

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

May 22, 2025

Lyle W. Cayce  
Clerk

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No. 24-50128  
CONSOLIDATED WITH  
No. 24-50449

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LEAGUE OF UNITED LATIN AMERICAN CITIZENS; SOUTHWEST  
VOTER REGISTRATION EDUCATION PROJECT; MI FAMILIA  
VOTA; AMERICAN GI FORUM OF TEXAS; LA UNION DEL PUEBLO  
ENTERO; MEXICAN AMERICAN BAR ASSOCIATION OF TEXAS;  
TEXAS HISPANICS ORGANIZED FOR POLITICAL EDUCATION;  
WILLIAM C. VELASQUEZ INSTITUTE; FIEL HOUSTON,  
INCORPORATED; TEXAS ASSOCIATION OF LATINO  
ADMINISTRATORS AND SUPERINTENDENTS; EMELDA  
MENENDEZ; GILBERTO MENENDEZ; JOSE OLIVARES; FLORINDA  
CHAVEZ; JOEY CARDENAS; PROYECTO AZTECA; REFORM  
IMMIGRATION FOR TEXAS ALLIANCE; WORKERS DEFENSE  
PROJECT; PAULITA SANCHEZ; JO ANN ACEVEDO; DAVID LOPEZ;  
DIANA MARTINEZ ALEXANDER; JEANDRA ORTIZ,

*Plaintiffs—Appellants,*

*versus*

GREG ABBOTT, *in his official capacity as Governor of the State of Texas,*

*Defendant—Appellee,*

AND

LIEUTENANT GOVERNOR DAN PATRICK; SPEAKER OF THE  
TEXAS HOUSE OF REPRESENTATIVES REP. DADE PHELAN; SEN.  
JOAN HUFFMAN; SEN. BRYAN HUGHES; SEN. PAUL  
BETTENCOURT; SEN. DONNA CAMPBELL; SEN. JANE NELSON;  
SEN. BRIAN BIRDWELL; SEN. CHARLES PERRY; SEN. ROBERT

NICHOLS; SEN. KELLY HANCOCK; REP. TODD HUNTER; REP. BROOKS LANDGRAF; REP. J.M. LOZANO; REP. JACEY JETTON; REP. RYAN GUILLEN; REP. MIKE SCHOFIELD; REP. ANDREW MURR; REP. DAN HUBERTY; REP. HUGH SHINE; REP. BRAD BUCKLEY; SHARON CARTER; ANNA MACKIN; SEAN OPPERMAN; CHRIS GOBER; COLLEEN GARCIA; ADAM FOLTZ,

*Third-party Respondent- Appellees,*

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

STATE OF TEXAS; JANE NELSON, *in her Official Capacity as Texas Secretary of State,*

*Defendants.*

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Appeal from the United States District Court  
for the Western District of Texas  
USDC Nos. 3:21-CV-259, 3:21-CV-299,

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Before DENNIS, HAYNES, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:\*

In this redistricting dispute, Plaintiffs moved to compel discovery from non-party legislators and the State of Texas, among others. The district court largely denied Plaintiffs' motions based on legislative privilege, so

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\* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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Plaintiffs appealed. But the orders are not immediately appealable, so we must DISMISS for lack of jurisdiction.

We generally have jurisdiction to review only final decisions that end the litigation on the merits. 28 U.S.C. § 1291; *X Corp. v. Media Matters for Am.*, 120 F.4th 190, 195 (5th Cir. 2024). The “collateral order doctrine” provides a narrow exception to review interlocutory decisions that are (1) conclusive, (2) resolve important questions separate from the merits, and (3) are effectively unreviewable on appeal from the final judgment. *Whole Woman’s Health v. Smith*, 896 F.3d 362, 367 (5th Cir. 2018) (citing *Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100, 106 (2009)). Because Defendants concede the first two prongs, we address only the third.

Discovery orders “are traditionally unappealable” under the collateral order doctrine. *Mississippi v. JXN Water*, 134 F.4th 312, 318 (5th Cir. 2025). We have departed from this proposition where non-parties are compelled to produce potentially privileged documents because “non-parties . . . cannot move for a new trial,” and “even if they could, a new trial cannot retract privileged information that has been shared into the public domain.” *La Union Del Pueblo Entero v. Abbott*, 68 F.4th 228, 234 (5th Cir. 2023); see *La Union del Pueblo Entero v. Abbott*, 93 F.4th 310, 319 (5th Cir. 2024); *Whole Woman’s Health v. Smith*, 896 F.3d 362, 367–68 (5th Cir. 2018).

The discovery orders at issue here do not fall within that unique set of circumstances or implicate similar concerns. The district court *denied* Plaintiff parties’ request for discovery, keeping whatever legislative privilege may exist intact. Plaintiffs can appeal that denial when the litigation concludes without suffering harm other than the customary delay that attends all litigation. See *P.H. Glatfelter Co. v. Windward Prospects Ltd.*, 847 F.3d 452, 459 (7th Cir. 2017) (“[P]lenary appeal from a final judgment is precisely why discovery orders” denying motions to compel “are

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interlocutory and not immediately appealable”). Plaintiffs undoubtedly prefer review now. But we cannot manufacture jurisdiction merely because an adverse ruling “may burden litigants in ways that are only imperfectly reparable by appellate reversal of a final district court judgment.” *Mohawk Indus.*, 558 U.S. at 107. The district court’s orders denying discovery are not appealable at this juncture. The appeal is DISMISSED.