPA-covered
10 transactions. So they -- what they dispute is that they
11 did not sell any goods or services in Tarrant County,
12 and they -- and they dispute that they did not engage in
13 any, quote/unquote, DTPA-covered transactions in Tarrant
14 County. They do not, as opposing counsel suggested,
15 dispute that they did not engage in any transactions in
16 Tarrant County or solicit transactions in Tarrant
17 County.

18 And I'll also point out that defendants
19 know that this case is not about a sale. This -- this
20 case is about donations and solicitations of donations.
21 We know that they know this because it's in their -- the
22 motion that was filed last night in response to our
23 motion to modify and their -- and an untimely motion to
24 dissolve. And that's at page 17 of the filing from last
25 night.

1 But this argument about whether or not
2 goods or services are at issue and whether or not there
3 was a sale at issue, it persists throughout all of the
4 briefing that the defendants have put together. And the
5 DTPA is simply not -- not limited -- in the most glaring
6 respect, it's not limited to sales. So the fact that
7 they say we didn't sell anything in Tarrant County,
8 well, that's not what the Deceptive Trade Practices Act
9 prohibits. The Deceptive Trade Practices Act prohibits
10 false, misleading, or deceptive acts or practices in the
11 conduct of trade or commerce.

12 So that's to say that -- that, for
13 example, a -- a deceptive advertisement that results in
14 those sales, for example, could still result in a
15 deceptive trade practices act by the Consumer Protection
16 Division.

17 Aside from -- from the fact, though, that
18 17.47 prevails over 62.023 and the fact that the
19 arguments about venue are -- are really poorly disguised
20 substantive arguments, the motion also fails for a third
21 reason, and that's because it does not specifically deny
22 the state's venue allegations. This is true for two
23 reasons.

24 First, as I highlighted with respect to
25 Mr. Wysong's declaration, the motion's, quote/unquote,

1 specific denials are really just broad statements that
2 are disconnected from the actual venue allegations in
3 the state's first amended petition. And, obviously,
4 courts have held that -- that broad allegations are not
5 specific denials.

6 Second, to the extent that -- that they
7 attempt to go beyond broad statements, these are
8 legal -- what was filed last night is legal denials. It
9 is not factual denials. Stating that somebody did not
10 participate in any DTPA-covered transactions, that is a
11 legal conclusion. That is not a specific factual
12 denial.

13 And so, to that end, opposing counsel
14 asked the question: Why -- why no affidavits? The
15 answer is that the latest, quote/unquote, specific
16 denial was filed less than 12 hours ago. And, in
17 response to that, we've -- we've offered the declaration
18 of Ms. Gina McDonald that was prepared this morning.
19 And opposing counsel has objected to the consideration
20 of that document.

21 So because they've not -- they have not
22 made specific denials, the burden never shifts to the
23 state. Even if it did, however, defendants' own video,
24 which is Exhibit 1, a video of the Fort Worth rally,
25 establishes venue.

1 The last point that I want to make about
2 venue is I want to correct a misstatement of the law
3 that was made in opposing counsel's briefing. And this
4 is their motion to transfer at page 3. They say that
5 17.47(b) provides venue in only three -- at three
6 places. That is, where the defendant resides, where the
7 defendants have a principal place of business, and where
8 the deception occurred. That last one is relevant here.
9 The first two are not.

10 But they miss a fourth. They miss an
11 express fourth option that's included in 17.47(b) and
12 which we have explicitly alleged, that is, where the
13 defendant, quote/unquote, has done business. To this
14 end, if the Court finds that any of the cases or
15 statutes that are cited by defendants are significant, I
16 would encourage the Court to review the actual source
17 documents because this is not the only -- and I don't
18 say this to say that it was intentional, but I say it to
19 say that it's not the only instance where we found what
20 appeared to be an inaccurate representation of the law.
21 And -- and I'll get into it later if -- if those issues
22 arise.

23 So, in conclusion, Your Honor, because
24 the -- the Deceptive Trade Practices Act's specific
25 venue provisions trumps the general injunction provision

1 in 62.03 related to venue, because the defendants'
2 arguments are substantive arguments that are
3 masquerading as venue arguments, and because the
4 defendants have not specifically denied the state's
5 allegations, the Court must deny, then, its motion.

6 With that, if I may have a quick moment,
7 I will try to queue up the video that I have told the
8 Court.

9 THE COURT: Okay.

10 MR. FARQUHARSON: Actually, Your Honor, I
11 think this more goes towards the motion to modify, so I
12 will refrain from that, unless the Court would like to
13 see it right now.

14 THE COURT: No, I will wait for you,
15 whenever you think it's appropriate.

16 Okay. Mr. Quesada, would you like to
17 respond?

18 MR. QUESADA: Thank you, Your Honor.

19 We don't get there. We don't get there
20 on the rally, and we don't get there on 17.47(b). And
21 let me tell you why.

22 17.47(b), understandably, comes after
23 17.47(a). In (a), the -- the state is authorized to
24 restrain -- to get a restraining order to prevent some
25 sort of -- of violation of the statute. But only after

1 authorizing an action to restrain conduct does 17.47 go
2 on to say that: In addition to the request for the
3 temporary restraining order, or permanent injunction in
4 a proceeding under Subsection (a) of this section, the
5 Consumer Protection Division may request a civil
6 penalty.

7 The format and the wording of 17.47 of
8 the DTPA confirm that the state's requested injunctive
9 relief is primary. It does not matter whether you call
10 it an injunction under the DTPA. It does not matter
11 whether you call it an injunction under 17.47. It
12 doesn't matter if you call it an injunction because it's
13 equitable. If it is an injunction, then it is subject
14 to mandatory -- the mandatory venue requirements.
15 That's what 17.47(a) and (b) read together clearly
16 indicate.

17 In this case, it's similar, for instance,
18 to the whistleblower statute. The whistleblower
19 statute, as the Texas Supreme Court has construed in
20 Wichita County, which is at 917 S.W.2d 779, has its own
21 venue provisions, also. And the Supreme Court says
22 that, whenever you have some sort of conflict between
23 the whistleblower's -- the Whistleblower Act's venue
24 provision and the Civil Practice and -- Civil Practice
25 and Remedies' mandatory venue provisions, you still look

1 to the Civil Practice and Remedy Code manual --
2 mandatory venue -- venue statutes.

3 Now, we certainly filed a supplemental
4 response last evening. I have an extra copy in paper if
5 you would like it. It came in about midnight.

6 May I approach the bench?

7 THE COURT: Yes, sir.

8 MR. QUESADA: I've already given it to
9 opposing counsel.

10 THE COURT: Thank you.

11 MR. QUESADA: Now, remember, the amended
12 complaint was filed on the 12th of August. We filed --
13 we have some other filings due on the 13th, and so we
14 filed those and included a supplemental venue response.
15 Yes, it's true that sometimes things move quickly. But,
16 in responding to the amended petition, we made sure to
17 include specific denials.

18 Now, their complaint is that we did not
19 deny that we were doing business in Tarrant County. Of
20 course, we did that specifically.

21 How do we do that? Because doing
22 business means engaging in transactions.

23 How do we know that? Those are the
24 Supreme Court opinions we discussed earlier.

25 And we specifically denied, both in the

1 initial motion to transfer venue and in the one filed
2 yesterday, engaging in any transactions in Tarrant
3 County. As a result -- now, if we had just said we
4 don't do business in Tarrant County, the state would
5 have complained that we were too generic. If we say we
6 didn't do any transactions in Tarrant County, the state
7 complains that we weren't generic enough. I don't think
8 that they can argue it both ways. We made sure to deny
9 that we did anything that violates the DTPA, any -- and
10 we deny that we solicited any transactions here.

11 It's -- the question on whether or not
12 something occurred in Tarrant County is not whether or
13 not there was a rally here. The question is whether or
14 not the rally was some sort of transaction, that there
15 was some sort of offer of goods or services, that there
16 was something that is prohibited by the DTPA, not
17 whether or not the rally occurred. We had the specific
18 denial. We indicated that there was no venue here.

19 Now, their last argument is, well, look,
20 Your Honor, it's in the video. That's not prima facie
21 proof. "You go look at the video and sort it out" is
22 not responding with prima facie proof. That's not how
23 it works. There has to be some indication that there
24 was some prohibited, some questionable, some statutorily
25 implicated conduct there. And why don't you have that?

1 Throughout, there were denials that that
2 rally had anything to do with violating the DTPA. And
3 the state certainly could have brought you that. The
4 state certainly could have brought you that evidence,
5 but chose not to do so. As a result of that, it has not
6 met its burden under the rules or under the venue
7 statute as to how we -- how we conduct venue hearings.
8 And, as such, venue should be transferred back to
9 El Paso County.

10 THE COURT: Okay. Thank you very much.

11 Would you like to respond to that, or
12 should we move on to the next?

13 MR. FARQUHARSON: Just one very brief
14 response.

15 THE COURT: Okay.

16 MR. FARQUHARSON: I think opposing
17 counsel has made some arguments about quo warranto. To
18 the extent that is being argued today as a basis for
19 transfer, that is not a part of the motions and is not a
20 part of any relief that they have sought in their
21 papers. So we would object to that being a
22 consideration in today's hearing.

23 THE COURT: Okay. Thank you very much.

24 Okay. I'm going to take this under
25 advisement. I need to finish reading everything y'all

1 filed overnight. I tried, but --

2 MR. QUESADA: Really? You just couldn't
3 get to it? I -- I don't know.

4 THE COURT: Another hearing this morning,
5 yes.

6 MR. QUESADA: There are a couple of the
7 cases that we cited that I did not include in our
8 paperwork, and we may send those along.

9 THE COURT: Okay. Yes, absolutely.
10 Okay.

11 MR. QUESADA: And including whatever our
12 response is going to be to the 1957 U.S. Supreme Court
13 opinion which, I admit, caught me flatfooted. So...

14 THE COURT: Okay. Let's move on to the
15 other two motions.

16 MR. FARQUHARSON: Thank you, Judge.

17 I will start, Your Honor, with the motion
18 for expedited discovery. On this front, Your Honor, we
19 approached opposing counsel, we asked them to agree to
20 very limited expedited discovery, and they would not
21 engage with us. So here today, in front of the Court,
22 we are asking for some very basic matters which are very
23 expressly outlined in the motion.

24 This discovery is -- is intended to allow
25 us to get -- to have an adequate opportunity to prepare

1 for the temporary injunction hearing so that we're not
2 here at the temporary injunction hearing the same way
3 and I'm -- and I'm trying to -- to piece together
4 evidence on such a short timeline. And it's also
5 important to allowing the Court to make an informed
6 ruling on the temporary injunction.

7 We want an opportunity, as part of this,
8 to cross-examine the defendants on some of the
9 affidavits that they've made. There's been certain
10 claims that, as I've highlighted before, they claim that
11 they did not engage in, quote/unquote, any sales of
12 goods or services or, quote/unquote, DTPA-covered
13 transactions in Tarrant County.

14 To understand that, the -- the meaning of
15 the language and -- and the reason for those
16 qualifications, we think it's appropriate for us to have
17 an opportunity to -- to depose them and to question
18 them.

19 They are now claiming -- and they're
20 claiming both in affidavit format and in their
21 pleadings -- that they have not dispensed any funds at
22 all to Texas legislators between June 1, 2025, and the
23 present. That is in contradiction of earlier statements
24 that are referenced in our petitions. So we would like
25 to understand the discrepancy between those statements.

1 Ultimately, however, depositions -- we
2 will be flexible. We are willing to meet them. We have
3 -- we have reduced the -- the maximum time allowed for
4 the depositions in our request. We're willing to be
5 flexible on scheduling. And we think that the
6 depositions would expedite the temporary injunction
7 hearing because it may negate the need for live
8 testimony before the Court on -- I believe it is next
9 Tuesday.

10 And, beyond that, it gives us an
11 opportunity to, as I said before, establish -- establish
12 the basic authenticity of documents. So, for example,
13 these videos give -- the state would like an opportunity
14 to authenticate basic materials, videos, and statements
15 that the defendants have made.

16 The -- and with respect to the request
17 for production, those requests are very narrowly
18 focused. They're focused on -- on documents that, by
19 defendants' own admission, they have already collected
20 and reviewed and should have prepared. And that is
21 according to -- I realize -- I'm realizing now the Court
22 does not have a copy of it, but they made references in
23 paragraphs 14 and 15 of their petition in El Paso to say
24 that these were very basic documents that could be
25 easily and quickly collected and reviewed. Given the

1 time that has passed since that -- the request to
2 examine that they had referenced, there's been -- that
3 amount of time has passed, we should expect that they
4 have these documents and can very easily produce them.

5 And I'll -- I'll also note that the
6 requests for production are limited, as I mentioned, to
7 the 60-day window. So those are not broad requests.
8 They're not overly cumbersome. They're very direct.
9 They're very to the point. And, as a final point, I'll
10 just note that there's not been any justification for
11 why we shouldn't get limited discovery for the temporary
12 injunction hearing.

13 So, with that, the state would -- would
14 ask that the Court grant the state's request for
15 expedited discovery.

16 THE COURT: Okay. Thank you very much.

17 MR. QUESADA: Your Honor, I think that
18 there are two issues here. One of them is an apex
19 deposition, and the other is whether or not certain
20 lower-level documents can be gathered. Let me start
21 first with the lower-level arguments.

22 The state argues that the requested
23 records have already been collected and reviewed because
24 we said we would need several days to gather them. That
25 much is true. But, remember, the state withdrew or

1 purported to withdraw its request to examine those
2 documents. It still takes us several days to gather
3 them. And, here, what they're asking us to do now is
4 gather them on three, four days' notice. I don't think
5 that works that way.

6 The state represented to the El Paso
7 court yesterday that it had sufficient information to
8 pursue the DTPA case. And now they're telling this
9 Court: We don't have enough information on the DTPA
10 case. We need more.

11 The -- the actual statement that
12 defendants made with regard to the documents is it would
13 take several days, at a minimum, for us to fully
14 assemble the materials demanded, and additional time for
15 counsel to thoroughly review those counsel -- those
16 materials for privilege and determine any necessary
17 objections.

18 When the state withdrew its request on
19 August 9, defendant was under no obligation to then
20 restart or continue gathering documents. As a result of
21 that, it would be inappropriate, we think, and is
22 certainly not indication of good cause required under
23 the rules, to allow expedited discovery in this context.

24 Those arguments apply also to the
25 testimony of Mr. O'Rourke. And, beyond that, the

1 problem that they have -- that the state has in this
2 context is that that counts as an apex deposition. And,
3 under the Texas Supreme Court's opinions in the Crown
4 Central case, and later in In re Alcatel case, just
5 because you want to take someone's deposition and
6 somebody who -- high up in the organization, doesn't --
7 one does not have the unfettered right to do so. It
8 requires proof that you have attempted to obtain the
9 information through less-intrusive means. That was not
10 done.

11 It requires proof that the individual had
12 some actual involvement in the day-to-day issues that
13 you are seeking to depose him or her on. The state does
14 not do that, either.

15 Does it matter that he is actually a -- a
16 party? No, it doesn't. The Austin Court of Appeals
17 confronted this in the -- I may not say it rightly. I'm
18 going to spell it -- M-I-S-C-A-V-I-G-E case --

19 THE COURT: Okay. What's the cite on
20 that one?

21 MR. QUESADA: That one is 436 S.W.3d 430.
22 436 S.W.3d 430. It's a mandamus.

23 And they're attempting to take testimony
24 from people involved, I think, in Scientology, or some
25 other religious organization, and they named the person

1 they really want to depose as a party. That's not
2 enough.

3 If that were the case, every plaintiff
4 would name Henry Ford as a party in a product liability
5 case and then claim that they were entitled to take his
6 deposition. Every plaintiff would name the head surgeon
7 at the hospital in a medical negligence case and then
8 claim that they're entitled to take her deposition
9 because she's named as a party. It doesn't work that
10 way.

11 This is an apex deposition. And it's the
12 state's burden to demonstrate that the only way it can
13 obtain this information is by deposing this individual
14 regardless of whether they happen to be a party. The
15 state has not even attempted to do so.

16 We think expedited discovery in this
17 context and the apex deposition of Mr. O'Rourke would be
18 inappropriate.

19 THE COURT: Okay. Thank you very much.

20 MR. FARQUHARSON: May I respond briefly?

21 THE COURT: Yes, sir.

22 MR. FARQUHARSON: So with respect to the
23 apex deposition, the -- I'll admit, this is the first
24 time I've heard -- heard the argument. But the --
25 Mr. O'Rourke is the person who made the statements. And

1 this is unlike the types of cases that have just been
2 mentioned. It's unlike those cases because, as we have
3 cited in the first amended petition, the Deceptive Trade
4 Practices Act -- and there's -- there's specific case
5 law that is cited in the first amended petition -- the
6 Deceptive Trade Practices Act says that any person is
7 subject to -- to enforcement.

8 And so here -- in those cases, Henry Ford
9 is not an appropriate defendant. In these Deceptive
10 Trade Practices Act, Defendant O'Rourke is the person
11 making the bulk of the statements. Thus, he is an
12 appropriate person.

13 He's also the person who made the bulk of
14 the statements. And to the -- to the idea that we have
15 not sought less-intrusive means, that's demonstrated by
16 the fact that I offered the video of Defendant
17 O'Rourke's statements at a rally to the Court and
18 opposing counsel objected to the consideration of those
19 statements. If that's not less intrusive, I don't know
20 what could be less intrusive.

21 So the idea that -- that this is an
22 impermissible apex deposition is -- is -- it just
23 totally defies the case. He is the central person to
24 the case.

25 The -- now, opposing counsel also

1 mentioned that the RTE was withdrawn. Thus, they never
2 collected the documents, even though they say that it
3 would have been very quick to do so.

4 The RTE was due on Friday. It was at, I
5 believe, 3:45, 4:00 p.m. that they filed their lawsuit
6 in El Paso on Friday. Thus, the due date has come and
7 gone. The due date came and went before we withdrew the
8 RTE.

9 So the RTE -- the suggestion that they --
10 they hadn't prepared those documents, they didn't --
11 even in El Paso, they didn't seek a TRO. So there was
12 nothing that would have stopped them. They -- they
13 should have had the documents prepared, ready to go,
14 pending the outcome of if they had had success in
15 El Paso. But they have not had success in El Paso. The
16 El Paso court has said that it is going to rely on this
17 Court's decisions.

18 THE COURT: Okay.

19 MR. QUESADA: And, if I might, I think
20 one thing to remember on the apex deposition is that
21 we're out of the sequence. The way the procedure --
22 even if it were expedited, the procedure requires a
23 notice of deposition, a chance for the responding party
24 to object to the deposition. And it requires a
25 notice -- that's very clear under the rules -- and that

1 has not -- that has not happened yet.

2 And let me make it clear. My objection
3 to the information on the link and the information on
4 the thumb drive has to do with admitting it into
5 evidence at this hearing. It has nothing to do with
6 whether or not we, ultimately, may agree that that --
7 that the people appearing on that video is who they
8 appear to be. That's a completely different issue. And
9 so I just wanted to make that clear.

10 I think testimony -- issues about
11 Mr. O'Rourke's deposition are premature because
12 you've -- someone has to issue a notice first, and then
13 you have to hash it out on the apex. And that's -- it's
14 their burden at that point, and it's still not been
15 done. I think this is similar to what happens in the
16 Annunciation case -- Annunciation House case. There has
17 to be a protective order in that context.

18 MR. FARQUHARSON: One -- one point, Your
19 Honor.

20 The discovery period hasn't opened. We
21 can't have done that.

22 THE COURT: Okay. Okay. I'm going to
23 take this one under advisement as well.

24 I know we still have a motion to modify
25 TRO, but I wanted to talk to the parties about this.

1 Obviously, we're moving at a really fast pace, and we're
2 all trying to keep up.

3 We do have a temporary injunction hearing
4 set for next Tuesday, but I need to review what was
5 filed overnight, the cases that were cited. I have
6 every intention of issuing orders, you know, no later
7 than close of business tomorrow.

8 But when you're asking for discovery --
9 I'm considering a timing issue here. I do know that we
10 can extend the TRO one time over the defendants'
11 objections. Does it make sense to move this TI hearing
12 out a week or two so we can address these issues and
13 allow the parties to collect discovery, if that's the
14 Court's ruling?

15 How would the parties -- I wanted to get
16 your opinion on this matter.

17 MR. FARQUHARSON: I anticipate --
18 opposing counsel has suggested they did intend to file
19 -- well, I'm sorry, they did file a motion to dissolve
20 that I believe they're trying to have heard today.

21 We are going -- we object to the
22 consideration of the motion to dissolve because it is --
23 because Rule 680 provides that a party is entitled to
24 two days' notice of modification or dissolution of a
25 temporary restraining order. We gave two days' notice

1 of our motion to modify. They did not give 12 hours'
2 notice of their motion to dissolve.

3 THE COURT: Has it even been filed? I
4 haven't -- I don't even see it on the docket. Am I
5 missing something? There's been a lot of filings the
6 past couple of days.

7 MR. GONZALEZ: Yes, we filed a response
8 in opposition to their motion to modify and included
9 with that --

10 THE COURT: Okay.

11 MR. GONZALEZ: -- a motion to dissolve.

12 THE COURT: That was the 93-page document
13 that was filed around midnight last night that was
14 included in there?

15 MR. GONZALEZ: Yes. And, you know, as
16 the state points out -- we weren't setting a motion for
17 hearing of that. But, as the state points out in their
18 own motion, the Court is, you know, free, of its own
19 volition, to modify or dissolve a TRO if that's not
20 appropriate. And I think, as we'll discuss, their
21 motion for modification points out why the TRO is
22 improper.

23 THE COURT: Okay. Okay.

24 MR. QUESADA: So --

25 THE COURT: So, from the state's point,

1 does it make sense to kick this TI out -- hearing -- a
2 week or two so we can take the discovery, resolve these
3 issues, give the Court time to review everything that
4 was filed last night?

5 MR. FARQUHARSON: Your Honor, I think
6 that makes the most sense. I mean, I think we've
7 already been -- here today, we're stumbling, everybody
8 is stumbling trying to keep up with the pace of the
9 case.

10 I will just note for the Court, from a
11 personal standpoint, I think we would be -- we wouldn't
12 be moving the ball forward if we were to replace myself,
13 who has been to the hearings in front of the Court and
14 been involved central to the case. I have got a
15 personal matter the week of August 25th and am not
16 available. So if we were to -- to extend to
17 September -- the -- the first week in September, I would
18 be able to do that.

19 THE COURT: Okay. Because this TRO
20 that's in place right now is -- expires a week from
21 tomorrow?

22 MR. FARQUHARSON: I believe the 18th.

23 THE COURT: On the 18th. Oh, it expires
24 on the 18th?

25 Okay. So if we extended this for another

1 two weeks, it would be effective through September 2?

2 MR. FARQUHARSON: So the question would
3 be whether or not the Court can extend it -- how long
4 the Court can extend it.

5 THE COURT: Yeah, I'm looking at Rule
6 680, but I know that the state has told me that 680
7 doesn't apply to these kinds of TROs that were in place.
8 And I don't have the familiarity with this as well.

9 MR. FARQUHARSON: I think 680 is a useful
10 guidepost. There is -- I know that there is not an
11 express rule on this sort of timing issue in the
12 Deceptive Trade Practices Act. But Rule 680 does not
13 say -- it does not limit extensions to two weeks. I
14 think the -- the text of the language says it can
15 grant -- the Court can grant a temporary restraining
16 order for no more than 14 days, and it can grant no more
17 than one extension of the temporary restraining order,
18 but does not say the extension.

19 The issue here that I think would permit
20 the Court to proceed to September 2 is that I believe
21 September 1 is Labor Day, which is a recognized holiday.

22 MS. SMITH: Sorry. The terms of the TRO
23 states it does expire 14 days from the 8th, which would
24 be the 22nd. So another 14-day extension from that
25 would be September 5.

1 THE COURT: September 5? Okay.

2 MR. FARQUHARSON: That's right.

3 MS. SMITH: The week -- other than Labor
4 Day, the week -- the first week of September would still
5 be under the auspices of the TRO.

6 MR. FARQUHARSON: And that -- to clarify,
7 for the record, September 18 -- or -- I'm sorry.

8 August 18 is the date the Court set for a
9 hearing on the temporary injunction. And so I believe
10 the Court likely built in some time to take the issue
11 under advisement before the Court had to address the
12 expiration.

13 THE COURT: Okay. Okay. So you would be
14 available for a TI hearing on September 2?

15 MR. FARQUHARSON: Yes, Your Honor.

16 THE COURT: Okay. And the defendants?
17 Let me -- I'm just -- purely availability.

18 MR. QUESADA: I -- I understand, Your
19 Honor. I don't know, but we will find out. I would
20 anticipate we'd have somebody available.

21 THE COURT: Somebody can come --

22 MR. GONZALEZ: On availability --

23 THE COURT: -- to the Court on September
24 2?

25 MR. GONZALEZ: Counterspoke.

1 I mean, we strongly object to a prior
2 restraint on speech being extended for --

3 THE COURT: I understand all of the legal
4 arguments. I'm just trying to, yeah, look at
5 everybody's scheduling.

6 MR. QUESADA: Let me be clear. If you
7 say we're going to have a hearing on the 2nd, we'll have
8 somebody here.

9 THE COURT: Okay. Because my initial
10 reaction -- oh, are you okay?

11 MR. QUESADA: I am now.

12 THE COURT: -- is to go ahead and extend
13 this -- the TI hearing that's set next week to
14 September 2 at 10:00 a.m., subject to all of the legal
15 arguments that everybody is now about to make.

16 MR. GONZALEZ: If the TRO is going to be
17 extended, we would like to then set a hearing on our
18 motion to dissolve. And we can keep the same Monday. I
19 mean, that's obviously a less, you know, intrusive
20 evidentiary hearing, but we'd like to keep, then, the
21 hearing on Monday set for --

22 THE COURT: Was it Monday, or was it set
23 on Tuesday? I thought it was --

24 MR. GONZALEZ: Oh, Tuesday.

25 THE COURT: It is --

1 MR. GONZALEZ: Tuesday. I apologize.

2 THE COURT: I've got -- my calendar shows
3 August 19 at 10:00 a.m.

4 MR. GONZALEZ: Yes, you're -- yeah.

5 THE COURT: Okay. So you would like to
6 set your motion to dissolve that was filed last night --

7 MR. GONZALEZ: I mean, we would like to
8 set it earlier if Your Honor has any availability on
9 Monday. I mean, could -- as --

10 THE COURT: I can -- I can do Monday
11 afternoon. I've got -- I can -- the Court is open
12 Monday afternoon.

13 Are the plaintiffs available?

14 MR. FARQUHARSON: Your Honor, I believe
15 there's a hearing in this matter in El Paso on Monday
16 afternoon, a status conference.

17 MR. GONZALEZ: They weren't counsel at
18 the El Paso matter.

19 THE COURT: Do you need to be in El Paso?

20 MR. GONZALEZ: No, we don't need to be.
21 There -- there's local counsel.

22 MR. QUESADA: Well, we --

23 THE COURT: Oh, that was in the --

24 MR. QUESADA: We -- we can cover both.
25 Can you-all cover both?

1 THE COURT: Or do you want to wait to
2 hear what the El Paso court says with the status
3 conference on Monday afternoon at 1:30? I think that
4 was the notice that was filed last night.

5 MR. FARQUHARSON: I think the -- the
6 Court's objective, and the -- the state would agree with
7 the objective, is to give the parties and the Court an
8 opportunity to untangle their feet and -- and address
9 everything in a thoughtful and orderly fashion.

10 And so by trying to still bungle it all
11 up, I -- I just don't know that we're going to
12 accomplish that. I think it would make sense for it to
13 be the next morning, the next afternoon, either one of
14 those.

15 THE COURT: Okay. That makes a lot of
16 sense.

17 MR. GONZALEZ: The El Paso hearing has
18 nothing to do with this. I mean, whatever the El Paso
19 court does isn't going to affect this TRO. It's an
20 entirely different issue.

21 THE COURT: I'm just going to go ahead
22 and let the El Paso court do what they're going to do on
23 Monday afternoon, so we'll at least have the information
24 that's going on in that case.

25 We can set your motion to dissolve TRO

1 next Tuesday at 10:00 a.m. It's just the following
2 morning. I can hear it at that time. There's proper
3 notice for everybody. We should take up those issues.

4 So we'll do that. August 19 at 10:00
5 a.m., the defendants' motion to dissolve, and continue
6 the TI that's currently set for next Tuesday to
7 September 2 at 10:00 a.m.

8 MR. FARQUHARSON: Would the Court be
9 willing to make briefing deadlines for that September 2
10 hearing?

11 THE COURT: Sure.

12 MR. FARQUHARSON: I -- I just don't want
13 us to end up back here with midnight filings.

14 THE COURT: Right. I mean, that's kind
15 of the problem we've got right now.

16 MR. QUESADA: From -- from our
17 standpoint, that's a gun that kicks as hard as it
18 shoots. We understand, but we are -- we are -- we're
19 doing -- we're responding as quickly as we can.

20 THE COURT: I think everybody is. We're
21 just trying to get the -- trying to get this put into a
22 more orderly fashion so that we can --

23 MR. GONZALEZ: And apologies, Your Honor.
24 But just for the record, to make clear, you know, we are
25 -- our motion to dissolve is subject to our motion to

1 transfer venue. We don't want to waive something.

2 THE COURT: Absolutely. The Court will
3 note that.

4 Okay. So briefing deadlines, what do you
5 propose? Because we're, essentially, giving ourselves
6 two weeks.

7 MR. FARQUHARSON: I guess it depends on
8 the Court's rulings on discovery would be -- will --
9 will end up being an inextricable part of it.

10 But if we're going to have -- I think --
11 I think it would make sense that, if we're having a
12 hearing on Tuesday the 2nd, Friday at 5:00 p.m., the
13 parties should have all of their briefs in to the Court.

14 THE COURT: So Friday, the 29th, at 5:00
15 p.m., all briefs are due. And nobody's going to have
16 a chance to respond to each other's briefs?

17 MR. FARQUHARSON: Or we could do -- we
18 could do substantive --

19 THE COURT: That's a problem.

20 MR. FARQUHARSON: -- yeah, substantive --
21 substantive briefs the Monday before the -- the Monday
22 before the first week of September.

23 THE COURT: So that's Monday, August 25.

24 MS. SMITH: And then responses due the
25 29th, 5:00 p.m.?

1 THE COURT: Is that okay?

2 MR. GONZALEZ: Yes, ma'am.

3 THE COURT: Are y'all able to work with
4 that time frame?

5 MR. GONZALEZ: Yes.

6 THE COURT: Okay. Monday at 5:00 p.m.
7 or Monday at 11:59 p.m.? Which -- which do you-all
8 prefer?

9 MR. FARQUHARSON: That is up to you.
10 I...

11 THE COURT: I will let y'all go all the
12 way up to midnight if that helps. So Monday at 11:59
13 p.m., substantive briefs are due. And Friday -- I'll
14 go ahead and give you until midnight as well to get your
15 responses in.

16 Okay.

17 MR. QUESADA: I suspect a brief will
18 expand to fill the available due date. So...

19 THE COURT: Okay. Do we need to go on to
20 the motion to modify the TRO now?

21 MR. FARQUHARSON: Thank you, Your Honor.

22 THE COURT: Okay.

23 MR. FARQUHARSON: Your Honor, the motion
24 to modify is really very simple. The Court has already
25 concluded that the temporary restraining order was

1 justified. The only question that is -- so the motion
2 to dissolve is now set for Tuesday. That means that the
3 only issue before the Court is the motion to modify.
4 And the only two things that the motion to modify asked
5 for is for the Court to add language that tracks Texas
6 Rule of Civil Procedure 683 and extends the TRO -- or
7 extends -- clarifies that the TRO applies to defendants
8 and their officers, agents, servants, employees, and
9 attorneys, and those persons in active concert or
10 participation with them who receive actual notice of the
11 order.

12 So the -- the other piece is to ask the
13 Court to order defendants to serve the TRO on ActBlue,
14 who has been central to this litigation and is central
15 to this litigation, and to defendants' financial
16 institutions. And that -- that is -- the motion to
17 modify, I don't think -- I don't -- I do not want to
18 reach the ultimate issue of whether or not there has
19 been a violation of the temporary restraining order
20 because that is set for hearing on August 26.

21 So with -- with that, unless opposing
22 counsel wants to get into the -- whether or not there
23 has been a violation of the temporary restraining order
24 and the Court wants to hear that, we are making a very
25 simple ask: To track the language of TRCP 683 and

1 asking to have defendant notify ActBlue and financial
2 institutions which are central to the -- the underlying
3 litigation. We believe that this is justified.

4 THE COURT: Okay. Let me also ask you
5 this, just for purely calendaring, does it make sense to
6 take that contempt motion and also hear it on
7 September 2 for the convenience of the parties so people
8 aren't --

9 MR. FARQUHARSON: I think --

10 THE COURT: I think this would just make
11 sense procedurally and for everybody's convenience to
12 just hear that all on September 2.

13 MR. FARQUHARSON: I think that would be
14 appropriate.

15 THE COURT: Okay.

16 MR. FARQUHARSON: One other item. The --
17 the arguments that have been advanced by defendants on
18 the motion to modify and I think in some of their --
19 this motion to dissolve is that it's -- it is -- they're
20 acting as if the only thing that the TRO prohibited was
21 the, quote, use of funds. But that's not the reality of
22 the TRO. The TRO prohibits raising funds for specified
23 purposes.

24 And so I just want to -- I want to point
25 that out for the Court because I think that that is

1 relevant to -- the deceptive conduct that we are
2 alleging is that there is confusion happening between
3 people making -- thinking they're making political
4 donations and then making donations for prohibited
5 personal purposes. And part of that deception is
6 through the ActBlue platform.

7 And so, if these are going to happen, we
8 think that making the order consistent with the Texas
9 Rules of Civil Procedure will be a best -- best
10 practice.

11 THE COURT: Okay. Thank you very much.

12 Yes, sir.

13 MR. GONZALEZ: May it please the Court.

14 They -- plaintiffs are trying to extend
15 the scope of this TRO and include third parties that are
16 -- that are not subject to the Court. And their motion
17 to modify shows exactly why this modification is
18 problematic and the original rushed TRO is practically
19 and constitutionally problematic.

20 They stood in court and on Zoom on Friday
21 and said that -- represented that their order was
22 sufficiently narrow to not prohibit general
23 constitutional political fundraising. Now, in their
24 motion to modify the TRO, the basis for their motion --
25 let's look at the statements that they are citing as the

1 basis for their motion to modify.

2 THE COURT: Well, aren't they really just
3 asking the modification to include the standard
4 statutory language that's in Rule 680, 683 that is
5 frequently a part of most routine --

6 MR. GONZALEZ: Well, it's --

7 THE COURT: -- restraining orders issued
8 in civil cases?

9 MR. GONZALEZ: It's problematic to
10 encompass officers, agents, servants, employees, and
11 attorneys in an overly broad statute that is restraining
12 those individuals' First Amendment right.

13 THE COURT: Who are in active
14 participation or receive notice that you can't go out
15 and knowingly have someone else affiliated with you --
16 I'm not doing it, but my friend can. I mean, that's --
17 that's why the language is in the statute.

18 MR. GONZALEZ: But this is attempting to,
19 you know, restrain me from raising funds for
20 nonpolitical purposes. So I can't go out and -- you
21 know, can I go out and have a GoFundMe for a friend?

22 And it's also asking to provide this
23 notice to third parties with the intent that this is
24 going to limit those third parties' transactions in
25 association with the plaintiff. And this is the exact

1 sort of problematic government attempt to interfere with
2 third-party business relationships that the Supreme
3 Court recently said violated the First Amendment in
4 National Rifle Association vs. Vullo. And, there, the
5 NRA alleged that Vullo violated the First Amendment by
6 coercing DFS-regulated entities into disassociating with
7 the NRA in order to punish or suppress it, its advocacy,
8 and that involved notifying banks of alleged violations.

9 That's exactly what they're trying to do
10 here. They're trying to notify these payment platforms
11 of violations in order to chill their association with
12 the defendants. And that's -- you know, the Supreme
13 Court has just reiterated why that's constitutionally
14 problematic.

15 And I would like, Your Honor, to make a
16 record. And, again, this is restraining additional
17 people who are acting with -- you know, in capacities
18 with defendants. But if they are being overly
19 restrained, then that's going to be a problem.

20 So, if Your Honor will allow me, I'd like
21 to walk through why some of this is problematic.

22 THE COURT: Okay. Of course.

23 MR. GONZALEZ: Thank you, Your Honor.

24 So, again, looking at what they are now
25 interpreting the language of the restraining order to

1 include in their motion to modify and in their motion
2 for contempt, paragraph 6 of their motion to modify --
3 these are quotes from Mr. O'Rourke -- "Still here, still
4 fundraising and rallying to stop the steal of five
5 congressional seats in Texas."

6 Paragraph 7, Defendant O'Rourke tweeted
7 out another link to an ActBlue donation page affiliated
8 with Defendant Powered By People asking: "Donate here
9 to have the backs of our Texas Democrats in this fight."

10 And, paragraph 8, opening this hyperlink
11 directs the viewer to an ActBlue fundraising page hosted
12 by Defendant Powered By People that states it takes the
13 fight "to Paxton, Abbott, and Trump," requests a show of
14 "support for our fight for Texas," and lists a
15 hyperlink, "support-texas-dems-2025."

16 In paragraph 10, "Text FIGHT to 20377 to
17 help Texas Democrats to stop Trump's power grabs."

18 I mean, "Stop the steal of five
19 congressional seats," "Take the fight to Paxton, Abbott,
20 and Trump," "Help Texas Democrats stop Trump's power
21 grabs," this is Common Law 101, prior restraint of
22 protected political speech. And, as a professor, I
23 wouldn't even use this as a hypo because it's such an
24 easy answer.

25 And, to quote the Texas Supreme Court in

1 Kinney, which is 443 S.W.3d 89 (sic), "A hallmark of the
2 right to free speech under both the U.S. and Texas
3 Constitutions is the maxim that prior restraint are a
4 heavily disfavored infringement of that right." And
5 that prior restraint includes judicial orders forbidding
6 certain communications that are issued in advance of the
7 time that such communications are to occur. And that's
8 what number 2 of this order is. It's prohibiting those
9 communications.

10 And they went on to say, indeed, "So
11 great is our reticence to condone prior restraints that
12 we refuse to allow even unprotected speech to be banned
13 if restraining such speech would also chill a
14 substantial amount of protected speech."

15 And, as the U.S. Supreme Court put it in
16 Nebraska Press Association vs. Stuart, the most serious
17 and the least tolerable infringement on First Amendment
18 freedoms carry a heavy presumption against
19 constitutional validity.

20 That's particularly in the case in the
21 realm of political speech. From Citizens United,
22 political speech must prevail against laws that would
23 suppress it, whether by design or inadvertence.

24 And, you know, looking at the language,
25 again, of the order itself, it's clear prior restraint.

1 It's restraining defendants. And now they're seeking to
2 restrain officers, agents, servants, employees, and
3 attorneys from expressive conduct before that conduct
4 has happened. And now we know that, at least in their
5 interpretation, this includes things like saying,
6 "Support Texas Democrats."

7 And it's not even clear what's being
8 restrained. It says, "Raising funds for nonpolitical
9 purposes." Nonpolitical purposes could include
10 anything, staff costs, operating costs, charitable work.
11 Powered By The People has raised millions of dollars for
12 food banks and for natural disaster relief, and uses its
13 volunteers and staff to do that. So, you know, I mean,
14 just looking at the terms of this, that is a
15 nonpolitical purpose. Are they being restrained from
16 doing that moving forward?

17 And prior restraint is particularly
18 problematic in the context of nonprofit fundraising, is
19 because solicitation is characteristically intertwined
20 with informative and persuasive speech. And that's from
21 Riley 487 U.S. at 796.

22 Because the raising of funds is to
23 support speech, it's inherently tied with protected
24 activity. And that's why the Supreme Court has
25 repeatedly struck down prophylactic statutes designed to

1 combat fraud by imposing prior restraints on
2 solicitation. That's Illinois ex rel. Madigan.

3 And that brings us to sort of the
4 underlying issue in all of this and why the TRO cannot
5 be extended to other people because the basis for it is
6 unclear. And, you know, with hindsight 20/20 and a
7 moment of reflection to actually look at this, this is
8 what we should have started with on Friday, that the
9 DTPA is not -- does not even apply to the complained-of
10 transactions. The DTPA, which is the only basis for
11 their action, only applies to trans- -- commercial
12 transactions, the sale and offer of goods and services.
13 There are no commercial transactions at issue here.

14 People are freely giving their money to
15 support a cause, to fight Trump, Paxton, Abbott, to
16 support Texas Dems. They're funding speech, not
17 purchasing goods and services. And, by the state's law,
18 a church would be subject to DTPA when it asks for
19 support from its congregation. But that's not invoked
20 because the church isn't selling a commercial service
21 for -- for profit. It's providing a message. And
22 people who agree with that message are funding that
23 message and its dissemination.

24 And to determine whether something is a
25 commercial transaction, you look at the -- what the --

1 you know, the transaction itself with the individual,
2 not what the money is actually used for. Here, the
3 transactions, again, are for things like support Texas
4 Dems. Their complaint is what the money is eventually
5 used for. But there's other laws that govern that.

6 So, for example, in the church context,
7 right, if a pastor were to misuse funds, embezzlement.
8 And, here, the political context, as Your Honor knows,
9 there is an entire statutory scheme regulating how
10 political contributions and expenditures can be made.
11 And that -- it's a -- you know, what they are
12 complaining about is activity related to what the funds
13 are used for, regulated by an entirely different
14 statutory scheme.

15 And if the Court were to read the DTPA to
16 apply to this type of activity, it would force the --
17 you know, it would raise serious constitutional concerns
18 about the scope of the DTA (sic). And, as the Supreme
19 Court just reiterated in Annunciation House, courts have
20 to avoid reading statutes to create conflicts with the
21 Constitution. And that's precisely what their reading
22 here does.

23 And so it's incredibly problematic to
24 expand this scope. And, again, unclear as to what is
25 even being prohibited here. You know, I don't -- I

1 don't know. I mean, am I -- can I go, you know, out and
2 raise money for nonpolitical purposes? I don't know.

3 So we would ask that you not grant their
4 motion to modify the TRO, consider the merits of the TRO
5 itself, in your own discretion, in how you, you know,
6 continue it, and then hear our motion to dissolve, if
7 it's not dissolved before then.

8 THE COURT: Okay. Thank you very much.

9 MR. GONZALEZ: Okay.

10 MR. FARQUHARSON: May I respond?

11 THE COURT: Yes.

12 MR. FARQUHARSON: Thank you, Judge.

13 The arguments that the Court just heard
14 are, ultimately, arguments that are about a temporary
15 injunction. They're all the same arguments that the
16 Court already heard on Friday.

17 First, what opposing counsel did was
18 concede that these financial institutions and ActBlue
19 are in a business relationship, cooperating with, and in
20 participation with the defendants. We have already
21 cited for the Court Business Organizations Code 12.201
22 and 12.259. And, as the Court knows, 12.201 gives the
23 Court -- or establishes a lien on property that is the
24 subject of a suit for penalties by the state. Section 2
25 point -- 12.259 of the Business Organizations Code says

1 that the state has a right to a writ of attachment,
2 garnishment, sequestration, or injunction, without bond,
3 to aid in the enforcement of the state's rights.

4 So I raise that to say that the state --
5 the Business Organization Code gives the state wide
6 latitude to enforce the DTPA and to ensure compliance
7 with the DTPA and a statutory injunction that is issued
8 pursuant to the DTPA.

9 So -- but all that aside, the -- the
10 temporary restraining order, as it exists right now, is
11 not -- it's not -- again, these are -- first of all,
12 these are temporary injunction arguments. These are not
13 arguments even for a motion to dissolve. These are
14 temporary injunction arguments that should be adequately
15 briefed and the Court should -- should have everything
16 in front of it for.

17 But this is not restraining speech. This
18 is -- this is not saying that Defendant O'Rourke cannot
19 say, "Fight Abbott, fight Trump, fight Paxton." He can
20 say those things. And -- and, in fact, that's not the
21 issue here.

22 The issue here is -- is, "Support the
23 Texas Democrats. Help me support the Texas Democrats,"
24 which is, apparently, defied by the -- the latest
25 pleadings that they've made wherein they say we haven't

1 funded any Democrats, which may lead to a whole other
2 deceptive trade practices issue if they're raising money
3 to support Texas Democrats but they're not supporting
4 Texas Democrats.

5 So -- but, again, we're not restraining
6 speech. What we are saying is that what they cannot do
7 is use this certain speech to fundraise. They can say
8 whatever they want, but they cannot use it to fundraise.
9 They cannot use it to -- to do ActBlue.

10 So, to opposing counsel's question, can
11 he raise money? Yes, he -- he can raise personal money.
12 He can't raise money through ActBlue under -- under this
13 temporary restraining order.

14 And I'll also point the Court to WinRed
15 vs. Ellison. This is 59 F.4th 934. It's an 8th Circuit
16 decision.

17 THE COURT: Okay. Can you say that
18 again?

19 MR. FARQUHARSON: 59 F.4th 934.

20 THE COURT: Okay.

21 MR. FARQUHARSON: And what that case says
22 is that consumer -- consumer protection laws can be
23 applied to deceptive solicitation of political
24 donations.

25 Oh, the other item that I heard was that

1 the -- it's not clear what is prohibited by the
2 temporary restraining order. So now I will play the
3 video interview of Defendant O'Rourke and Governor Gavin
4 Newsom.

5 MR. GONZALEZ: Just for clarity, are you
6 playing the whole interview?

7 MR. FARQUHARSON: If you want to sit here
8 for 38 minutes, I'm happy to do that. Otherwise, I was
9 just going to play his discussion of this case.

10 MR. GONZALEZ: No, Your Honor. I mean,
11 as was the subject of our notice to this Court, right,
12 that they are taking things out of context, if they're
13 going to play something, we would want them to play the
14 whole thing.

15 THE COURT: Okay. Why don't we take a
16 five-minute break, and then we can settle in and watch
17 the interview for 38 minutes.

18 MR. FARQUHARSON: Thank you, Your Honor.

19 THE COURT: Okay. Thank you.

20 (Break from 12:31 p.m. to 12:41 p.m.)

21 MS. SMITH: Not sure where my co-counsel
22 is, but I'm sure he'll be back.

23 THE COURT: Okay. I think he's been busy
24 the past -- past week or two, huh?

25 MS. SMITH: Oh, he's been a little busy.

1 MR. FARQUHARSON: Sorry.

2 THE COURT: Okay. Ready to play the
3 video?

4 MR. GONZALEZ: Yes, Your Honor.

5 Before we sit through a 40-minute video,
6 I would object, and ask what the relevance of this is?

7 THE COURT: Well, I'm not sure the whole
8 video is relevant. You wanted to play the whole thing,
9 unless you want to withdraw that request and just let
10 plaintiff play the portion he thinks is pertinent to
11 this case?

12 MR. GONZALEZ: Well, I mean, I guess I
13 could still object to the relevance of it. I mean,
14 the --

15 THE COURT: I mean, we're only playing
16 this whole thing because you wanted us to. Do you want
17 us to not do that?

18 MS. STEVENS: May I speak, Your Honor?

19 THE COURT: Yes, ma'am.

20 MS. STEVENS: Ms. Stevens, for the
21 record.

22 We object to the five-minute portion of
23 the video. If Your Honor is inclined to hear that and
24 overrule that objection, then we would like the entire
25 video under the rule of optional completeness.

1 THE COURT: Okay. The whole --

2 MR. FARQUHARSON: Judge, I have no
3 problem -- we could play it on two-times speed, if the
4 Court would like it on two-times speed.

5 THE COURT: I have no problem with that,
6 but I think I would lose my court reporter. She would
7 get up and walk out. And I'd really like to keep her.

8 MR. FARQUHARSON: That's fair.

9 THE COURT: Okay. I guess we're going to
10 play the whole thing now.

11 MR. QUESADA: Unless it -- has it already
12 been transcribed?

13 MR. GONZALEZ: Yeah, that's --

14 MR. FARQUHARSON: I'm not aware of it. I
15 don't --

16 MR. QUESADA: Okay.

17 THE COURT: I don't think we had enough
18 notice. These hearings are coming pretty fast, at the
19 parties' request.

20 MR. QUESADA: I was just hoping, if it
21 had been transcribed, we would have no objection to
22 offering the transcription.

23 MS. STEVENS: I was just going to ask for
24 the Court's ruling on the objection to the five-minute
25 portion, just for the record.

1 THE COURT: Objection overruled.

2 MS. STEVENS: Thank you.

3 THE COURT: Thank you.

4 Yeah, I think we can play the whole
5 thing.

6 MR. FARQUHARSON: Do I have volume
7 control over here?

8 THE BAILIFF: It's on your computer.

9 MR. FARQUHARSON: Oh, just on the
10 computer? Okay.

11 MS. SMITH: To the right there. To the
12 right. No, I'm sorry. To the right of the play button.

13 MR. FARQUHARSON: Oh, I see.

14 Don't want to blow us all out of here.

15 (Video played as follows:)

16 MR. NEWSOM: Fire with fire. They are in
17 full panic mode right now. Get a toothbrush. You're on
18 your way to jail, my friend.

19 SPEAKER: This is Gavin Newsom, and this
20 is Beto O'Rourke.

21 MR. NEWSOM: How are you doing, brother?

22 MR. O'ROURKE: I'm doing okay. I'm back
23 in El Paso. And this is -- this is home. So I'm --

24 MR. NEWSOM: You're not -- you should not
25 be in El Paso. You should be preparing. Get a

1 toothbrush. You're on your way to jail, my friend.

2 I just read Paxton's latest missive.

3 MR. O'ROURKE: Yeah.

4 MR. NEWSOM: He says, Lock him up, lock
5 him up.

6 MR. O'ROURKE: That's right. If Twitter
7 can be believed, that's -- that's where I'm headed next.
8 But -- but, for the time being, I get to hang with
9 family, which is pretty nice.

10 MR. NEWSOM: But, I mean, on a serious
11 note, I mean -- I mean, the guy is -- the attorney
12 general of the State of Texas said in a tweet Beto
13 O'Rourke needs to be locked up. Not just hunted down,
14 but now locked up.

15 I mean, you got -- on a serious note, you
16 got -- tell me you haven't had a private attorney or
17 someone. You're -- you're literally gaming this out.
18 You got to game it out, right?

19 MR. O'ROURKE: Yeah. I mean, here's the
20 thing that -- that everyone should know. One, they're
21 trying to stop us from exercising our First Amendment,
22 constitutionally protected right to say what we want to
23 say about the politics of this country, about the
24 attempted theft of these five congressional seats, our
25 encouragement to governors such as yourself to use their

1 full power to maximize Democratic congressional control
2 of the districts within their states.

3 I mean, this is the fight that is taking
4 place right now, and they're trying to take us out of
5 this fight by seeking to intimidate us in the courts.

6 And now, as, you know, you just referred
7 to, Ken Paxton is on Twitter saying, Lock him up.

8 And what they're -- Gavin, this is what I
9 think is going on. Over the last seven, eight months,
10 we've watched the wealthiest, the most powerful people
11 and institutions in this country bend a knee. The Ivy
12 League universities -- Harvard may settle for
13 500 million this week. The big law firms, Paramount,
14 CBS, you know, Zuckerberg, Bezos, you know, all of them
15 are bending the knee.

16 And then they come to Texas in this
17 effort to steal these five seats, assuming that -- that
18 we're going to do the same. And when our knees don't
19 bend, they don't like that so much.

20 And so they not only seek to vacate the
21 seats of the 56 state House Dems who have broken quorum
22 to stop this deal, they're threatening them with
23 second-degree felonies, they're sending FBI and state
24 troopers after them, but now they're suing us
25 successfully many times over the last few days in state

1 court here, and are threatening to put me in jail.

2 This is where we are right now. And this
3 is why, at this moment, we need people to stand and
4 fight the -- you know, every single time someone bends
5 the knee to these guys, they get more powerful, there's
6 more momentum behind them, and it's going to be just
7 tougher for us to succeed.

8 And, if we don't, I think this is for all
9 the marbles. This is the ballgame in the summer of
10 2025, not just the election of 2026, but whether there's
11 going to be the consolidation of authoritarian control
12 in the hands of this president.

13 So we cannot be found wanting right now.
14 We've got to fight with all we've got.

15 MR. NEWSOM: I love it. And so much to
16 unpack in everything you just said. Let me just go back
17 a little bit, just create some situational awareness for
18 folks.

19 Quite literally, just a few hours ago, we
20 were referencing that tweet where the attorney general
21 of the State of Texas talked about locking you up, but
22 you reference Powered By The People, Powered By People,
23 which is your PAC.

24 COMMERCIAL SPEAKER: Hello, my name is
25 Adam Ferrari, the chief executive officer of Phoenix

1 Energy --

2 MR. NEWSOM: There was a lawsuit by that
3 same attorney general. There was a court order by a
4 Abbott -- Governor Abbott-appointed judge that did a
5 temporary injunction. And he's, what, asserting now
6 that you have broken the tenets of the TRO as it relates
7 to the PAC? Maybe illuminate us more of what at least
8 he's asserting, and then give us the facts.

9 MR. O'ROURKE: We -- we had a big rally
10 planned on Saturday in Fort Worth, in Tarrant County in
11 North Texas, just next to Dallas in the north part of
12 our state.

13 And so he went to state court in Fort
14 Worth in front of this Abbott-appointed judge, as you
15 pointed out, 4:30 on -- on Friday with -- with almost --
16 and I think, actually, no notice to -- to our side,
17 filing a temporary restraining order request to stop me
18 from being able to hold the rally, from being able to
19 raise resources for those who are in this fight, and for
20 even being able to speak.

21 But the TRO that they got was so
22 incredibly narrow in scope. There are some very
23 technical, specific things that I can't say, and I have
24 not said them, but I've continued to -- to rally, to
25 fight, to raise and to speak my mind.

1 And we did all that in Fort Worth on
2 Saturday in front of thousands of fired-up people who
3 want to make sure that this theft of these five
4 congressional seats does not proceed in the State of
5 Texas and that we stop, you know, finding ourselves on
6 the back foot or on the defense, but we take the fight
7 to them. We go on -- on offense. We don't -- we don't
8 await the punch to be thrown by these would-be fascists.
9 We throw ours first, and we throw it harder.

10 That was the spirit in Fort Worth on
11 Saturday, and they didn't like that. And so, at the
12 crack of dawn today, they file this request for the
13 judge to find me in criminal contempt, to -- to lock me
14 up, put me behind bars, and literally physically prevent
15 me from continuing to travel the state, to hold rallies,
16 to meet with people, to raise resources, and to fight.
17 They -- they just don't want us to fight.

18 All the more reason for us to fight, and
19 very telling about how panicked and scared they are if
20 they cannot complete this steal in Texas. If they can
21 stop us from winning control of -- or if they cannot
22 stop us from -- from winning control of the House of
23 Representatives, there's going to be a check on their
24 lawlessness. There's going to be accountability for all
25 the crimes and corruption that we see organized out of

1 the White House right now, and there's a very real
2 prospect that we'll have free and fair elections in
3 2028.

4 If we fail in this -- and this is what
5 they're counting on -- then that consolidation of
6 authoritarian power proceeds at an even increased pace.
7 And we've just seen a blitzkrieg over the last eight
8 months. That -- that is just the prelude or the
9 prologue to what is going to happen to America over the
10 next three and a half years if we're unsuccessful, more
11 masked, plainclothes federal agents without warrants or
12 badges sweeping fellow Americans up off the streets,
13 more of Trump's political opponents targeted as I'm
14 being targeted right now for vengeance or retribution or
15 even political violence.

16 And we know that a complicit,
17 Republican-controlled Congress will roll out the red
18 carpet for a third Trump term.

19 So those are the stakes. The election of
20 2026 is being decided right now in the summer of '25,
21 and all of us have to fight with all that we've got to
22 make sure that we win it and win it now.

23 MR. NEWSOM: I want to go back. You used
24 the words "free" and "fair." And I do think it's
25 important to pause. And everything you said, I agree

1 on. And, again, I want to talk much more about that.

2 But the notion that --

3 (Video stopped.)

4 MR. FARQUHARSON: Your Honor, I believe
5 opposing counsel is going to confer amongst themselves
6 with respect to whether the remainder of the video needs
7 to be played.

8 THE COURT: Okay. Thank you very much.

9 MR. GONZALEZ: Yeah. Yeah, I think we
10 have -- seeing that they've played what they want to
11 play, we're okay with cutting it there.

12 THE COURT: Okay. So we -- we're okay?
13 From the defendants' point, we don't need to play the
14 whole video now?

15 MS. STEVENS: That's correct, Your Honor.

16 May we ask the Court that -- if we can
17 get it transcribed and presented to the Court as a -- as
18 a supplement to this hearing?

19 MR. FARQUHARSON: Provided that we have
20 an opportunity to review it, yes.

21 THE COURT: Okay. Yeah, just run it
22 through the plaintiff's attorney.

23 MS. STEVENS: Okay.

24 THE COURT: And if he's in agreement,
25 that's fine.

1 MS. STEVENS: Thank you.

2 MR. QUESADA: Well, wait, wait.

3 To make it easier on everyone, why don't
4 we just agree on a transcript and provide it to Madam
5 Court Reporter so she doesn't have to go back and try to
6 transcribe that.

7 THE COURT: Yeah, she's not going to
8 transcribe anything that was not played in court.

9 MR. QUESADA: No, I get that. I mean the
10 portion that -- we are okay with substituting a
11 transcript and providing it to Madam Court Reporter.

12 She's shaking her head no.

13 THE COURT: Yeah, she's very -- very
14 diligent.

15 MR. QUESADA: Thank you.

16 MR. FARQUHARSON: And I apologize for
17 offering to play it on two-times speed. I did not think
18 about you.

19 Your Honor, again -- so, first, I want to
20 again emphasize we are not trying to stop political
21 speech. We are not trying to stop Mr. O'Rourke from
22 traveling the country and engaging in political speech.
23 As we spoke about before, we are trying to stop
24 deceptive fundraising from the speech.

25 And I played that video because one of

1 the -- again, I -- I didn't think it's necessary for us
2 to go back in on these issues that have already been
3 decided. This is a very narrow modification. But what
4 -- what was said by opposing counsel was that the order
5 was not clear, that the order was vague, and that it was
6 unconstitutionally overbroad.

7 That is defied by Defendant O'Rourke's
8 statements. What Defendant O'Rourke said first is,
9 "They tried to prevent me from raising resources for
10 those that are in this fight." That's exactly what
11 the -- the temporary restraining order does.

12 And then he also said -- he -- he
13 suggested that the state did not get all of the relief
14 that it requested in the temporary restraining order and
15 that what we got was -- what -- what the temporary
16 restraining order actually prevents is, quote, "very
17 technical and specific things." Very technical and
18 specific things.

19 So this idea that it is un- -- that it is
20 overbroad, that it's vague, and that it's not clear what
21 is prohibited is defied by defendant's own words. The
22 defendant knows exactly what he's prohibited from. He's
23 prohibited from raising resources for this fight or for
24 the people, the -- the legislators that are in this,
25 quote/unquote, fight.

1 One piece on the motion to modify the
2 TRO, on subpoint 4, which pertains to the removal of
3 property or -- or money from the state, if the Court
4 grants the motion to modify, that section should be
5 limited to Defendant -- Defendant Powered By People and
6 filing entities or foreign filing entities.

7 THE COURT: Okay. Anything further?

8 MR. FARQUHARSON: Not from the state,
9 Judge.

10 THE COURT: Okay.

11 MR. GONZALEZ: Well, Your Honor, I think
12 this demonstrates why this is incredibly problematic.
13 They -- they're saying this is just prohibited
14 fundraising, not speech. Fundraising for political
15 purposes is speech. That's Citizens United and a
16 hundred other Supreme Court cases. That's, like,
17 fundamental principles that political fundraising itself
18 and political contributions and expenditures are speech.

19 And then they're objecting to these --
20 so, you know, Mr. O'Rourke talked about the narrowness
21 of the TRO. That is what the state represented in court
22 on Friday, that it was a narrow TRO. But if they're
23 needing it to be so broad as to prohibit things like
24 supporting Democrats and raising resources for
25 Democrats, that can mean anything. I mean, that can

1 mean, you know, supporting them in their campaigns,
2 paying their own independent, you know, expenditures,
3 commercials, you know, voter registration. There's a
4 million different types of support and resources.

5 And they -- state had represented that it
6 was seeking a narrow TRO that did not prohibit that
7 clearly constitutional and lawful speech. And now
8 they're the ones saying, no, that is here. And that's
9 why the TRO is problematic. Right? We -- we can't even
10 agree on what it means. And now they're trying to
11 encompass more people into this TRO and then hold
12 defendants, you know, in contempt for things that we
13 didn't think were even part of this TRO but now are.

14 And I believe counsel said that -- that
15 attorneys would not be able to raise through ActBlue. I
16 mean, ActBlue is just a payment platform. It's like
17 PayPal for progressive causes or something, you know. I
18 can't solicit donations through ActBlue for somebody? I
19 mean, that -- you know, I think it's just not
20 constitutional.

21 So I'll leave it at that.

22 THE COURT: Okay. Thank you very much.

23 Anything anybody else want to say? Okay.

24 MR. FARQUHARSON: I think I've made my
25 point.

1 MR. GONZALEZ: Oh, sorry.

2 THE COURT: Yes.

3 MR. GONZALEZ: I'm so sorry.

4 THE COURT: Yes.

5 MR. GONZALEZ: Your Honor, there is one
6 thing that we actually don't disagree with, which is
7 that the fourth point they -- I think it was a clerical
8 error in the original, that it applied to both
9 defendants as to removing any property or funds from the
10 State of Texas. And they clarified that to just be
11 Defendant Powered By People.

12 I mean, if -- we object to this being in
13 place at all, but we wouldn't object to that one
14 narrowly --

15 THE COURT: Okay. I understand.

16 MR. FARQUHARSON: To be clear, we are --
17 Defendant Powered By People and any filing entity or
18 foreign filing entity. So that would include any
19 financial institution, or ActBlue, who has funds
20 belonging to the defendants in -- or in their possession
21 or trust.

22 MR. GONZALEZ: ActBlue is not in front of
23 this Court. This Court can't enjoin ActBlue from -- I
24 mean, that's -- that's insane. ActBlue is a national
25 payment platform that's not in front of this Court.

1 MR. FARQUHARSON: The Court would not be
2 enjoining anything that ActBlue is doing because it's
3 not funds that belong to ActBlue or that belong to the
4 financial institution. It's funds that belong to
5 defendants.

6 MR. GONZALEZ: I mean, that's --

7 THE COURT: Are you tracking some
8 statutory language?

9 MR. FARQUHARSON: Yes.

10 THE COURT: Okay. And you can point me
11 to that statute?

12 MR. FARQUHARSON: First, TRCP 683.
13 Second would be the TRCP -- I'm sorry, not -- Business
14 Organizations Code 12.201, which allows us to obtain the
15 lien on any --

16 THE COURT: Okay.

17 MR. FARQUHARSON: -- filing entity or
18 foreign filing entity. And I believe the -- Business
19 Organizations Code 12.259, I believe it also uses the
20 term "filing entity or foreign filing entity."

21 THE COURT: Okay.

22 MR. GONZALEZ: And I'm not clear what
23 they're asking for in this. I mean, obviously, ActBlue
24 can -- I mean, you know, I don't know the contractual
25 arrangement between ActBlue and its users. And I'm sure

1 that implicates all sorts of complicated areas of law.
2 And if they're now saying ActBlue can't remove funds
3 from the State of Texas, I don't --

4 THE COURT: I don't think that's what
5 he's saying. I think he's saying that ActBlue is not
6 permitted to remove Powered By The People's funds from
7 the State of Texas to the extent that they are a
8 third-party holder of the funds belonging to one of the
9 defendants in this case.

10 Is that what it is?

11 MR. FARQUHARSON: That's right.

12 THE COURT: All right. Do you have any
13 response to that?

14 MR. GONZALEZ: Well, I -- I just don't
15 know that that is, you know, the relationship that
16 ActBlue has with these entities. I don't know, you
17 know. I mean, that would be defined by their contracts
18 and other statutes.

19 THE COURT: Okay. Which is not an issue
20 that the Court is considering today. Okay. I'm going
21 to take that under advisement.

22 Okay. This is what I think I've got in
23 my notes here. We're going to hear the defendants'
24 motion to dissolve the TRO on August 19 at 10:00 a.m.
25 The motion for contempt and TI hearing is now reset to

1 September 2 at 10:00 a.m.

2 I believe, at one point, Mr. Quesada said
3 he had some additional cases to give me on an issue
4 earlier today that we are discussing. If there are any
5 additional case law or relevant legal authority you
6 think the Court needs to see, if you would please email
7 that to my court coordinator by 5:00 p.m. today.

8 I will tell the parties that things that
9 get filed with the clerk, there's a significant delay
10 before I get it. I've complained about it many times,
11 but there's not much way around it. Since we're moving
12 at such a fast pace, if there are things that you think
13 I need to get right away, would you please just go ahead
14 and email that to my court coordinator, CC'ing all
15 parties, so we can move this along?

16 I'll get you the rulings on the three
17 motions that were set. I'll have them issued by close
18 of business tomorrow. Sometimes the clerk also has a
19 delay in getting them to you, so you might want to
20 contact them by 5:00 p.m. tomorrow if you have not
21 received them.

22 And, also, would the plaintiff please
23 email me a red-lined version -- I'm sorry, let me say
24 this again -- the revised TRO that includes all the
25 language that you would like added, red-lined from the

1 version I entered last Friday, and also include a 14-day
2 extension and a reset of the temporary injunction
3 hearing to September 2 at 10:00 a.m.?

4 Are there any questions?

5 MR. FARQUHARSON: Yes, Judge. One
6 question is the supplemental case law. That pertains to
7 the three motions that were set for today only?

8 THE COURT: Yes, correct. Only today.
9 I'm not taking up anything that wasn't set today, just
10 those three.

11 Do you have anything else?

12 Yes, sir.

13 MR. QUESADA: May we get your court
14 coordinator's email, please?

15 THE COURT: Sure.

16 You know, you can just send it directly
17 to the Court's email. And I think it's the 348th...

18 THE BAILIFF: Judge, I've got some cards.

19 THE COURT: Okay. That will be helpful.

20 MR. QUESADA: That will be -- that will
21 be fine.

22 Thank you. That's all I have.

23 THE COURT: Okay. Okay. Okay. Anything
24 else?

25 MR. FARQUHARSON: Not from the state.

1 MR. QUESADA: Nothing here, Your Honor.

2 THE COURT: Okay. Then we will stand in
3 recess. The parties are excused. And I hope y'all get
4 some sleep tonight.

5 MR. FARQUHARSON: Thank you, Judge.

6 THE COURT: Thank you.

7 (Break taken from 1:02 p.m. to 1:16 p.m.)

8 THE COURT: Okay. So we're here to make
9 a short record of an issue regarding Plaintiff's Exhibit
10 1.

11 The format we've received it in is not
12 sufficient to upload to the Court of Appeals' website
13 when my court reporter submits the transcript of these
14 proceedings.

15 So we're going to hold on to Plaintiff's
16 Exhibit 1, but, in the meantime, we're going to have one
17 that complies with the requirements for the Second Court
18 of Appeals prepared by the plaintiff. It will go to the
19 defense for review. And, when you come on Tuesday, we
20 will have an acceptable version of Plaintiff's Exhibit
21 1.

22 And the parties agree, and we will
23 clarify that again on Tuesday, that that is the version
24 that will be the official Plaintiff's Exhibit 1 for
25 purposes of appeal in the record in this case.

1 Is that an accurate statement from
2 everyone?

3 MR. FARQUHARSON: The logistics of how to
4 get the thumb drive to them to look at it before Tuesday
5 is where I -- like, I guess we can overnight it to them,
6 and then they're going to overnight it back to us?

7 MS. SMITH: Or we can just bring it on
8 Tuesday.

9 THE COURT: Or y'all can come early on
10 Tuesday and work out that issue. We're going to be here
11 at 10:00. If y'all want to come at 9:00 and resolve
12 that issue.

13 MR. FARQUHARSON: Okay.

14 THE COURT: Does that work for everybody?

15 MS. STEVENS: We can do that, Your Honor.

16 THE COURT: Okay.

17 MS. STEVENS: One slight, I don't know,
18 clarification or -- or edit to what Your Honor said. I
19 believe you referenced the Second Court of Appeals. We
20 believe this is 15th Court of Appeals. So --

21 THE COURT: Okay.

22 MS. STEVENS: -- not sure how that
23 matters.

24 THE COURT: I'm not even going to tell
25 y'all where to file the appeals. It's just for purposes

1 of maintaining a good record for the purposes of appeal
2 wherever and whenever y'all see fit to do that.

3 MS. STEVENS: Yes, Your Honor.

4 MR. FARQUHARSON: Thank you, Judge.

5 THE COURT: Okay. I will see y'all on
6 Tuesday. Thank you so much.

7 (Proceedings concluded.)
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1 STATE OF TEXAS

2 COUNTY OF TARRANT

3 I, Pennie Futrell, Official Court Reporter in and
4 for the 348th District Court of Tarrant County, Texas,
5 do hereby certify that the above and foregoing contains
6 a true and correct transcription of all portions of
7 evidence and other proceedings requested in writing by
8 counsel for the parties to be included in this volume of
9 the Reporter's Record in the above-styled and -numbered
10 cause, all of which occurred in open court or in
11 chambers and were reported by me.

12 I further certify that this Reporter's Record of the
13 proceedings truly and correctly reflects the exhibits,
14 if any, offered by the respective parties, if requested.

15 WITNESS MY OFFICIAL HAND, on this the 20th day of
16 August, 2025.

17
18
19
20
21 /s/Pennie Futrell
22 PENNIE FUTRELL, CSR
23 Texas CSR No. 4108
24 Expiration: 7/31/2026
25 Official Court Reporter
348th District Court
100 N. Calhoun Street
Fort Worth, Texas 76196

Pennie Futrell, CSR
Official Court Reporter, 348th District Court