

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

EMILY GILBY; TEXAS DEMOCRATIC
PARTY; DSCC; DCCC; and TERRELL
BLODGETT,

Plaintiffs,

v.

RUTH HUGHS, in her official capacity as
the Texas Secretary of State,

Defendant.

CIVIL ACTION NO. 1:19-cv-01063

THE TEXAS SECRETARY OF STATE'S NOTICE OF APPEAL

Pursuant to Federal Rules of Appellate Procedure 3(a)(1) and 4(a)(1)(A), Defendant Ruth Hughs, in her official capacity as the Texas Secretary of State, gives this notice of appeal to the United States Court of Appeals for the Fifth Circuit from the Order entered in this action on August 11, 2020. [ECF No. 107] The Secretary moved to dismiss all claims based on sovereign immunity. The order denying the Secretary's motion to dismiss is therefore immediately appealable under the collateral order doctrine. *See P.R. Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc.*, 506 U.S. 139, 141 (1993); *City of Austin v. Paxton*, 943 F.3d 993, 996 (5th Cir. 2019). Because the Secretary asserted sovereign immunity against all claims asserted by the plaintiffs, this notice of appeal divests this Court of jurisdiction during the pendency of the appeal. "[N]otice of interlocutory appeal following a district court's denial of a defendant's immunity defense divests the district court of jurisdiction to proceed against that defendant." *Williams v. Brooks*, 996 F.2d 728, 729–30 (5th Cir. 1993) (per curiam); *see also Wooten v. Roach*, 964 F.3d 395, 412 (5th Cir. 2020). Based on the foregoing Fifth Circuit precedent, proceedings in this Court, including all discovery matters, are suspended pending resolution of the appeal.

Date: August 14, 2020

Respectfully submitted.

KEN PAXTON
Attorney General of Texas

JEFFREY C. MATEER
First Assistant Attorney General

RYAN L. BANGERT
Deputy First Assistant Attorney General

/s/ Patrick K. Sweeten
PATRICK K. SWEETEN
Associate Deputy for Special Litigation

TODD LAWRENCE DISHER
Deputy Chief, Special Litigation Unit

MATTHEW H. FREDERICK
Deputy Solicitor General

WILLIAM T. THOMPSON
Special Counsel

ERIC A. HUDSON
Special Counsel

KATHLEEN T. HUNKER
Special Counsel

MICHAEL R. ABRAMS
Assistant Attorney General

DOMINIQUE G. STAFFORD
Assistant Attorney General

OFFICE OF THE ATTORNEY GENERAL
P.O. Box 12548 (MC-009)
Austin, Texas 78711-2548
Tel.: (512) 936-1414
Fax: (512) 936-0545
patrick.sweeten@oag.texas.gov
todd.disher@oag.texas.gov
matthew.frederick@oag.texas.gov
will.thompson@oag.texas.gov
eric.hudson@oag.texas.gov
kathleen.hunker@oag.texas.gov
michael.abrams@oag.texas.gov
dominique.stafford@oag.texas.gov

**COUNSEL FOR THE TEXAS SECRETARY OF
STATE**

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on August 14, 2020, and that all counsel of record were served by CM/ECF.

/s/ Patrick K. Sweeten
PATRICK K. SWEETEN