

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

John Kelley, et al.

Plaintiffs,

v.

Xavier Becerra, et al.,

Defendants.

Case No. 4:20-cv-00283-O

**MOTION FOR EXTENSION OF TIME FOR PLAINTIFFS TO FILE  
REPLY BRIEF IN SUPPORT OF MOTION FOR SUMMARY  
JUDGMENT**

The plaintiffs respectfully move for a two-week extension of time to file their combined reply brief in support of their motion for summary judgment (ECF No. 44), and their response to the defendants' cross-motion for summary judgment (ECF No. 62). The brief is currently due on Monday, March 14, 2022. The proposed extension, if granted, would move the deadline to Monday, March 28, 2022. It would also extend the defendants' deadline for filing the reply brief in support of their cross-motion for summary judgment from April 4, 2022, to April 18, 2022.

The Pennsylvania redistricting litigation in *Toth v. Chapman*, No. 1:22-cv-00208-JPW (M.D. Pa.), which culminated in emergency proceedings at the Supreme Court of the United States, has continued to consume Mr. Mitchell's time over the past two weeks and Mr. Mitchell has faced additional accelerated-briefing deadlines in the three-judge district court that could not be moved. On March 4, 2022, Mr. Mitchell had to write and file a brief opposing the defendants' motion to dismiss for lack of jurisdiction within a three-day window, and on March 10, 2022, Mr. Mitchell had to file a reply brief in support of a motion for preliminary injunction with only 48 hours

to respond. Mr. Mitchell also had a motion for summary judgment due on Friday, March 11, 2022, in *Miller v. Vilsack*, No. 4:21-cv-00595-O (N.D. Tex.).

Plaintiffs' counsel has made considerable progress on the reply brief and it is close to filing but respectfully requests an additional two weeks to nail down the many complex and nuanced issues surrounding Article III standing and Appointments Clause. We have e-mailed counsel for the defendants to ask their position on this motion but have not yet heard back. We will inform the Court when we learn their position on the motion.

### CONCLUSION

The plaintiffs' motion to extend the time for filing the reply briefs in support of the cross-motions for summary judgment should be granted.

Respectfully submitted.

GENE P. HAMILTON  
Virginia Bar No. 80434  
Vice-President and General Counsel  
America First Legal Foundation  
300 Independence Avenue SE  
Washington, DC 20003  
(202) 964-3721  
gene.hamilton@aflegal.org

/s/ Jonathan F. Mitchell  
JONATHAN F. MITCHELL  
Texas Bar No. 24075463  
Mitchell Law PLLC  
111 Congress Avenue, Suite 400  
Austin, Texas 78701  
(512) 686-3940 (phone)  
(512) 686-3941 (fax)  
jonathan@mitchell.law

H. DUSTIN FILLMORE III  
Texas Bar No. 06996010  
CHARLES W. FILLMORE  
Texas Bar No. 00785861  
The Fillmore Law Firm, LLP  
1200 Summit Avenue, Suite 860  
Fort Worth, Texas 76102  
(817) 332-2351 (phone)  
(817) 870-1859 (fax)  
dusty@fillmorefirm.com  
chad@fillmorefirm.com

Dated: March 13, 2022

*Counsel for Plaintiffs*

**CERTIFICATE OF CONFERENCE**

I certify that I e-mailed Christopher M. Lynch, counsel for the defendants on March 13, 2022, to request his position on the motion but have not yet heard back.

/s/ Jonathan F. Mitchell  
JONATHAN F. MITCHELL  
*Counsel for Plaintiffs*

**CERTIFICATE OF SERVICE**

I certify that on March 13, 2022, I served this document through CM/ECF

upon:

CHRISTOPHER M. LYNCH  
JORDAN L. VON BOKERN  
Trial Attorneys  
U.S. Department of Justice  
Civil Division  
1100 L Street, NW  
Washington, DC 20005  
(202) 353-4537 (phone)  
(202) 616-8460 (fax)  
christopher.m.lynch@usdoj.gov  
jordan.l.von.bokern2@usdoj.gov

BRIAN W. STOLTZ  
Assistant United States Attorney  
1100 Commerce Street, Third Floor  
Dallas, Texas 75242-1699  
(214) 659-8626 (phone)  
(214) 659-8807 (fax)  
brian.stoltz@usdoj.gov

*Counsel for the Defendants*

/s/ Jonathan F. Mitchell  
JONATHAN F. MITCHELL  
*Counsel for Plaintiffs*

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**[PROPOSED] ORDER**

The plaintiffs' motion to extend the time for filing the reply briefs in support of the cross-motions for summary judgment is GRANTED. The plaintiffs shall file their combined reply brief in support of their motion for summary judgment (ECF No. 44), and their response to the defendants' cross-motion for summary judgment (ECF No. 62) no later than Monday, March 28, 2022. The defendants shall file the reply brief in support of their cross-motion for summary judgment no later than April 18, 2022.

Dated: \_\_\_\_\_, 2022

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REED O'CONNOR  
UNITED STATES DISTRICT JUDGE