

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GREG ABBOTT, in his capacity as
GOVERNOR OF THE STATE OF TEXAS,
and THE STATE OF TEXAS,

Defendants.

Case No. 1:23-cv-00853-DAE

PLAINTIFF UNITED STATES' NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiff the United States of America respectfully files this Notice of Supplemental Authority in support of its Memorandum in Opposition to Defendants' Motion to Dismiss (ECF 63) and its Supplemental Brief in Response to Defendants' Motion to Dismiss (ECF 104).

1. Mere hours after the parties filed their supplemental briefs addressing the United States' claim under Article VII of the 1848 Treaty of Guadalupe Hidalgo, the Fifth Circuit issued a decision addressing one of the same legal arguments Texas has raised in this case. *United States v. Texas*, No. 24-50149 (5th Cir. Mar. 26, 2024) (attached as Ex. A to this notice).
2. In *United States v. Texas*, the Fifth Circuit denied Texas's motion for a stay pending appeal of this Court's decision preliminarily enjoining Texas Senate Bill 4. Among other issues, the panel majority rejected Texas's argument that the United States lacks a cause of action to enforce the supremacy of federal law. *United States v. Texas*, Slip Op. at 7-12 (Richman, C.J.). The court found "no basis in the precedent of this court

or the Supreme Court for concluding that the United States lacks a cognizable path for seeking to enjoin an allegedly preempted state law.” *Id.* at 12.

3. The Fifth Circuit’s published and precedential decision is directly relevant to one of the two issues this Court directed the parties to address in their supplemental briefs—namely, whether the United States has a cause of action to enforce Article VII of the 1848 Treaty against conflicting state action.

Respectfully submitted,

Dated: March 27, 2024

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CERTIFICATE OF SERVICE

I certify that on March 27, 2024, a copy of this filing was served on counsel of record through the Court's electronic filing system.

/s/ Andrew D. Knudsen
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