

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

HILDA GONZALEZ GARZA and	§	
ROSBELL BARRERA,	§	
Plaintiffs,	§	
	§	
v.	§	CIVIL ACTION NO. 7:18-cv-00046
	§	
STARR COUNTY, <i>et al.</i> ,	§	
Defendants.	§	

**PLAINTIFFS' REPLY IN SUPPORT OF MOTION FOR LEAVE TO AMEND  
COMPLAINT**

Plaintiffs HILDA GONZALEZ GARZA and ROSBELL BARRERA (“Plaintiffs”) submit this Reply in Support of their Motion for Leave to file a Third Amended Complaint, Dkt. No. 35.

**I. Argument**

In their Response, Defendants disregard entirely the legal standard applicable to a motion for leave to amend a complaint. Under Federal Rule of Civil Procedure 15(a)(2), the Court “should freely give leave when justice so requires.” *See also Foman v. Davis*, 371 U.S. 178, 182 (1962). In this case, justice requires leave to amend because Defendants adopted the Electioneering Regulation, which is directly relevant to the claims in this action, *after* Plaintiffs filed their Second Amended Complaint.<sup>1</sup> Defendants fail to address or respond to that fundamental argument.

Rather than address the applicable standard, Defendants focus their Response on substantive arguments apparently in response to Plaintiffs’ proposed Third Amended Complaint, *e.g.*, whether the Starr County Building and Property Use Policy and Electioneering Regulation

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<sup>1</sup> Plaintiffs filed their Second Amended Complaint on May 1, 2018, and Defendants adopted the Electioneering Regulations on May 9, 2018.

violate the First Amendment and the Texas Election Code and are *ultra vires*. Those arguments are entirely irrelevant and unresponsive to Plaintiff's Motion for Leave.<sup>2</sup>

Under the applicable standard, Plaintiffs should be granted leave to file a Third Amended Complaint: (i) the amendment is not sought for the purpose of undue delay or with a dilatory motive; (ii) Plaintiffs' motion is timely under the Court's scheduling order, which sets a deadline of September 7, 2018 to amend pleadings; and (iii) the amendment is not futile or the result of a failure to cure deficiencies. *Foman*, 371 U.S. at 182. These are the relevant questions under the applicable standard, and Defendants fail to address any of them. Leave to amend should be freely given, and Plaintiffs should be permitted to file a Third Amended Complaint.

## **II. Conclusion**

For these reasons and those stated in Plaintiffs' Motion, Dkt. No. 35, Plaintiffs respectfully request that the Court grant them leave to file a Third Amended Complaint.

Dated: June 4, 2018

Respectfully submitted,

**MEXICAN AMERICAN LEGAL DEFENSE  
AND EDUCATIONAL FUND**

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<sup>2</sup> These arguments may be more appropriate, if at all, in an Answer to Plaintiffs' Third Amended Complaint but are inapposite in a response to the Motion at bar.

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**Certificate of Service**

The undersigned counsel hereby certifies that, on the 4th day of June, 2018, she has electronically submitted a true and correct copy of the above and foregoing Reply in Support of Plaintiffs' Motion for Leave to Amend Complaint via the Court's electronic filing system, which will serve a copy on all counsel of record for Defendants.

/s/ Alejandra Ávila  
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