

**FILED**

JUL 23 2012

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY \_\_\_\_\_ DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

ERIC STEWARD, by his next friend and )  
mother, Lillian Minor, et. al. )

Plaintiffs )

v. )

RICK PERRY, Governor of the State )  
of Texas, et. al. )

Defendants )

CIVIL ACTION NO.  
SA-10-CA-1025-OG

**ORDER**

Pending before the Court is Plaintiffs' Motion to Lift Stay and Schedule Hearing on Plaintiffs' Motion for Preliminary Injunction (Dkt. # 86). The Court previously ordered that this case be stayed pending a ruling on various motions that should be resolved, if possible, prior to considering whether to certify this case as a class action. A hearing will be held on September 12, 2012, and the Court will consider all pending motions at that time. The Court is not inclined to make a determination on class certification until after ruling on other pending motions. However, the Court will entertain oral argument on the class certification issues with the understanding that discovery and supplemental briefing on the class certification issues may be necessary.

In light of the current status of the case, the Court finds that the stay should be lifted so that Plaintiffs may pursue temporary injunctive relief and the Court may hear arguments and/or evidence in support of all pending motions and move forward accordingly.

The parties have indicated that they will need to conduct limited, expedited discovery on the issues raised in the motion for preliminary injunction. The parties must confer on whatever discovery is needed and attempt to complete such discovery prior to the hearing on September 12, 2012. If the parties wish to submit a joint abbreviated scheduling order pertaining only to discovery and briefing on the preliminary injunction issues, they may do so. The parties shall notify the Court two days in advance of the hearing whether they will present live witnesses or they intend to rely on deposition testimony, medical records, etc.

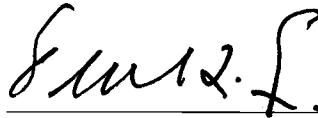
The parties should expect to present oral argument (and, to the extent necessary, supporting evidence) on the following motions at the time of the hearing: (1) Plaintiffs' Motion for Preliminary Injunction (Dkt. # \_\_\_); (2) Defendants' Partial Motion to Dismiss Plaintiffs' Amended Complaint (Dkt. # 67); (3) the United States' Motion to Intervene (Dkt. # 53); and (4) Plaintiffs' Amended Motion to Certify Class (Dkt. # 94).

It is therefore ORDERED that Plaintiffs' Motion to Lift Stay and Schedule Hearing on Plaintiffs' Motion for Preliminary Injunction (Dkt. # 86) is GRANTED, and Plaintiffs' Motion for Preliminary Injunction and supporting memorandum and exhibits, attached as Exhibit 1 to their Motion to Lift Stay, may be filed of record herein. Plaintiffs' Unopposed Motion for Leave to Exceed Page Limitation on Plaintiffs' Memorandum of Law in Support of their Amended Motion for Class Certification (Dkt. # 95) is also GRANTED.

It is further ORDERED that Defendants' Motion to Dismiss claims in the original complaint (Dkt. # 30) is DENIED as moot as Plaintiffs' have amended their complaint and Defendants have amended their motion; Plaintiffs' [original] Motion to Certify Class (Dkt. # 13) is also moot as Plaintiffs' have amended their motion; Plaintiffs' Motion to Schedule a Pretrial Conference and for

Entry of a Scheduling Order (Dkt. # 33) is also DENIED as moot.

SIGNED and ENTERED this 22 day of July, 2012.

A handwritten signature in black ink, appearing to read "Orlando L. Garcia", written over a horizontal line.

ORLANDO L. GARCIA  
UNITED STATES DISTRICT JUDGE