

2. Plaintiff Gilberto Hinojosa is Chairman of the Texas Democratic Party and a registered voter in Texas.

3. Joseph Daniel Cascino is a registered voter in Travis County, Texas who is eligible to vote, is a resident of Travis County, Texas, a citizen of the United States and who voted in-person in the March 3, 2020 Texas Democratic Primary Election, desires to vote in the Texas Democratic Party Runoff Election and under the pandemic circumstances would seek to do so by mail-in ballot.

4. Shanda Marie Sansing is a registered voter in Travis County, Texas who is eligible to vote, is a resident of Travis County, Texas, a citizen of the United States and who voted in-person in the March 3, 2020 Texas Democratic Primary Election, desires to vote in the Texas Democratic Party Runoff Election and under the pandemic circumstances would seek to do so by mail-in ballot.

5. Defendant Ruth Hughs is sued in her official capacity as the Texas Secretary of State and may be served with process at 900 Congress, Suite 300 Austin, Travis County, Texas 78701.

6. Defendant Dana DeBeauvoir is sued in her official capacity as the Travis County Clerk and Election Administrator and may be served with process at 5501 Airport Blvd, Austin, Travis County, TX 78751.

Jurisdiction/Venue

7. The Court has jurisdiction over this matter of election law under TEX. ELEC. CODE § 273.081, TEX. CIV. PRAC. & REM. CODE § 37.003 and other laws. Plaintiffs do not seek damages

and therefore make no statement under Texas Rule of Civil Procedure 47. Plaintiffs seek injunctive and declaratory relief which, in this context, is within the jurisdiction of this Court.

8. Venue is proper in Travis County because all or a substantial part of the actions sought to be enjoined will occur in Travis County. See TEX. CIV. PRAC. & REM. CODE §§ 15.002(a)(1); 15.014.

Discovery Control Plan

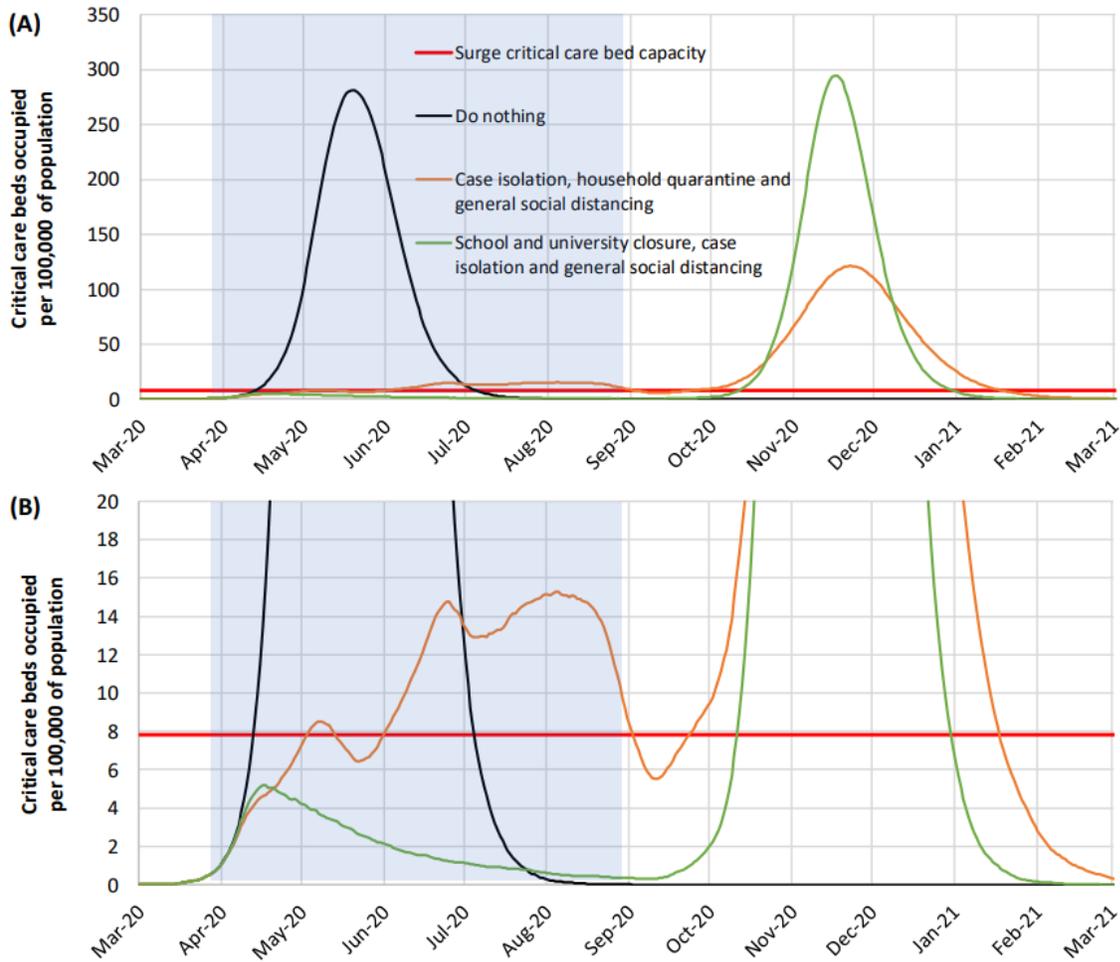
9. Plaintiffs intend to conduct Level 3 discovery under Rule 190.3 of the Texas Rules of Civil Procedure.

Facts/Law

10. The citizens of this state are in the midst of the worst pandemic in modern history. Because of a novel coronavirus, and the disease it causes termed COVID-19, federal, state, county and city officials have ordered various limitations state wide, the central feature of which is to limit contact between persons. Public Health Officials warn that government ordered “social distancing” will probably be in effect for a number of weeks and even after it is lifted, may need to be re-imposed at additional intervals.

11. An influential report from the Imperial College in the United Kingdom¹ that reportedly convinced the President of the United States to view the coronavirus as a public health emergency rather than a “hoax,” sets out some startling facts about the severity and longevity of the crisis facing the public.

¹ <https://www.imperial.ac.uk/media/imperial-college/medicine/sph/ide/gida-fellowships/Imperial-College-COVID19-NPI-modelling-16-03-2020.pdf>



12. According to experts, the expected outcome of the various measures ordered by levels of government, if effective, will be to “flatten the curve,” as these diagrams demonstrate. These circumstances, public health experts agree, should extend the coronavirus infection rate over a longer time period allowing the medical community to prepare and handle the onslaught of severe cases.

13. Given these conditions, upcoming elections for federal, state, county, city and other local offices will be vastly impacted. Importantly, voter behavior will change. Historically, most voters in Texas elections vote in person where they have contact with electronic equipment, election personnel, other voters and observers. These very activities are now heavily discouraged

by various government orders and are being discouraged in an enormous public education campaign. Even were this pandemic to cease, certain populations will feel the need and/or be required to continue social distancing. The upcoming party primary runoff elections and the November General Election are certain to be influenced by these conditions.

14. Although the Governor's recent declarations of emergency give him certain powers to manage public health circumstances, Section 28 of Article I of our State Constitution prescribes that: "No power of suspending laws in this State shall be exercised except by the Legislature." Also, the Right of Association granted by the First Amendment to the U.S. Constitution provides that political parties are free to select their party nominees without undue government influence. The Texas Democratic Party, as well as voters and officials in this state, desperately need the courts to declare what the existing law provides so that they can determine their conduct during the primary runoff period and the General Election. An immediate decision interpreting state law is required so that election preparations can continue in compliance therewith.

15. Plaintiffs contend that existing law allows voters to elect to cast their ballots by mail under the circumstances of this pandemic. Tex. Elec. Code § 82.002 provides in full:

Sec. 82.002. DISABILITY. (a) A qualified voter is eligible for early voting by mail if the voter has a sickness or physical condition that prevents the voter from appearing at the polling place on election day without a likelihood of needing personal assistance or of injuring the voter's health.

(b) Expected or likely confinement for childbirth on election day is sufficient cause to entitle a voter to vote under Subsection (a).

Participating in social distancing, to prevent known or unknown spread of what Governor Abbott has described as an "invisible disease"² is a "a sickness or physical condition that prevents the voter

² <https://www.kxan.com/news/coronavirus/live-gov-abbott-to-hold-press-conference-on-states-current-efforts-against-covid-19/>