No. 03-22-00126-CV

In the Court of Appeals for the Third Judicial District Austin, Texas

GREG ABBOTT IN HIS OFFICIAL CAPACITY AS GOVERNOR OF THE STATE OF TEXAS; JAIME MASTERS IN HER OFFICIAL CAPACITY AS COMMISSIONER OF THE DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES; AND THE TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES,

Appellants,

v.

JANE DOE, INDIVIDUALLY AND AS PARENT AND NEXT FRIEND OF MARY DOE, A MINOR; JOHN DOE, INDIVIDUALLY AND AS PARENT AND NEXT FRIEND OF MARY DOE, A MINOR; AND DR. MEGAN MOONEY,

Appellees.

On Appeal from the
201st Judicial District Court, Travis County

REPLY BRIEF FOR APPELLANTS

KEN PAXTON
Attorney General of Texas

BRENT WEBSTER
First Assistant Attorney General

Office of the Attorney General
P.O. Box 12548 (MC 059)
Austin, Texas 78711-2548
Tel.: (512) 936-1700
Fax: (512) 474-2697

JUDD E. STONE II
Solicitor General
State Bar No. 24076720
Judd.Stone@oag.texas.gov

NATALIE D. THOMPSON
Assistant Solicitor General

COURTNEY CORBELLO
Assistant Attorney General

Counsel for Appellants

ORAL ARGUMENT REQUESTED

Table of Contents

Page

Index of Authorities

Page(s)

Cases:

Statutes:

Other Authorities:

To the Honorable Third Court of Appeals:

As Plaintiffs now concede, the trial court's injunction against the Governor is improper because he does not enforce the laws that Plaintiffs challenge. And Plaintiffs cannot obtain a declaratory judgment in place of an injunction; the same standards govern both types of relief. Plaintiffs' claims must be dismissed because they lack standing to sue the Governor and cannot overcome sovereign immunity.

Other jurisdictional ailments plague Plaintiffs' claims against DFPS and its Commissioner. Although DFPS is charged with enforcing Texas's laws prohibiting child abuse, it must go to court before it can intervene in parents' decisions. It has not done so. DFPS initiated an *investigation* into Jane Doe's self-report; but an investigation, without some resulting official action, is not an injury-in-fact. Plaintiffs' response is to repeat their legal challenges to the Attorney General's interpretation of the Family Code (and the putative DFPS rule adopting it), but a legal violation is not the same thing as an injury-in-fact. Without some injury caused by the government action at issue—and there is none here—Plaintiffs seek an impermissible advisory opinion. Unless and until DFPS takes action to intervene in a medical procedure or other parental decision, the Doe Plaintiffs lack standing or a ripe claim for relief.

Dr. Mooney, too, lacks standing to sue. Dr. Mooney argues she has alleged a "reputational injury" and risks criminal prosecution or professional discipline. But she has identified no concrete damage to her reputation or business causally linked to the challenged "rules." And while criminal prosecution or professional discipline

would be concrete injuries if they occurred, they have not—and DFPS is not the government actor that could prosecute or discipline Dr. Mooney in any event.

The trial court erred in issuing a temporary injunction on these jurisdictionally flawed claims. The Supreme Court has made clear that the temporary injunction against the Governor cannot stand. It also must be vacated as to DFPS and the Commissioner. Plaintiffs failed to establish irreparable harm that could be redressed by injunctive relief against these defendants, and even if they could, the injunction's provisions fail to redress the injuries they did identify. In defending the injunction's terms, Plaintiffs reject the limited reading that moved four Justices of the Supreme Court to leave its first provision in place, ignore the language of its other provisions, and treat it as a general advisory on the law without regard to whether it prohibits or compels any particular government action. None of that saves the temporary injunction. It should be vacated.

ARGUMENT

I. The Trial Court Lacked Subject-Matter Jurisdiction.

One defendant, the Governor, lacks enforcement authority, and the other defendants, DFPS and its commissioner, have not taken (or cannot take) any enforcement action that interferes with Plaintiffs' legal rights. That means Plaintiffs lack standing, a ripe claim, or a route around sovereign immunity.

A. Plaintiffs cannot sue the Governor.

Plaintiffs' request for a declaratory judgment is untenable for the same reasons they cannot obtain an injunction against the Governor: he is not responsible for

enforcing Texas's prohibitions on child abuse or its reporting requirements. Plaintiffs lack standing to sue him, and they cannot overcome his sovereign immunity.

1. The Declaratory Judgment Act does not create jurisdiction that does not otherwise exist.

Plaintiffs now agree (at 33 & n.11) that they cannot obtain an injunction against the Governor. Yet they insist the courts may hear their claims because they also seek a declaratory judgment. That is incorrect. A declaratory judgment is improper for the same reason: it "would serve no purpose." *In re Abbott*, 645 S.W.3d 276, 284 (Tex. 2022) (Lehrmann, J., concurring); *see also Heckman v. Williamson County*, 369 S.W.3d 137, 155 (Tex. 2012) (plaintiffs lack standing where the relief sought will not "remedy [their] situation").

The Declaratory Judgment Act "is not a grant of jurisdiction," *Ex parte Springsteen*, 506 S.W.3d 789, 799 (Tex. App.—Austin 2016, pet. denied), and it "does not alter the underlying nature of the suit," *Tex. Parks & Wildlife Dep't v. Sawyer Tr.*, 354 S.W.3d 384, 388 (Tex. 2011). The DJA is "merely a procedural device for deciding cases already within a court's jurisdiction," so if the Court lacks jurisdiction over a suit seeking a traditional remedy (like an injunction), it also lacks jurisdiction to issue a declaratory judgment. *Tex. Ass'n of Bus. v. Tex. Air Control Bd.*, 852 S.W.2d 440, 444 (Tex. 1993); *cf. Pub. Serv. Comm'n of Utah v. Wycoff Co.*, 344 U.S. 237, 241 (1952) ("[A] controversy which would be justiciable in this Court if presented in a suit for injunction is not the less so because the relief was declaratory."). Here, the Texas Supreme Court has already explained why Plaintiffs

cannot obtain the only traditional, coercive remedy they seek against the Governor. *In re Abbott*, 645 S.W.3d at 281 (unanimous op.), 283-84. That means their request for a declaratory judgment is also barred.

Put another way, the Governor could not bring suit as a plaintiff under these circumstances, so Plaintiffs cannot use the DJA to make him a defendant. The innovation of a declaratory judgment is to allow someone who would be the defendant in a traditional coercive action—such as a suit seeking an injunction or money damages—to instead come to court as a declaratory-judgment plaintiff. *See Green Valley Special Util. Dist. v. City of Schertz*, 969 F.3d 460, 500 (5th Cir. 2020) (Oldham, J., concurring). That is not possible unless there is some relief the declaratory-judgment defendant could have sought against the declaratory-judgment plaintiff. *See Medtronic, Inc. v. Mirowski Family Ventures, LLC*, 571 U.S. 191, 197 (2014) (courts "look to the 'character of the threatened action'" by the declaratory-judgment defendant to determine jurisdiction). Here, there is no enforcement action the Governor could take against Plaintiffs. As Appellants have explained (at 12)—and Plaintiffs do not dispute—the Governor does not have authority to investigate possible child abuse, *In re Abbott*, 645 S.W.3d at 283, or to discipline psychologists who fail to report it in violation of Texas Family Code section 261.101, *see id.*; 3.RR.26. Those responsibilities belong to other state actors.

The APA does not change the analysis. A declaratory-judgment suit challenging a "rule" under the APA is subject to the same jurisdictional strictures that apply outside the APA. *See Tex. Dep't of Transp. v. Sefzik*, 355 S.W.3d 618, 622 (Tex. 2011) (per curiam). The APA allows a suit for a declaratory judgment "if it is alleged that

[a challenged] rule or its threatened application interferes with or impairs, or threatens to interfere with or impair, a legal right or privilege of the plaintiff." Tex. Gov't Code § 2001.038(a). The Governor's letter to the Commissioner cannot "interfere with or impair" any of Plaintiffs' rights or privileges, as the Supreme Court has already explained. *See In re Abbott*, 645 S.W.3d at 281 (unanimous op.).

2. Plaintiffs lack standing.

Even if Plaintiffs had identified an injury-in-fact (though they did not, *see infra* 14-19), their claim against the Governor cannot satisfy the traceability and redressability requirements of standing. The Governor is not charged with enforcing the challenged laws. *In re Abbott*, 645 S.W.3d at 283-84. Because the Governor does not investigate or prosecute, traceability is lacking. The same reasoning bars a suit seeking declaratory relief. *See Abbott v. Mexican Am. Legislative Caucus*, No. 22-0008, 2022 WL 2283221, at *9-10 (Tex. June 24, 2022) (standing to seek a declaratory judgment requires an "enforcement connection between the challenged provisions and the [defendant]" (internal quotation marks omitted)); *see also Collins v. Yellen*, 141 S. Ct. 1761, 1779 (2021). And because a declaratory judgment is binding only on the parties, *see Tex. Educ. Agency v. Leeper*, 893 S.W.2d 432, 446 (Tex. 1994), an order against the Governor would not redress Plaintiffs' injuries.

a. Doe Plaintiffs

The Doe Plaintiffs defend their standing by arguing (at 31-33) that the Governor's letter caused "DFPS [to] launch[] new investigations," and such an investigation injures the Doe Plaintiffs. That theory rests on an unsupported

assumption: that DFPS otherwise would *not* investigate Ms. Doe's self-report of possible abuse, even after the Attorney General's opinion.

The Doe Plaintiffs say (at 31–32) the Governor's letter must have been the controlling force behind DFPS's policy. But they point to no *factual* allegations supporting this assumption (which is itself fatal to their claims), and subsequent events have proven it false. When the Supreme Court directed this Court to vacate its Rule 29.3 order as to anyone not a party to this case, it also made clear that DFPS was not bound by the Governor's letter. *See In re Abbott*, 645 S.W.3d at 280-81 (unanimous op.). Nonetheless, DFPS resumed its other investigations involving the disputed medical procedures and opened new ones.[1] Because DFPS continued the alleged violation after the Supreme Court's opinion, Plaintiffs cannot credibly claim that the Governor's letter is the legal cause of DFPS's actions. As the Governor's only connection to this case is his letter, this also shows that Plaintiffs' alleged injury is not traceable to the Governor.

Neither can the Doe Plaintiffs satisfy the redressability requirement of standing. A plaintiff lacks standing to seek prospective relief unless there is *someone* to whom the court can direct its order and *something* that person can be ordered to do (or not do). *See Collins*, 141 S. Ct. at 1779 ("[T]he relevant inquiry is whether the plaintiffs' injury can be traced to 'allegedly unlawful conduct' of the defendant, not to the

---

[1] *See* Eleanor Klibanoff, *Texas resumes investigations into parents of trans children, families' lawyers confirm*, Texas Tribune (May 20, 2022), available at https://www.texastribune.org/2022/05/20/trans-texas-child-abuse-investigations/.

provision of law that is challenged."); *In re Abbott*, 645 S.W.3d at 280 (unanimous op.) ("[P]laintiffs who want the courts to pass judgment on the legality of government action must seek relief against the particular government official or agency responsible for the challenged action."). Without some action the court can compel or restrain, a court's judgment about the validity of a law is advisory. *See Tex. Ass'n. of Business*, 852 S.W.2d at 444.

The Doe Plaintiffs identify two discernible government actions: conducting "unlawful investigations" (at 18) and "prevent[ing] the Doe Parents from consenting to medically necessary care" for Mary Doe (at 21). But the Supreme Court has already recognized that the Governor "does not have authority to do any of those things." *In re Abbott*, 645 S.W.3d at 283. Rather, any investigating or preventing would have to be done by DFPS, *id.* at 280-81, and then only with a court order, *see id.* at 282.

An injury may be redressable where the defendant's legal relationship with a third party makes a judgment against the defendant "likely to produce" action by the third party that remedies the plaintiff's injury. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 571 (1992). But that does not help Plaintiffs. "[I]t must be *the effect of the court's judgment on the defendant*—not an absent third party—that redresses the plaintiff's injury." *Jacobson v. Fla. Sec'y of State*, 974 F.3d 1236, 1254 (11th Cir. 2020). "Any persuasive effect a judicial order [against the Governor] might have upon" DFPS is irrelevant because DFPS is "not under the [Governor's] control." *Id.* "[T]here is no reason [DFPS] should be obliged to honor an incidental legal determination" that does not bind it. *Lujan*, 504 U.S. at 569. An order against the Governor is not likely

to produce DFPS action that would remedy the Doe Plaintiffs' alleged injuries. (And the reasons an order directly against DFPS is improper are addressed below.)

b. Dr. Mooney

Dr. Mooney also lacks standing to sue the Governor. She identifies (at 28) two allegations in support of an injury-in-fact: "[1] threats to her business and professional reputation, plus [2] the possible loss of her license or criminal prosecution." Neither theory meets the "irreducible constitutional minimum" for standing to sue the Governor. *Lujan*, 504 U.S. at 560.

i. The first alleged injury does not create standing because—in addition to the traceability and redressability issues discussed above—Dr. Mooney does not identify any concrete "threat[s] to her business and professional reputation" that would occur if the challenged "rule" is enforced. To support standing, there must be more than "subjective chill" to the exercise of a plaintiff's rights. *See Meese v. Keene*, 481 U.S. 465, 473-74 (1987); *Laird v. Tatum*, 408 U.S. 1, 13-14 (1972). The plaintiff must identify a concrete harm that will occur if the challenged law is enforced against her. *See Laird*, 408 U.S. at 13-14. Here, Dr. Mooney does not identify any client she has lost or will imminently lose, any allegation she has violated an ethical duty, or any other identifiable injury caused by the challenged "rules." Nor does she claim the Governor himself has acted to undermine her "business and professional reputation."

To the extent Dr. Mooney's theory is that the very existence of the Governor's letter undermines her "business and professional reputation," that amounts to (at best) a challenge to the law itself, not to any action by the Governor. A lawsuit

complaining about the validity of a law without seeking to prevent enforcement of that law is simply a request for an advisory opinion. *See California v. Texas*, 141 S. Ct. 2104, 2116 (2021); *Tex. Assoc. of Business*, 852 S.W.2d at 444. Because "[t]here is no one, and nothing, to enjoin," the mere existence of a law does not confer standing. *California*, 141 S. Ct. at 2116; *accord Collins*, 141 S. Ct. at 1779 ("[T]he relevant inquiry is whether the plaintiffs' injury can be traced to 'allegedly unlawful conduct' of the defendant, not to the provision of law that is challenged.").

It does not help Dr. Mooney to argue that the Governor's letter is an *ultra vires* act. Courts have power "to redress harms that defendants cause plaintiffs, not a freewheeling power to hold defendants accountable for legal infractions." *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190, 2205 (2021). So even if the letter were *ultra vires* (it is not), Dr. Mooney would still have to show that it caused her injury. *See id.*

Dr. Mooney counters (at 28) that after she "said publicly . . . that she would not follow Abbott's Directive and the DFPS Rule . . . she has been called a 'child abuser,' and had her license threatened." 3.RR.26. For three independent reasons, that does not give her standing to sue the Governor. *First*, most importantly, a declaratory judgment against the Governor is not likely to prevent reputational harm caused by statements made by a "third party not before the court." *Lujan*, 504 U.S. at 560.

Second, it is not enough to show such things were said in the past. To support the prospective relief she seeks, Dr. Mooney must show a likely "threat to her business and professional reputation" in the future. *See, e.g.*, *Perez v. McCreary,*

Veselka, Bragg & Allen, P.C., No. 21-50958, 2022 WL 3355249, at *7 (5th Cir. Aug. 15, 2022).

Third, although "reputational injury" can be an injury-in-fact, *TransUnion*, 141 S. Ct. at 2204 (citing *Keene*, 481 U.S. at 473), that is when the injury flows from the enforcement of the challenged law, *see Keene*, 481 U.S. at 473-74. This theory does not extend to reputational harm flowing from Dr. Mooney's stated *refusal* to follow the Attorney General's interpretation—that is, her refusal to comply with the challenged governmental pronouncements.

ii. Dr. Mooney's second alleged injury—professional discipline or criminal prosecution—is not actual or imminent. As Appellants have explained (at 12), Dr. Mooney does not claim any government official has initiated such enforcement against her or will imminently do so. Because any sanction for a failure to report is "conjectural [and] hypothetical," it does not support standing. *Lujan*, 504 U.S. at 560 (internal quotation marks omitted); *accord Data Foundry, Inc. v. City of Austin*, 620 S.W.3d 692, 696 (Tex. 2021). Put another way, a claim on this basis involves "uncertain or contingent future events that may not occur as anticipated or may not occur at all." *Waco ISD v. Gibson*, 22 S.W.3d 849, 852 (Tex. 2000) (internal quotation marks omitted). Such a claim either is not ripe or fails for lack of standing.

Dr. Mooney makes two primary counter-arguments. Neither has merit. *First*, Dr. Mooney insists (at 28-29) that a plaintiff who identifies a "genuine threat of enforcement, [is] not require[d] . . . [to] bet the farm, so to speak, by taking the violative action." *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 129 (2007). That is true, but irrelevant here; Dr. Mooney states she has already "tak[en] the violative

action," 3.RR.26, yet she *still* cannot establish any "genuine threat of enforcement." A doctrine designed to avoid forcing would-be plaintiffs to "bet the farm" cannot help a plaintiff who has already placed her wager.

In any event, Dr. Mooney's "bet the farm" argument does not help because the Governor "does not have authority to do [either] of th[e] things" Dr. Mooney fears. *In re Abbott*, 645 S.W.3d at 283. That deprives her claim of traceability. And a declaratory judgment is binding only on the parties, *see Leeper*, 893 S.W.2d at 446, so if Dr. Mooney failed to make a report required by Texas Family Code section 261.101, a declaratory judgment against the Governor would not prevent other officials from acting in response. A declaratory judgment would do nothing to prevent these injuries, so Dr. Mooney lacks standing to seek one. *See Heckman*, 369 S.W.3d at 155.

Second, recognizing that the relevant government officials are not parties here, Dr. Mooney argues (at 29-30) that "[t]he entity responsible for enforcing a directive is not a necessary defendant where a plaintiff challenges the validity of the directive itself." That is not so. The decision Dr. Mooney cites, *Abbott v. La Joya Independent School District*, No. 03-21-00428-CV, 2022 WL 802751 (Tex. App.—Austin Mar. 17, 2022, pet. filed), found standing based on a supposed distinction between a lawsuit "complaining about the validity of the [challenged law] itself, as opposed to the threat of enforcement." *Id.* at *9. But a lawsuit "complaining about the validity" of a law, *id.*, without seeking to prevent enforcement of that law, is simply a request for an advisory opinion. *See California*, 141 S. Ct. at 2116; *Tex. Ass'n of Business*, 852 S.W.2d at 444. Since *La Joya* was decided, the Texas Supreme Court has held that

plaintiffs cannot sue a government defendant for declaratory relief unless that defendant has a role in enforcing the challenged law. *See Mexican Am. Legislative Caucus*, 2022 WL 2283221, at *9-10.

Dr. Mooney's argument is premised on the mistaken idea that it does not matter whether the court's judgment restrains any identifiable government actor or action. For example, although Dr. Mooney does not claim there is anything for the Governor to do if she fails to report suspected child abuse, she argues (at 30) a judgment would "ensur[e] that she remains in compliance with her mandatory duty to report without violating the law or her ethical obligations to her clients." But again, a declaratory judgment is binding only on the parties, so it would not prevent the non-party Behavioral Health Executive Council from revoking Dr. Mooney's license. Nor would it bar any client alleging an ethical violation from seeking redress or stop any prosecutor from bringing charges. Under *Mexican American Legislative Caucus*, Dr. Mooney lacks standing to sue the Governor because the Governor lacks any connection to enforcement of the laws she challenges.

3. Sovereign immunity bars Plaintiffs' claims.

In pressing their claims against the Governor, it is Plaintiffs' burden to overcome sovereign immunity. *See Matzen v. McLane*, No. 20-0523, 2021 WL 5977218, at *4 (Tex. Dec. 17, 2021). They cannot carry that burden.

First, Plaintiffs state in passing (at 46) that the Governor's letter is challengeable under the APA. But a letter to the Commissioner that the Supreme Court has already explained lacks binding force, *see In re Abbott*, 645 S.W.3d at 280-81 (unanimous op.),

is not a "rule" under the APA. *See* Tex. Gov't Code § 2001.003(6)(A). That means the APA does not waive the Governor's sovereign immunity.

Second, Plaintiffs contend (at 53) that the Governor's letter was *ultra vires*, but they have not stated a viable *ultra vires* claim (as they must to overcome sovereign immunity). *See Perez v. Turner*, No. 20-0382, 2022 WL 2080868, at *4 (Tex. June 10, 2022); *Matzen*, 2021 WL 5977218, at *4. As Appellants have explained (at 17-18), it is not outside the Governor's legal authority to send letters to the Commissioner regarding Attorney General opinions. Moreover, the Governor's letter itself causes no injury to Plaintiffs, and, as Appellants have explained (at 18), an *ultra vires* claim is improper if the defendant official has not violated the plaintiff's rights. For the same reasons Plaintiffs lack standing to sue the Governor, *see supra* 5-8, their *ultra vires* claim against him is not viable.

Plaintiffs contend (at 53-55) *this* letter was nonetheless *ultra vires* because it "redefined" child abuse and created new reporting obligations. But the Attorney General's opinion interpreted existing provisions of the Family Code, and the Governor's letter simply directed the Commissioner to apply that interpretation. App'x Tabs D, E. And even if Plaintiffs were properly interpreting the letter, their argument would boil down to a claim that the Governor misinterpreted "a law collateral to [his] authority." *Hall v. McRaven*, 508 S.W.3d 232, 241–42 (Tex. 2017). Disputed legal reasoning, "even if ultimately erroneous" in some observers' eyes, cannot deprive the Governor of authority to send letters to state agencies. *See id.*

Third, Plaintiffs are incorrect to say (at 57-58) that constitutional claims are not subject to sovereign immunity. The case they cite (at 58), *Klumb v. Houston*

Municipal Employees Pension System, 458 S.W.3d 1 (Tex. 2015), is not to the contrary; it recognizes that a plaintiff can bring a constitutional claim *if* he can establish an exception to or a waiver of sovereign immunity. That is precisely why plaintiffs alleging constitutional violations bring *ultra vires* suits against state officials or, if the DJA's limited waiver of sovereign immunity is available, claims against the governmental entity. *See Patel v. Tex. Dep't of Licensing & Regulation*, 469 S.W.3d 69, 76-77 (Tex. 2015). Plaintiffs' *ultra vires* claim against the Governor is not viable for the reasons discussed above, and they disclaim reliance on the DJA (at 58).

B. Plaintiffs cannot sue DFPS or the Commissioner.

Plaintiffs also lack standing to sue DFPS or its Commissioner because the present injuries they allege are not concrete, and the future injuries they fear are contingent and remote. By the same token, their claims are not ripe and are barred by sovereign immunity.

1. Plaintiffs lack standing, and their claims are unripe.

Both the Doe Plaintiffs and Dr. Mooney lack an injury-in-fact that is caused by DFPS or the Commissioner and redressable by an order against them. Some of their alleged injuries might support a claim in the future, but today such claims are not ripe. And for related reasons, Plaintiffs' claims are barred by sovereign immunity.

a. The Doe Plaintiffs' claims to prevent interference with medical decision-making are not ripe, and they presently lack standing.

In defense of their standing, the Doe Plaintiffs first argue (at 19-20) that DFPS's "rule" "violated the Doe Appellees' right to due process," including their "fundamental rights as parents," and "violated Mary Doe's right to equality under

the law." Even if those legal theories were accurate (they are not), it would not establish an injury-in-fact. The source of a plaintiff's legal claim is not the same thing as the plaintiff's injury. *See Perez*, 2022 WL 2080868, at *3. The bare existence of a law, without more, does not confer standing—no matter how aggrieved the plaintiff may feel about the law's existence, and even if the plaintiff feels obliged to comply with the law. *See supra* 6-7. It is not enough for the Doe Plaintiffs to insist that the challenged "rule" violates their legal rights.

To identify an injury-in-fact, the court "must consider plaintiffs' actual injury—not the labels plaintiffs put on that injury." *E.T. v. Paxton*, 41 F.4th 709, 717 (5th Cir. 2022). As discussed above, the Doe Plaintiffs identify two government actions as sources of injury: (1) "unlawful investigations" (at 18) and (2) "prevent[ing] the Doe Parents from consenting to" medical procedures (at 21). The first is not a concrete injury. The second could be concrete if it occurred, but it has not occurred—and cannot occur without court authorization—so it is not "actual or imminent." *Lujan*, 504 U.S. at 560 (internal quotation marks omitted).[2]

i. To the extent the Doe Plaintiffs' first putative injury-in-fact arises from the investigation itself, it does not suffice. Standing requires "an invasion of a *legally protected* interest." *Spokeo, Inc. v. Robins*, 578 U.S. 330, 339 (2016) (emphasis added);

---

[2] Plaintiffs also point (at 37-38) to "Jane Doe's suspension and placement on administrative leave" from her job at DFPS and her "potential loss of employment." Such injuries might support standing to seek an injunction to prevent DFPS from suspending Ms. Doe or placing her on leave, but Plaintiffs have not sought such relief. *See* CR.235-36. As "standing is not dispensed in gross," those injuries are not relevant to the current claim. *See Heckman*, 236 S.W.3d at 153.

cf. TransUnion, 141 S. Ct. at 2205. Plaintiffs do not have a legal right to stop DFPS from "investigat[ing] a report of child abuse or neglect." Tex. Fam. Code § 261.301(a); *Laird*, 408 U.S. at 13-14. And while they certainly have a legal right to defend themselves if DFPS initiates a court action seeking to affect parental rights, *In re Abbott*, 645 S.W.3d at 282 (unanimous op.), DFPS has not brought such an action, and there is no indication it will imminently do so. If an investigation is an actionable injury, anyone who believes their actions do not fit the Family Code's broad definitions of child abuse would have standing to shut down DFPS's investigation. *See Twitter, Inc. v. Paxton*, 26 F.4th 1119, 1124-25 (9th Cir. 2022).

The Doe Plaintiffs intimate (at 25) that merely being investigated "chill[s] the exercise of [their] rights," but "[t]he normal judicial role in this process is to act as the gatekeeper against unlawful interference in the parent-child relationship, not to act as overseer of DFPS's initial, executive-branch decision to investigate whether allegations of abuse may justify the pursuit of court orders." *In re Abbott*, 645 S.W.3d at 282 (unanimous op.). And although some government investigations might "chill the exercise of rights," *id.* at 289 n.1 (Blacklock, J., concurring in part and dissenting in part), a "subjective chill" is not enough. *Laird*, 408 U.S. at 13-14; *cf. Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 402 (2013) (explaining that a plaintiff "cannot manufacture standing by choosing to make expenditures based on hypothetical future harm that is not certainly impending"). A plaintiff who relies on such a theory must nevertheless identify a concrete injury. *See Clapper*, 564 U.S. at 402. Yet Plaintiffs do not claim they have done anything differently as a result of DFPS's investigation.

Plaintiffs insist (at 17) that they "do not challenge DFPS's general investigative authority," but their argument does just that. Plaintiffs' argument that here there are no "*actual* allegations of abuse under [the Family Code]" supplies no limitation at all. Anyone who denies abuse can say the same. Nor does it help Plaintiffs to distinguish their claims (at 17-18) as challenging a "rule," as opposed to challenging DFPS's "general investigative authority." Even an APA plaintiff must have standing; it is an "irreducible constitutional minimum." *Lujan*, 504 U.S. at 560. If Plaintiffs have standing, so does anyone willing to argue that there are no "*actual* allegations of abuse under [the Family Code]." Anyone who denies having abused a child will make that argument. Plaintiffs offer no limitation at all.

ii. If the Doe Plaintiffs' theory is based instead on the threat of an adverse outcome to the investigation, their claims are not ripe. *See Gibson*, 22 S.W.3d at 851-52. Such a claim is not ripe until the investigating agency "has arrived at a definitive position on the issue." *Rea v. State*, 297 S.W.3d 379, 383-84 (Tex. App.—Austin 2009, no pet.). Until then, the government agency has taken no action that legally affects the plaintiff's rights. The Doe Plaintiffs' response (at 37) is to repeat their claim that the investigation violates their constitutional rights, but even if they were correct (they are not), "an injury in law is not an injury in fact." *TransUnion*, 141 S. Ct. at 2205.

The Doe Plaintiffs next argue (at 41-44) that their claims are prudentially ripe because "[t]his case presents a challenge to an underlying rule unlawfully adopted by DFPS and Abbott's Directive" and the questions presented are purely legal, so "resolving this case does not turn on the specifics of the resulting, improperly-

initiated investigation into the Does." That theory rests on the mistaken premise that the mere existence of a law gives rise to standing. But without an injury the court can remedy, a purely legal dispute is just a request for an advisory opinion. *See supra* 6-7. And even if they were correct about prudential ripeness, that does not control the constitutional requirements of standing.

And in any event, Plaintiffs' own characterization of their claims demonstrates that factual development is necessary for them to ripen. They assert (at 21-22) constitutional violations based on the factual premises that, *inter alia*, "Mary Doe was diagnosed with gender dysphoria" and "doctors recommended medical care" to treat it. DFPS accepts the truth of those allegations for purposes of challenging the pleadings, as it must. *See Tex. Bd. of Pardons & Paroles v. Feinblatt*, 82 S.W.3d 513, 517 (Tex. App.—Austin 2002, pet. denied). But determining whether these facts are true is part of what DFPS's now-enjoined investigation was meant to do. The trial court erred in prohibiting that investigation. *See Twitter*, 26 F.4th at 1124-25.[3]

iii. The Doe Plaintiffs' second alleged injury, "prevent[ing] the Doe Parents from consenting to" medical procedures, also does not supply injury-in-fact. "DFPS's preliminary authority to *investigate* allegations does not entail the ultimate authority to *interfere* with parents' decisions about their children." *In re Abbott*, 645 S.W.3d at 281 (unanimous op.). Because the Doe Plaintiffs do not contend DFPS has

[3] Plaintiffs argue (at 42) that *Twitter* is distinguishable because it involved claims seeking "a judicial determination of . . . the issue the [agency] sought to investigate." The same is true here; DFPS's investigation is aimed at determining whether there has been child abuse as defined by the Family Code, while the Doe Plaintiffs' lawsuit rests on their contention that there has not been.

"actual[ly]" sought court authorization to interfere with their medical decisions or that it will "imminent[ly]" do so, they have not established standing based on the theoretical possibility of future injury. *Clapper*, 568 U.S. at 409.

If DFPS ever does seek to prevent Jane and John Doe from consenting to a medical procedure, it will "need[] permission from [a] court[]." *In re Abbott*, 645 S.W.3d at 282 (unanimous op.). That means the Doe Plaintiffs' alleged injury rests on "guesswork as to how independent decisionmakers will exercise their judgment," and that is not enough to establish standing. *Clapper*, 568 U.S. at 413. And if DFPS ever does seek court authorization to intervene, the Doe Plaintiffs will have every opportunity to contest DFPS's interpretation of the Family Code and its assessment of the facts. But at this stage, they have no entitlement to pre-enforcement judicial review. *See Twitter*, 26 F.4th at 1125; *cf. Whole Woman's Health v. Jackson*, 142 S. Ct. 522, 537–38 (2021) ("This Court has never recognized an unqualified right to pre-enforcement review of constitutional claims[.]").

Finally, Plaintiffs return (at 26) to their due-process and equal-protection claims, arguing that the APA provides them with a cause of action "if a 'rule or its threatened application interferes with or impairs . . . a legal right.'" But the "DFPS Rule," even as interpreted by Plaintiffs, does not do that—DFPS cannot interfere with anything the Doe Plaintiffs do until it obtains a court order. And the issue here is standing, not the existence of a cause of action—a plaintiff must have both.

b. Dr. Mooney lacks standing to sue DFPS or the Commissioner.

Once again, Dr. Mooney's two alleged injuries do not confer standing because the alleged injuries are neither "concrete and particularized" nor "actual or

imminent." *Clapper*, 568 U.S. at 409. *See supra* 8-12. But even if Dr. Mooney had identified an injury in fact, her injuries are not traceable to DFPS or the Commissioner and are not "likely" to be redressed by an order against these defendants. *Data Foundry*, 620 S.W.3d at 696. Like the Governor, DFPS has not threatened to revoke Dr. Mooney's psychologist's license and has no power to do so. Nor can DFPS initiate a criminal prosecution or take any other enforcement action against Dr. Mooney.

2. Sovereign immunity bars Plaintiffs' claims.

Plaintiffs also lack a way around sovereign immunity as to either DFPS or the Commissioner. As to DFPS, Plaintiffs rely (at 45-57) on the APA to waive sovereign immunity. That theory fails because, as Appellants have explained (at 14-16), there is no "rule" within the meaning of the APA. Plaintiffs now suggest (at 55-56) that the "rule" they challenge is not solely the February 22, 2022 "DFPS Statement" identified in their pleadings, CR.30, but also various procedures DFPS adopted for investigating the circumstances addressed in the Attorney General opinion. Those further theories are not alleged in Plaintiffs' live petition, so they are immaterial to assessment of Appellants' plea to the jurisdiction. But in any event, DFPS's investigatory procedures are inherently discretionary and involve DFPS's interpretation of the governing law. *See In re Abbott*, 645 S.W.3d at 281 (unanimous op.); *id.* at 288-89 (Blacklock, J., concurring in part and dissenting in part). At most, Plaintiffs might have alleged an internal policy governing how DFPS will conduct its work, and pursuant to Texas Government Code section 2001.003(6)(C) such an internal policy is not a "rule" subject to challenge under the APA.

As to the Commissioner, Plaintiffs rely (at 55-57) on an *ultra vires* theory premised on failing to follow notice-and-comment procedures. This theory, therefore, does not encompass their additional contention (at 61 n.21) that applying the Attorney General's interpretation of "child abuse" is substantively unlawful. They have consequently forfeited any other *ultra vires* claim against the Commissioner. And even as to their claim that the "rule" required notice and comment, Plaintiffs' claim is not viable. The APA does not require the Commissioner to promulgate a formal rule every time DFPS investigates a new circumstance that might constitute child abuse as defined by the Family Code, as Appellants have explained (at 14). Recognizing that certain medical procedures can injure a child if they are not medically necessary is an application of DFPS's well-established statutory duty.

II. The Temporary Injunction Must be Vacated.

Aside from the jurisdictional flaws in Plaintiffs' claims, the trial court erred in granting a temporary injunction. Even assuming Plaintiffs each have a viable cause of action against each Appellant—though they do not for the reasons explained above—Plaintiffs failed to establish a probable right to relief on their claims or irreparable injury.

A. The Supreme Court has explained why Plaintiffs cannot obtain an injunction against the Governor.

Plaintiffs have no probable right to injunctive relief against the Governor, so the temporary injunction must be vacated. As the Supreme Court has explained, "the Governor lacks the authority to investigate or prosecute the plaintiffs, and no party

alleges that he has threatened to do so." *In re Abbott*, 645 S.W.3d at 283-84. Plaintiffs appear to recognize as much; they abandon (at 59 n.20) their defense of the preliminary injunction against the Governor and state (at 33 n.11) that they no longer intend to seek a permanent injunction against him.

B. Plaintiffs are not entitled to a temporary injunction against the Commissioner or DFPS.

Each of the four provisions in the trial court's temporary injunction is improper.

1. As Appellants explained (at 21-24), four Justices of the Supreme Court read the temporary injunction's first provision to simply "reinforce the reality that there has been no change in law that, of its own force, authorizes any action by DFPS against the plaintiffs." An injunction that does not remedy the Plaintiffs' alleged injury is improper. *See Heckman*, 369 S.W.3d at 155. Plaintiffs offer no response to the deficiencies of the provision under this narrower reading, so any justification for the provision on that basis is forfeited.

Plaintiffs instead reject the narrow reading because they contend (at 61) that DFPS's "enforcement actions . . . were driven not by DFPS's independent judgment and exercise of [statutory] authority . . . but [based on] Abbott's Directive and Paxton's Opinion." Even if that were correct, it would be immaterial to the propriety of the temporary injunction. An injunction operates only prospectively, so what DFPS did in the past is immaterial to whether an injunction is necessary or appropriate to prevent future injury. *See, e.g.*, *Perez*, 2022 WL 3355249, at *7. Plaintiffs are not entitled to an injunction preventing DFPS from applying the Attorney General's interpretation of the Family Code in the course of investigating

possible child abuse *even if*, as Plaintiffs argue (at 60), DFPS mistakenly relied on direction from the Governor to take the same action in the past. And they provide no justification for the idea that a state agency can be enjoined from considering the nonbinding legal guidance provided in an Attorney General opinion.

Plaintiffs go on to argue (at 61-62) that "even if DFPS adopted the DFPS Rule independently," it is substantively unlawful. In short, Plaintiffs contend that DFPS's statutory duty to investigate does not extend to investigating the possibility that the challenged medical treatments could injure a child within the meaning of Family Code section 261.001. That is wrong. Texas Family Code section 261.001(1) encompasses, among other things, anything that causes "mental or emotional injury to a child" or "physical injury that results in substantial harm to the child." To be sure, there is a factual question in any given case as to whether a medical procedure is injurious or salutary. The answer to that question is something that DFPS has the duty to investigate; and that, if necessary, a court would have to determine. But to show that DFPS's investigatory duty does not allow even an investigation, Plaintiffs would have to prove that these procedures can *never*, as a matter of law, injure a child. They cannot do so and do not even try.

Plaintiffs cannot justify this provision of the injunction by misstating DFPS's position (at 23), that "it is DFPS's role to investigate every allegation of medical treatment for gender dysphoria." DFPS's press statement—the challenged "Rule"—does not say that. App'x Tab F. Rather, DFPS stated it will apply the Attorney General's interpretation of Family Code section 261.001, which opines that certain procedures, when not medically necessary, can fall within the statutory

definition of child abuse, *see* App'x Tab D; and that DFPS will process any reports under DFPS's existing procedures, App'x Tab F.

In any event, Plaintiffs still identify "no precedent for this kind of preemptive short-circuiting of the normal relationship between the investigatory power of the executive branch and the judicial power of the courts." *In re Abbott*, 645 S.W.3d at 289 (Blacklock, J., concurring in part and dissenting in part). If DFPS misinterprets the Family Code, the courts will not allow it to interfere with parents' decisions about medical procedures. *Id.* at 282 (unanimous op.) ("[B]efore issuing orders, a court would have to decide whether the child abuse investigated and alleged by DFPS qualifies as such under Texas law."). The temporary injunction, however, "amounts to one court ordering DFPS not even to look into whether it should seek orders from another court." *Id.* at 289 (Blacklock, J., concurring in part and dissenting in part).[4]

2. Plaintiffs insist (at 63-64) that the temporary injunction's second provision "did not impose 'a flat prohibition' on DFPS's investigatory authority" over the challenged procedures, but instead "target[s] DFPS's summary implementation of a new rule," and (at 66) is based on "Appellees' allegations that DFPS violated the APA and its statutory authority when it treated gender-affirming care for adolescents

[4] Should DFPS seek a court order, it would have to overcome Plaintiffs' arguments (at 65) that the challenged medical treatment does not injure Mary Doe and that preventing such treatments would "interfere[] with [their] fundamental parental rights [or] other equality and due process guarantees of the Texas Constitution." If Plaintiffs are correct, then the court will not grant DFPS's hypothetical request to intervene. And because the Doe Plaintiffs have an adequate remedy at law, injunctive relief is improper.

as *presumptively* abusive." That argument ignores the words of the injunction, which are not limited to investigations authorized under the alleged "rule." CR.236. Instead, the provision orders DFPS not to "investigat[e] reports …" *simpliciter*. CR.236. Plaintiffs asked for an injunction prohibiting all investigations—not one premised on the APA's requirements for rulemaking—and that is what they got. Moreover, as Justice Blacklock suggested, "an injunction preemptively prohibiting the executive branch from even investigating the possibility that injury to a child may result from the disputed treatments" is improper. *In re Abbott*, 645 S.W.3d at 289 (Blacklock, J., concurring in part and dissenting in part).

Plaintiffs go on to argue (at 65) that investigating whether the disputed treatments may cause injury to a child is substantively unlawful because "DFPS does not have the authority to position itself as the final arbiter of medically necessary treatment decisions by parents on behalf of their minor children." That mischaracterizes DFPS's argument. Appellants do not contend DFPS is "the final arbiter." Again, DFPS cannot interfere with parents' decisions unless it obtains a court order. *See In re Abbott*, 645 S.W.3d at 282 (unanimous op.). Far from "position[ing] itself as the final arbiter," DFPS has repeatedly emphasized that it cannot act unilaterally.

3. The third and fourth provisions are unlawful because they enjoin Appellants from taking actions that even Plaintiffs do not argue they have authority to take. *See* CR.236. DFPS cannot prosecute crimes, as Appellants have explained (at 27-28), so the provision prohibiting it from doing so "serve[s] no purpose." *In re Abbott*, 645 S.W.3d at 284 (Lehrmann, J., concurring). Plaintiffs still have not identified any

enforcement action DFPS could take against any of them for failure to report potential child abuse or to compel their compliance with mandatory reporting duties. Yet the injunction prohibits them from "imposing reporting requirements." CR.236.

Plaintiffs say (at 68) that these provisions of the injunction prevent DFPS from "executing [the Governor's letter] and taking action that would impose criminal liability," but they do not explain how. It is not enough that an injunction against DFPS might "clear the way" for Plaintiffs to seek redress against the third parties who *could* prosecute or enforce reporting requirements. *E.T.*, 41 F.4th at 721. As Plaintiffs do not identify any concrete action that DFPS will not take due to these provisions, the injunction was improper.

PRAYER

This Court should reverse, vacate the temporary injunction, and render judgment dismissing Plaintiffs' claims.

Respectfully submitted.

/s/ Judd E. Stone II
JUDD E. STONE II
Solicitor General
State Bar No. 24076720
Judd.Stone@oag.texas.gov

NATALIE D. THOMPSON
Assistant Solicitor General

COURTNEY CORBELLO
Assistant Attorney General

Counsel for Appellants

KEN PAXTON
Attorney General of Texas

BRENT WEBSTER
First Assistant Attorney General

Office of the Attorney General
P.O. Box 12548 (MC 059)
Austin, Texas 78711-2548
Tel.: (512) 936-1700
Fax: (512) 474-2697

Certificate of Service

On August 25, 2022, this document was served on Shelly L. Skeen, lead counsel for Appellees, via sskeen@lambdalegal.org.

/s/ Judd E. Stone II
Judd E. Stone II

Certificate of Compliance

Microsoft Word reports that this document contains 7,187 words, excluding exempted text.

/s/ Judd E. Stone II
Judd E. Stone II

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Valeria Alcocer on behalf of Judd Stone
Bar No. 24076720
valeria.alcocer@oag.texas.gov
Envelope ID: 67677306
Status as of 8/25/2022 4:46 PM CST

Associated Case Party: American Professional Society on the Abuse of Children and Eight Child Advocacy Organizations

Name	BarNumber	Email	TimestampSubmitted	Status
Greg R.Wehrer		greg.wehrer@squirepb.com	8/25/2022 4:39:49 PM	SENT

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Valeria Alcocer on behalf of Judd Stone
Bar No. 24076720
valeria.alcocer@oag.texas.gov
Envelope ID: 67677306
Status as of 8/25/2022 4:46 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Paul Castillo	24049461	pcastillo@lambdalegal.org	8/25/2022 4:39:49 PM	SENT
Madeleine Dwertman	24092371	maddy.dwertman@bakerbotts.com	8/25/2022 4:39:49 PM	SENT
Derek Raymond McDonald	786101	derek.mcdonald@bakerbotts.com	8/25/2022 4:39:49 PM	SENT
Shelly L. Skeen	24010511	slskeen@gmail.com	8/25/2022 4:39:49 PM	SENT
David Goode	24106014	david.goode@bakerbotts.com	8/25/2022 4:39:49 PM	SENT
Andre Segura	24107112	asegura@aclutx.org	8/25/2022 4:39:49 PM	SENT
Brian Klosterboer	24107833	bklosterboer@aclutx.org	8/25/2022 4:39:49 PM	SENT
Maria Williamson		maria.williamson@oag.texas.gov	8/25/2022 4:39:49 PM	SENT
Savannah Kumar	24120098	skumar@aclutx.org	8/25/2022 4:39:49 PM	SENT
Currey Cook		ccook@lambdalegal.org	8/25/2022 4:39:49 PM	SENT
Camilla Taylor		ctaylor@lambdalegal.org	8/25/2022 4:39:49 PM	SENT
Chase Strangio		cstrangio@aclu.org	8/25/2022 4:39:49 PM	SENT
James Esseks		jesseks@aclu.org	8/25/2022 4:39:49 PM	SENT
Brandt Roessler	24127923	brandt.roessler@bakerbotts.com	8/25/2022 4:39:49 PM	SENT
Shelly Skeen		sskeen@lambdalegal.org	8/25/2022 4:39:49 PM	SENT
Kath Xu		kxu@aclu.org	8/25/2022 4:39:49 PM	SENT
Ryan Kercher		ryan.kercher@oag.texas.gov	8/25/2022 4:39:49 PM	SENT
Greg Wehrer		Greg.Wehrer@squirepb.com	8/25/2022 4:39:49 PM	SENT
Rafael Langer-Osuna		rafael.langerosuna@squirepb.com	8/25/2022 4:39:49 PM	SENT
Mary KellyPersyn		marykelly@persynlaw.com	8/25/2022 4:39:49 PM	SENT
Karen Loewy		kloewy@lambdalegal.org	8/25/2022 4:39:49 PM	SENT
Ana Saldana		asaldana@reedsmith.com	8/25/2022 4:39:49 PM	SENT
Craig MFinger		cfinger@bhfs.com	8/25/2022 4:39:49 PM	SENT
Martha LFitzgerald		mfitzgerald@bhfs.com	8/25/2022 4:39:49 PM	SENT
Amalia YSax-Bolder		asax-bolder@bhfs.com	8/25/2022 4:39:49 PM	SENT
David Brown		DBrown@transgenderlegal.org	8/25/2022 4:39:49 PM	SENT

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Valeria Alcocer on behalf of Judd Stone
Bar No. 24076720
valeria.alcocer@oag.texas.gov
Envelope ID: 67677306
Status as of 8/25/2022 4:46 PM CST
Associated Case Party: Greg Abbott

Name	BarNumber	Email	TimestampSubmitted	Status
Judd Stone	24076720	judd.stone@oag.texas.gov	8/25/2022 4:39:49 PM	SENT
Natalie Thompson	24088529	natalie.thompson@oag.texas.gov	8/25/2022 4:39:49 PM	SENT
Courtney Corbello		courtney.corbello@oag.texas.gov	8/25/2022 4:39:49 PM	SENT
Ryan Kercher		ryan.kercher@oag.texas.gov	8/25/2022 4:39:49 PM	SENT

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Valeria Alcocer on behalf of Judd Stone
Bar No. 24076720
valeria.alcocer@oag.texas.gov
Envelope ID: 67677306
Status as of 8/25/2022 4:46 PM CST
Associated Case Party: Transgender Education Network of Texas

Name	BarNumber	Email	TimestampSubmitted	Status
J. Richard Hammett	24001054	jrichard.hammett@bakermckenzie.com	8/25/2022 4:39:49 PM	SENT
M'Alyssa Mecenas		Malyssa.Mecenas@bakermckenzie.com	8/25/2022 4:39:49 PM	SENT
Karen Wagner		karen.wagner@bakermckenzie.com	8/25/2022 4:39:49 PM	SENT

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Valeria Alcocer on behalf of Judd Stone
Bar No. 24076720
valeria.alcocer@oag.texas.gov
Envelope ID: 67677306
Status as of 8/25/2022 4:46 PM CST
Associated Case Party: Jane Doe

Name	BarNumber	Email	TimestampSubmitted	Status
Omar Gonzalez-Pagan		ogonzalez-pagan@lambdalegal.org	8/25/2022 4:39:49 PM	SENT
Nicholas Guillory		nguillory@lambdalegal.org	8/25/2022 4:39:49 PM	SENT
John Ormiston	24121040	john.ormiston@bakerbotts.com	8/25/2022 4:39:49 PM	SENT
Nischay Bhan	24105468	Nischay.bhan@bakerbotts.com	8/25/2022 4:39:49 PM	SENT
Michele Clanton-Lockhart		mclanton@lambdalegal.org	8/25/2022 4:39:49 PM	SENT
Raylynn Howell		Raylynn.Howell@bakerbotts.com	8/25/2022 4:39:49 PM	SENT
Stacy Benson		Stacey.Benson@bakerbotts.com	8/25/2022 4:39:49 PM	SENT
Shelly Skeen		slskeen@gmail.com	8/25/2022 4:39:49 PM	SENT
Anjana Samant		asamant@aclu.org	8/25/2022 4:39:49 PM	SENT
Christine Choi		cchoi@aclu.org	8/25/2022 4:39:49 PM	SENT
Carolina Caicedo		ccaicedo@aclu.org	8/25/2022 4:39:49 PM	SENT
Parul Aggarwal		Parul.aggarwal@bakerbotts.com	8/25/2022 4:39:49 PM	SENT
Maia Zelkind		mzelkind@lambdalegal.org	8/25/2022 4:39:49 PM	SENT
Paul Castillo		pcastillo@lambdalegal.org	8/25/2022 4:39:49 PM	SENT
Stephen Paul		spaul@lambdalegal.org	8/25/2022 4:39:49 PM	SENT
Brian Klosterboer		bklosterboer@aclutx.org	8/25/2022 4:39:49 PM	SENT
Maddy Dwertman		maddy.dwertman@bakerbotts.com	8/25/2022 4:39:49 PM	SENT
Currey Cook		ccook@lambdalegal.org	8/25/2022 4:39:49 PM	SENT
Camilla Taylor		ctaylor@lambdalegal.org	8/25/2022 4:39:49 PM	SENT
Chase Strangio		cstrangio@aclu.org	8/25/2022 4:39:49 PM	SENT
James Esseks		jesseks@aclu.org	8/25/2022 4:39:49 PM	SENT
Kath Xu		kxu@aclu.org	8/25/2022 4:39:49 PM	SENT
Savannah Kumar		skumar@aclutx.org	8/25/2022 4:39:49 PM	SENT
Andre Segura		asegura@aclutx.org	8/25/2022 4:39:49 PM	SENT
Brandt Roessler		brandt.roessler@bakerbotts.com	8/25/2022 4:39:49 PM	SENT
David Goode		david.goode@bakerbotts.com	8/25/2022 4:39:49 PM	SENT
Derek McDonald		derek.mcdonald@bakerbotts.com	8/25/2022 4:39:49 PM	SENT
Sharon McGowen		smcgowan@lambdalegal.org	8/25/2022 4:39:49 PM	ERROR
Shelly L.Skeen		ssskeen@lambdalegal.org	8/25/2022 4:39:49 PM	ERROR

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Valeria Alcocer on behalf of Judd Stone
Bar No. 24076720
valeria.alcocer@oag.texas.gov
Envelope ID: 67677306
Status as of 8/25/2022 4:46 PM CST
Associated Case Party: RoyL.Austin

Name	BarNumber	Email	TimestampSubmitted	Status
Alan York		ayork@reedsmith.com	8/25/2022 4:39:49 PM	SENT

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Valeria Alcocer on behalf of Judd Stone
Bar No. 24076720
valeria.alcocer@oag.texas.gov
Envelope ID: 67677306
Status as of 8/25/2022 4:46 PM CST
Associated Case Party: RoyLAustin

Name	BarNumber	Email	TimestampSubmitted	Status
Alan York		ayork@reedsmith.com	8/25/2022 4:39:49 PM	SENT
Alan York		ayork@reedsmith.com	8/25/2022 4:39:49 PM	SENT

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Valeria Alcocer on behalf of Judd Stone
Bar No. 24076720
valeria.alcocer@oag.texas.gov
Envelope ID: 67677306
Status as of 8/25/2022 4:46 PM CST
Associated Case Party: Ronald Beal

Name	BarNumber	Email	TimestampSubmitted	Status
Ronald Beal		ron_beal@baylor.edu	8/25/2022 4:39:49 PM	SENT

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Valeria Alcocer on behalf of Judd Stone
Bar No. 24076720
valeria.alcocer@oag.texas.gov
Envelope ID: 67677306
Status as of 8/25/2022 4:46 PM CST
Associated Case Party: Texas Medical Association

Name	BarNumber	Email	TimestampSubmitted	Status
Donald Wilcox		rocky.wilcox@texmed.org	8/25/2022 4:39:49 PM	SENT
Kelly Walla		kelly.walla@texmed.org	8/25/2022 4:39:49 PM	SENT
Eamon Reilly		eamon.reilly@texmed.org	8/25/2022 4:39:49 PM	SENT