



national pledge and to find the identical language in the Texas pledge unconstitutional. The United States Supreme Court has consistently recognized that it does not violate the Establishment Clause to acknowledge our nation's heritage. Moreover, the pledge is a patriotic—rather than a religious—exercise. As Plaintiffs have brought a facial challenge, they must demonstrate that the Texas pledge violates the Constitution in all applications.

Plaintiffs have not met their burden, and as there is no genuine issue as to any material fact, Defendant requests that the district court grant summary judgment in his favor. Defendant asks the court to declare that the language of the Texas pledge as prescribed in Texas Government Code §3100.101 is constitutional under the Establishment Clause of the First Amendment.

The legal and factual grounds on which Defendant Governor Perry relies will be set forth in the brief in support of this motion in accordance with L.R. 56.4(b).

Respectfully submitted,

GREG ABBOTT  
Attorney General of Texas

KENT C. SULLIVAN  
First Assistant Attorney General

DAVID S. MORALES  
Deputy Attorney General for Civil Litigation

JAMES C. HO  
Solicitor General

SUSANNA DOKUPIL  
BRANTLEY STARR  
Assistant Solicitor General



---

MARINA GRAYSON  
Texas Bar No. 24042098  
Assistant Attorney General

Office of the Attorney General  
P.O. Box 12548 (MC 059)  
Austin, Texas 78711-2548  
[Tel.] (512) 463-2120  
[Fax] (512) 320-0667

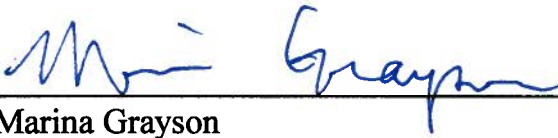
COUNSEL FOR DEFENDANT

**CERTIFICATE OF SERVICE**

I certify that pursuant to the court's electronic filing procedures, a true and correct copy of the foregoing document was sent on May 20, 2008 via ECF notification to:

W. Dean Cook  
Post Office Box 260159  
Plano, Texas 75026

*Counsel for Plaintiffs*

  
\_\_\_\_\_  
Marina Grayson  
Assistant Attorney General