



Respectfully submitted,

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ATTORNEYS FOR DEFENDANT  
TRAVIS COUNTY CLERK,  
DANA DEBEAUVOIR

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Defendant Travis County Clerk, Dana DeBeauvoir's Notice to Correct Exhibit 1 to Counter-Petition** was served in accordance with the Texas Rules of Civil Procedure by electronic service and/or electronic mail on all parties and attorneys of record in this proceeding on this 14<sup>th</sup> day of April, 2020, including:

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Ruth R. Hughs  
Secretary of State

## **ELECTION ADVISORY**

### **N0. 2020-14**

TO: Election Officials

FROM: Keith Ingram, Director of Elections 

DATE: April 2, 2020

RE: COVID-19 (Coronavirus) Voting and Election Procedures

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The purpose of this advisory is to assist election officials in facilitating voting for individuals that may be affected by COVID-19, and in preparing for the conduct of elections in the context of this public health issue.

## **Voter Registration Procedures**

Stay-at-home orders and office closures in your jurisdiction may impact voters seeking to obtain voter registration applications. There are several existing options that you should encourage voters to utilize:

- **In-County Updates via [Texas Online](#):** If a voter has moved within the same county, the voter may update their address online at [www.Texas.gov](http://www.Texas.gov). Voters that are active or in suspense can update their name and/or residence address through this secure website.
- **Printed Voter Registration Applications:** If a voter has access to a printer, the voter can use the [SOS Informal Online Application](#) to complete a voter registration application. This application can be printed and mailed to the applicable county voter registrar. When the voter selects their county of residence, it will preprint the county voter registrar's address on the form so that when the voter mails it, they send it directly to their county voter registrar.
- **Postage-Paid Voter Registration Applications:** If a voter does not have access to a printer, the voter can request that a blank postage-paid voter registration application be mailed directly to the voter. The voter can fill out the [request form](#) on the SOS website. Counties can also mail blank applications to voters upon request.
- **Revisions to Voter Registration Certificate:** If a voter has their current voter registration certificate, they may make any necessary corrections or updates to the certificate, sign it and return it to the voter registrar.

- **Register2Vote.org:** This is a third-party website that provides a remote printing option for voters. Voters can complete a form online and have a pre-filled application sent to them for completion. The voter must complete the form, sign it, and mail it in the included postage-paid envelope. This form is sent directly to the county voter registrar.

## Voting Procedures Authorized under the Texas Election Code

Below we have described some of the procedures that are authorized under Texas law that may be of assistance to voters that are affected by a recent sickness or a physical disability.

### Voting by Mail

In Texas, in order to vote by mail, a voter must have a qualifying reason. A voter may vote early by mail if they:

- will be away from their county on Election Day and during early voting;
- are sick or disabled;
- are 65 years of age or older on Election Day; or
- are confined in jail, but eligible to vote.

One of the grounds for voting by mail is disability. The Election Code defines “disability” to include “a sickness or physical condition that prevents the voter from appearing at the polling place on election day without a likelihood of needing personal assistance or of injuring the voter's health.” (Sec. 82.002). Voters who meet this definition and wish to vote a ballot by mail must submit an application for ballot by mail.

- [Application for a Ballot by Mail.](#)

### Chapter 102, Late Voting Due to Recent Sickness or Physical Disability

The Election Code authorizes late voting if a voter becomes sick or disabled on or after the day before the last day for submitting an application for a ballot to be voted by mail, and is unable to go to the polling place on Election Day. The voter must designate a representative to submit an application on the voter's behalf in person to the early voting clerk. To be eligible to serve as a voter's representative, a person: 1) must be at least 18 years of age; 2) must not be employed by or related within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a candidate whose name appears on the ballot; and 3) must not have served in the election as the representative for another applicant. The application must be received before 5:00 p.m. on Election Day. The application is reviewed and the early voting clerk verifies the applicant's registration status in the same manner as early voting by mail. The early voting clerk must provide the same balloting materials that are used for early voting by mail to the representative who will deliver them to the voter. The voter should mark and seal the ballot in the same manner as voting by mail **including signing** the back flap of the carrier envelope. The ballot must be returned in its carrier envelope to the early voting clerk before 7:00 p.m. on Election Day **by the same representative** who delivered the ballot to the voter.

- [Application for Emergency Early Voting Ballot Due to Sickness or Physical Disability](#)
- [Instructions for Voter to include with Balloting Materials](#)

## Chapter 104, Voting at Main Early Voting Location

The Election Code authorizes voters who are sick or disabled to vote on Election Day at the main early voting place, so long as voting machines of some type are used in the voter's precinct and the voter's sickness or disability prevents the voter from voting in the regular manner without personal assistance or likelihood of injury. For this procedure, the voter must complete and submit the applicable affidavit to be provided with the balloting materials used for early voting by mail. The voter must mark and seal the ballot in the same manner as in early voting by mail, except that the certificate on the carrier envelope need not be completed. After sealing the carrier envelope, the voter must give it to the clerk at the main early voting polling place between the hours of 7:00 a.m. and 7:00 p.m. The Early Voting Clerk must note on the envelope that the ballot was voted under Chapter 104.

- [Affidavit for Voting at Early Voting Place on Election Day](#)

## Curbside Voting

If a voter is physically unable to enter the polling place without assistance or likelihood of injury to his or her health, the voter is eligible for entrance or curbside voting. (Sec. 64.009). This option **must** be made available at all polling locations. To provide for voting curbside, the voter must be qualified by the election officer before the voter can receive the ballot. An election officer may deliver a ballot or a DRE voting machine to the voter at the entrance or curb of the polling place. Poll watchers and inspectors must be allowed to accompany the election officer. Once the voter has marked his or her ballot, the election officer deposits the ballot for the voter. On the voter's request, a person accompanying the voter to the polling place must be permitted to select the voter's ballot and to deposit the ballot in the ballot box after the voter has voted. If the voter is not only physically unable to enter the polling place, but is also eligible for voter assistance in marking his or her ballot, they may receive assistance in marking and completing their ballot in accordance with Chapter 64, Subchapter B of the Election Code. Either two election officers may assist the voter or the voter may be given assistance by a person of the voter's choice, other than the voter's employer, an agent of that employer or an officer or agent of the voter's labor union. For voters that are voting at the curbside, **instruct polling place workers to allow the curbside voter the same privacy as a voter in the voting booth**. We anticipate providing further guidance regarding curbside voting in the coming weeks.

## Potential Court Order to Address Quarantined Voters

Voting in-person during early voting or on Election Day may not be an available option for all voters, including those affected by quarantines. Political subdivisions may need to act quickly to address the rapidly changing public health situation. In monitoring your situations locally, it is important to note that you may have a need to modify certain voting procedures. In these circumstances, you may want to consider seeking a court order to authorize exceptions to the voting procedures outlined in certain chapters of the Texas Election Code for these voters. The following are possible considerations:

1. **Expanding Eligibility Requirements Under Chapter 102 (Late Voting for Sickness or Physical Disability):** A court order could provide for a temporary expansion of the eligibility requirements for Chapter 102 voting to allow voters in quarantine to vote in this fashion. This option would also require the court, in some instances, to temporarily waive or modify the

requirement for a physician's signature on the application for this type of late ballot for purposes of any election(s) impacted by COVID-19.

2. **Other Modifications to Voting Procedures:** A court order could provide for modifications to other voting procedures as necessary to address the impact of COVID-19 within the jurisdiction. For example, in 2014, Dallas County obtained a court order authorizing modified voting procedures for individuals affected by the Ebola quarantine, modeled on the procedures outlined in Section 105.004 of the Texas Election Code for certain military voters in hostile fire pay zones.

**If your county obtains a court order allowing modifications to voting procedures to address COVID-19, please send a copy of the court order to the Secretary of State's Office.**

## **Other Considerations Related to COVID-19 or Other Illnesses**

If your political subdivision is affected by a stay-at-home order, quarantine or outbreak of COVID-19 or any other type of illness, the conduct of your elections could be impacted. In order to protect the health and safety of election workers, below are some considerations:

- **Cleaning and Sanitizing Voting System Equipment:**
  - **Voting System and e-Pollbook Equipment:** Please check with your vendor about the specific procedures you should follow to clean and sanitize any equipment that is handled by voters or polling place workers. We received specific information from the following vendors about proper techniques for cleaning equipment:
    - **Hart Intercivic Voting System Equipment:** Users may wipe Hart equipment with 50% or higher clear, fragrance-free, isopropyl alcohol solution and a lint-free wipe. Do not use ammonia or detergent-based solutions as these may be harmful to the screen or the plastics surrounding the display. To avoid spotting, make certain that equipment screens are wiped dry (do not leave puddles).
    - **ES&S Voting System Equipment:** You can use a soft, lint free cloth and isopropyl alcohol to clean the touchscreen of the voting machine. Do not spray directly on the touch screen. Only lightly dampen the cloth, do not soak it. Do not use any harsh cleaning products on the screen as this may damage the touch screen. Do not allow any liquid cleaner to come in contact with ballot stock.
- **Cleaning and Sanitizing Polling Places:** The Centers for Disease Control and Prevention (CDC) has issued [recommendations](#) for preventing the spread of coronavirus specifically in election polling locations. Here are a few of their specific suggestions:
  - **Encourage workers to wash hands frequently:** wash hands often with soap and water for at least 20 seconds. If soap and water are not readily available, use an alcohol-based hand sanitizer that contains at least 60% alcohol.
  - **Practice routine cleaning of frequently touched surfaces with household cleaning spray or wipe:** including tables, doorknobs, light switches, handles, desks, toilets, faucets, sinks, etc.



- **Disinfect surfaces that may be contaminated with germs after cleaning:** A list of products with EPA-approved emerging viral pathogens claims is available on the EPA's [website](#). Products with EPA-approved emerging viral pathogens claims are expected to be effective against the virus that causes COVID-19 based on data for harder to kill viruses. Follow the manufacturer's instructions for all cleaning and disinfection products (e.g., concentration, application method and contact time, use of personal protective equipment).
- **Arrangement of Polling Places:** It is imperative that you review your procedures related to setting up your polling place. Voting stations should be set up in a way that adheres to the suggested social and physical distance guidelines and allow for at least 6 feet between voters. Additionally, you should review your check-in stations to ensure you are providing adequate space between voters. This may include providing your workers with tape to mark off spacing guidelines on the floor of the polling place.
- **Election Judges and Clerks:**
  - **Training and Recruiting of Election Workers:**
    - **Recruitment of Election Workers:** We recommend that you make efforts to recruit and train additional workers beyond what you project to need for a given election. This will ensure that you have adequate back up workers to assist in the event that you have election workers that are unavailable at the last minute.
      - **Recruiting from Current Workers:** With regard to recruiting workers, you may want to ask your current appointed judges to provide recommendations of other individuals that can serve. Additionally, you may have different judges and clerks depending on the type of election you hold. We suggest you reach out to your entire pool of potential workers to determine availability for 2020 election dates.
      - **Student Election Clerks:** You may also want to consider enlisting [student election clerks](#) in your pool of available workers. For elections occurring outside of the school year, the student clerks would not need to obtain permission from their high school principal provided they obtained permission from their parent or legal guardian.
    - **Training of Election Workers:** In order to train a larger pool of workers, you may want to consider allowing your election workers to utilize the Secretary of State's [online Poll Worker Training](#). This training is focused on the legal procedures related to acceptance of voters and the voting process. Any procedures that are specific to your county would need to be provided through additional training or supplemental materials.
  - **Unavailability of Judges:** If both the presiding judge and alternate judge are unavailable to serve and this is discovered after the 20<sup>th</sup> day before election day, the presiding officer of the appointing authority, or if the presiding officer is unavailable, the authority responsible for distributing supplies for the election, shall appoint a replacement judge. (Sec. 32.007). Additionally, if the authority is

unable to find an election judge who is a qualified voter of the specific precinct needing a judge, the authority may appoint individuals that meet the eligibility requirements of an election clerk which encompasses a broader territory. (Sec 32.051(b)).

Type of Election	Presiding Officer of Appointing Authority	Authority responsible for Delivering Supplies
<b>Primary Election</b>	County Chair of Political Party	County Chair of Political Party
<b>Joint Primary</b>	County Election Officer	County Election Officer
<b>General Election for State and County Officers or County Ordered Election</b>	County Judge	County Election Officer
<b>Cities</b>	Mayor	City Secretary
<b>Other Political Subdivision Elections</b>	Presiding Officer of Governing Body of Political Subdivision	Secretary of Governing Body; if no secretary, the presiding officer of governing body

- **Polling Locations:**

- **Review List of Locations:** We recommend reviewing your list of current polling locations to determine if you should consider proactively relocating them. For example, if you are currently using assisted living facilities or residential care facilities that have residents that would be in one of the higher-risk categories, relocating the polling place may be in the best interest of the individuals at that location. Please be advised that if you choose to relocate a polling place in a facility like this, we **strongly recommend** that you provide information to the residents about voting by mail to ensure that they are still able to vote in upcoming elections without the difficulty of leaving the facility to travel to a different polling place. Additionally, you should be monitoring your current polling places to determine if any of those locations have been closed as a result of business or government building closures.
- **Unavailable Locations:** If polling locations become unavailable, you may need to relocate your polling location or combine and consolidate that location with another polling place in close proximity to it. To the extent possible, any changes to polling locations must be made in accordance with Chapters 42 and 43 of the Texas Election Code. If you are in a situation where you will have difficulty complying with these chapters, please contact the Secretary of State’s office to discuss other available options.

- **Notice of Changes to Polling Locations:** Please be advised that if you have a polling location change, you must post [notice](#) of that change at the location that is no longer being used. Any websites that contain polling locations should be updated. For certain county-run elections, polling place information must also be updated with the Secretary of State's office, if applicable.
- **Website Notices:** At this time, you may want to consider posting a notice on your website instructing voters to check your website for updates and changes to polling locations prior to early voting and election day. This will help ensure that voters are always getting updated and accurate information.
- **Voting by Mail Considerations:** At this time, the CDC has not provided any special recommendations or precautions for the storage of ballots. However, it is recommended that workers handling mail ballots practice [hand hygiene](#) frequently. Please continue to stay updated on the CDC's website as they provide additional recommendations regarding the handling of mail and other topics.
  - **Additional Ballot by Mail Supplies:** Because there may be a higher volume of ballot by mail requests in 2020, we strongly recommend that you review your current supply of applications, balloting materials, and ballot stock for future elections. It is important you have the necessary supply on hand to meet increased requests you may receive.
- **Election Office Hours:** Election officials are required to maintain certain office hours related to their election duties for a prescribed number of days before and after an election. If your office is closed for public health reasons or you are unable to be at your office during the mandatory office hour time frame, we advise that entities post information on how to get in contact with the applicable officials for election related information. This may include posting phone numbers, an email address that can receive public inquiries, or even a mailing address that can receive written requests for information. We recommend that you assign someone to periodically check for voicemails, emails, or mail related to your election.
- **Voter Registration Office Hours:** Section 12.004(c) requires the voter registrar's office to be open while the polls are open on the date of any election held in the county on a uniform election date. If you have entities that will be holding an election on May 2, 2020, you must satisfy this requirement. However, we believe that as long as you can provide answers to voter registration questions remotely and you notify your entities about how to reach you, you do not need to be physically in the office. You must also be able to provide all of the same voter registration services you would otherwise provide to your local political subdivisions if you were in the office.
- **Volunteer Deputy Registrars (VDR):** You still have a legal obligation to process volunteer deputy registrar applications. If you must suspend volunteer deputy registrar classes, we strongly advise that you adopt the SOS online Volunteer Deputy Registrar training and in-person examination option. This would allow you to schedule the examinations based on need or desire by VDRs and would allow you to temporarily reduce or cancel in-person training as dictated by your county's circumstances. For more information about adopting the online training and examination, please see [Advisory 2019-04](#). Additionally, you still have an obligation to receive voter registration

applications from VDRs. To eliminate person-to-person contact, you could provide drop boxes for voter registration applications. These drop boxes should be located in close proximity to your main office or connected to it. They should be secured and checked regularly.

- **Cybersecurity Impacts:** If your political subdivision is affected by a widespread quarantine or outbreak of COVID-19 or any other type of illness, your office staff might be mandated to work remotely. In addition, the volume of voters that will start to utilize your internet-based resources will increase. During a crisis situation, bad actors may try to capitalize on the circumstances to take actions that could compromise the security of your elections office. Please remain vigilant about following best practices related to cybersecurity and election security.
  - **Service Interruption:** Networks are normally built to sustain high volume traffic, but the magnitude of the COVID-19 crisis presents an increased risk that systems may become compromised. An abnormal increase in network traffic could be misinterpreted as a DOS (Denial of Service) attack which could shut down networks depending on the type of security implementation.
  - **Ransomware:** Cybercriminals can infect the computers of government agencies before demanding that they pay a ransom for an encryption key that will free their locked files and records. Ransomware can lock up databases preventing polling places from verifying eligibility and confirming that voters are in the right districts/precincts.
  - **Election Systems and e-Pollbook Equipment:** As mentioned above, databases are susceptible because they must have a constant network connectivity. When relocating polling places, it is very important to ensure that the systems are connected to a secure and reliable network.
  - **Voter Registration Scams:** Voter registration procedures are not conducted over the phone or the internet other than the previously mentioned authorized channels. Be aware of scams that are targeted to steal personally identifiable information from voters and/or election workers. It is especially important not to provide personal information of voters or election workers over the phone if your office is solicited in this manner.
- **Communications Plan:** You should develop a plan for communicating to voters and election workers when any changes occur that may impact them. The communications plan should involve updating your official website with specific details. Any use of social media should direct people back to your official website to ensure that only official, accurate, and authorized information is being disseminated to the public. We suggest you develop a plan for working with local media to keep the public informed. Finally, any major changes that affect the election process in your county should be communicated to the Secretary of State's office.

## Additional Resources

Here are a list of additional resources that may be helpful to you.

- [Election Assistance Commission - Coronavirus \(COVID-19\) Resources.](#)

- [Centers for Disease Control and Prevention \(CDC\) – Recommendations for Election Polling Locations](#)
- [Texas Department of State Health Services – Coronavirus Disease 2019 \(COVID-19\)](#)

If you have any questions regarding this advisory, please contact the Elections Division at 1-800-252-2216.

KI:CA

TEXAS DEMOCRATIC PARTY, et. al	§	IN THE DISTRICT COURT
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<i>Plaintiffs,</i>	§	
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and	§	
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ZACHARY PRICE, LEAGUE OF	§	
WOMEN VOTERS OF TEXAS,	§	
LEAGUE OF WOMEN VOTERS	§	
AUSTIN AREA, MOVE TEXAS	§	
ACTION FUND, WORKERS DEFENSE	§	
ACTION FUND,	§	TRAVIS COUNTY, TEXAS
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<i>Intervenor-Plaintiffs,</i>	§	
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DANA DEBEAUVOIR	§	
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<i>Intervenor-Defendant.</i>	§	201st JUDICIAL DISTRICT

**CORRECTED EXHIBIT FILING AND RESPONSE TO STATE’S OBJECTIONS TO DECLARATIONS**

Intervenor-Plaintiffs, Zachary Price, League of Women Voters of Texas (“LWVTX”), League of Women Voters of Austin Area (“LWV-AA”), MOVE Texas Action Fund (“MOVE”), and Workers Defense Action Fund (“WDAF”) respectfully file this Corrected Exhibit and Response to State’s Objections to Declarations.

Joyce LeBombard submitted a declaration with Intervenor-Plaintiffs’ Memorandum in Support of their Application for Temporary Injunction. The declaration’s attestation language was unintentionally removed. Intervenor-Plaintiffs attach here a corrected version of the declaration with the attestation included.

Defendant-Intervenors filed objections to Plaintiff-Intervenors’ declarations late yesterday afternoon. Plaintiff-Intervenors provided responses to those objections below.

<b>Ex 1</b>	<b>Substance</b>	<b>Objection</b>	<b>Response</b>
Para. 4	If Texas were not suffering from a public health crisis caused by the COVID-19 global pandemic, I would not be eligible to vote by mail: I am not 65 or older; I will be in Travis County (my county of residence) during the voting period for the July 14, 2020 elections; I am not incarcerated in jail, and I do not have a disability other than the COVID-19-related disability that I explain further below	Legally conclusory  Calls for speculation	He did not purport to offer these statements as a legal conclusion.  Not speculation. As described in paragraph 9 of his declaration, the witness has experience voting in Texas and knows that he is not eligible for a mail-in ballot under normal circumstances.
Para. 6	I want to vote in the 2020 Primary Election Runoff and the July 14 Special Election. I do not want to vote in person because I do not want to risk catching COVID-19 or inadvertently infecting others if, unbeknownst to me, I am an asymptomatic carrier. I understand that all individuals, including myself, can contract COVID-19, and that the effects can be devastating, even deadly. I also understand that gathering in large crowds is an unsafe practice that creates a	Calls for speculation  Improper Opinion  Legally conclusory	Not speculation, rather it is his belief and opinion.  His conclusion is rationally based on his perception and is helpful to understand his testimony and determining a fact issue. (TRE 701)  He did not purport to offer this opinion as a legal conclusion.  The witness describes a basic understanding of how COVID-19 affects humans.

	<p>risk of contracting COVID-19. I believe that during this ongoing COVID-19 outbreak I, along with everyone else, have a physical condition that prevents me from appearing at the polling place on Election Day without a likelihood of injuring my health.</p>	<p>Lack of foundation</p> <p>Not readily controvertible</p>	<p>This information is readily available in the public sphere and the existence of this information is generally known within the Court’s territorial limits and thus may be judicially noticed (TRE 201(b))</p> <p>“Not readily controvertible” is not a proper objection here. If the state wants to call the witness and cross-examine him to attempt to discredit this testimony, it could easily do so but has agreed to presentation of evidence through declaration.</p>
<p>Para. 7</p>	<p>I want to vote by mail and to send in my application as soon as possible but cannot find any official guidance to clarify that I qualify to vote by mail under the present circumstances. I am not sure whether my ballot will be accepted and counted if I attempt to vote by mail. I understand that I face potential disenfranchisement and/or criminal liability if it were found that I applied for a mail ballot despite knowingly not meeting the statutory guidelines for eligibility. I am not willing to face criminal prosecution or risk my health, so there is a severe risk that I will not be able to vote at all if I cannot vote by mail in the upcoming elections.</p>	<p>Calls for speculation</p> <p>Legally conclusory</p> <p>Argumentative</p>	<p>Not speculation, rather it is his belief and opinion.</p> <p>He did not purport to offer this opinion as a legal conclusion.</p> <p>“Argumentative” is not a proper objection here where there is not a question posed that is made in an argumentative manner.</p>
<p>Para. 8</p>	<p>If I have authoritative guidance clarifying that I am able to legally apply for a mail ballot</p>	<p>Calls for speculation</p>	<p>This is not speculation as he is explaining what he will do.</p>



	<p>under the current circumstances, I will apply for a mail-in ballot now so that I can: ensure I receive my ballot in a timely fashion, have enough time to track my mail application and ballot, have enough time to contact and follow up with the County if my ballot does not arrive or is not received by the County, and have enough time to take whatever additional steps might be necessary to ensure my ballot is counted, including canceling and re-ordering a ballot if necessary.</p>	<p>Relevance</p>	<p>Relevant as to standing, ripeness, and and need for temporary injunction</p>
<p>Para 9.</p>	<p>I have attempted to vote by mail before, when I was out of the county for the entirety of the voting period, and I found it extremely difficult to obtain my ballot in a timely manner. The whole process of applying for a ballot and voting by mail has numerous steps, and I found that I did not receive my ballot until substantially after I turned in my application. I do not know what caused the delay in receiving my ballot; however, this was under normal circumstances. Thus, I know that all of the follow-up work I describe in paragraph 8 is likely to be necessary, and I want to have plenty of time to follow through to make sure my ballot is cast and counted properly. If there are many people applying to vote by mail at the last minute, I am extremely worried that ballots (including mine if I am forced to wait until the last minute) will not arrive in time to be counted.</p>	<p>Relevance</p> <p>Calls for speculation</p> <p>Argumentative</p> <p>Not readily controvertible</p>	<p>Relevant as to standing, ripeness, and and need for temporary injunction</p> <p>It does not “call” for speculation, nor is the testimony speculative.. Rather the witness described his past experience.</p> <p>“Argumentative” is not a proper objection here where there is not a question posed that is made in an argumentative manner.</p> <p>“Not readily controvertible” is not a proper objection here. If the state wants to call the witness and cross-examine him to attempt to discredit this testimony, it could easily do so but instead has</p>

			agreed to go forward with the use of declarations.
Attestation Section		Statements in declaration not within declarant's personal knowledge.	The state has not pinpointed which statements its objection references, thus this is not a proper objection. Further, the witness explains that these statements are within his personal knowledge (C.P.R.C. 132.001)

Ex 2	Substance	Objection	Response
Para 4	It is LWVTX's understanding that were Texas not presently suffering a public health crisis due to the COVID-19 pandemic, many, if not most, registered Texas voters who do not otherwise qualify to vote by mail, would not be eligible to vote by mail under the "disability" category. These are just the voters LWVTX would educate on the availability of vote by mail if it had authoritative guidance that says all registered voters can use the disability category of eligibility to vote by mail during the COVID-19 pandemic, LWVTX is not able to do so.	<p>Calls for Speculation</p> <p>Legally Conclusory</p> <p>Lack of Foundation</p>	<p>Not speculation, rather it is her belief and opinion.</p> <p>She states her belief and provides her, and thus the LWVTX's, lay opinion. She makes this conclusion as a lay witness and did not purport to offer this opinion as a legal conclusion. All of this is based on her perception and is helpful to understand her testimony and determining a fact issue. (TRE 701)</p> <p>The witness describes her understanding over the existence of voters who do not typically qualify for vote by mail. This information is readily available in the public sphere and the existence of this information is generally known within the Court's territorial limits</p>

		Lack of Personal Knowledge	and thus may be judicially noticed (TRE 201(b))  The witness explains that these statements are within his personal knowledge (C.P.R.C. 132.001)
Para 5	Because of the ongoing COVID-19 public health crisis in Texas, LWVTX would proactively engage voters who might not otherwise qualify to vote by mail and encourage them to do so if there were authoritative guidance indicating that it would be permissible for them to vote by mail due to the widespread pandemic conditions and that their votes will be counted if they vote by mail.	Calls for Speculation	Not speculation, rather it is her belief and opinion.
Para 6	In my experience, LWVTX needs 4-6 at a minimum to change/update public education materials and circulate to our members and the public to get the word out and work with voters to make sure they are able to cast a ballot that counts.	Argumentative	“Argumentative” is not a proper objection here where there is not a question posed that is made in an argumentative manner
Para 7	LWVTX members also routinely get asked voting-related questions from the public. With the circumstances created by COVID-19, LWVTX has been continuously receiving questions from individuals who are asking about voting by mail -- both about their eligibility to do so and the process and timeline for doing so. Due to uncertainty around how the government officials will interpret the	Hearsay  Legally Conclusory	Not hearsay. Witness is President of LWVTX and may testify as to what information the entity has.  She states her belief and provides her, and thus the LWVTX’s, lay opinion. She makes this conclusion as a lay witness and did not purport to offer this opinion as a legal conclusion. All of this is based on her perception

	<p>disability language in the mail ballot laws, LWVTX is unable to accomplish its mission of answering voters' questions and providing them with the resources they need in order to safely and securely cast a ballot that gets counted.</p>	<p>Argumentative</p>	<p>and is helpful to understand her testimony and determining a fact issue. (TRE 701)</p> <p>"Argumentative" is not a proper objection here where there is not a question posed that is made in an argumentative manner</p>
<p>Para 8</p>	<p>LWVTX has received communications from members of the public indicating that, due to the COVID-19 public health crisis, they believe that without the ability to vote by mail they will be unable to exercise their fundamental right to vote in the upcoming elections without risking their health.</p>	<p>Hearsay</p> <p>Not Readily Controvertible</p>	<p>Not hearsay. Witness is President of LWVTX and may testify as to what information the entity has.</p> <p>"Not readily controvertible" is not a proper objection here. If the state wants to call the witness and cross-examine her to attempt to discredit this testimony, it could easily do so but instead has agreed to go forward with the use of declarations.</p>
<p>Para 9</p>	<p>I understand LWVTX faces potential criminal liability if it encourages these voters to vote by mail and later these voters are found to not qualify to vote by mail. The requested relief is necessary for LWVTX so that it can plan, prepare, and execute a voter education strategy that includes advising all registered voters, including LWVTX members, that they can vote by mail during the ongoing COVID-19 public health crisis.</p>	<p>Legally Conclusory</p> <p>Improper Opinion</p>	<p>She did not purport to offer these statements as a legal conclusion. Rather, she makes the conclusion as a lay witness and said conclusion is rationally based on her perception and is helpful to understand her testimony and determining a fact issue. (TRE 701)</p>
<p>Para 10</p>	<p>Based on my personal knowledge of numerous LWVTX members across</p>	<p>Legally Conclusory</p>	<p>She did not purport to offer these statements as a legal conclusion.</p>

	<p>Travis County, and Texas as a whole, I know that there are individual members (including myself) who would not otherwise be eligible to vote by mail outside of the circumstance of this pandemic. This is because they are not 65 years or older, do not otherwise meet the definition of being disabled in the mail ballot law, do not have plans to be away from their county on election day, and are not confined in jail.</p>	<p>Calls for Speculation</p>	<p>It does not “call” for speculation, nor is the testimony speculative. Rather the witness described her experience and the experience of the organization she represents.</p>
<p>Para 12</p>	<p>The lack of authoritative guidance on whether they are able to vote by mail under the present circumstances leaves many LWVTX members with no realistic opportunity to exercise their fundamental right to vote in upcoming elections, including the July special election and runoff elections. Without the option vote by mail, many League members will be faced with the untenable choice of disenfranchisement or risking their health and safety and the health and safety of their loved ones on the one hand or risking that their ballot will not be counted and/or criminal liability on the other.</p>	<p>Argumentative</p> <p>Legally Conclusory</p> <p>Calls for Speculation</p>	<p>“Argumentative” is not a proper objection here where there is not a question posed that is made in an argumentative manner</p> <p>She did not purport to offer these statements as a legal conclusion.</p> <p>It does not “call” for speculation, nor is the testimony speculative. Rather the witness described her experience and the experience of the organization she represents.</p>
<p>Para 13</p>	<p>LWVTX cannot currently advise all of its members to apply for mail ballots without authoritative guidance indicating that it would be permissible for them to vote by mail due to the widespread pandemic conditions. LWVTX cannot encourage its members</p>	<p>Relevance</p> <p>Argumentative</p>	<p>Relevant for at least the issues of standing and whether a temporary injunction is necessary.</p> <p>“Argumentative” is not a proper objection here where there is not a question posed that is made</p>

	<p>to vote by mail if their ballots will not be accepted and tabulated. LWVTX also cannot risk exposing itself or its members to potential criminal liability by encouraging members to apply for mail ballots if it is later determined they are in fact not eligible to do so. LWVTX seeks to be able to advise its members that they can apply to vote by mail so that they are able to safely vote in all upcoming elections during this public health crisis. Without authoritative guidance that says all registered voters can use the disability category of eligibility to vote by mail during the COVID-19 pandemic, LWVTX is not able to do so.</p>	<p>Not Readily Controvertible</p>	<p>in an argumentative manner</p> <p>“Not readily controvertible” is not a proper objection here. If the state wants to call Ms. Chimene and cross-examine her to attempt to discredit this testimony, it could easily do so but instead has agreed to go forward with the use of declarations.</p>
<p>Para 14</p>	<p>I want to vote in the 2020 Primary Election Runoff and the July 14 Special Election. I do not want to vote in person because I do not want to risk catching COVID-19 or inadvertently infecting others if, unbeknownst to me, I am an asymptomatic carrier. I understand that all individuals, including myself can contract COVID-19, and that the effects can be devastating, even deadly. I also understand that gathering in large crowds is an unsafe practice that creates a risk of contracting COVID-19. I believe that during this ongoing COVID-19 outbreak I, along with everyone else, have a physical condition that prevents me from appearing at the polling place on Election Day</p>	<p>Lack of Foundation</p> <p>Legally Conclusory</p> <p>Improper Opinion</p>	<p>She describes a basic understanding of the current official guidance regarding COVID-19. This information is readily available in the public sphere and the existence of this information is generally known within the Court’s territorial limits and thus may be judicially noticed (TRE 201(b))</p> <p>She did not purport to offer these statements as a legal conclusion.</p> <p>She makes the conclusion as a lay witness and said conclusion is rationally based on her perception and is helpful to understand her testimony and</p>

	without a likelihood of injuring my health.	<p>Calls for Speculation</p> <p>Not Readily Controvertible</p>	<p>determining a fact issue. (TRE 701)</p> <p>It does not “call” for speculation, nor is the testimony speculative. Rather the witness described her experience and her own understanding.</p> <p>“Not readily controvertible” is not a proper objection here. If the state wants to call the witness and cross-examine her to attempt to discredit this testimony, it could easily do so but instead has agreed to go forward with the use of declarations.</p>
Para 16	Were Texas not suffering a public health crisis due to the COVID-19 global pandemic, I would not be eligible to vote by mail: I am not 65 or older, I will be in Travis County during the voting period for the July 14, 2020 election, I am not incarcerated in jail, and I do not have a disability other than the COVID-19-related disability.	<p>Calls for Speculation</p> <p>Legally Conclusory</p>	<p>It does not “call” for speculation, nor is the testimony speculative. Rather the witness described her experience and her own plans.</p> <p>She did not purport to offer these statements as a legal conclusion.</p>
Para 17	I believe I have a COVID-19-related “disability” as that word is defined in Section 82.002 of the Texas Election Code because I cannot vote in person during the COVID-19 pandemic without risking my health.	<p>Legally Conclusory</p> <p>Improper Opinion</p>	<p>She did not purport to offer these statements as a legal conclusion.</p> <p>She makes the conclusion as a lay witness and said conclusion is rationally based on her perception and is helpful to understand her testimony and determining a fact issue. (TRE 701)</p>

		Lack of Foundation  Not Readily Controvertible	The foundation for this testimony is provided in the other paragraphs of the declaration.  “Not readily controvertible” is not a proper objection here. If the state wants to call the witness and cross-examine her to attempt to discredit this testimony, it could easily do so but instead has agreed to go forward with the use of declarations.
Para 18	If I have authoritative guidance clarifying that I am able to legally apply for a mail ballot under the current circumstances, I will apply for a mail-in ballot now so that I can: ensure I receive my ballot in a timely fashion, that I have enough time to track my mail application and ballot, have enough time to contact and follow up with the County if my ballot does not arrive or is not received by the County, and have enough time to take whatever additional steps might be necessary to ensure my ballot is counted.	Calls for speculation,  Relevance	It does not “call” for speculation, nor is the testimony speculative. Rather the witness described her experience and her own plans.  Relevant as to standing, ripeness, and need for temporary injunction
Para 19	In my time with LWVTX, I have encountered numerous individuals who have encountered problems or delays when voting by mail. These have included individuals who have applied for ballots by mail but never received them; received their ballots after the election was over; received their ballots without enough	Hearsay  Relevance	Not offered for the truth of the matter asserted, rather offered to demonstrate the LWVTX’s response and preparation regarding these types of contact  Relevant as to need for temporary injunction at this date to ensure voters have



	<p>time to send them back before election day; and people who have had to go vote in person because their applications or ballots were not properly processed. These issues are avoidable if individuals submit their applications to vote by mail far in advance and routinely check in with the county to confirm the status of their applications and ballots. I, and other LWVTX members I know, will be encouraging voters to submit any mail ballot applications as soon as possible to give themselves enough time to check in with the county and cure any problems, particularly if there is expected to be an increase in mail ballot applications due to COVID-19.</p>	<p>Argumentative</p> <p>Not Readily Controvertible</p>	<p>enough time to have ballots counted.</p> <p>“Argumentative” is not a proper objection here where there is not a question posed that is made in an argumentative manner</p> <p>“Not readily controvertible” is not a proper objection here. If the state wants to call the witness and cross-examine her to attempt to discredit this testimony, it could easily do so but instead has agreed to go forward with the use of declarations.</p>
Attestation Section		Statements in declaration not within declarant’s personal knowledge	Improper global objection. Further, the witness explains that these statements are within his personal knowledge (C.P.R.C. 132.001)

Ex 3	Substance	Objection	Reponse
Para 4	<p>It is LWV-AA’s understanding that were Texas not presently suffering a public health crisis due to the COVID-19 pandemic, many, if not most, registered Texas voters who do not otherwise qualify to vote by mail, would not be eligible to vote by mail under the “disability” category. These are just the voters LWV-AA would educate on the availability of</p>	Lack of Foundation	<p>The witness describes her understanding over the existence of voters who do not typically qualify for vote by mail. This information is readily available in the public sphere and the existence of this information is generally known within the Court’s territorial limits and thus</p>

	<p>vote by mail if it had authoritative guidance that says all registered voters can use the disability category of eligibility to vote by mail during the COVID-19 pandemic, LWV-AA is not able to do so.</p>	<p>Calls for Speculation</p> <p>Lack of Personal Knowledge</p> <p>Legally Conclusory</p>	<p>may be judicially noticed (TRE 201(b))</p> <p>It does not “call” for speculation, nor is the testimony speculative. Rather the witness described her understanding and that of the organization she represents</p> <p>The witness explains that these statements are within his personal knowledge (C.P.R.C. 132.001)</p> <p>She did not purport to offer these statements as a legal conclusion.</p>
Para 5	<p>Because of the ongoing COVID-19 public health crisis in Texas, LWV-AA would proactively engage voters who might not otherwise qualify to vote by mail and encourage them to do so if there were authoritative guidance indicating that it would be permissible for them to vote by mail due to the widespread pandemic conditions and that their votes will be counted if they vote by mail.</p>	<p>Calls for speculation</p>	<p>It does not “call” for speculation, nor is the testimony speculative. Rather the witness described her understanding and that of the organization she represents</p>
Para 6	<p>LWV-AA members also routinely get asked voting-related questions from the public. Due to uncertainty around how the government officials will interpret the disability language in the mail ballot laws, LWV-AA is unable to accomplish its mission of educating voters about election</p>	<p>Hearsay</p> <p>Legally Conclusory</p>	<p>Not hearsay rather witness’s own perception of events. Further, witness is President of LWV-AA and may testify as to what information the entity has.</p> <p>She did not purport to offer these statements as a legal conclusion.</p>

	<p>laws concerning vote-by-mail and providing them with the resources they need in order to safely and securely cast a ballot that gets counted. Already, LWV-AA has seen confusion from individuals due the State's lack of clarity around whether people will be allowed to vote-by-mail due to COVID-19 without consequence, even though normally they would not be allowed to vote-by-mail.</p>	<p>Argumentative</p>	<p>"Argumentative" is not a proper objection here where there is not a question posed that is made in an argumentative anner</p>
<p>Para 7</p>	<p>The LWV-AA has received communications from members of the public indicating that, due to the COVID-19 public health crisis, they believe that without the ability to vote by mail they will be unable to exercise their fundamental right to vote in the upcoming elections without risking their health. LWV-AA anticipates as the elections draws nearer, those communications will increase significantly.</p>	<p>Hearsay</p> <p>Not Readily Controvertible</p>	<p>Not offered for the truth of the matter asserted, rather offered to demonstrate the LWVAA's response and preparation regarding these types of contact</p> <p>"Not readily controvertible" is not a proper objection here. If the state wants to call Ms. Chimene and cross-examine her to attempt to discredit this testimony, it could easily do so but instead has agreed to go forward with the use of declarations.</p>
<p>Para 8</p>	<p>I understand LWV-AA faces potential criminal liability if it encourages these voters to vote by mail and later these voters are found to not qualify to vote by mail. The requested relief is necessary for LWV-AA so that it can plan, prepare, and execute a voter education strategy that includes advising all registered voters, including LWV-AA members, that they can vote by mail during the</p>	<p>Legally Conclusory</p> <p>Improper Opinion</p>	<p>She did not purport to offer these statements as a legal conclusion.</p> <p>She makes these statements as a lay witness, which are rationally based on her perception and is helpful to understand her testimony and determining a fact issue. (TRE 701)</p>

	ongoing COVID-19 public health crisis.		
Para 11	The lack of authoritative guidance on whether they are able to vote by mail under the present circumstances leaves many LWV-AA members with no realistic opportunity to exercise their fundamental right to vote in upcoming elections, including the July special election and runoff elections. Without the option vote by mail, many LWV-AA members will be faced with the untenable choice of disenfranchisement or risking their health and safety and the health and safety of their loved ones on the one hand or risking that their ballot will not be counted and/or criminal liability on the other.	Argumentative  Legally conclusory  Calls for speculation	“Argumentative” is not a proper objection here where there is not a question posed that is made in an argumentative manner  She did not purport to offer these statements as a legal conclusion.  It does not “call” for speculation, nor is the testimony speculative. Rather the witness described her experience and her own understanding and the understanding of the organization she represents.
Para 12	LWV-AA cannot currently advise all of its members to apply for mail ballots without authoritative guidance indicating that it would be permissible for them to vote by mail due to the widespread pandemic conditions. LWV-AA cannot encourage its members to vote by mail if their ballots will not be accepted and tabulated. LWV-AA also cannot risk exposing itself or its members to potential criminal liability by encouraging members to apply for mail ballots if it is later determined they are in fact not eligible to do so. LWV-AA seeks to be	Relevance  Argumentative  Not readily controvertible	Relevant to injury for standing purposes, and ripeness.  “Argumentative” is not a proper objection here where there is not a question posed that is made in an argumentative manner  “Not readily controvertible” is not a proper objection here. If the state wants to call the witness and cross-examine him to attempt to discredit this testimony, it could easily do so but instead has agreed to go

	able to advise its members that they can apply to vote by mail so that they are able to safely vote in all upcoming elections during this public health crisis. Without authoritative guidance that says all registered voters can use the disability category of eligibility to vote by mail during the COVID-19 pandemic, LWV-AA is not able to do so.		forward with the use of declarations.
Para 13	In my experience, LWV-AA needs 6-8 weeks at a minimum to change/update public education materials and circulate to our members and the public to get the word out and work with voters to make sure they are able to cast a ballot that counts.	Argumentative	“Argumentative” is not a proper objection here where there is not a question posed that is made in an argumentative manner
Para 14	I want to vote in the 2020 Primary Election Runoff and the July 14 Special Election. I do not want to vote in person because I do not want to risk catching COVID-19 or inadvertently infecting others if, unbeknownst to me, I am an asymptomatic carrier. I understand that all individuals, including myself can contract COVID-19, and that the effects can be devastating, even deadly. I also understand that gathering in large crowds is an unsafe practice that creates a risk of contracting COVID-19. I believe that during this ongoing COVID-19 outbreak I, along with everyone else, have a physical condition that	Lack of foundation  Legally conclusory  Improper opinion	The witness describes a basic understanding of how COVID-19 affects humans. This information is readily available in the public sphere and the existence of this information is generally known within the Court’s territorial limits and thus may be judicially noticed (TRE 201(b))  She did not purport to offer these statements as a legal conclusion.  She makes these statements as a lay witness, which are rationally based on her perception and is helpful to

	prevents me from appearing at the polling place on Election Day without a likelihood of injuring my health.	<p>Calls for speculation</p> <p>Not readily controvertible</p>	<p>understand her testimony and determining a fact issue. (TRE 701)</p> <p>It does not “call” for speculation, nor is the testimony speculative. Rather the witness described her experience and her own understanding</p> <p>“Not readily controvertible” is not a proper objection here. If the state wants to call the witness and cross-examine her to attempt to discredit this testimony, it could easily do so but instead has agreed to go forward with the use of declarations.</p>
Para 16	Were Texas not suffering a public health crisis due to the COVID-19 global pandemic, I would not be eligible to vote by mail: I am not 65 or older, I will be in Travis County during the voting period for the July 14, 2020 election, I am not incarcerated in jail, and I do not have a disability other than the COVID-19-related disability.	<p>Calls for speculation</p> <p>Legally conclusory</p>	<p>It does not “call” for speculation, nor is the testimony speculative. Rather the witness described her experience and her own plans</p> <p>She did not purport to offer these statements as a legal conclusion.</p>
Para 17	I believe I have a COVID-19-related “disability” as that word is defined in Section 82.002 of the Texas Election Code because I cannot vote in person during the COVID-19 pandemic without risking my health, or to my husband’s	<p>Legally conclusory</p> <p>Improper opinion</p>	<p>She did not purport to offer these statements as a legal conclusion.</p> <p>She makes these statements as a lay witness, which are rationally based on her perception and is helpful to understand her testimony</p>

	health because he has a suppressed immune system.	Lack of foundation  Not readily controvertible	and determining a fact issue. (TRE 701)  The foundation for this testimony is provided in the other paragraphs of the declaration  “Not readily controvertible” is not a proper objection here. If the state wants to call the witness and cross-examine her to attempt to discredit this testimony, it could easily do so but instead has agreed to go forward with the use of declarations.
Para 18	If I have authoritative guidance clarifying that I am able to legally apply for a mail ballot under the current circumstances, I will apply for a mail-in ballot now so that I can: ensure I receive my ballot in a timely fashion, that I have enough time to track my mail application and ballot, have enough time to contact and follow up with the County if my ballot does not arrive or is not received by the County, and have enough time to take whatever additional steps might be necessary to ensure my ballot is counted.	Calls for speculation  Relevance	It does not “call” for speculation, nor is the testimony speculative. Rather the witness described her experience and her own plans  Relevant as to need for temporary injunction
Attestation Section		Not based on personal knowledge; not sworn under penalty of perjury	Improper global objection. Further, the witness explains that these statements are within his personal knowledge (C.P.R.C. 132.001)

			A corrected version of the declaration, with the proper attestation language, has been filed with the Court and is the version offered into evidence
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Ex. 4	Substance	Objection	Response
Para. 3	WDAF engages in get-out-the-vote efforts. WDAF’s normal get-out-the-vote efforts are not feasible under present conditions where person-to-person contact is not possible. It is WDAF’s understanding that were Texas not presently suffering a public health crisis due to the COVID-19 pandemic, most registered Texas voters would not be eligible to vote by mail under the “disability” category. If there were authoritative guidance indicating that it is permissible for these voters to vote by mail due to the widespread pandemic conditions and that their votes will be counted if they vote by mail, WDAF would encourage these potential voters to apply for mail ballots.	<p>Legally conclusory</p> <p>Calls for speculation</p> <p>Lack of personal knowledge</p> <p>Lack of foundation</p>	<p>She did not purport to offer these statements as a legal conclusion.</p> <p>It does not “call” for speculation, nor is the testimony speculative. Rather the witness described her experience and her own understanding</p> <p>The witness explains that these statements are within his personal knowledge (C.P.R.C. 132.001)</p> <p>The witness describes her understanding over the existence of voters who do not typically qualify for vote by mail. This information is readily available in the public sphere and the existence of this information is generally known within the Court’s territorial limits and thus may be judicially noticed (TRE 201(b))</p>
Para. 4	I understand that under Texas law, employees and members	Legally conclusory	She did not purport to offer these statements as a legal



	for organizations such as WDAF face potential criminal liability if they encourage voters to vote by mail and later these voters are found to have not qualified to vote by mail.	Improper opinion	conclusion but rather provides the basis for her understanding  She makes these statements as a lay witness, which are rationally based on her perception and is helpful to understand her testimony and determining a fact issue. (TRE 701)
Para. 5	It takes WDAF 4-6 months to properly plan, prepare, and execute a successful voter education strategy. If this strategy is going to include advising all registered voters that they can vote by mail during the ongoing public health crisis caused by the COVID-19 pandemic, WDAF must begin that planning and preparation now.	Argumentative  Relevance	“Argumentative” is not a proper objection here where there is not a question posed that is made in an argumentative manner  Relevant as to standing, ripeness, and and need for temporary injunction
Para. 8	WDAF employs 4 FT organizing employees. They are phone-banking and developing social media content now that they are not able to do in person outreach. They continue to communicate with voters and the community but are not able to support them to make a plan in the July 14th election because it is unclear if they can encourage people to apply for vote by mail. Their work is severely hampered by the fact that they cannot advise individuals to vote by mail or educate them on what is necessary to successfully do so.	Argumentative  Hearsay  Not readily controvertible	“Argumentative” is not a proper objection here where there is not a question posed that is made in an argumentative manner  Not hearsay rather witness’s own perception of events. Further, witness is co-executive director of WDAF and may testify as to what information the entity has..  “Not readily controvertible” is not a proper objection here. If the state wants to call the witness and cross-examine him to attempt to discredit this testimony, it could easily do so but

			instead has agreed to go forward with the use of declarations.
Para. 10	Based on my personal knowledge of individual WDAF members, I know that there are individual members (including myself) who would not otherwise be eligible to vote by mail outside of the circumstance of this pandemic. This is because they are not 65 years or older, do not meet the definition of being disabled in the mail ballot law (outside of the COVID-19 pandemic), do not have plans to be away from their county on election day, and are not confined in jail.	Legally conclusory  Calls for speculation	She did not purport to offer these statements as a legal conclusion.  It does not “call” for speculation, nor is the testimony speculative. Rather the witness described her experience and her own understanding
Para. 12	The lack of authoritative guidance on whether they are able to vote by mail under the present circumstances leaves many WDAF members with no realistic opportunity to exercise their fundamental right to vote in upcoming elections, including the July special election and runoff elections. Without the option to vote by mail, many WDAF members will be faced with the untenable choice of disenfranchisement or risking their health and safety and the health and safety of their loved ones on the one hand or risking that their ballot will not be counted and/or criminal liability on the other.	Argumentative  Legally conclusory  Calls for speculation	“Argumentative” is not a proper objection here where there is not a question posed that is made in an argumentative manner  She did not purport to offer these statements as a legal conclusion.  It does not “call” for speculation, nor is the testimony speculative. Rather the witness described her experience and her own understanding

<p>Para. 13</p>	<p>WDAF cannot currently advise all of its members to apply for mail ballots due to the lack of authoritative guidance indicating that it would be permissible for them to vote by mail due to the widespread pandemic conditions. WDAF cannot encourage its members to vote by mail if their ballots will not be accepted and tabulated. WDAF cannot risk exposing its staff or its members to potential criminal liability by encouraging members to apply for mail ballots if they are in fact not eligible to do so. WDAF seeks to be able to advise its members that they can apply to vote by mail so that they are able to safely vote in all upcoming elections during this public health crisis. Without authoritative guidance that says all registered voters can use the disability category of eligibility to vote by mail during the COVID-19 pandemic, WDAF is not able to do so</p>	<p>Relevance</p> <p>Argumentative</p> <p>Not readily controvertible</p>	<p>Relevant as to standing, ripeness, and need for temporary injunction</p> <p>“Argumentative” is not a proper objection here where there is not a question posed that is made in an argumentative manner</p> <p>“Not readily controvertible” is not a proper objection here. If the state wants to call the witness and cross-examine her to attempt to discredit this testimony, it could easily do so but instead has agreed to go forward with the use of declarations.</p>
<p>Para. 15</p>	<p>If Texas were not suffering from a public health crisis caused by the COVID-19 global pandemic, I would not be eligible to vote by mail: I am not 65 or older; I will be in Travis County (my county of residence) during the voting period for the July 14, 2020 elections; I am not incarcerated in jail; and I do not have a disability (other than the</p>	<p>Calls for speculation</p> <p>Legally conclusory</p>	<p>It does not “call” for speculation, nor is the testimony speculative. Rather the witness described her experience and her own plans</p> <p>She did not purport to offer these statements as a legal conclusion.</p>

	COVID-19-related disability described above).		
Para. 16	I want to vote in the 2020 Primary Election Runoff and the July 14 Special Election. I do not want to vote in person because I do not want to risk catching COVID-19 or inadvertently infecting others if, unbeknownst to me, I am an asymptomatic carrier. I understand that all individuals, including myself can contract COVID-19, and that the effects can be devastating, even deadly. I also understand that gathering in large crowds is an unsafe practice that creates a risk of contracting COVID-19. I believe that during this ongoing COVID-19 outbreak I, along with everyone else, have a physical condition that prevents me from appearing at the polling place on Election Day without a likelihood of injuring my health.	<p>Lack of foundation</p> <p>Legally conclusory</p> <p>Improper opinion</p> <p>Calls for speculation</p> <p>Not readily controvertible</p>	<p>She describes a basic understanding of the current official guidance regarding COVID-19. This information is readily available in the public sphere and the existence of this information is generally known within the Court’s territorial limits and thus may be judicially noticed (TRE 201(b))</p> <p>She did not purport to offer these statements as a legal conclusion.</p> <p>She makes these statements as a lay witness, which are rationally based on her perception and is helpful to understand her testimony and determining a fact issue. (TRE 701)</p> <p>It does not “call” for speculation, nor is the testimony speculative. Rather the witness described her experience and her own understanding</p> <p>“Not readily controvertible” is not a proper objection here. If the state wants to call the witness and cross-examine her to attempt to discredit this testimony, it could easily do so but instead has agreed to go forward with the use of declarations.</p>

<p>Para. 17</p>	<p>I believe I have a COVID-19-related “disability” as that word is defined in Section 82.002 of the Texas Election Code because I cannot vote in person during the COVID-19 pandemic without risking my health.</p>	<p>Legally conclusory</p> <p>Improper opinion</p> <p>Lack of foundation</p> <p>Not readily controvertible</p>	<p>She did not purport to offer these statements as a legal conclusion</p> <p>She makes these statements as a lay witness, which are rationally based on her perception and is helpful to understand her testimony and determining a fact issue. (TRE 701)</p> <p>The foundation for this testimony is provided in the other paragraphs of the declaration.</p> <p>“Not readily controvertible” is not a proper objection here. If the state wants to call the witness and cross-examine him to attempt to discredit this testimony, it could easily do so but instead has agreed to go forward with the use of declarations.</p>
<p>Para. 18</p>	<p>If I have authoritative guidance clarifying that I am able to legally apply for a mail ballot under the current circumstances, I will apply for a mail-in ballot now so that I can: ensure I receive my ballot in a timely fashion, have enough time to track my mail application and ballot, have enough time to contact and follow up with the County if my ballot does not arrive or is not received by the County, and have enough time to take whatever additional steps might be necessary to ensure my ballot is counted, including</p>	<p>Calls for speculation</p> <p>Relevance</p>	<p>It does not “call” for speculation, nor is the testimony speculative. Rather the witness described her experience and her own plans</p> <p>Relevant as to standing, ripeness, and need for temporary injunction</p>

	canceling and re-requesting a ballot if necessary.		
Para. 19	In our past voter mobilization efforts we have fielded many questions from people who wish to vote by mail about when their ballots will arrive and whether they have been received. Giving as much time to resolve those questions as possible is critically important.	Hearsay  Relevance  Argumentative	Not offered for the truth of the matter asserted, rather offered to demonstrate the WDAF’s response and preparation regarding these types of contact  Relevant as to need for temporary injunction  “Argumentative” is not a proper objection here where there is not a question posed that is made in an argumentative manner
Attestation Section	I declare under penalty of perjury that the facts stated above are true and correct to the best of my personal knowledge.	Statements contained in declaration are not within declarant’s personal knowledge	Improper global objection. Further, the witness explains that these statements are within his personal knowledge (C.P.R.C. 132.001)

<b>Ex. 5</b>	<b>Substance</b>	<b>Objection</b>	<b>Response</b>
Para. 3	Since its inception, MOVE has worked to expand voter registration and equal access to voting. MOVE actively works to register eligible young people to vote and ensure that they cast a ballot that is actually counted. MOVE informs voters statewide about their ability to cast a mail ballot, explains the rules and deadlines related to mail ballots, and encourages eligible	Argumentative	“Argumentative” is not a proper objection here where there is not a question posed that is made in an argumentative manner

	voters to utilize mail ballots if they cannot vote in-person. MOVE encourages and advises young voters in applying for mail ballots when appropriate and follows up with them to ensure they have mailed their ballots in a timely manner. Because MOVE frequently works with college students, encouraging voting by mail is one of MOVE’s core activities.		
Para. 4	Many of the young voters whom MOVE would have encouraged to vote by mail because they were outside of their home county while attending school are now residing in their home counties due to COVID-19 school closures; however, they will still be unable to safely vote in person due to the widespread pandemic conditions.	Argumentative  Calls for Speculation  Legally Conclusory  Improper Opinion	“Argumentative” is not a proper objection here where there is not a question posed that is made in an argumentative manner  It does not “call” for speculation, nor is the testimony speculative. Rather the witness described his experience and his own understanding  He did not purport to offer these statements as a legal conclusion.  He makes these statements as a lay witness, which are rationally based on his perception and is helpful to understand her testimony and determining a fact issue. (TRE 701)
Para. 5	MOVE would engage these potential voters through direct outreach and social media and encourage them to apply for mail ballots if there were authoritative guidance	Calls for Speculation	It does not “call” for speculation, nor is the testimony speculative. Rather the witness described his experience and his own understanding

	indicating that it would be permissible for them to vote by mail due to the widespread pandemic conditions and that their votes will be counted if they vote by mail.		
Para. 6	I understand that under Texas law, MOVE faces potential criminal liability if it encourages these voters to vote by mail and later these voters are found to not qualify for vote by mail. In my years involved in civic organizing, there have been increasingly severe laws passed regulating voter registration and engagement activity and increasing prosecutions of individuals for activities that fall in legal gray areas.	<p>Legally Conclusory</p> <p>Improper Opinion</p> <p>Argumentative</p> <p>Not Readily Controvertible</p>	<p>He did not purport to offer these statements as a legal conclusion.</p> <p>He did not purport to offer these statements as a legal conclusion.</p> <p>“Argumentative” is not a proper objection here where there is not a question posed that is made in an argumentative manner</p> <p>“Not readily controvertible” is not a proper objection here. If the state wants to call the witness and cross-examine him to attempt to discredit this testimony, it could easily do so but instead has agreed to go forward with the use of declarations.</p>
Para. 7	MOVE cannot continue its education and get out the vote efforts with respect to vote by mail if it is possible that either MOVE or individuals whom it educates could be prosecuted for voting by mail or that those individuals’ ballots may not be counted.	<p>Calls for Speculation</p> <p>Argumentative</p>	<p>It does not “call” for speculation, nor is the testimony speculative. Rather the witness described his experience and his own understanding and that of the organization he represents</p> <p>“Argumentative” is not a proper objection here where there is not a questions posed that is</p>



			made in an argumentative manner
Para. 8	In my experience, MOVE needs 12 weeks at a minimum to change/update public education materials and circulate to our members and the public to get the word out and work with voters to make sure they are able to cast a ballot that counts.	Argumentative	“Argumentative” is not a proper objection here where there is not a question posed that is made in an argumentative manner
Para. 11	In the lead up to the March 3, 2020 Primary Election, MOVE estimates they directly encouraged over 1,000 voters to apply for mail ballots.	Lack of Foundation  Lack of Personal Knowledge	The foundation for this testimony is found in the other paragraphs of his declaration.  The witness is the representative of MOVE and indicates he has personal knowledge of the information provided. The objection provides no information to the contrary
Para. 13	MOVE employs 39 organizing employees. They are communicating with voters on social media and using digital tools like text messaging, relational organizing software, and phone calls now that they are stuck at home due to the COVID-19 pandemic. Their work is severely hampered by the fact that they cannot advise individuals to vote by mail or educate them on what is necessary to successfully do so.	Hearsay  Argumentative	Not hearsay rather witness’s own perception of events. Further, witness is executive director of MOVE and may testify as to what information the entity has..  “Argumentative” is not a proper objection here where there is not a question posed that is made in an argumentative manner
Para. 14	MOVE has spoken directly with voters who have had difficulty obtaining mail-in ballots, specifically: learning	Hearsay	Not offered for the truth of the matter asserted, rather offered to demonstrate the MOVE’s response and

	an unfamiliar system of absentee voting and the pertaining rules and laws; understanding mail-in ballot applications are due by a specific deadline; following up with counties multiple times in order to obtain their ballot; understanding that their signature will be matched to their original voter registration signature; and, ensuring their ballots are mailed by the proper deadline.	Argumentative  Relevance	preparation regarding these types of contact  “Argumentative” is not a proper objection here where there is not a question posed that is made in an argumentative manner.  Relevant as to need for temporary injunction
Attestation Section	I declare under penalty of perjury that the facts stated above are true and correct to the best of my personal knowledge.	Statements contained in declaration are not within declarant’s personal knowledge	Improper global objection. Further, the witness explains that these statements are within his personal knowledge (C.P.R.C. 132.001)

Respectfully submitted,

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***ATTORNEYS FOR INTERVENORS***

**CERTIFICATE OF SERVICE**

I hereby certify that on the April 15, 2020, a true and correct copy of the foregoing document was served upon Sherine Thomas and Leslie Dippel, attorneys for Defendant Dana DeBeauvoir via email at sherine.thomas@traviscountytexas.gov and leslie.dippel@traviscountytexas.gov; upon Chad Dunn, attorney for Plaintiffs, via email at chad@brazilanddunn.com; and upon Anna Mackin, attorney for Intervenor-Defendant, via email at anna.mackin@oag.texas.gov in accordance with TEX. R. CIV. P. 21(a).

/s/ Rebecca Harrison Stevens