UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, EDGAR CAGE, DOROTHY NAIRNE, EDWIN RENE SOULE, ALICE WASHINGTON, CLEE EARNEST LOWE, DAVANTE LEWIS, MARTHA DAVIS, AMBROSE SIMS, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE ("NAACP") LOUISIANA STATE CONFERENCE, AND POWER COALITION FOR EQUITY AND JUSTICE, *Plaintiffs*, v. NANCY LANDRY, in her official capacity as Secretary of State for Louisiana. *Defendant*.	Civil Action No. 3:22-cv-00211-SDD-SDJ
EDWARD GALMON, SR., CIARA HART, NORRIS HENDERSON, TRAMELLE HOWARD, *Plaintiffs*, v. NANCY LANDRY, in her official capacity as Secretary of State for Louisiana. *Defendant*.	Civil Action No. 3:22-cv-00214-SDD-SDJ

NOTICE OF FILINGS RELATING TO ENACTED CONGRESSIONAL MAP

The *Robinson* Plaintiffs ("Plaintiffs"), through undersigned counsel, hereby provide notice to the Court of filings in the related case *Callais* v. *Landry*, No. 3:24-cv-122-DCJ-CES-RRS (W.D. La.) ("*Callais*").

First, consistent with Plaintiffs' Motion to Apply the First-Filed Rule in *Robinson*, ECF No. 345, on February 7, 2024, the *Robinson* Plaintiffs moved to intervene as defendants in *Callais* and to transfer the case to this District for consolidation or coordination with *Robinson*. *See* Ex. A. The *Galmon* Plaintiffs have likewise moved to intervene in *Callais*. *See* Ex. B.

Second, on February 7, 2024, the *Callais* plaintiffs filed a Motion for Preliminary Injunction requesting that the court (i) enjoin the defendant Secretary of State from implementing the congressional redistricting map set out in SB8, and (ii) order the Secretary instead to implement a congressional redistricting map proposed by the *Callais* plaintiffs to administer future elections. *See* Ex. C at 1; Ex. D at 33. The alternative map the *Callais* plaintiffs ask the court to adopt includes only a single majority-Black district, and includes no other districts in which Black voters would have any opportunity to elect candidates of their choice. *See* Ex. E at 12 (showing BVAP in the five majority-white districts ranging from 12.6% to 34.2%).

Third, on February 8, 2024, the court in *Callais* entered a minute order instructing the parties, once plaintiffs have served the defendant, to contact the court to request a scheduling conference to determine a briefing schedule and hearing date for the pending motion by plaintiffs for a preliminary injunction, the motion by the *Robinson* Plaintiffs to intervene and for transfer, and the motion by the *Galmon* Plaintiffs to intervene. *Callais*, ECF No. 19. The *Callais* plaintiffs served the defendant Secretary of State on February 8, 2024. *Callais*, ECF No. 21.

DATED: February 9, 2024

Respectfully submitted,

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Exhibit A

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER, *Plaintiffs*, v. NANCY LANDRY, in her official capacity as Secretary of State for Louisiana, *Defendant*.	Civil Action No. 3:24-cv-00122 Judge David C. Joseph Circuit Judge Carl E. Stewart Judge Robert R. Summerhays

MOTION TO INTERVENE AS DEFENDANTS AND TRANSFER

Movants Press Robinson, Edgar Cage, Dorothy Nairne, Edwin Rene Soule, Alice Washington, Clee Earnest Lowe, Davante Lewis, Martha Davis, Ambrose Sims, National Association for the Advancement of Colored People Louisiana State Conference ("Louisiana NAACP"), and Power Coalition for Equity and Justice (collectively, the "Proposed Intervenor-Defendants") respectfully move (i) pursuant to Fed. R. Civ. P. 24(a) and (b), for leave to intervene in this action as Defendants as a matter of right, or in the alternative, permissively, and file an answer; and (ii) pursuant to the common law first-to-file rule, *see Save Power Ltd.* v. *Syntek Fin. Corp.*, 121 F.3d 947, 950 (5th Cir. 1997), to transfer this action to the Middle District of Louisiana for consolidation or coordination with *Robinson* v. *Ardoin*, No. 3:22-cv-02111-SDD-SDJ.

Pursuant to Rule 24, Proposed Intervenor-Defendants are filing herewith a Proposed Answer to the Complaint. In accordance with Local Rule 7.6, counsel for Proposed Intervenor-Defendants have presented the Proposed Answer to counsel for Plaintiffs, and requested their positions on intervention and transfer. Plaintiffs' counsel oppose intervention and transfer. Proposed Intervenor-Defendants have been unsuccessful in their attempts to ascertain the identity of counsel for Defendants, who have yet to appear before the Court.

DATED: February 7, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, John Adcock, counsel for Proposed Intervenor-Defendants, hereby certify that on February 7, 2024, I caused a copy of this Motion to Intervene as Defendants and Transfer, to be served on counsel for Plaintiffs of record by electronic service, and on Defendant by mail service to the following addresses:

Louisiana Secretary of State
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Counsel for Proposed Intervenor-Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER, *Plaintiffs*, v. NANCY LANDRY, in her official capacity as Secretary of State for Louisiana, *Defendant*.	Civil Action No. 3:24-cv-00122 Judge David C. Joseph Circuit Judge Carl E. Stewart Judge Robert R. Summerhays

MEMORANDUM OF LAW IN SUPPORT OF
MOTION TO INTERVENE AS DEFENDANTS AND TO TRANSFER

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Rules

Other Authorities

PRELIMINARY STATEMENT

Proposed Intervenor-Defendants ("Movants") are Black Louisiana voters and civil rights organizations. For nearly two years, they have been actively—and successfully—pursuing claims under Section 2 of the Voting Rights Act ("VRA") in the pending case of *Robinson, et al.* v. *Landry*, No. 3:22-cv-02111-SDD-SDJ (M.D. La.). In *Robinson*, Movants seek to compel Louisiana to adopt a congressional district map with two districts that will give Louisiana's Black voters an equal opportunity to elect candidates of their choice. As a direct consequence of multiple court rulings in their favor on the merits of their Section 2 claims, the Legislature enacted and the Governor signed Senate Bill 8 ("SB8") to provide for new congressional districting plan with two majority-Black districts. Any changes to the SB8 map that may result from decisions in this case would directly implicate the relief Movants have sought and secured in *Robinson*.

Both *Robinson* and this case center on the same core question: must Louisiana draw a congressional plan with two opportunity districts for Black voters? The district court in *Robinson* has held that it likely must, and two unanimous panels of the Fifth Circuit agreed with that conclusion. Each of those courts has likewise rejected the State's argument that any efforts to draw a second majority-Black district would require the unconstitutional elevation of race as a predominant districting consideration. Plaintiffs here, meanwhile, contend that Louisiana need not draw a second majority-Black district, and in fact that it cannot constitutionally do so.

Movants should be granted leave to intervene because they have a strong interest in defending the *Robinson* courts' core factual findings and legal conclusions against the claims in this case that SB8—or any other congressional map with two majority-Black districts—represents an unconstitutional racial gerrymander. They also have a direct interest in ensuring that a map with a second congressional district in which Black voters have an opportunity to elect the candidate of their choice remains in place for the 2024 congressional election. Plaintiffs' challenge

to SB8 should fail because the shape of the district they challenge represents predominately political rather than racial choices. Moreover, even if Plaintiffs are successful in striking down SB8, this Court would be required to devise a remedial map that complies with Section 2 and the rulings in favor of Movants in *Robinson*, which demonstrate that Louisiana could easily create a second constitutional Black opportunity district consistent with traditional redistricting principles.

Additionally, this case should be transferred to the Middle District of Louisiana, given the ongoing nature of the *Robinson* proceeding and the likelihood that *Robinson* will continue if SB8 is invalidated, to avoid the possibility of conflicting rulings by different courts regarding the same map and duplication of effort with that court.[1]

BACKGROUND

The map at issue in this case, SB8, is the direct result of Movants' successful litigation of the *Robinson* action. Office of the Governor, *Governor Jeff Landry Opens First Special Session on Court Ordered Redistricting* (Jan. 16, 2024), https://gov.louisiana.gov/news/governor-jeff-landry-opens-first-special-session-on-court-ordered-redistricting. After a week-long evidentiary hearing, during which the district court reviewed 244 exhibits and heard and weighed testimony from 22 witnesses, and based on extensive pre- and post-hearing briefing, Chief Judge Shelly Dick in the Middle District of Louisiana granted Movants a preliminary injunction enjoining enforcement of the State's previous congressional district plan, concluding that Movants were "substantially likely to prevail on the merits of their claims brought under Section 2 of the Voting Rights Act" and that "[t]he appropriate remedy in this context is a remedial congressional

[1] Movants have filed in the *Robinson* case a motion requesting that Judge Dick deem that action first-filed. *See* ECF No. 345, *Robinson* v. *Landry*, No. 3:22-cv-02111-SDD-SDJ (M.D. La. Feb. 5, 2024). The district court has directed Defendants in that case, including Secretary of State Nancy Landry, to file a response by February 15 and set a status conference in the case for February 21. ECF No. 349.

redistricting plan that includes an additional majority-Black congressional district." *Robinson* v. *Ardoin*, 605 F. Supp. 759, 766 (M.D. La. 2022). A motions panel of the Fifth Circuit unanimously denied the defendants' motion for a stay pending appeal based on its assessment that the defendants were unlikely to overturn the district court's injunction order, *Robinson* v. *Ardoin*, 37 F.4th 208, 215 (5th Cir. 2022), and a merits panel subsequently affirmed Chief Judge Dick's "conclusions that the Plaintiffs were likely to succeed on their claim that there was a violation of Section 2 of the Voting Rights Act," *Robinson* v. *Ardoin*, 86 F.4th 574, 583 (5th Cir. 2023). The Fifth Circuit subsequently denied the defendants' petition for rehearing *en banc*, with no judge on the court asking for a poll on the petition. Order, Dkt. No. 363 at 2, *Robinson* v. *Ardoin*, No. 22-30333, (5th Cir. Dec. 15, 2023). Chief Judge Dick, at the Fifth Circuit's direction, gave the Legislature an opportunity to enact a new remedial map, and, in the event Louisiana failed to enact a Section 2 compliant map, established a schedule for trial. The *Robinson* case is still pending and is currently set for trial to begin on March 25, 2024. Dkt. No. 315, *Robinson, et al.* v. *Landry*, No. 3:22-cv-00211-SDD-SDJ (M.D. La. Nov. 27, 2023).

The Legislature adopted SB8 in an effort by the State to comply with the *Robinson* courts' rulings and with the VRA, and to avoid the district court imposing its own VRA-compliant remedial map that may not reflect the Legislature's policy preferences. As the Governor urged the Legislature at the outset of the special session called to adopt a new congressional districting plan, a new plan was necessary because "we have exhausted all legal remedies" and the Legislature should "make the adjustments necessary [and] heed the instructions of the Court."[2] The Governor called upon the Legislature to adopt its own redistricting plan that reflected the wishes of the

[2] Office of the Governor, *Governor Jeff Landry Opens First Special Session on Court Ordered Redistricting* (Jan. 16, 2024), https://gov.louisiana.gov/news/governor-jeff-landry-opens-first-special-session-on-court-ordered-redistricting.

Legislature rather than surrender the drafting to Chief Judge Dick, urging the legislature to "take the pen out of the hand of non-elected judges and place it in your hand—the hand of the people."[3] Legislator after legislator echoed these sentiments.

The legislative record makes clear that the contours of the new map adopted in SB8 were not predominantly motivated by improper racial considerations on the Legislature's part as Plaintiffs contend. Instead, the record reflects that the Legislature's goals were to protect favored congressional incumbents, further the interests of the majority party, and connect communities of interest along the Red River and the I-49 corridor, as well as to comply with the rulings by Chief Judge Dick and the Fifth Circuit.

Throughout the *Robinson* litigation and during the Special Session, Movants had proposed maps that would protect their rights under the VRA, by including two majority-Black districts. Movants' proposed maps and would also better comply with all traditional redistricting principles(such as geographic compactness and limiting the number of Parish splits) and the guidelines outlined by the Legislature in Joint Rule 21, than the map the Legislature enacted in 2022, which Louisiana used in the 2022 elections. In the *Robinson* litigation, Movants offered a remedial plan with a very different configuration than SB8, with a new majority-Black district extending into the Delta Parishes instead of along the Red River and I-49. Other examples for potential configurations that include two majority-Black districts were provided to the Legislature in 2022.[4]

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[3] *Id.*

[4] *See* H.B. 4, 1st Spec. Sess. (La. 2022); H.B. 5, 1st Spec. Sess. (La. 2022); H.B. 7, 1st Spec. Sess. (La. 2022); H.B. 8, 1st Spec. Sess. (La. 2022); H.B. 9, 1st Spec. Sess. (La. 2022); H.B. 12, 1st Spec. Sess. (La. 2022); S.B. 2, 1st Spec. Sess. (La. 2022); S.B. 4, 1st Spec. Sess. (La. 2022); S.B. 6, 1st Spec. Sess. (La. 2022); S.B. 9, 1st Spec. Sess. (La. 2022); S.B. 10, 1st Spec. Sess. (La. 2022); S.B. 11, 1st Spec. Sess. (La. 2022); S.B. 16, 1st Spec. Sess. (La. 2022); S.B. 18, 1st Spec. Sess. (La. 2022); Amendment #88 to H.B. 1, 1st Spec. Sess. (La. 2022); Amendment #99 to H.B.

Movants' proposed remedial plan and other plans with two majority-Black districts offered in 2022 would have placed incumbent Congresswoman Julia Letlow in a newly created majority-Black district, potentially imperiling her chances for reelection.

In contrast, SB8 places incumbent Congressman Garret Graves in the new majority-Black district, reflecting the Legislature's political preferences.[5] As the sponsor of SB8 emphasized in presenting the bill and rejecting the *Robinson* Movants' more compact configurations:

> While this is a different map than the plaintiffs in the [Robinson] litigation have proposed, ***this is the only map I reviewed that accomplished the political goals I believe are important*** for my district for Louisiana for my country. While I did not draw these boundaries myself, I carefully considered a number of different map options. I firmly submit that the Congressional voting boundaries which are represented in this bill best achieved ***the goal of protecting Congresswoman Letlow[']s] seat, maintaining strong districts for Speaker Johnson and Majority Leader***

1, 1st Spec. Sess. (La. 2022); Amendment #153 to H.B. 1, 1st Spec. Sess. (La. 2022); Amendment #62 to S.B. 2, 1st Spec. Sess. (La. 2022); Amendment #116 to S.B. 5, 1st Spec. Sess. (La. 2022); Amendment #91 to S.B. 5, 1st Spec. Sess. (La. 2022).

[5] Numerous media reports make clear that the map was driven by political goals, including protecting favored Republican incumbents. *E.g.*, Piper Hutchinson, *Graves to lose U.S. House seat under Louisiana redistricting plan that adds minority seat*, LOUISIANA ILLUMINATOR (Jan. 19, 2024), https://lailluminator.com/2024/01/19/graves-to-lose-u-s-house-seat-under-louisiana-redistricting-plan-that-adds-minority-seat/ ("While no Republican has outwardly said so, Graves was clearly chosen as the Republican sacrifice . . . legislators were explicit about who they wanted to protect . . . [lawmakers] said they would rather approve a map drawn with their political interests in mind rather than allow a judge to do so"); Greg Hilburn, *Garret Graves blasts congressional map as 'boneheaded' move by Louisiana governor, Legislature*, SHREVEPORT TIMES (Jan. 23, 2024), https://www.shreveporttimes.com/story/news/2024/01/23/garret-graves-blasts-new-louisiana-congressional-map-as-boneheaded-move-by-governor-jeff-landry/72318012007/ ("Many believe Landry targeted Graves' district because the congressman supported Republican Stephen Waguespack in last fall's governor's election"); Kelsey Brugger, *Garret Graves defiant as state lawmakers cut up his district*, E&E NEWS (Jan. 19, 2024), https://www.eenews.net/articles/garret-graves-defiant-as-state-lawmakers-cut-up-his-district/ ("Ostensibly, Landry and the state Legislature are trying to get ahead of Obama-appointed Judge Shelly Dick from redrawing the congressional map to comply with the Voting Rights Act. But observers say interparty [*sic*] politics are also at play.").

> ***Scalise, ensuring four Republican districts***, and adhering to the command of the federal court in the Middle District of Louisiana.[6]

In addition to the political and partisan motivation for anchoring the new majority-Black district in Shreveport and Baton Rouge, the Legislature heard testimony and evidence that constructing such a district would keep intact a Red River community of interest. For example, Senator Womack, SB8's sponsor, noted that the map that became SB8 "goes along the Red River, it's the I-49 corridor," and that "[w]e have commerce through there. We have a college through there. We have a lot of ag[riculture], cattlemen, as well as farm[s], row crop, and a lot of people up through that corridor come back to Alexandria using that corridor for their healthcare."[7]

During the Special Session in January 2024, maps reflecting Movants' proposed districting configurations were introduced by Senators Price and Duplessis as S.B. 4 and Representative Marcelle as H.B. 5 and are a part of SB8's legislative record. Those plans were rejected by the Legislature, which chose instead to adopt SB8. The legislative record thus makes clear that the Legislature's choice of the map that extends from Shreveport to Baton Rouge rather than a map similar to the ones Movants supported was predominantly motivated by politics and policy preferences rather than race. Although the Legislature ultimately chose a different configuration than those Movants preferred, SB8 does provide a second Black opportunity district, as Movants sought, and may, if approved by Chief Judge Dick and not disturbed in this parallel litigation, provide a basis for resolving the *Robinson* litigation.

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[6] *See* Statement of Senator Womack, at 33:50 – 34:22 (Jan. 16, 2024), https://senate.la.gov/s_video/VideoArchivePlayer?v=senate/2024/01/011624SG2.
[7] *See* Statement of Senator Womack, at 03:56 – 04:22 (Jan. 18, 2024), https://redist.legis.la.gov/default_video?v=house/2024/jan/0118_24_HG_P2.

ARGUMENT

Movants should be granted leave to intervene because they have a "direct, substantial, [and] legally protectable" interest in defending SB8 and in protecting their rights under the VRA, *New Orleans Pub. Serv., Inc.* v. *United Gas Pipe Line Company*, 732 F.2d 452, 463 (5th Cir. 1984), and those interests would be gravely impaired if Plaintiffs prevail in this case. Courts have recognized the appropriateness of intervention in precisely this circumstance, where prior litigants seek to defend a district map drawn to ensure compliance with Section 2. *See, e.g.*, *Clark* v. *Putnam Cnty.*, 168 F.3d 458, 460 (11th Cir. 1999); *Johnson* v. *Mortham*, 915 F. Supp. 1529, 1536 (N.D. Fla. 1995); *United Jewish Orgs. of Williamsburg, Inc.* v. *Carey*, 430 U.S. 144, 151-53 (1977). And Black and other registered voters regularly intervene in racial gerrymandering cases to defend legislative maps. *See, e.g., Easley* v. *Cromartie*, 532 U.S. 234, 241 (2001); *Lawyer* v. *Dep't of Justice*, 521 U.S. 567, 572 (1997); *Clark*, 168 F.3d at 462 (collecting cases); *Theriot* v. *Par. of Jefferson*, No. CIV. A. 95-2453, 1996 WL 517695, at *1 (E.D. La. Sept. 11, 1996). Nor can Defendant—the Louisiana Secretary of State—adequately represent Movants' interests in this case. Defendant is herself a defendant in the *Robinson* action, and (as the Complaint makes clear) her predecessor aggressively contested Movants' claims in that action for nearly two years. The other factors relevant under Rules 24(a) and 24(b) likewise warrant granting Movants leave to intervene.

The Court should also transfer this action to the Middle District of Louisiana for consolidation or coordination with the *Robinson* action pursuant to the first-to-file rule in view of the substantial factual and legal overlap between this case and *Robinson*, both of which centrally concern the lawfulness of Louisiana's congressional map, and to avoid the potential for conflicting rulings if two actions involving the same fundamental issues are litigated in two different courts.

I. Movants Should Be Granted Intervention

Intervention is appropriate pursuant to Rule 24 of the Federal Rules of Civil Procedure as a matter of right and, alternatively, by permission. Rule 24(a) requires federal courts to grant intervention by right to a non-party who "claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest." Fed. R. Civ. P. 24(a)(2). Alternatively, Rule 24(b) authorizes courts to permissively allow intervention by non-parties who raise "a claim or defense that shares with the main action a common question of law or fact." Fed. R. Civ. P. 24(b)(1)(B). "Rule 24 is to be liberally construed" in favor of intervention. *Brumfield* v. *Dodd*, 749 F.3d 339, 341 (5th Cir. 2014). Intervention should be granted—whether as of right or at the court's discretion—"where no one would be hurt and the greater justice could be attained." *Tex.* v. *U.S.*, 805 F.3d 653, 656 (5th Cir. 2015) (citations omitted); *see also Wal-Mart Stores, Inc.* v. *Tex. Alcoholic Beverage Comm'n,* 834 F.3d 562, 565 (5th Cir. 2016). The court's inquiry is "flexible" and should be based on a "practical analysis of the facts and circumstances of each case." *Brumfield*, 749 F.3d at 341. Movants satisfy the requirements for intervention as of right and, in the alternative, for permissive intervention under Fed. R. Civ. P. 24.

A. Movants Are Entitled to Intervene as of Right

Intervention as of right must be granted where a party satisfies Rule 24(a)'s four prerequisites: (1) "the application for intervention must be timely"; (2) "the applicant must have an interest relating to the property or transaction which is the subject of the action"; (3) "the applicant must be so situated that the disposition of the action may, as a practical matter, impair or impede his ability to protect that interest"; and (4) "the applicant's interest must be inadequately represented by the existing parties to the suit." *See Brumfield*, 749 F.3d at 341. Courts in the Fifth

Circuit construe Rule 24(a) liberally, "with doubts resolved in favor of the proposed intervenor." *Energy Gulf States La., L.L.C.* v. *EPA*, 817 F.3d 198, 203 (5th Cir. 2016) (internal quotation marks omitted).

Movants satisfy each of the requirements of Rule 24(a).

1. This Motion is Timely

There can be no question that Movants' motion is timely. Courts in this Circuit assess four factors to determine the timeliness of an intervention motion: (1) the length of time the potential intervenor waited to file; (2) the prejudice to the existing parties from any delay that may result from a grant of intervention; (3) the prejudice to the potential intervenor if intervention is denied; and (4) any unusual circumstances when determining the timeliness of an intervention motion. *See, e.g.*, *Stallworth* v. *Monsanto Co.*, 558 F.2d 257, 264-66 (5th Cir. 1977).

The filing of this motion is timely. The Complaint was filed less than a week ago, and no other action has taken place. Courts routinely permit intervention at a far more advanced stage. *See Edwards* v. *City of Houston*, 78 F.3d 983, 1000 (5th Cir. 1996) (finding that motion to intervene filed after "only 37 and 47 days . . . [was] not unreasonable"); *Students for Fair Admissions, Inc.* v. *Univ. of Tex. at Austin*, 338 F.R.D. 364, 368-69 (W.D. Tex. 2021) (motion to intervene timely when filed nearly five months after complaint); *United States* v. *Commonwealth of Virginia*, 282 F.R.D. 403, 405 (E.D. Va. 2012) ("Where a case has not progressed beyond the initial pleading stage, a motion to intervene is timely."); *Mullins* v. *De Soto Securities Co.*, 3 F.R.D. 432, 433 (W.D. La. 1944) (finding motion to intervene timely during the initial pleading stage); *see also Wal-Mart Stores, Inc.*, 834 F.3d at 565 (motion to intervene timely when filed after discovery had commenced because it did not seek to delay the litigation). The docket does not reflect that Defendant has even been served, and Defendant has yet to file a responsive pleading.

Intervention at this early stage of the litigation will not prejudice any of the existing parties to the action. "This factor is concerned only with the prejudice caused by the applicants' delay, not that prejudice which may result if intervention is allowed." *Edwards*, 78 F3d at 1002. Given the early stage of the proceedings, the proposed intervention will not cause any material delay, the existing parties will not be prejudiced by intervention.

Lastly, Movants would be severely prejudiced if intervention is denied. As discussed above, Movants have extensively and successfully litigated their claim that a Louisiana congressional districting plan with fewer than two majority-Black districts dilutes their votes in violation of Section 2 of the Voting Rights Act. And as explained below, no other party has the same interest as Movants in ensuring the rulings in their favor in *Robinson* are not undermined.

2. Movants Have A Strong Interest in the Maintenance of Two Majority-Black Congressional Districts in Louisiana and in Protecting the Legal Rulings in Their Favor in *Robinson*.

Under Rule 24(a), proposed intervenors must have a "direct, substantial, [and] legally protectable" interest in the subject matter of this litigation. *New Orleans Pub. Serv., Inc.*, 732 F.2d at 463. "[A]n interest that by itself could be a case or controversy will meet the requirement, but … it is not necessary for an intervenor to have a right to bring suit independently." *N.A.A.C.P., Inc.* v. *Duplin Cnty., N.C.*, No. 7:88-CV-00005-FL, 2012 WL 360018, at *3–4 (E.D.N.C. Feb. 2, 2012) (citing *U.S.* v. *Philip Morris USA Inc.*, 566 F.3d 1095, 1145 (D.C. Cir. 2009)). In addition, the Fifth Circuit has held that in cases involving matters of public interest brought by a public interest group, the "interest requirement may be judged by a more lenient standard." *La Union del Pueblo Entero* v. *Abbott*, 29 F.4th 299, 305 (5th Cir. 2022) (quoting *Brumfield*, 749 F.3d at 344). Movants—both the individual voters, as well as the Louisiana NAACP and Power Coalition—plainly satisfy this requirement. Their claims implicate distinct legally protectable interests that warrant intervention.

Specifically, Movants have a legally protectable interest in defending legislation brought about through the *Robinson* litigation against the same party who is the Defendant in this litigation. The Fifth Circuit has held that parties with a concrete and particularized interest in the maintenance of government policies they helped bring about or that protect their individual interests may intervene as of right. In *City of Houston* v. *American Traffic Solutions, Inc.*, for example, the Fifth Circuit held that individual organizers who "engineered the drive that led to a city charter amendment over the nearly unanimous, well funded, and longstanding opposition of the Mayor and City Council" had a legally protected interest for purposes of Rule 24(a) in litigation challenging the amendment. 668 F.3d 291, 294 (5th Cir. 2012). Here, Movants have succeeded through the *Robinson* litigation in securing the passage of SB8 and protecting against the unlawful vote dilution in congressional elections in violation of Section 2, and they have an interest in ensuring that their success in that effort is not undermined or reversed in this case.

Additionally, even if protecting the rulings in their favor in *Robinson* were not enough, the individual Movants have a stake in this case because the relief Plaintiffs seek would impair their right to vote. As demonstrated in the *Robinson* litigation, any districting congressional districting plan without two opportunity districts for Black voters in Louisiana denies the individual Movants their rights under Section 2 of the Voting Rights Act. That threat to Movants' right to vote alone is sufficiently concrete and specific to support intervention. *See League of United Latin American Citizens, District 19* v. *City of Boerne*, 659 F.3d 421, 434 (5th Cir. 2011) (interest in protecting the intervenors' interest in voting in at-large elections, which could be adversely affected by litigation, was sufficient to support intervention as of right). The Individual Movants "plainly have an interest in this action sufficient to satisfy Rule 24(a), since the action challenges the legality of a redistricting plan that implicates their voting rights." *Shaw* v. *Hunt*, 1993 WL 13149438 at *1

(E.D.N.C Nov. 3, 1993).

The Louisiana NAACP and Power Coalition likewise have a legally protectable interest sufficient to satisfy the Fifth Circuit's "lenient" standard. *La Union del Pueblo Entero*, 29 F.4th at 305 (quoting *Brumfield*, 749 F.3d at 344). The Louisiana NAACP has members who reside in every congressional district in Louisiana, including CD 2 and CD 6, who have a right under Section 2 to have an equal opportunity to elect candidates of choice. *See Johnson* v. *Mortham*, 915 F. Supp. at 1538 (Florida NAACP had a "protectable interest" in the litigation "to the extent [they] represent[ed] voters" within the challenged district). In addition, both the Louisiana NAACP and Power Coalition have a direct interest in this action by virtue of their long history of working to engage Black voters across the state of Louisiana in the political process. The Louisiana NAACP and Power Coalition expend considerable resources educating, mobilizing, and registering voters throughout the state, and the "claims brought by [Plaintiffs] could affect [their] ability to participate and maintain the integrity of the election process" for Black voters across the state. *La Union del Pueblo Entero*, 29 F.4th at 304, 306 (where organizations that expend "substantial resources towards educating, mobilizing, assisting, training, and turning out voters, volunteers, and poll watchers" had a "direct and substantial interest in the proceedings").

Accordingly, Movants have demonstrated sufficiently concrete, legally protectable interests that support intervention by right.

3. Disposition of Plaintiffs' Racial Gerrymandering Claims Would Impair Movants' Opportunity to Elect a Candidate of Choice

Prospective intervenors "must demonstrate only that the disposition of the action 'may' impair or impede their ability to protect their interests." *Brumfield* v. *Dodd*, 749 F.3d 339, 344 (5th Cir. 2014) (citation omitted). "Though the impairment must be 'practical' and not merely

'theoretical,' [applicants] need only show that if they cannot intervene, there is a possibility that their interest could be impaired or impeded." *La Union del Pueblo Entero*, 29 F.4th at 307.

Movants readily satisfy this requirement, as they would be severely prejudiced if intervention is denied. As noted, the district court and two panels of the Fifth Circuit have unanimously concluded that Movants are likely to prevail on their claim that they and other Black Louisiana voters must be afforded the opportunity to elect candidates of choice in two majority-Black congressional districts. As also discussed above, SB8 was enacted in recognition of those rulings.

Yet Plaintiffs in this action seek a declaration from the Court that SB8 is an unconstitutional racial gerrymander and that the State "could not create two majority-African American districts without violating the U.S. Constitution." Compl. ¶ 9. Movants will be gravely harmed if they are precluded from defending the map that was the direct result of their litigation in *Robinson* or from defending against Plaintiffs' claim that the Voting Rights Act cannot require the adoption of a different map with two majority Black districts. *Id.* ¶¶ 99-107. Furthermore, Movants will be harmed if they are precluded from participating in any proceeding (as Plaintiffs request) "institut[ing] a congressional map that remedies" the alleged constitutional infirmities in SB8. *See, e.g., League of United Latin Am. Citizens*, 659 F.3d at 434 (explaining that a movant for intervention would be "severely prejudiced" if his motion was denied, where there was no other mechanism to persuade the court of his injury under the Voting Rights Act).

If Plaintiffs prevail here, Movants and other Black Louisiana voters will be deprived of the second majority-Black congressional district that the *Robinson* court held the Voting Rights Act likely requires, and that they finally received after years of fighting for this outcome in litigation. *See La Union del Pueblo Entero*, 29 F.4th at 307 (impairment requirement satisfied where statute

"grants rights" to proposed intervenors that "could be taken away if the plaintiffs prevail"); *see also Shaw*, 1993 WL 13149438 at *1 (ruling striking down the enacted plan as unconstitutional would impair the proposed intervenors' interest because it could "result in the adoption of an alternative redistricting plan which was unfavorable to the[ir] political interests"). Similarly, "[i]f the district court either partially or fully grants the relief sought by [Plaintiffs], [Movants] will have to expend resources to educate their members [and voters across the state] on the shifting situation in the lead-up to the [2024] election." *La Union del Pueblo Entero*, 29 F.4th at 307. Movants' interests thus could be practically impaired as a result of this litigation, warranting intervention as a matter of right.

4. <u>The Existing Parties Do Not Adequately Represent Movants' Interests</u>

The burden to show inadequate representation "should be treated as minimal." *Trbovich* v. *United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972); *see also Brumfield*, 749 F.3d at 345. The applicant need only show that the existing parties' representation "may be" inadequate, *see Trbovich*, 404 U.S. at 538 n.10, not that it "will be, for certain, inadequate." *La Union del Pueblo Entero*, 29 F.4th at 307–08 (quoting *Tex.*, 805 F.3d at 661). The Fifth Circuit recognizes a presumption of adequate representation where (i) the would-be intervenor has the same ultimate objective as a party, which may be overcome by showing adversity of interests, collusion, or nonfeasance on the part of an existing party; or (ii) where the putative representative is a governmental body or officer charged with representing the intervenor's interests, which may be overcome if the intervenor shows that the interest is in fact different from that of the governmental entity and the interest will not be represented by the entity. *See Tex.*, 805 F.3d at 662–63.

Neither presumption applies here. Plaintiffs plainly do not represent Movants' interests. On the contrary, their claims directly threaten the maintenance of two majority-Black districts in Louisiana, which the district court in *Robinson* held is likely required by Section 2 of the VRA.

See Robinson v. *Ardoin*, 86 F.4th 574 (5th Cir. 2023) (holding that district court did not err in its analysis that plaintiffs were likely to succeed on the merits of claim that VRA requires two majority-Black districts in Louisiana); *see also League of United Latin Am. Citizens*, 659 F.3d at 435 (existing parties opposed relief intervenor sought and therefore did not adequately represent his interest).

Defendant likewise cannot be relied upon to adequately represent Movants' interests. *See Tex.*, 805 F.3d at 661; *Brumfield*, 749 F.3d at 346 ("The lack of unity in all objectives, combined with real and legitimate additional or contrary arguments, is sufficient to demonstrate that the representation *may* be inadequate"). As the Complaint itself acknowledges, the defendants in *Robinson*, including the Defendant here, aggressively opposed Movants' claims for over two years, and the Legislature adopted SB8 only after repeated court rulings in Movants' favor. *See City of Houston* v. *American Traffic Solutions, Inc.*, 668 F.3d 291, 294 (5th Cir. 2012) (city may inadequately represent interests of intervenors who enacted city charter amendment over city's opposition, where intervenors demonstrated interest in cementing their victory and defending the amendment, and an unfavorable ruling would mean "their money and time will have been spent in vain."). State officials have continued to insist that they disagree with these court rulings and adopted SB8 only as a matter of prudence because their litigation options had been exhausted. For example, in opening the January 2024 special session of the Legislature, Governor Landry—who was himself a defendant in *Robinson* in his previous position as Attorney General—said:

> I have done everything I could to dispose of this litigation. I defended the re-districting plan adopted by this body as the will of the people . . . We have exhausted ALL legal remedies . . . Let's make the adjustments necessary, heed the instructions

> of the Court, take the pen out of the hand of non-elected judges and place it in your hand – the hand of the people."[8]

Likewise, Louisiana's new Attorney General stated: "We have exhausted all reasonable and meaningful avenues for legal remedies available to us. Now, we have a federal judge holding her pen in one hand and a gun to our head in the other."[9] Movants cannot be asked to have their interests in this action represented by State officials who vigorously litigated against their claims and continue to express their disagreement with the court decisions in Movants' favor.

The Defendant cannot be expected to adequately represent the interests of Movants for other reasons as well. Movants' principal interest is assuring that their votes and those of other Black Louisiana voters are not unlawfully diluted. Defendant, as the principal State official charged with overseeing State elections, has asserted multiple interests, including "maintaining the continuity of representation in its districting plans" and the efficient administration of elections. Dkt. No. 101 at 18, 20-21, *Robinson* v. *Landry*, 22-cv-211-SDD-SDJ (Apr. 29, 2022). These differences in interest likewise cut against any finding that Defendant can represent Movants' interests here. *See Brumfield*, 749 F.3d at 346 (intervenors did not share all of the state's "many interests," which "surely" might result in adequate representation); *Wal-Mart Stores, Inc.* v. *Tex. Alcoholic Beverage Comm'n*, 834 F.3d 562, 569 (5th Cir. 2016) (state defendant's representation was inadequate where the proposed intervenor's private interests "are narrower than" the defendant's "broad public mission").

Movants thus satisfy all of the requirements for intervention as of right and their motion to intervene under Rule 24(a) should be granted.

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[8] Office of the Governor, *Governor Jeff Landry Opens First Special Session on Court Ordered Redistricting* (Jan. 16, 2024), https://gov.louisiana.gov/news/governor-jeff-landry-opens-first-special-session-on-court-ordered-redistricting.

[9] Attorney General Liz Murrill (@AGLizMurill), X (Jan. 16, 2024, 4:53 PM), https://twitter.com/AGLizMurrill/status/1747376599446516056.

B. In the Alternative, the Court Should Grant Permissive Intervention

Rule 24(b)(1) provides that, on timely motion, "the court may permit anyone to intervene who . . . has a claim or defense that shares with the main action a common question of law or fact." The court "must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights." Fed. R. Civ. P. 24(b)(3). Courts may also consider whether the existing parties adequately represent the prospective intervenor's interests and whether the intervenors will significantly contribute to fully developing the factual record. *See Kneeland* v. *Nat'l Collegiate Athletic Ass'n*, 806 F.2d 1285, 1289 (5th Cir. 1987). As with intervention as of right, Rule 24 is to be "liberally construed" and "[f]ederal courts should allow intervention when no one would be hurt and the greater justice could be attained." *See Wal-Mart Stores, Inc.*, 834 F.3d at 565 (citations omitted).

For the reasons already stated, Movants' motion is timely, and poses no risk of delay or prejudice to the original parties. *See supra* Section I(A)(1). And, as discussed, Movants' interests are not adequately represented by the existing parties. *See supra* Section I(A)(4). That leaves only the question of whether Movants have a claim or defense that shares a common question of law or fact presented in this action.

There are ample common questions of law and fact between this case and *Robinson*. The court has "broad discretion" to allow intervention where the proposed intervenor "has a claim or defense that shares with the main action a common question of law or fact." *Hanover Ins. Co.* v. *Superior Lab. Servs., Inc.*, 179 F. Supp. 3d 656, 667 (E.D. La. 2016). Indeed, this case turns on multiple questions of law or fact that are at the heart of Movants' claims in *Robinson*. The core legal question in cases is whether Louisiana permissibly may or indeed must draw a congressional plan with two majority-Black districts. Plaintiffs contend that Louisiana need not draw a second

majority-Black congressional district: the legal question central to the *Robinson* litigation, which Movants vigorously dispute. *See, e.g.*, Ex. A at 27. And even the constitutional issue itself overlaps with *Robinson*, where both the district court and the Fifth Circuit have *rejected* the State's argument that efforts to draw a second Black-opportunity district would necessarily violate the Constitution—the same argument that Plaintiffs recycle here, and that Movants again dispute.

Plaintiffs' claims, Defendants' defenses, and Movants' anticipated defenses arise from Louisiana's redistricting process following the 2020 decennial census, the subsequent litigation prosecuted by Movants, and the enactment of SB8 in response to *Robinson*. Because Movants are still litigating the Louisiana congressional map's compliance with the VRA, and have done so for nearly two years, they are uniquely situated to contribute to full development of the factual record in this case. Adjudication of Movants' defenses would efficiently resolve the factual and legal questions arising from the enactment of SB8 and facilitate full development of the factual record.

Accordingly, permissive intervention under Rule 24(b) should be granted.

II. This Case Should Be Transferred to the Middle District of Louisiana

In addition to allowing Movants to intervene, this Court should transfer this case to the Middle District of Louisiana, where the *Robinson* action is pending and remains active. This case raises substantially similar issues to the first-filed and currently pending *Robinson* action, which risks duplicative dispositions and waste of judicial resources, and thus should be transferred under the well-settled first-to-file rule. Plaintiffs' claims concerning SB8 should be heard in the Middle District, where Chief Judge Dick has overseen years of litigation relating to Louisiana's obligations under the VRA, the constitutionality of alternative congressional maps, and the implementation of a new congressional map in accordance with federal law, and has heard and weighed extensive documentary evidence and lay and expert testimony on these issues. If this Court were to issue the injunction and declaration Plaintiffs seek and proceed to a remedial phase,

it would significantly risk conflict with the proceedings in the *Robinson* action. Transfer to the Middle District would benefit the parties, the witnesses, and the court system by allowing for adjudication of the substantially overlapping issues in this action and the *Robinson* action in a single, finally determined action.

The Fifth Circuit has "long advocated that district courts exercise their discretion to avoid duplication of proceedings where related claims are being litigated in different districts." *Schauss* v. *Metals Depository Corp.*, 757 F.2d 649, 654 (5th Cir. 1985). Under the "first-to-file" rule applied in this Circuit, "[c]ourts prophylactically refus[e] to hear a case raising issues that might substantially duplicate those raised by a case *pending* in another court." *Def. Distributed* v. *Platkin*, 55 F.4th 486, 494 (5th Cir. 2022) (citations omitted). Neither the substance of the cases nor the parties need to overlap perfectly. *Harris Cnty., Tex.* v. *CarMax Auto Superstores Inc.*, 177 F.3d 306, 319 (5th Cir. 1999) (citations omitted). "[T]he crucial inquiry is one of substantial overlap." *In re Amerijet Int'l, Inc.*, 785 F.3d 967, 976 (5th Cir. 2015) (citations omitted). In deciding whether a substantial overlap exists, courts in the Fifth Circuit consider "whether core issues are the same or whether much of the proof adduced would likely be identical." *Cormeum Lab Servs., LLC* v. *Coastal Lab'ys, Inc.*, No. CV 20-2196, 2021 WL 5405219, at *3 (E.D. La. Jan. 15, 2021). "Where overlap between two suits is less than complete, the judgment is made case-by-case, based on such factors as the extent of overlap, the likelihood of conflict, the comparative advantage, and the interest of each forum in resolving the dispute." *State* v. *Biden*, 538 F. Supp. 3d 649, 653–54 (W.D. La. 2021) (citations omitted).

The first-filed rule does not require perfect overlap of issues or parties. "Instead, the crucial inquiry is one of 'substantial overlap.'" *In re Amerijet Int'l, Inc.*, 785 F.3d 967, 976 (5th Cir. 2015), as revised (May 15, 2015) (citations omitted). To determine if substantial overlap exists, the Fifth

Circuit "has looked at factors such as whether 'the core issue . . . was the same' or if 'much of the proof adduced . . . would likely be identical.'" *Int'l Fid. Ins. Co.* v. *Sweet Little Mexico Corp.*, 665 F.3d 671, 678 (5th Cir. 2011) (citations omitted). Even where the overlap between two suits is "less than complete," the first-filed rule can still be applied on a "case by case [basis], based on such factors as the extent of overlap, the likelihood of conflict, the comparative advantage and the interest of each forum in resolving the dispute." *Id*; *see, e.g.*, *Salazar* v. *Bloomin' Brands, Inc*., No. 2:15-CV-105, 2016 WL 1028371, at *4 (S.D. Tex. Mar. 15, 2016) (finding "imperfect overlap" but "conclud[ing] that the risk of conflict and the courts' comparative interests in these actions favor transfer"). This is a textbook case for application of the first-to-file rule.

In their Complaint, Plaintiffs ask this Court to strike down SB8 as a violation of the Equal Protection Clause and "institute a congressional districting map" that, according to the Plaintiffs, may not constitutionally include a second majority-Black district. Should Plaintiffs succeed in invalidating SB8, the *Robinson* plaintiffs are entitled to a trial on their Section 2 claim. And should the *Robinson* plaintiffs prevail—which, again, two panels of the Fifth Circuit and the district court held they are likely to do—the *Robinson* district court must then order a congressional plan containing two majority-Black districts to be implemented, pursuant to the Fifth Circuit's instructions on remand, no later than the end of May 2024. The result of a ruling such as the Plaintiffs seek here, in other words, is that two separate federal district courts will simultaneously be charged with crafting new and likely conflicting congressional maps, both of which cannot be implemented, leaving the Secretary of State—a defendant in both cases—in the impossible position of having to violate one court's order or the other.

Even if competing maps could be avoided, allowing two courts to proceed in parallel in adjudicating these overlapping claims and factual questions would violate one of the primary goals of the first-filed rule: avoiding "piecemeal resolution of issues that call for a uniform result." *Cadle*

Co. v. *Whataburger of Alice, Inc.*, 174 F.3d, 599, 603 (5th Cir. 1999). It is hard to imagine an issue less suited for competing decisions than a State's congressional redistricting plan. Redistricting cannot tolerate dueling decisions on the relationship between the VRA, the Fourteenth Amendment, and the State's congressional plan. Ultimately, the 2024 elections will need to be held under a single plan. Of course, that plan cannot simultaneously respect the *Robinson* court's ruling that Louisiana must have a second Black-opportunity district, *and* the ruling Plaintiffs seek here, which might preclude that very same second Black-opportunity district.

In short, allowing this case to proceed before this Court would force the Court to consider legal issues and evidence that the *Robinson* court has already weighed. Worse, it risks "the waste of duplication," a "ruling[] which may trench upon the authority of" another federal district court, and "piecemeal resolution of issues that call for a uniform result." *W. Gulf Mar. Ass'n* v. *ILA Deep Sea Local 24*, 751 F.2d 721, 729 (5th Cir. 1985). Applying the first-filed rule and transferring this case to the Middle District of Louisiana would alleviate those concerns and the Court should do so here.

CONCLUSION

For the foregoing reasons, this Court should permit Movants to intervene in this action under Fed. R. Civ. P. 24 and file Movants' answer to the complaint. The Court should also transfer this case to the Middle District in accordance with the first-to-file rule.

DATED: February 7, 2024

Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, and ROLFE MCCOLLISTER, *Plaintiffs*, v. NANCY LANDRY, in her official capacity as Secretary of State for Louisiana, *Defendant*.	Civil Action No. 3:24-cv-00122 Judge David C. Joseph Circuit Judge Carl E. Stewart Judge Robert R. Summerhays

[PROPOSED] ANSWER OF INTERVENOR-DEFENDANTS TO PLAINTIFFS' COMPLAINT

Proposed Intervenor-Defendants Press Robinson, Alice Washington, Clee Ernest Lowe, Ambrose Sims, Edgar Cage, Dorothy Nairne, Davante Lewis, Edwin René Soulé, Martha Davis, Louisiana State Conference of the NAACP, and Power Coalition for Equity and Justice hereby answer the Complaint of Plaintiffs Phillip Callais, Lloyd Price, Bruce Odell, Elizabeth Ersoff, Albert Caissie, Daniel Weir, Joyce Lacour, Candy Carroll Peavy, Tanya Whitney, Mike Johnson, Grover Joseph Rees, and Rolfe McCollister and assert their Affirmative Defenses as follows:

INTRODUCTION

1. Intervenor-Defendants admit the allegations in Paragraph 1 of the Complaint.

2. Intervenor-Defendants deny the allegations in Paragraph 2 of the Complaint.

3. Intervenor-Defendants admit that the image below Paragraph 3 represents the map enacted through S.B. 8 but deny the remaining allegations in Paragraph 3.

4. Intervenor-Defendants deny the allegations in Paragraph 4, except to refer to the published decision in *Hays v. Louisiana*, 936 F. Supp. 360 (W.D. La. 1996), for its contents, and deny that *Hays* has any application here.

5. Intervenor-Defendants deny the allegations in Paragraph 5 of the Complaint.

JURISDICTION

1. The allegations in Paragraph 1 constitute legal conclusions to which no response is required.[1] To the extent a response is required, Intervenor-Defendants admit that 42 U.S.C. §§ 1983 and 1988, and 28 U.S.C. §§ 1331, 1343(a)(3), and 1343(a)(4) confer jurisdiction over the claims asserted in the Complaint but lack knowledge or information sufficient to form a belief as to whether this case raises a case or controversy under Article III of the U.S. Constitution.

2. The allegations in Paragraph 2 constitute legal conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants admit the allegations in Paragraph 2.

3. The allegations in Paragraph 3 constitute legal conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations in Paragraph 3, except lack knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations concerning the districts in which the Plaintiffs reside.

4. The allegations in Paragraph 4 constitute legal conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants admit that the Court has

[1] Paragraph numbering in the Complaint restarts at 1 in each section. In addition, all of the sections are numbered "I". The paragraphs in this [Proposed] Answer are numbered in accordance with the paragraph in the complaint to which they respond.

authority to award declaratory and injunctive relief under the statutes identified in Paragraph 4 but deny that Plaintiffs are entitled to such relief.

PARTIES

1. Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1.

2. Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 2.

3. Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3.

4. Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4.

5. Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 5.

6. Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 6.

7. Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 7.

8. Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8.

9. Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 9.

10. Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 10.

11. Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11.

12. Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12.

13. Intervenor-Defendants admit the allegation in Paragraph 13 that Defendant Nancy Landry is the Secretary of State of Louisiana. The remaining allegations in Paragraph 13 constitute legal conclusions to which no response is required. To the extent a response is required, the allegations are admitted, except to refer to the statutes and cases cited for their contents.

14. Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 14.

15. Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation concerning the districts in which the Plaintiffs reside, and Intervenor-Defendants deny the remaining allegations in Paragraph 15.

16. Intervenor-Defendants deny the allegations in Paragraph 16.

17. Intervenor-Defendants deny the allegations in Paragraph 17.

18. Intervenor-Defendants deny the allegations in Paragraph 18.

19 Intervenor-Defendants deny the allegations in Paragraph 19.

STATEMENT OF FACTS

1. Intervenor-Defendants admit the allegations in Paragraph 1.

2. Intervenor-Defendants admit the allegations in Paragraph 2.

3. Intervenor-Defendants admit the allegations in Paragraph 3.

4. Intervenor-Defendants admit the allegations in Paragraph 4.

5. Intervenor-Defendants deny the allegations in Paragraph 5 except admit that the State of Louisiana opposed a motion for a preliminary injunction filed by the plaintiffs in *Robinson v. Ardoin*, a federal court challenge to the congressional plan filed on March 30, 2022, refer to the State's brief in opposition to the preliminary injunction for its contents, and deny the substance of the quoted language. *Intervenor-Defendant the State of Louisiana's Combined Opposition to Plaintiffs' Motions for Preliminary Injunction*, *Robinson v. Ardoin*, No. 3:22-cv-00211-SDD-SDJ (M.D. La. Apr. 29, 2022), ECF 108.

6. Intervenor-Defendants deny the allegations in Paragraph 6.

7. Intervenor-Defendants deny the allegations in Paragraph 7, refer to the State's submissions in the *Robinson* litigation for their contents, admit that the State's briefing in the *Robinson* litigation included the language quoted in Paragraph 7, and deny the substance of the quoted language.

8. Intervenor-Defendants deny the allegations in Paragraph 8, except to refer to the State's submissions in the *Robinson* litigation for their complete and accurate contents, and deny the substance of the arguments to which Paragraph 8 refers.

9. Intervenor-Defendants deny the allegations in Paragraph 9.

10. Intervenor-Defendants deny the allegations in Paragraph 10, except admit that the District Court for the Middle District of Louisiana granted a preliminary injunction in favor of the plaintiffs in *Robinson*, and refer to the decisions and orders of the district court, the Fifth Circuit, and the Supreme Court for their contents.

11. Intervenor-Defendants admit the allegations in Paragraph 11.

12. Intervenor-Defendants admit the allegations in Paragraph 12.

13. Intervenor-Defendants deny the allegations in Paragraph 13, except admit that Governor Landry called a special legislative session on his first day in office, and that redistricting Louisiana's congressional districts was one of the stated objectives for which the special session was called.

14. Intervenor-Defendants deny the allegations in Paragraph 14, except to refer to Governor Landry's statement for its contents.

15. Intervenor-Defendants deny the allegations in Paragraph 15, except admit that Senator Womack introduced S.B. 8 during the special session and that S.B. 8 was a bill to redistrict Louisiana's congressional districts, and refer to Senator Womack's statements during the special session for their contents.

16. Intervenor-Defendants admit the allegations in Paragraph 16.

17. Intervenor-Defendants admit the allegations in Paragraph 17.

18. Intervenor-Defendants deny the allegations in Paragraph 18.

19. Intervenor-Defendants admit the allegations in Paragraph 19.

20. Intervenor-Defendants lack information or knowledge sufficient to admit or deny the allegations in Paragraph 20.

21. Intervenor-Defendants deny the allegations in Paragraph 21.

22. Intervenor-Defendants admit that S.B. 8's enacted District 6 includes parts of Shreveport, Lafayette, Alexandria, and Baton Rouge. Intervenor-Defendants deny the remaining allegations in Paragraph 22.

23. Intervenor-Defendants lack information or knowledge sufficient to admit or deny the allegations in Paragraph 23 concerning the Legislature's intent in drafting Districts 6 and 2 and in

the second sentence and image contained in Paragraph 23. Intervenor-Defendants deny the remaining allegations in Paragraph 23.

24. Intervenor-Defendants admit that Baton Rouge and Shreveport are slightly less than 250 miles apart. Intervenor-Defendants deny the remaining allegations in Paragraph 24.

25. Intervenor-Defendants deny the allegations contained in Paragraph 25, except to refer to the map adopted pursuant to S.B. 8 for its contents.

26. Intervenor-Defendants deny the allegations contained in Paragraph 26, except to refer to the map adopted pursuant to S.B. 8 for its contents.

27. Intervenor-Defendants admit that District 6 contains ten parishes, and that it includes parts of Caddo, De Soto, Rapides, Lafayette, Avoyelles, and East Baton Rouge Parishes, deny the remaining allegations contained in Paragraph 27, and refer to the map adopted pursuant to S.B. 8 for its contents.

28. Intervenor-Defendants admit that District 2 includes parts of Ascension, St. Charles, Jefferson, St. Bernard, and Orleans Parishes, deny the remaining allegations contained in Paragraph 28, and refer to the 2024 First Extraordinary Session, Act No. 2 (S.B. 8) for its contents.

29. Intervenor-Defendants deny the allegations in Paragraph 29, except admit that four of the six congressional districts created by S.B. 8 are majority-white.

30. The allegations in Paragraph 30 constitute a legal conclusion to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations in Paragraph 30.

31. Intervenor-Defendants deny the allegations in Paragraph 31, except to refer to the map adopted pursuant to S.B. 8 for its contents.

32. Intervenor-Defendants deny the allegations in Paragraph 32, except to refer to the map adopted pursuant to S.B. 8 for its contents.

33. Intervenor-Defendants deny the allegations in Paragraph 33, except to refer to the map adopted pursuant to S.B. 8 for its contents.

34. Intervenor-Defendants admit that the Polsby-Popper score for District 6 is .05. Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations concerning the Polsby-Popper scores of the remaining districts in S.B. 8, and deny the remaining allegations in Paragraph 34.

35. Intervenor-Defendants deny the allegations in Paragraph 35.

36. Intervenor-Defendants deny the allegations in Paragraph 36.

37. Intervenor-Defendants deny the allegations in Paragraph 37.

38. Intervenor-Defendants admit the allegation in Paragraph 38 that the racial composition of the districts in S.B. 8 differs from the racial composition of the districts in the State's 2022 enacted map, and deny the remaining allegations in Paragraph 38.

39. Intervenor-Defendants admit the allegations in Paragraph 39.

40. Intervenor-Defendants admit the allegations in Paragraph 40.

41. Intervenor-Defendants admit that the largest change in Black VAP occurred in Congressional District 6, but otherwise deny the allegations in Paragraph 41.

42. Intervenor-Defendants admit the allegations in Paragraph 42.

43. Intervenor-Defendants admit the allegations in Paragraph 43 that the non-Black VAP increased in S.B. 8's Congressional Districts 1, 3, 4, and 5 and decreased in District 6 in comparison to the congressional map enacted in 2022, but otherwise deny the allegations in Paragraph 43.

44. Intervenor-Defendants admit the allegations in Paragraph 44.

45. Intervenor-Defendants admit the allegations in Paragraph 45.

46. Intervenor-Defendants deny the allegations in Paragraph 46, except to refer to Senator Womack's statements for their complete and accurate contents.

47. Intervenor-Defendants deny the allegations in Paragraph 47, except to refer to Senator Womack's statements for their complete and accurate contents.

48. Intervenor-Defendants deny the allegations in Paragraph 48.

49. Intervenor-Defendants deny the allegations in Paragraph 49, except to refer to Senator Womack's and Senator Morris's statements for their complete and accurate contents.

50. Intervenor-Defendants deny the allegations in Paragraph 50, except to refer to Senator Womack's statements for their complete and accurate contents.

51. Intervenor-Defendants deny the allegations in Paragraph 51, except to refer to Senator Womack's and Senator Morris's statements for their complete and accurate contents.

52. Intervenor-Defendants deny the allegations in Paragraph 52, except to refer to Senator Womack's and Senator Morris's statements for their complete and accurate contents.

53. Intervenor-Defendants deny the allegations in Paragraph 53, except to refer to Senator Carter's and Congressman Carter's statements for their complete and accurate contents.

54. Intervenor-Defendants deny the allegations in Paragraph 54, except to refer to Senator Jackson's statements for their complete and accurate contents.

55. Intervenor-Defendants deny the allegations in Paragraph 55, except to refer to Senator Jackson's statements for their complete and accurate contents.

56. Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 56 concerning what Senator Duplessis was referring to in

his statement and deny the remaining allegations in Paragraph 56, except to refer to Senator Duplessis's statements for their complete and accurate contents.

57. Intervenor-Defendants deny the allegations in Paragraph 57, except to refer to Senator Pressly's statements for their complete and accurate contents.

58. Intervenor-Defendants admit the allegations in Paragraph 58.

59. Intervenor-Defendants admit the allegations in Paragraph 59.

60. Intervenor-Defendants deny the allegations in Paragraph 60, except to refer to Representative Beaullieu's statements for their complete and accurate contents.

61. Intervenor-Defendants deny the allegations in Paragraph 61, except to refer to Representative Marcelle's statements for their complete and accurate contents.

62. Intervenor-Defendants deny the allegations in Paragraph 62, except to refer to Representative Beaullieu's and Representative Amedee's statements for their complete and accurate contents.

63. Intervenor-Defendants admit that St. Bernard Parish is divided between Districts 1 and 2 in S.B. 8. Intervenor-Defendants deny the remaining allegations in Paragraph 63, except to refer to Representative Bayham's statements for their complete and accurate contents.

64. Intervenor-Defendants lack information or knowledge sufficient to admit or deny Paragraph 64. Intervenor-Defendants deny Paragraph 64 to the extent it suggests that the complete statements of any of the representatives quoted are included in the Complaint.

65. Intervenor-Defendants admit the allegations in Paragraph 65.

66. Intervenor-Defendants admit the allegations in Paragraph 66.

67. Intervenor-Defendants lack information or knowledge sufficient to admit or deny the allegations in Paragraph 67 concerning Representative Willard's statements to the media.

Intervenor-Defendants admit that Representative Willard is the chair of the House Democratic Caucus. Intervenor-Defendants deny the remaining allegations in Paragraph 67.

68. Intervenor-Defendants lack information or knowledge sufficient to admit or deny the allegations in Paragraph 68.

69. Intervenor-Defendants admit that Congressman Carter held a press conference on January 15, 2024 and that he issued a press release containing the quoted statements, and refer to the press release for its complete and accurate contents. Intervenor-Defendants lack information or knowledge sufficient to admit or deny Paragraph 69's allegations concerning Congressman Carter's purpose in holding the press conference. Intervenor-Defendants otherwise deny the allegations in Paragraph 69.

70. Intervenor-Defendants lack information or knowledge sufficient to admit or deny the allegations in Paragraph 70, except admit that Congressman Carter currently represents Congressional District 2.

71. Intervenor-Defendants lack information or knowledge sufficient to admit or deny the allegations in Paragraph 71.

72. Intervenor-Defendants admit the allegations in Paragraph 72.

73. Intervenor-Defendants admit the allegations in Paragraph 73.

74. Intervenor-Defendants admit the allegations in Paragraph 74 to the extent that there were eight days, inclusive, from the introduction of S.B. 8 in the Senate on the first day of the Special Session until the Governor signed S.B. 8, as amended, into law. Intervenor-Defendants lack information or knowledge sufficient to admit or deny the remaining allegations in Paragraph 74.

COUNT I

75. Intervenor-Defendants incorporate their responses to the above paragraphs by reference as if set forth fully herein.

76. Intervenor-Defendants admit that the Fourteenth Amendment to the U.S. Constitution provides that "[n]o State shall . . . deny any person within its jurisdiction the equal protection of the laws." Intervenor-Defendants deny the remaining allegations in Paragraph 76.

77. Paragraph 77 contains legal conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations in Paragraph 77.

78. Paragraph 78 contains legal conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants admit the allegations in Paragraph 78.

79. Paragraph 79 contains legal conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations in Paragraph 79.

80. Intervenor-Defendants deny the allegations in Paragraph 80.

81. Intervenor-Defendants deny the allegations in Paragraph 81.

82. Intervenor-Defendants deny the allegations in Paragraph 82.

83. Intervenor-Defendants deny the allegations in Paragraph 83, except to refer to Senator Womack's and Representative Beaulieu's statements for their complete and accurate contents.

84. Intervenor-Defendants deny the allegations in Paragraph 84, except to refer to Representative Beaulieu's statements for their complete and accurate contents.

85. Intervenor-Defendants deny the allegations in Paragraph 85.

86. Intervenor-Defendants deny the allegations in Paragraph 86, except to refer to Senator Womack's statements for their complete and accurate contents.

87. Intervenor-Defendants deny the allegations in Paragraph 87, except to refer to the statements by Senator Pressly, Senator Duplessis, Senator Carter, and Representative Marcelle for their complete and accurate contents.

88. Intervenor-Defendants lack information or knowledge sufficient to admit or deny the allegations in Paragraph 88 regarding Senator Carter's or Senator Duplessis's concerns. Intervenor-Defendants deny the remaining allegations in Paragraph 88, except to refer to the statements by Senator Carter and Senator Duplessis for their complete and accurate contents.

89. Intervenor-Defendants deny the allegations in Paragraph 89, except to refer to the statements by Senator Pressly, Representative Bayham, Senator Morris, and Senator Womack for their complete and accurate contents.

90. Intervenor-Defendants deny the allegation in the first sentence in Paragraph 90. Intervenor-Defendants deny the allegations in Paragraph 90 purporting to represent Governor Landry's litigation position in the *Robinson* litigation, except to refer to the State's submissions in the *Robinson* litigation for their complete and accurate contents.

91. Intervenor-Defendants deny the allegations in Paragraph 91.

92. Intervenor-Defendants deny the allegations in Paragraph 92.

93. Intervenor-Defendants deny the allegations in Paragraph 93, except to refer to the map adopted by S.B. 8 for its contents.

94. Intervenor-Defendants deny the allegations in Paragraph 94.

95. Intervenor-Defendants deny the allegations in Paragraph 95.

96. Intervenor-Defendants admit that District 6 splits six parishes, but deny that District 2 divides seven parishes. Intervenor-Defendants deny the remaining allegations in Paragraph 96.

97. Intervenor-Defendants deny the allegations in Paragraph 97.

98. Paragraph 98 contains legal conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations in Paragraph 98, except to refer to the *Shaw II* opinion and other relevant cases and authorities for their contents.

99. Paragraph 99 contains legal conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants admit that compliance with Section 2 of the VRA is a compelling state interest but deny that compliance with Section 2 does not allow for race-conscious districting or even racially predominant districting narrowly tailored to achieve compliance with Section 2. Intervenor-Defendants deny the remaining allegations in Paragraph 99, except to refer to the cited cases and other relevant legal authorities for their complete and accurate contents.

100. Paragraph 100 contains legal conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations in Paragraph 100 except to refer to the cited cases and other relevant legal authorities for their complete and accurate contents.

101. Paragraph 101 contains legal conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations in Paragraph 101.

102. Intervenor-Defendants deny the allegations in Paragraph 102, except to refer to the State's submissions in the *Robinson* litigation for their contents.

103. Intervenor-Defendants deny the allegations in Paragraph 103.

104. Intervenor-Defendants deny the allegations in Paragraph 104.

105. Paragraph 105 contains legal conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations in Paragraph 105.

106. Intervenor-Defendants deny the allegations in Paragraph 106.

107. Intervenor-Defendants deny the allegations in Paragraph 107.

108. Intervenor-Defendants deny the allegations in Paragraph 108.

COUNT II

109. Intervenor-Defendants incorporate their responses to the above paragraphs by reference as if set forth fully herein.

110. Intervenor-Defendants deny the allegations in Paragraph 110, except to refer to the cited cases and other relevant legal authorities for their complete and accurate contents.

111. Paragraph 111 contains legal conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations in Paragraph 111, except to refer to the cited cases and other relevant legal authorities for their complete and accurate contents.

112. Paragraph 112 contains legal conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations in Paragraph 112.

113. Paragraph 113 contains legal conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations in Paragraph 113, except to refer to the cited cases and other relevant legal authorities for their complete and accurate contents.

114. Paragraph 114 contains legal conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations in Paragraph 114.

115. Paragraph 115 contains legal conclusions to which no response is required. To the extent a response is required, Intervenor-Defendants deny the allegations in Paragraph 115.

116. Intervenor-Defendants deny the allegations in Paragraph 116.

117. Intervenor-Defendants deny the allegations in Paragraph 117.

118. Intervenor-Defendants deny the allegations in Paragraph 118.

119. Intervenor-Defendants deny the allegations in Paragraph 119.

120. Intervenor-Defendants deny the allegations in Paragraph 120.

INTERVENOR-DEFENDANTS' AFFIRMATIVE DEFENSES

1. ***First Affirmative Defense*:** Plaintiffs fail to state a claim upon which relief may be granted.

2. ***Second Affirmative Defense*:** Plaintiffs have not been deprived of any federal constitutional rights because the plan adopted and approved by the Louisiana State Legislature on January 22, 2024 does not violate the United States Constitution.

3. ***Third Affirmative Defense*:** The State's compelling interest in achieving compliance with Section 2 of the Voting Rights Act of 1965 required the State to draw a plan with two congressional districts in which Black Louisianans can elect candidates of their choice.

4. ***Fourth Affirmative Defense*:** Plaintiffs are unable to establish the elements required for injunctive or declaratory relief.

5. Intervenor-Defendants reserve the right to amend their defenses and to add additional ones including lack of subject matter jurisdiction based on the mootness or ripeness doctrines, as further information becomes available in discovery or on any other basis permitted by the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

WHEREFORE Intervenor-Defendants pray that this court dismiss Plaintiffs' claims in their entirety, with prejudice, and award Intervenor-Defendants such other and further relief, including attorney's fees, as the Court deems necessary and proper.

DATED: February 7, 2024

Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER, *Plaintiffs*, v. NANCY LANDRY, in her official capacity as Secretary of State for Louisiana, *Defendant*.	Civil Action No. 3:24-cv-00122 Judge David C. Joseph Circuit Judge Carl E. Stewart Judge Robert R. Summerhays

[Proposed] ORDER

Upon consideration of the Motion to Intervene as Defendants and Transfer,

IT IS ORDERED that the Motion is GRANTED. The Court Clerk is hereby directed to transfer this action to the Middle District of Louisiana.

ORDERED in _____, Louisiana this _____ day of February, 2024.

_____

Judge David C. Joseph
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

Circuit Judge Carl E. Stewart
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

Judge Robert R. Summerhays
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

Exhibit B

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

PHILLIP CALLAIS, et al., **Plaintiffs,** **vs.** **NANCY LANDRY, in her official capacity as Louisiana Secretary of State,** **Defendant.**	Case No. 3:24-cv-00122-DCJ-CES-RRS

MOTION TO INTERVENE

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Constitutional Provisions

Other Authorities

For two long years, Louisiana voters Edward Galmon, Sr., Ciara Hart, Norris Henderson, and Tramelle Howard (collectively, "Galmon Movants") have pursued what the Voting Rights Act promises them: a second congressional district in their state where Black voters like themselves have an equal opportunity to elect their candidates of choice (*i.e.*, a second "Black-opportunity district"). *See* 52 U.S.C. § 10301. In 2022, they took this claim to federal court, promptly secured preliminary relief, and then weathered just about every twist and turn that civil litigation can take—three different Fifth Circuit panels, two emergency applications to the Supreme Court, and one year-long stay that compelled them to vote in unlawful districts in the 2022 midterm elections. Finally, they won the electoral opportunity to which they are entitled when, on January 22, 2024, Louisiana's political branches accepted that Galmon Movants' legal claim would ultimately prevail and enacted a new districting plan that made Congressional District ("CD") 6 the state's second Black-opportunity district.

There is now only one obstacle standing between Galmon Movants and the relief that they won: this action. Plaintiffs here ask the Court to declare the new map unconstitutional and enjoin its use, which would perpetuate the very injury that Galmon Movants have worked so hard, for so long, to lift. Galmon Intervenors hereby seek to intervene to protect their interests from the devastating outcome that Plaintiffs seek. Joining them in this motion is Dr. Ross Williams, a Black resident of Natchitoches Parish. His parish was previously in CD 4, a majority-white district where Black voters had no meaningful opportunity to elect their preferred candidates. But Natchitoches Parish is included in the newly drawn CD 6, where he is afforded the very opportunity that Plaintiffs now seek to prevent.

Rule 24(a) entitles Galmon Movants and Dr. Williams (collectively, "Proposed Intervenors") to intervene as of right. As required, this motion is timely, following almost

immediately after Plaintiffs filed suit. Any success that Plaintiffs achieve in blocking the Defendant Secretary of State from administering congressional elections under the new map will directly impair Proposed Intervenors' interests in preserving both their own voting rights and the victory that Galmon Movants achieved as a result of their litigation. Finally, no other party adequately represents the interests that Proposed Intervenors seek to vindicate. Plaintiffs are explicitly hostile to the imperative of a second Black opportunity congressional district, and the Secretary—far from representing Proposed Intervenors' interests—has actively opposed them for two years in court.

Alternatively, the Court should grant Proposed Intervenors permissive intervention. Proposed Intervenors will raise defenses inextricably intertwined with issues previewed in Plaintiffs' complaint, and their participation will enhance the Court's ability to resolve those issues without causing any undue prejudice or delay. Because all elements of intervention are satisfied, the motion should be granted.[1]

BACKGROUND

On March 30, 2022, Galmon Movants filed a complaint in the Middle District of Louisiana alleging that the congressional map then in place violated Section 2 of the Voting Rights Act because it failed to include a second district where Black Louisianians would have an opportunity to elect their candidates of choice (*i.e.*, a second "Black-opportunity district"). Complaint, *Galmon*

[1] As required by Local Rule 7.6, Proposed Intervenors presented their proposed Answer to counsel for Plaintiffs and sought consent to this motion. Counsel for Plaintiffs indicated that they oppose intervention while the first-filed motion in the Middle District action remains pending. Proposed Intervenors have not been able to identify counsel for Defendant to seek her position. Counsel inquired on February 5 whether the private counsel representing her in the Middle District action will also represent her here, but as of this filing Proposed Intervenors have not received confirmation.

v. Ardoin, No. 3:22-cv-00214-BAJ-RLB (M.D. La. Mar. 30, 2022), ECF No. 1.[2] To support their claim, Galmon Movants submitted a series of illustrative maps showing that, in addition to a New Orleans-based district, a second compact majority-Black district could be drawn that unites Baton Rouge and the delta parishes along the Mississippi River. *See Robinson v. Ardoin*, 605 F. Supp. 3d 759, 771–72 (M.D. La. 2022), *preliminary injunction vacated*, 86 F.4th 574 (5th Cir. 2023). On June 6, 2022, the district court determined that Galmon Movants and other consolidated plaintiffs were "substantially likely to prevail on the merits of their claims" and preliminarily enjoined the existing map. *Id.* at 766.

The Supreme Court stayed this injunction for a full year while it adjudicated a similar dispute out of Alabama. *See Ardoin v. Robinson*, 142 S. Ct. 2892 (2022) (mem.) (granting stay); *Ardoin v. Robinson*, 143 S. Ct. 2654 (2023) (mem.) (vacating stay). In the Alabama litigation, the Court ultimately determined that the plaintiffs' methods of proving a Section 2 violation—parallel to those employed by Galmon Movants in the Middle District—were not foreclosed by the Constitution's restrictions on racial gerrymandering. *Allen v. Milligan*, 599 U.S. 1, 41–42 (2023).[3] After the Supreme Court vacated its stay, the appeal of the Louisiana preliminary injunction continued in the Fifth Circuit. In the proceeding most relevant here, that court determined that the "district court did not clearly err in its necessary fact-findings nor commit legal error in its conclusions that the Plaintiffs were likely to succeed on their claim that there was a violation of Section 2 of the Voting Rights Act." *Robinson,* 86 F.4th at 583. But because the next congressional elections were no longer imminent, the Fifth Circuit concluded that the urgency of adopting a new

[2] This case was later consolidated with *Robinson v. Ardoin*, No. 3:22-cv-00211-SDD-SDJ (M.D. La.) (the "Middle District action").

[3] By Plaintiffs' definition, the Alabama action and the Middle District action are "Goose" cases. *See* Compl. 3.

map had lifted. *Id.* at 600–01. The court vacated the preliminary injunction and remanded to the district court with instructions to provide the Louisiana Legislature additional time to enact a new remedial congressional districting plan before commencing trial. *Id.* at 601–02.

For much of this Section 2 litigation, Jeff Landry opposed Galmon Movants' efforts to achieve a second Black-opportunity district. In his official capacity as Attorney General, representing Intervenor-Defendant the State of Louisiana, he sought to prevent, and then overturn, the preliminary injunction. *See* State's Combined Opp'n to Pls.' Mots. for Prelim. Inj., *Robinson*, No. 3:22-cv-00211-SDD-SDJ (M.D. La Apr. 29, 2022), ECF No. 108; Appellants' Opening Br., *Robinson v. Ardoin*, No. 22-30333 (5th Cir. June 11, 2022), ECF No. 155. But on January 8, 2024, Landry assumed office as Louisiana's Governor, explained that he had "exhausted ALL legal remedies" to avoid the relief sought by Galmon Movants, and called a special legislative session to redraw the state's congressional districts. Office of the Governor, *Governor Jeff Landry Opens First Special Session on Court Ordered Redistricting* (Jan. 16, 2024)[4]; Compl. 9–10. Legislators introduced a variety of district configurations. Eventually the Legislature, with the Governor's support, coalesced around a configuration that created a second district in which Black voters would have an opportunity to elect their preferred candidates while also achieving the Legislature's political goals by connecting Baton Rouge with Shreveport. The new map passed by the Legislature and signed by the Governor contains two majority-Black districts, as Galmon Movants sought.

Plaintiffs in this action now seek to duplicate litigation over Louisiana's congressional maps—Galmon Movants' action in the Middle District is still pending—and repeal the progress

[4] Available at https://gov.louisiana.gov/news/governor-jeff-landry-opens-first-special-session-on-court-ordered-redistricting.

that Galmon Movants won in securing a map with two Black opportunity districts. Plaintiffs filed their complaint on January 31, 2024, and this motion to intervene follows four business days later.[5]

LEGAL STANDARD

Rule 24 provides for intervention as of right and permissive intervention. Fed. R. Civ. P. 24(a), (b). As relevant here, a proposed party may intervene as of right where it "claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest." *Id.* 24(a)(2). Even where proposed parties are not entitled to intervention, the court may permit intervention where the movant "has a claim or defense that shares with the main action a common question of law or fact," so long as intervention will not "unduly delay or prejudice the adjudication of the original parties' rights." *Id.* 24(b)(1), (3).

"It is the movant's burden to establish the right to intervene, but Rule 24 is to be liberally construed." *La Union del Pueblo Entero v. Abbott*, 29 F.4th 299, 305 (5th Cir. 2022) (cleaned up) (reversing denial of intervention). "Federal courts should allow intervention where no one would be hurt and the greater justice could be attained." *Id.* (cleaned up); *see also see Miller v. Vilsack*, No. 21-11271, 2022 WL 851782, at *4 (5th Cir. Mar. 22, 2022) (reversing denial of intervention and noting Fifth Circuit's "broad policy favoring intervention" and the intervenors' "minimal" burden).

ARGUMENT

[5] On February 5, 2025, Galmon Movants moved the Court in the Middle District action to deem the action filed there "first-filed" relative to this one for purposes of the first-filed rule. *See Robinson*, No. 3:22-cv-00211-SDD-SDJ, ECF No. 345. Regardless of where this case ultimately is adjudicated, Proposed Intervenors seek intervention to ensure they have an opportunity to participate in this substantially related case.

I. Proposed Intervenors are entitled to intervention as of right.

Rule 24 requires courts to grant intervention where four elements are satisfied:

(1) the application for intervention must be timely;

(2) the applicant must have an interest relating to the property or transaction which is the subject of the action;

(3) the applicant must be so situated that the disposition of the action may, as a practical matter, impair or impede his ability to protect that interest; and

(4) the applicant's interest must be inadequately represented by the existing parties to the suit.

La Union del Pueblo Entero, 29 F.4th 299 at 305. Proposed Intervenors meet each of these requirements.

A. This motion is timely.

Courts consider four factors to determine whether a motion to intervene is timely: "the length of time the movant waited to file, the prejudice to the existing parties from any delay, the prejudice to the movant if intervention is denied, and any unusual circumstances." *Rotstain v. Mendez*, 986 F.3d 931, 937 (5th Cir. 2021). This motion is undoubtedly timely, as the complaint was filed merely six days ago, there is not yet a scheduling order, and this is the first motion to be docketed. Because there has been no delay, Plaintiffs cannot claim any prejudice from delay; Proposed Intervenors, in contrast, would be severely prejudiced if intervention is denied, as explained below. In short, this motion is filed well within the period that courts consider timely. *See, e.g.*, *Wal-Mart Stores, Inc. v. Tex. Alcoholic Beverage Comm'n*, 834 F.3d 562, 565–66 (5th Cir. 2016) (reversing denial of intervention and deeming motion to intervene timely even when filed after discovery had commenced).

B. Proposed Intervenors maintain significant interests in this action.

Proposed Intervenors' direct interest in the configuration of Louisiana's congressional map satisfies the second requirement for intervention as of right. This element does not require movants

to identify a property interest, pecuniary interest, or even a legally enforceable interest. *Texas v. United States*, 805 F.3d 653, 658–59 (5th Cir. 2015). Rather, "an interest is sufficient if it is of the type that the law deems worthy of protection, even if the intervenor does not have an enforceable legal entitlement or would not have standing to pursue her own claim." *Id.* Additionally, Rule 24(a)'s "interest requirement may be judged by a more lenient standard if the case involves a public interest question." *Brumfield v. Dodd*, 749 F.3d 339, 344 (5th Cir. 2014) (cleaned up) (reversing denial of intervention).

The Galmon Movants maintain an interest in any action, including this one, that relates to the number of congressional districts in Louisiana where Black voters have the opportunity to elect their candidates of choice—the very issue they have been litigating in the Middle District for the past two years. Indeed, Plaintiffs' complaint makes clear that the map they challenge would not exist but for Galmon Movants' successful efforts in that related action. *See* Compl. 8–10 (introducing Middle District litigation as predicate for new map). As that related litigation demonstrates, Galmon Movants' interests in preserving the voting opportunities created by the new map are rooted in federal law, and thus necessarily give rise to a legally protectable interest: Both the district court and the Fifth Circuit recognized that Galmon Movants were likely to prevail on their Section 2 claim, which would *require* a second opportunity district for Black voters. *See Robinson*, 86 F.4th at 583 (affirming district court on this point). Dr. Williams, in turn, maintains a particular interest in the new map because it has drawn him and his fellow Black residents of Natchitoches Parish into a district where, for the first time, they have an opportunity to elect their congressional candidates of choice.

Further, redistricting is a quintessential matter of public interest, and affected voters are regularly granted intervention in actions challenging that districting. *See, e.g.*, *League of United*

Latin Am. Citizens, Council No. 4434 v. Clements, 999 F.2d 831, 845 (5th Cir. 1993) (en banc) (recognizing judges had standing as voters to intervene in action challenging single-district system for judicial elections); *cf. League of United Latin Am. Citizens, Dist. 19 v. City of Boerne*, 659 F.3d 421, 434–35 (5th Cir. 2011) (reversing denial of intervention to voters in action seeking to modify consent decree reached in related Section 2 litigation). Proposed Intervenors easily satisfy this lenient element.

C. The disposition of this case may impair Proposed Intervenors' significant interests.

To satisfy the third element, Proposed Intervenors "need only show that if they cannot intervene, there is a possibility that their interest could be impaired or impeded." *La Union del Pueblo Entero*, 29 F.4th at 307. Here, the possibility of impairment is extremely high. This action does not merely *concern* the second Black-opportunity district that the new map creates; Plaintiffs' entire goal is to *dismantle* and *eliminate* it. *See* Compl. 8 (urging Court to "declare this map invalid and enjoin its use" *because of* second majority-Black district). If successful, Plaintiffs' action would eviscerate the victory for Black voters that Galmon Movants secured after 22 months of vigorous litigation.

Additionally, any injunction that Plaintiffs achieve would inflict an especially grievous injury on Dr. Williams and Tramelle Howard, who each live in areas that are now assigned to Congressional District 6, the new Black-opportunity district created by the new map. *See* Compl. 15–16. Natchitoches Parish, where Dr. Williams resides, was previously assigned to CD 4, a majority white district. And Mr. Howard resides in an area of Baton Rouge that was unlawfully packed with Black voters in the previous congressional map. *See Robinson*, 605 F. Supp. 3d at 781 (recounting conclusion of Galmon Movants' expert that congressional plan packed Black voters);

id. at 826–27 (crediting Galmon Movants' expert).[6] Thus, the only way that Plaintiffs can achieve their desired outcome is by casting Dr. Williams and Mr. Tramelle back into districts where their voting strength is diluted. *See Shaw v. Hunt*, 517 U.S. 899, 914 (1996) (recognizing that a districting map that "fragments" or "packs" members of the minority population "and thereby dilutes the voting strength" of those members may violate the Voting Rights Act). Thus, the significant impairment that Plaintiffs' action threatens is sufficient to warrant intervention under this element.

D. No other party adequately represents Proposed Intervenors' interests.

Finally, the existing parties to this action will not adequately represent Proposed Intervenors' interests. Proposed Intervenors "'need not show that the representation by existing parties will be, for certain, inadequate,' but instead that it *may* be inadequate." *La Union del Pueblo Entero*, 29 F.4th at 307–08 (quoting *Texas,* 805 F.3d 653, 661 (5th Cir. 2015)). The Supreme Court has explained that "the burden of making that showing should be treated as minimal." *Trbovich v. United Mine Workers of Am.,* 404 U.S. 528, 538 n. 10 (1972).

Here, the fact that Proposed Intervenors do not have "the same ultimate objective as a party to the lawsuit," and that their "'interest is in fact different from that of the' governmental party" named as defendant, suffices to defeat any presumption that may weigh in favor of adequate representation in other contexts. *La Union del Pueblo Entero*, 29 F.4th at 308 (quoting *Texas*, 805 F.3d at 661–62). Plaintiffs' objective, after all, is to destroy Louisiana's second Black-opportunity district; Proposed Intervenors' objective is to save it. And for the entirety of the Middle District action, Louisiana's Secretary of State, who is also the named defendant there, has opposed Galmon

[6] Mr. Tramelle's declaration identifying his home address is available on the Middle District docket. *See* Decl. of Pl. Tramelle Howard, *Robinson*, No. 3:22-cv-00211-SDD-SDJ (M.D. La. Apr. 15, 2022), ECF No. 50-4.

Movants' efforts to secure a second Black-opportunity district. *See, e.g.*, Def.'s Opp'n to Pls.' Mots. For Prelim. Inj., *Robinson*, No. 3:22-cv-00211-SDD-SDJ (M.D. La. Apr. 29, 2022), ECF No. 101. While the occupant of that office changed last month, the duties of the position remain the same. The Secretary of State is charged with preparing and certifying ballots, promulgating election returns, and administering a variety of election laws. La. Const. art. IV, § 7. Notably, none of the Secretary's official interests pertains to championing any particular configuration of congressional boundaries—let alone the districts' racial composition—and therefore Galmon Movants' interests and the Secretary's interests "may not align precisely." *Brumfield*, 749 F.3d at 345.

Even if the Secretary intends to defend the newly enacted map, a shared goal is not the same as shared interests. *See Miller*, 2022 WL 851782, *3–4 (5th Cir. Mar. 22, 2022) (reversing denial of intervention even though proposed intervenor and government defendant shared ultimate objective in defending challenged policy from claim that it unconstitutionally advantaged racial minorities). In *Brumfield*, for example, plaintiffs named Louisiana's superintendent of public education as a defendant in their effort to enjoin the state from awarding certain school vouchers, and parents whose children received those vouchers sought to intervene. *See Brumfield*, 749 F.3d at 340. The Fifth Circuit reasoned that, "[a]lthough both the state and parents vigorously oppose dismantling the voucher program . . . . [t]he state has many interests in this case," including maintaining relationships with the federal government and courts, that were not shared by the parents. *Id.* at 345–46. Thus, "[w]e cannot say for sure that the state's more extensive interests will *in fact* result in inadequate representation," the court concluded, "but surely they might, which is all that the rule requires." *Id.* Similarly here, any interests that the Secretary does pursue in defense of the new enacted map will necessarily differ from those of Black Louisianians, like Proposed

Intervenors, who seek to vindicate their own electoral opportunities and secure the fruits of the victory that Galmon Movants achieved over the Secretary's opposition in the Middle District action. This "lack of unity in all objectives" is sufficient to demonstrate that representation may be inadequate, and so this final requirement is also satisfied. *Id.* at 346; *cf. Chiglo v. City of Preston*, 104 F.3d 185, 187–88 (8th Cir. 1997) ("If the citizen stands to gain or lose from the litigation in a way different from the public at large, the *parens patriae* would not be expected to represent him.").

II. Proposed Intervenors satisfy the requirements for permissive intervention.

Rule 24 also authorizes courts to grant permissive intervention to proposed intervenors who may not qualify as of right. Fed. R. Civ. P. 24(b). "Permissive intervention is left to the discretion of the district court, and is appropriate when the intervention request is timely, the intervenor's 'claim or defense and the main action have a question of law or fact in common,' and granting intervention will not unduly delay or prejudice the original parties in the case." *United States v. City of New Orleans*, 540 Fed. App'x 380, 381 (5th Cir. 2013) (quoting Fed. R. Civ. P. 24(b)(2)). As with intervention as of right, the rule on permissive intervention "is to be liberally construed." *Wal-Mart Stores*, 834 F.3d at 565 (quoting *Texas*, 805 F.3d at 656).

Proposed Intervenors check each of these boxes. This motion remains timely, as the case has only just begun. The thrust of their anticipated defense—that federal law requires Louisiana to create a second Black-opportunity district, and evidence will indicate that the Legislature was predominately motivated by purposes unrelated to race in choosing the new district's specific contours—is inextricably bound up with the legal and factual issues presented by the main action. And granting intervention will not unduly delay or prejudice the original parties. Galmon Movants are intimately familiar with Louisiana's redistricting process and the relevant law given their successful litigation in the Middle District. Proposed Intervenors' participation in this case will

simply ensure that a robust defense of the congressional map's second majority-Black district is offered by the very voters who have demanded it, achieved it, and now expect to benefit from it.

CONCLUSION

For the reasons stated above, Proposed Intervenors respectfully request that the Court grant their motion to intervene as a matter of right under Rule 24(a)(2), or, in the alternative, permit them to intervene under Rule 24(b).

Respectfully submitted this February 6, 2024.

By: /s/*Abha Khanna*

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CERTIFICATE OF SERVICE AND CONSENT SOUGHT

I hereby certify that on February 6, 2024, a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system, and that service will be provided through the CM/ECF system. Additionally, counsel for Plaintiffs were advised by electronic email on February 5, 2024, of this filing and were provided with Proposed Intervenors' proposed Answer. Counsel for Plaintiffs indicated they oppose intervention unless Galmon Movants withdraw their first-filed motion in the Middle District action (which Galmon Movants do not intend to do). Despite contacting Defendant's attorneys in the Middle District action, Proposed Intervenors have been unable to identify counsel for Defendant in this matter.

/s/Abha Khanna
Abha Khanna

Counsel for Proposed Intervenors

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

PHILLIP CALLAIS, et al., **Plaintiffs,** **v.** **NANCY LANDRY, in her official capacity as Louisiana Secretary of State,** **Defendant,** **v.** **EDWARD GALMON, SR., CIARA HART, NORRIS HENDERSON, TRAMELLE HOWARD, and DR. ROSS WILLIAMS,** **Intervenor-Defendants.**	Case No. 3:24-cv-00122-DCJ-CES-RRS

[PROPOSED] INTERVENOR-DEFENDANTS' ANSWER

Introduction

1. Admit.

2. Paragraph 2 contains mischaracterizations and legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

3. Admit that the map depicted in Paragraph 3 is the official map enacted by SB8. The remainder of the allegations in Paragraph 3 contain mischaracterizations to which no response is required; to the extent a response is required, Proposed Intervenors deny the allegations.

4. Admit that the map depicted and the quoted excerpts in Paragraph 4 appear in *Hays v. Louisiana*, 936 F. Supp. 360 (W.D. La. 1996). The remainder of the allegations in Paragraph 4 contain mischaracterizations and legal conclusions to which no response is required; to the extent a response is required, Proposed Intervenors deny the allegations.

5. Paragraph 5 contains mischaracterizations and legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

Jurisdiction

1. Paragraph 1 contains a legal conclusion to which no response is required.

2. Paragraph 2 contains a legal conclusion to which no response is required.

3. Paragraph 3 contains a legal conclusion to which no response is required.

4. Paragraph 4 contains a legal conclusion to which no response is required.

Parties

1. Proposed Intervenors lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 1 and therefore deny them.

2. Proposed Intervenors lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 2 and therefore deny them.

3. Proposed Intervenors lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 3 and therefore deny them.

4. Proposed Intervenors lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 4 and therefore deny them.

5. Proposed Intervenors lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 5 and therefore deny them.

6. Proposed Intervenors lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 6 and therefore deny them.

7. Proposed Intervenors lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 7 and therefore deny them.

8. Proposed Intervenors lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 8 and therefore deny them.

9. Proposed Intervenors lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 9 and therefore deny them.

10. Proposed Intervenors lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 10 and therefore deny them.

11. Proposed Intervenors lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 11 and therefore deny them.

12. Proposed Intervenors lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 12 and therefore deny them.

13. Admit.

14. Proposed Intervenors lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 14 and therefore deny them.

15. Paragraph 15 contains legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

16. Paragraph 16 contains legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

17. Paragraph 17 contains legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

18. Paragraph 18 contains legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

19. Paragraph 19 contains legal conclusions and requests for relief to which no response is required. To the extent a response is required, Proposed Intervenors deny that Plaintiffs are entitled to any relief.

Statement of Facts

1. Admit.

2. Admit.

3. Admit that the Louisiana legislature held public meetings to solicit comments on redistricting maps, but Proposed Intervenors deny that such process was "extensive." Proposed Intervenors admit the remaining allegations in Paragraph 3.

4. Admit that some voters filed a lawsuit against the Secretary of State seeking a preliminary injunction against the enacted map. Proposed Intervenors deny that such lawsuit was filed on March 9, 2022; Proposed Intervenors filed their Complaint in the district court on March 30, 2022.

5. Admit that the quoted excerpts appear in the State's Motion in *Robinson v. Ardoin*, No. 3:22-cv-00211-SDD-SDJ (M.D. La. Apr. 29, 2022), ECF 108. Proposed Intervenors deny that the State made any legal admission regarding future, nonexistent congressional maps in its April 29, 2022, response brief in opposition to a preliminary injunction.

6. Admit that SB8 contains two majority-African American districts. Paragraph 6 otherwise contains a legal conclusion to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegation.

7. Admit that the quoted excerpts appear in the State's Motion in *Robinson*, No. 3:22-cv-00211-SDD-SDJ, ECF 108. Paragraph 7 otherwise contains a legal conclusion to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegation.

8. Admit that the State made the arguments alleged in Paragraph 8. Proposed Intervenors deny that the districts proposed by the plaintiffs were not compact.

9. Admit.

10. Admit that the district court granted an injunction against the previously enacted congressional map in 2022. The remainder of Paragraph 10 contains legal

conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

11. Admit.

12. Admit.

13. Admit.

14. Admit that the quoted excerpts appear on the referenced website. Proposed Intervenors deny that the Governor "gathered the Legislature to 'seek to amplify the voice of the few'" in the context of redistricting; the Governor stated that in the context of eliminating Louisiana's "jungle of election system" and also stated: "We seek to broaden the opportunity for participation in the governance of our people."

15. Admit that one of the stated goals of Senator Glen Womack was to create two majority-African American districts.

16. Admit.

17. Admit.

18. Deny.

19. Admit.

20. Proposed Intervenors lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 20 and therefore deny them.

21. Paragraph 21 contains a mischaracterization to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegation.

22. Paragraph 22 contains mischaracterizations to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

23. Proposed Intervenors lack sufficient knowledge or information to form a belief as to the truth or falsity of the map depicted in Paragraph 23 and therefore deny. Paragraph 23 otherwise contains mischaracterizations to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

24. Proposed Intervenors admit that Baton Rouge and Shreveport are roughly 250 miles apart. The remainder of Paragraph 24 contains mischaracterizations to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

25. Proposed Intervenors admit that District 6 has a narrow width of about 2.5 miles in Rapides Parish. The remainder of Paragraph 25 contains mischaracterizations to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

26. Admit that District 6 is less than a mile wide at its narrowest point, is about two miles wide between Burbank Drive and the Iberville Parish line, is about three miles wide between St. Landry Parish and Lafayette Parish, and is about two miles wide between Wallace Lake and Linwood Avenue. The remainder of Paragraph 26 contains mischaracterizations to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

27. Proposed Intervenors admit that District 6 in SB8 divides six out of ten parishes included therein. Paragraph 27 otherwise contains mischaracterizations to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

28. Proposed Intervenors admit that District 2 in SB8 divides Ascension, St. Charles, Jefferson, St. Bernard, and Orleans parishes. Proposed Intervenors deny the remaining allegations in Paragraph 28.

29. Paragraph 29 contains mischaracterizations to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

30. Paragraph 30 states a legal conclusion to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegation.

31. Deny.

32. Paragraph 32 contains mischaracterizations and legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

33. Paragraph 33 contains a mischaracterization to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegation.

34. Admit that the Polsby-Popper scores as listed are generally correct. The remainder of Paragraph 34 contains mischaracterizations and legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

35. Admit that the Polsby-Popper scores for Districts 3, 4, 5, and 6 are lower than the Polsby-Popper scores for those districts in the State's 2022 enacted map. Proposed Intervenors deny that the Polsby-Popper scores for Districts 1 and 2 are lower than the Polsby-Popper scores for those districts in the State's 2022 enacted map.

36. Paragraph 36 contains mischaracterizations and legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

37. Paragraph 37 contains mischaracterizations and legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

38. Proposed Intervenors admit that SB8 altered the percentages of voting age populations in each district. Paragraph 38 otherwise contains mischaracterizations and a legal conclusion to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

39. Admit.

40. Admit.

41. Proposed Intervenors admit that the African American VAP of District 6 increased from 23.861% to 53.990%. Paragraph 41 otherwise contains

mischaracterizations to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

42. Admit.

43. Admit that SB8 increased the non-African American VAP percentage in every district except District 6. The remainder of the allegations in Paragraph 43 contains mischaracterizations to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

44. Admit.

45. Admit.

46. Admit that Senator Womack stated the quoted excerpts on January 17, 2024. Proposed Intervenors deny that Senator Womack stated that SB8 "intentionally created" two congressional districts with a majority of Black voters.

47. Proposed Intervenors deny that Senator Womack stated that his primary goal in drafting SB8 was to create two majority-African American districts. Senator Womack stated that the goals were "maintaining a strong district for Speaker Johnson, as well as majority leader Steve Scalise, ensuring four Republican districts and adhering to the command of the federal court in the Middle District of Louisiana." *Id.* at 10:24–48.

48. Deny.

49. Admit that Senators Morris and Womack stated the quoted excerpts on January 17, 2024. Proposed Intervenors deny that Senator Womack "denied that he considered agriculture as a community of interest in District 6."

50. Deny; Senator Womack stated that District 6 "travels up the I-49 corridor[.]" *Id.* at 9:55–10:00.

51. Admit in part that Senators Morris and Womack stated the quoted excerpts on January 17, 2024. The remainder of Paragraph 51 contains mischaracterizations and legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

52. Deny.

53. Admit that Senator Carter stated the quoted excerpts on January 17, 2024. Proposed Intervenors deny that Senator Carter stated that he had "serious concerns" specifically regarding whether "District 2 continues to perform as an African American district."

54. Admit that Senator Jackson stated the quoted excerpts on January 17, 2024.

55. Admit that Senator Jackson stated the quoted excerpts on January 17, 2024..

56. Admit that Senator Duplessis stated the quoted excerpts on January 17, 2024.. Senator Duplessis also stated that SB8 was about "a federal law called the Voting Rights Act that has not been interpreted just by one judge in the Middle District of Louisiana . . . . but also by U.S. Fifth Circuit Court of Appeals made up of judges appointed by predominately Republican Presidents, a United States Supreme Court . . . made up of justices that were appointed by a majority of Republican Presidents." *Id.* at 33:00–34:15.

57. Admit that Senator Pressly stated the quoted excerpts on January 17, 2024. The remainder of the allegations in Paragraph 57 contain mischaracterizations to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

58. Admit.

59. Admit.

60. Admit that Representative Beaullieu stated the quoted excerpts on January 19, 2024. Proposed Intervenors deny that Rep. Beaullieu stated that SB8 created "two congressional districts with a majority of Black voters"; Rep Beaullieu stated that the federal district court had adhered to its view that the federal law requires that the State have two congressional districts with a majority of Black voters." Louisiana State House of Representatives, *House Chamber Day 5, 1ES – SINE DIE* (Jan. 19, 2024), https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2024/jan/0119_24_1ES_Day5 [hereinafter House Archive] at 2:48:10–27.

61. Admit that Representative Marcelle stated the quoted excerpt on January 19, 2024. The remainder of Paragraph 61 contains a mischaracterization to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegation.

62. Admit that Representatives Amedee and Beaullieu stated the quoted excerpts on January 19, 2024. Representative Beaullieu added, "and to comply with the judge's order." House Archive at 2:51:00–13.

63. Admit that Representative Bayham stated the quoted excerpt on January 19, 2024.

64. Admit.

65. Admit.

66. Admit.

67. Admit that the quoted language appears on the website referenced in Paragraph 67.

68. Proposed Intervenors lack sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 68 and therefore deny them.

69. Admit that Congressman Troy Carter held a press conference on January 15, 2024, and that the quoted language appears on the website referenced in Paragraph 69.

70. Admit that Congressman Carter's statements were read on the Senate floor before the vote for SB8's final passage. Paragraph 70 otherwise contains mischaracterizations and a legal conclusion to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

71. Admit that the quoted language appears in an article on the Louisiana Illuminator's website. Piper Hutchinson, *'I'm livid': High-profile Democrats clash over Louisiana congressional map* (Jan. 19, 2024), LA. ILLUMINATOR, https://lailluminator.com/2024/01/19/im-livid-high-profile-democrats-clash-over-louisiana-congressional-map/.

72. Admit.

73. Admit.

74. Proposed Intervenor-Defendants admit that SB8 was introduced on January 15, 2024, and signed into law on January 22, 2024. Proposed Intervenor-Defendants deny that "[t]he entire process" of enacting a new congressional map "took only eight days"; litigation regarding Louisiana's congressional map has been ongoing since 2022.

Count I

75. Proposed Intervenors incorporate by reference each of their preceding admissions, denials, and statements as if fully set forth herein.

76. Deny. The Equal Protection Clause of the Fourteenth Amendment states: "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1.

77. Proposed Intervenors admit that the quoted language appears in *Miller v. Johnson*, 515 U.S. 900, 911 (1995). The remainder of Paragraph 77 contains legal conclusions and characterizations to which no response is required.

78. Paragraph 78 states a legal conclusion to which no response is required.

79. Paragraph 79 contains legal conclusions to which no response is required.

80. Paragraph 80 contains legal conclusions and mischaracterizations to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

81. Paragraph 81 states a legal conclusion to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegation.

82. Paragraph 82 contains legal conclusions and mischaracterizations to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

83. Paragraph 83 contains legal conclusions and mischaracterizations to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

84. Admit that Representatives Amedee and Beaullieu stated the quoted excerpts on January 19, 2024. Representative Beaullieu added, "and to comply with the judge's order." House Archive at 2:51:00–13.

85. Paragraph 85 contains legal conclusions and mischaracterizations to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

86. Admit that Senator Womack stated the quoted excerpts on January 17, 2024. The remainder of Paragraph 86 contains mischaracterizations and legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

87. Admit in part that the quoted excerpts were stated. The remainder of Paragraph 87 contains mischaracterizations and legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

88. Paragraph 88 contains mischaracterizations and legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

89. Admit in part that the quoted excerpts were stated. The remainder of Paragraph 89 contains mischaracterizations and legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

90. Admit in part that the quoted excerpts appear in the State's Motion in *Robinson*, No. 3:22-cv-00211-SDD-SDJ, ECF 108. The remainder of Paragraph 90 contains mischaracterizations legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

91. Paragraph 91 contains a legal conclusion to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegation.

92. Paragraph 92 states a legal conclusion to which no response is required.

93. Proposed Intervenors admit that District 6 has about 250 miles between Shreveport and Baton Rouge and a narrow width of about 2.5 miles in Rapides Parish, and that the Polsby-Popper scores as listed are generally correct. The remainder of Paragraph 93 contains mischaracterizations and legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

94. Deny.

95. Deny.

96. Admit that District 6 divides six parishes. Proposed Intervenors deny that District 2 divides seven parishes. The remainder of Paragraph 96 contains mischaracterizations to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

97. Paragraph 97 contains a legal conclusion to which no response is required. Proposed Intervenors deny the allegations in Paragraph 97.

98. Paragraph 98 contains legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

99. Paragraph 99 contains legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

100. Paragraph 100 contains legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

101. Paragraph 101 contains legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

102. Admit that the quoted excerpts appear in the State's Motion in *Robinson*, No. 3:22-cv-00211-SDD-SDJ, ECF 108. Proposed Intervenors deny that the State made any legal admission regarding future, nonexistent congressional maps in its April 29, 2022, response brief in opposition to a preliminary injunction. The remainder of Paragraph 102 contains a legal conclusion to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegation.

103. Paragraph 103 contains legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

104. Paragraph 104 contains legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

105. Paragraph 105 contains legal conclusions to which no response is required.

106. Paragraph 106 contains legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

107. Paragraph 107 contains legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

108. Paragraph 108 contains a request for relief to which no response is required. To the extent a response is required, Proposed Intervenors deny that Plaintiffs are entitled to any relief.

Count II

109. Proposed Intervenors incorporate by reference each of their preceding admissions, denials, and statements as if fully set forth herein.

110. Admit that the quoted excerpt appears in the Fifteenth Amendment. The remainder of Paragraph 110 contains legal conclusions to which no response is required.

111. Paragraph 111 contains legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

112. Paragraph 112 contains mischaracterizations and legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

113. Admit that the quoted excerpt appears in the Fourteenth Amendment. The remainder of Paragraph 113 contains legal conclusions to which no response is required.

114. Paragraph 114 contains mischaracterizations and legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

115. Paragraph 115 contains legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

116. Admit in part that SB8 created two majority-minority districts. The remainder of Paragraph 116 contains mischaracterizations to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

117. Paragraph 117 contains mischaracterizations and legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

118. Paragraph 118 contains mischaracterizations and legal conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

119. Paragraph 119 contains a legal conclusion to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegation.

120. Paragraph 120 contains a request for relief to which no response is required. To the extent a response is required, Proposed Intervenors deny that Plaintiffs are entitled to any relief.

Prayer for Relief

Proposed Intervenors deny that Plaintiffs are entitled to any relief.

General Denial

Proposed Intervenors deny every allegation in the Complaint that is not expressly admitted herein.

Affirmative Defenses

1. Plaintiffs' claims are barred in whole or in part for failure to state a claim upon which relief can be granted.

2. Plaintiffs' claims are barred because Plaintiffs lack standing.

3. Plaintiffs' claims are barred because they seek relief inconsistent with federal law and the United States Constitution.

4. Proposed Intervenors reserve the right to assert additional affirmative defenses—including, but not limited to, those set forth in Federal Rule of Civil Procedure 8(c)—as additional facts are discovered.

Having fully answered Plaintiffs' Complaint, Proposed Intervenors pray for judgment as follows:

A. That the Court dismiss Plaintiffs' Complaint;

B. That judgment be entered in favor of Proposed Intervenors and against Plaintiffs on Plaintiffs' Complaint and that Plaintiffs take nothing thereby;

C. That Proposed Intervenors be awarded reasonable attorneys' fees and costs under any applicable statute or equitable doctrine; and

D. For such other and further relief as the Court deems appropriate.

Respectfully submitted this February 6, 2024.

By: /s/Abha Khanna

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

PHILLIP CALLAIS, et al., **Plaintiffs,** **vs.** **NANCY LANDRY, in her official capacity as Louisiana Secretary of State,** **Defendant.**	Case No. 3:24-cv-00122-DCJ-CES-RRS

[PROPOSED] ORDER GRANTING PROPOSED INTERVENORS' MOTION TO INTERVENE

The Court having considered the unopposed motion to intervene of Proposed Intervenors' Edward Galmon, Sr., Ciara Hart, Norris Henderson, Tramelle Howard, and Ross Williams, and all the grounds presented, it is hereby ORDERED that the Proposed Intervenors' motion is GRANTED. The Proposed Intervenors are permitted to participate in this matter as Intervenor-Defendants, enjoying full rights as parties, and their Proposed Answer is "deemed filed." LR 7.6.

IT IS SO ORDERED.

This ____ day of _____ 2024.

_____
Judge Carl E. Stewart
United States Circuit Judge

Judge Robert R. Summerhays
United States District Judge

Judge David C. Joseph
United States District Judge

Exhibit C

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA—MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER,	)	
Plaintiffs,	)	Case No. 3:24-cv-00122-DCJ-CES-RRS
v.	)	District Judge David C. Joseph Circuit Judge Carl E. Stewart
NANCY LANDRY, IN HER OFFICIAL CAPACITY AS LOUISIANA SECRETARY OF STATE,	)	District Judge Robert R. Summerhays Magistrate Judge Kayla D. McClusky
Defendant.	)	

PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs Phillip Callais, Lloyd Price, Bruce Odell, Elizabeth Ersoff, Albert Caissie, Daniel Weir, Joyce LaCour, Candy Carroll Peavy, Tanya Whitney, Mike Johnson, Grover Joseph Rees, and Rolfe McCollister, by and through their counsel, respectively move this Court to: (1) enjoin Defendant Secretary of State Nancy Landry from implementing the congressional redistricting map set out in Congress Act 2 (SB8) enacted by the State of Louisiana in January 2024 to administer any elections, and (2) order Defendant to implement the congressional redistricting map set out in Exhibit A to administer future elections. A preliminary injunction is justified for the reasons set forth in the memorandum of law, exhibits, declarations, and expert reports attached to this motion.

Plaintiffs meet the traditional factors to compel preliminary injunctive relief. Plaintiffs are likely to prevail on the merits, Plaintiffs face irreparable harm, the balance of equities favors Plaintiffs, and the public interest is not disserved by injunctive relief.

First, Plaintiffs are likely to prevail on the merits of both their claims: racial gerrymandering in violation of the Fourteenth Amendment and abridgement of voting rights in violation of the Fourteenth and Fifteenth Amendments. Plaintiffs will likely succeed on the racial gerrymandering claim because they can show that race predominated in the State's redistricting decisions and the State cannot satisfy strict scrutiny— the "most rigorous and exacting standard of constitutional review." *Miller v. Johnson*, 515 U.S. 900, 920 (1995). Plaintiffs will also likely prevail on their voter abridgement claim because they can show that the State intentionally abridged their right to vote on the basis of race.

Second, Plaintiffs face irreparable harm. The current congressional map violates—and will continue to violate in upcoming elections—Plaintiffs' fundamental constitutional rights under the Fourteenth and Fifteenth Amendments. This harm is irreparable absent injunctive relief. *BST Holdings, LLC v. OSHA*, 17 F.4th 604, 618 (5th Cir. 2021) ("[T]he loss of constitutional freedoms . . . 'unquestionably constitutes irreparable injury.'" (quoting *Elrod v. Burn*s, 427 U.S. 347, 373 (1976))); *League of United Latin Am. Citizens v. Abbott*, 601 F. Supp. 3d 147, 182 (W.D. Tex. 2022) (holding that alleged violations of voters' Fourteenth Amendment equal protection rights and Fifteenth Amendment voting rights from Texas' redistricting map constituted irreparable harm); *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014) ("Courts routinely deem restrictions on fundamental voting rights irreparable injury." (citing *Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012); *Williams v. Salerno*, 792 F.2d 323, 326 (2d Cir. 1986); *Alt. Political Parties v. Hooks*, 121 F.3d 876 (3d Cir.1997))).

Finally, the balance of equities favors Plaintiffs, and the public interest is advanced by awarding an injunction. The current map is "likely unconstitutional" so "[a]ny interest" Defendant "may claim in enforcing [it] is illegitimate." *See BST Holdings*, 17 F.4th at 618; *see also*

Ingebrigtsen v. Jackson Public Sch. Dist., 88 F.3d 274, 280 (5th Cir. 1996) (holding that where an enactment is unconstitutional, "the public interest [is] not disserved by an injunction preventing its implementation").

Additionally, Plaintiffs request a waiver of security otherwise required by Federal Rule of Civil Procedure 65(c). This is a "a matter for the discretion of the trial court," which "may elect to require no security at all." *Kaepa, Inc. v. Achilles Corp*., 76 F.3d 624, 628 (5th Cir. 1996) (quotation omitted); *see also Planned Parenthood Gulf Coast, Inc. v. Kliebert*, 141 F. Supp. 3d 604, 652 (M.D. La. 2015). Courts often do so when constitutional rights are at stake, or when plaintiffs seek to protect the public interest. *See Thomas v. Varnado*, 511 F. Supp. 3d 761, 766 n.1 (E.D. La. 2020); *see also Schultz v. Medina Valley Indep. Sch. Dist*., 2011 WL 13234770, at *2 (W.D. Tex. June 1, 2011) ("Because this suit seeks to enforce fundamental constitutional norms, it is further ORDERED that the security requirement of Federal Rule of Civil Procedure 65(c) is waived . . . .").

Dated this 7th day of February, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that, on this 7th day of February 2024, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which gives notice of filing to all counsel of record. Additionally, copies of all pleadings and other papers filed in this action to date or to be presented to the Court at the hearing have been mailed to the adverse party.

/s/ Paul Loy Hurd
Paul Loy Hurd

Exhibit D

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA—MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER,	)	
Plaintiffs,	)	Case No. 3:24-cv-00122-DCJ-CES-RRS
v.	)	District Judge David C. Joseph Circuit Judge Carl E. Stewart
NANCY LANDRY, IN HER OFFICIAL CAPACITY AS LOUISIANA SECRETARY OF STATE,	)	District Judge Robert R. Summerhays Magistrate Judge Kayla D. McClusky
Defendant.	)	

PLAINTIFFS' MEMORANDUM IN SUPPORT OF THEIR MOTION FOR PRELIMINARY INJUNCTION

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

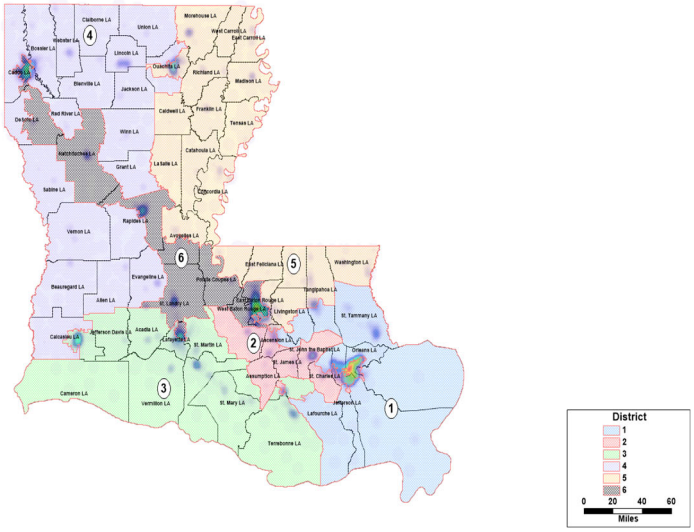
Constitutional Provisions

Other Authorities

INTRODUCTION

Thirty years ago, a three-judge panel of this very Court invalidated a racial gerrymander eerily similar to SB8, the redistricting map Plaintiffs challenge here. The circumstances were nearly identical. While defending Voting Rights Act ("VRA") litigation, the State quickly passed a new map to add a second majority-African American district out of seven total. The VRA, it said, compelled the new district, which slashed the State in half for hundreds of miles, from Baton Rouge to Shreveport. The original majority-minority district focused on Orleans Parish. This Court found that the district from Baton Rouge to Shreveport was an unconstitutional racial gerrymander. *Hays v. Louisiana*, 936 F. Supp. 360, 367 (W.D. La. 1996).

The only difference now is that Louisiana has just six districts. In eight days, the State drew and passed a congressional redistricting bill with the sole purpose of drawing districts and segregating voters based on race. A map of the district lines around dots representing high populations of African American voters shows that the State created an intentional racial hedge.



Ex. A at 23.[1] In viewing its citizens through a purely racial lens, the State's gerrymander reduces each individual to a racial stereotype who is then expected to vote to achieve a race-based outcome. Not only is such treatment a grave affront to the God-given freedom and dignity of each Louisiana voter, it also violates the Fourteenth Amendment's guarantee of equal protection. Where, as here, race predominates in the State's line-drawing and the State cannot satisfy strict scrutiny, the "most rigorous and exacting standard of constitutional review," Plaintiffs will prevail on a racial gerrymandering claim. *Miller v. Johnson*, 515 U.S. 900, 920 (1995).

The State did not merely allow race to predominate, it intentionally fixed an explicit racial quota of two African American districts. Even worse than its 1993 effort, Louisiana tried to guarantee one racial group a percentage of the Congressional delegation that exceeds its actual share of the voting population, and to ensure that, by this same degree, all other racial groups would be under-represented. Such intentional discrimination has no place under the Fourteenth and Fifteenth Amendments. In our democracy, there can be no excuse for burdening citizens based on their race. *See Students for Fair Admissions, Inc. v. President & Fellows of Harv. Coll.*, 600 U.S. 181 (2023).

The current map cannot stand. Plaintiffs ask that this Court issue a preliminary injunction that (1) enjoins Defendant Secretary of State Nancy Landry from using the current map to qualify candidates and carry out elections and (2) orders Defendant to enforce a new map—Plaintiffs' Illustrative Map or another map that does not contravene the Fourteenth or Fifteenth Amendments—to remedy these constitutional injuries. **Ex. A at 12** (Plaintiffs' Illustrative Map).

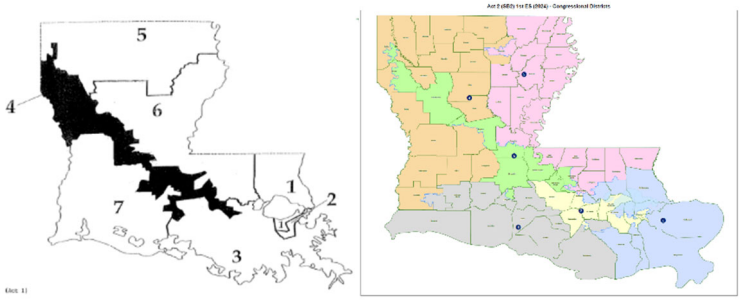
[1] Citations to "Ex." refer to Exhibits listed in the Declaration of Edward D. Greim.

BACKGROUND

I. Louisiana unsuccessfully tried this redistricting strategy after the 1990 census.

In the early 1990s, the Louisiana Legislature tried to create a second majority-African American district out of its seven congressional districts. *United States v. Hays* (*Hays II*), 515 U.S. 737, 740 (1995). One encircled New Orleans and the other formed a "Z" slashing across Northern Louisiana, turning south, and then jutting east toward Baton Rouge. *Id.* at 741; *Hays v. Louisiana*, 839 F. Supp. 1188, 1199 (W.D. La. 1993). Several voters challenged the scheme. While the appeal was pending before the Supreme Court, the Legislature repealed that original map and enacted a map remarkably similar to the one in SB8. *Hays*, 936 F. Supp. at 374 app. III.

1993 Map 2024 Map[2]



The 1993 map too had two majority-African American districts. *Id*. at 364. One encircled New Orleans; the other was long and narrow and slashed 250 miles from Shreveport down to Southeastern Baton Rouge. *Id*. But the district court recognized the scheme as an unconstitutional racial gerrymander and determined that it had no choice but to issue a remedial map. *Id*. at 372.

II. Louisiana enacted an initial redistricting map after the 2020 census.

Thirty years later, the Legislature dusted off the same playbook. Its first congressional redistricting attempt with the 2020 decennial Census data began in 2021. **Ex. B, C, D, E, F**. From

[2] See Exhibit P for enlarged view of SB8's enacted map.

October 2021 to January 2022, the Legislature held public meetings to solicit comments on redistricting maps. **Ex. D; Ex. A at 4**. After this extensive process, on February 1, 2022, the House of Representatives presented a redistricting bill. **Ex. B, E**. After weeks of deliberation and debate, the bill passed in both Chambers. **Ex. B**. The Legislature overrode a gubernatorial veto on March 30, 2022, and it became law. **Ex. B**. The plan created five majority-non-African American districts and one majority-African American district based on Census data revealing that 29.87% of the Louisiana voting age population ("VAP") was non-Hispanic African American and 31.25% of the Louisiana VAP was African American. **Ex. C, F, G**. A group of voters challenged the bill in court. **Ex. H at 1**. The State of Louisiana intervened. ***Id***.

On April 29, 2022, the State, through then-Attorney General Jeff Landry's Office, argued before the district court in opposition to the plaintiffs' preliminary injunction motion: "No sufficiently numerous and geographically compact second majority-minority district can be drawn in Louisiana." ***Id.* at 6**. It went on to say: "The minority population in Louisiana is not compact" when accounting for the necessary "traditional districting principles." ***Id.* at 11**. Rather, to draw two districts with a certain African American VAP percentage, you "had to ignore any conception of communities of interest." ***Id.* at 8; *see id.*** ("The fact that so many communities of interest were either divided among the Congressional districts or paired with unlikely and dissimilar larger cities begs the question of whether the distribution of African Americans are truly compact enough to create a second majority-minority Congressional district."). The State recognized that "no constitutional second majority-minority congressional district is *possible* in Louisiana" and any attempt to create one would be an unconstitutional "racial gerrymander." ***Id.* at 13** (emphasis added). As a corollary, the State recognized that the plaintiffs in that case—whose aim was precisely to mandate the creation of two majority-minority districts—presented "the exact type of

evidence of racial intent that dooms legislative action." ***Id.* at 14-15**. In sum, the State repeatedly stressed that it was "impossible . . . to demonstrate that a second majority-minority district can be drawn without impermissibly resorting to mere race as a factor." ***Id.* at 15; *see also id.* at 7** ("again, . . . you cannot create two legally sufficient BVAP congressional districts"). The State thereby admitted that it could not create two majority-minority districts without violating the Constitution.

The State also addressed the plaintiffs' proposed maps, which created majority-African American districts composed of African American voters in cities 152 and 157 miles apart. Citing these statistics, the State admitted that the districts were not compact. ***Id.* at 12**. Soon after, however, in SB8, the State created majority-African American districts with African American voters in cities at least 230 miles apart. **Ex. A at 26**.

Neither the district court nor the United States Court of Appeals for the Fifth Circuit ever issued a final order on the merits.

III. Louisiana rushed to pass a new congressional redistricting map.

The Attorney General, who had litigated on behalf of Louisiana, was elected Governor and assumed his new office on January 8, 2024. **Ex. I, J**. On that very day, he called for the legislative special session to focus on redistricting. **Ex. I, J**. A week later, the Governor opened the session by calling upon the Legislature to perform "[a] job that our own laws direct us to complete" and "a job that our individual oaths promised we would perform." **Ex. K, L**. At the beginning of the session, on January 15, 2024, Senator Glen Womack introduced SB8. **Ex. L, M**. Four days later, it passed both Houses, and the Governor voiced his approval. **Ex. L, N, O**. The following Monday, he signed it into law. **Ex. L**.

IV. SB8 segregated voters based on race.

SB8 repealed the prior redistricting law—which had been effective for the 2022 election—and enacted a new one. **Ex. N**. It created two majority-African American districts, Districts 2 and 6, and four majority-non-African American districts, Districts 1, 3, 4, and 5. **Ex. Q**. While all district lines were redrawn, the biggest change was to District 6. **Ex. A, P, Q**. It saw a 30% increase in African American voters, and a proportionate decrease in non-African American voters. **Ex. A, F, Q**. SB8 packed non-African American voters predominantly into District 1, 3, 4, and 5; as a result, majorities they held in these districts became massive super-majorities. **Ex. A, F, Q**.

SB8 drew Districts 6 and 2's tendrils specifically to capture areas with large numbers of African American voters. **Ex. A at 23**; **Ex. P, S-CC**. District 6, for example, stretches in a slash mark from the top northwest corner of the State in Shreveport, diagonally to central Alexandria, and then further down to Baton Rouge in the southeast. **Ex. A, P**. Midway, it abruptly detours even further south to Lafayette in the heart of Acadiana solely to pick up African American voters. **Ex. A, P**. These are all areas with high numbers of African American voters. **Ex. A at 11, 22-23**.

V. Lawmakers admitted they intentionally drew districts along race-based lines.

Shortly after the Governor called the special session, legislators made clear that their purpose was to somehow draw two African American-majority districts. Louisiana Representative Matthew Willard, for example, told the press: "[W]e look forward to beginning that redistricting session and walking away with two majority-minority African-American congressional districts." **Ex. DD**. He also told the public: "We'll be doing everything we can to make sure that we are not diluting the voices of Black voters in Louisiana and to get those two majority-minority seats." **Ex. EE**. Rep. Willard had recently received a new leadership role in the House as the chair of the House Democratic Caucus, where in his words, he "lead[s] the caucus of 32 members." **Ex. DD**.

An influential voice, U.S. Representative Troy Carter, the Congressman for District 2, made similar comments. **Ex. FF**. From beginning to end, his voice was especially important for SB8's passage. Later, just before the vote for SB8's final passage, his remarks were read on the Senate floor. Louisiana State Senate, *Senate Chamber 1ES Day 3*, at 26:00-27:00 (Jan. 17, 2024), https://senate.la.gov/s_video/VideoArchivePlayer.aspx?v=senate/2024/01/011724SCHAMB [hereinafter Senate Archive].

During SB8's third reading and final passage, several Senators spoke on the bill. Sen. Womack opened the discussion by presenting SB8 and answering legislators' questions. He said SB8 intentionally created "two congressional districts with a majority of Black voters." *Id*. at 8:47-8:54. He went on to discuss "the boundaries of District 2 and District 6 on your map," and emphasized that both were "over 50% Black voting age population." *Id*. at 9:20-9:35. He went on to state:

> Given the State's current demographics, there is not enough high Black population in the Southeast portion of Louisiana to create two majority Black districts and to also comply with the U.S. Constitution's one-person one-vote requirement. That is the reason why District 2 is drawn around Orleans parish while District 6 includes the Black population of East Baton Rouge Parish and travels up the I-49 corridor to include Black population in Shreveport.

Id. at 9:35-10:00. Sen. Womack repeatedly referred to the 250 miles between Baton Rouge and Shreveport in District 6 as merely a "corridor." *Id*. at 9:55-10:00, 12:50-12:55.

Sen. Womack repeated throughout his remarks that his primary goal in drafting SB8 was to create two majority-African American districts. He repeatedly referred to District 2 and District 6 as the "minority" or "Black" districts. *Id*. at 9:00-10:40, 16:35-16:43, 18:15.

In an important exchange, Sen. Womack disavowed that he had complied with traditional redistricting criteria. Sen. Jay Morris first asked Sen. Womack about the two majority-minority districts: "Among the factors that you considered, was the community of interest of the district

something that was considered in coming up with this version of the map that we have before us? . . . You didn't consider the community of interests of people having something in common with one another within the district?" *Id*. at 11:10-11:53. Sen. Womack then responded: "No, I didn't because it was, we had to draw two districts and that's the only way we could get two districts . . . ." *Id*. at 11:54-12:05. Sen. Womack also denied that he considered agriculture as a community of interest in District 6. *Id*. at 12:09-12:48.

Sen. Morris also asked Sen. Womack when referring to District 6: "Would you say the heart of the district is Northeast Louisiana, North Central Louisiana?" *Id*. at 12:50-13:05. Sen. Womack responded: "I wouldn't say the heart of that district is that way." *Id*. at 13:05-13:20. He went on to state District 6 simply "had to be drawn like it had to be drawn to pick that up." *Id*. at 13:05-13:20. Sen. Morris asked again: "So is there a heart of the district?" *Id*. at 13:20-13:25. Sen. Womack said: "I don't think it has a heart of the district." *Id*. at 13:25-13:35. Sen. Womack recognized there was no tie or common interest between the district's northern and southern regions. Race was the only reason it extended into far-flung regions of Louisiana.

Sen. Womack, sympathizing with a colleague's concerns, admitted: "Where we had to draw two minority districts, that's the way the numbers worked out. You've worked with redistricting before and you have to work everyone around that the best you can." *Id*. at 18:08-18:30.

Sen. Gary Carter next raised concerns about the "current African American voting age population in District 2" because it was now only "51%." *Id*. at 24:30-25:10. He had "serious concerns" with whether "District 2 continues to perform as an African American district." *Id*. at 25:10-25:25. But despite those concerns about African American "perform[ance]" in District 2, he supported the legislation. *Id*. In making these comments, Sen. Carter demonstrated that he was especially concerned about ensuring a certain percentage of the population was African American

in District 2. Sen. Carter also read and endorsed a statement from Congressman Troy Carter, who currently represents District 2 in the U.S. House of Representatives. He said: "My dear friends and colleagues, as I said on the steps of the Capitol, I will work with anyone who wants to create two majority-minority districts. I am not married to any one map. I have worked tirelessly to create two majority-minority districts that perform. That's how I know that there may be better ways to craft both of these districts. There are multiple maps that haven't been reviewed at all. However, the Womack map creates two majority-minority districts and therefore I am supportive of it, and I urge my former colleagues and friends to vote for it while trying to make both districts stronger with appropriate amendment. We do not want to jeopardize this rare opportunity to give African American voters the equal representation they rightly deserve." *Id*. at 26:00-27:00.

Sen. Royce Duplessis affirmed his intent that SB8 "was about one-third of this State going underrepresented for too long." *Id*. at 33:00-34:15. "So I think it's important that we keep the focus on why we're here today." *Id*. at 34:15-34:35. His reference to one-third of the State was a reference to the African American population. He went on to state: "Just like Senator Carter, I'm not thrilled with what's happening in District 2 and the way it's lowering the numbers," referring to the numbers of African American voters Sen. Carter discussed. *Id*. at 34:40-34:52. Sen. Duplessis discussed how he had created a map with Sen. Price that "we thought performed better." *Id*. at 34:52-35:00. He stated he would support SB8 "because he thought it was time to give people of this State fair representation." *Id*. at 35:25-35:32.

Sen. Thomas Pressly rose in opposition, stating that Northwest Louisiana was "unique from the rest of our State, and I believe that commonalities of interest are important." *Id*. at 35:55-36:40. He stated: "I cannot support a map that puts Caddo Parish and portions of my district, which is over 220 miles from here, in a district that will be represented by someone in East Baton Rouge

Parish that may or may not have ever even been to Northwest Louisiana and certainly doesn't understand the rich culture, rich important uniqueness of our area of the State." *Id*. at 36:55-37:23. He went on: "When we look at Louisiana we often talk about North and South. And that division is true. It's real. I think all of us acknowledge that. The I-10 corridor has unique needs. When we think of the challenges you face with storms, often you think of hurricanes. In North Louisiana we think of tornadoes and ice storms. When you look at the important regions of our States and the diverse industries that we have . . . that is something that we must keep in mind as we continue through this process." *Id*. at 37:23-38:14. He said: "I am concerned with the important part of this State—Northwest Louisiana—not having the same member of Congress." *Id*. at 38:14-38:29. He said it made no sense to create two congressional districts and draw District 6 and District 4 "along a line that's based purely on race." *Id*. at 38:29-38:40.

SB8 passed the Senate on January 17, 2024, by a vote of 27-11. **Ex. L**. That same day, it was presented in the House and assigned to committee. ***Id.*** Two days later, Rep. Beau Beaullieu, its sponsor, presented SB8 to the House for debate and final passage. ***Id.*** In his opening remarks, Rep. Beaullieu stated that SB8 created "two congressional districts with a majority of Black voters." Louisiana State House of Representatives, House Chamber Day 5, 1ES – SINE DIE, at 2:48:25-2:48:31 (Jan. 19, 2024), https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2024/jan/0119_24_1ES_Day 5 [hereinafter House Archive]. Like Sen. Womack, he discussed "the boundaries for District 2 and District 6," and emphasized that "both" "are over 50% Black voting age population or BVAP." *Id*. at 2:49:00-2:49:13. Like Sen. Womack, he went on to admit:

> Given the State's current demographics, there is not a high enough Black population in the Southeast portion of Louisiana to create two majority Black districts and to also comply with the U.S. Constitution's one-vote one-person requirement. That is the reason why District 2 is drawn around Orleans Parish, why District 6 includes

> the Black population of East Baton Rouge Parish and travels up the I-49 corridor and the Red River to include Black population in Shreveport.

Id. at 2:49:19-2:49:49.

Rep. C. Denise Marcelle agreed that the goal was to get "a second congressional district." *Id*. at 2:43:25-2:43:30. The only colleague to question Rep. Beaullieu confirmed this. When Rep. Beryl Amedee asked, "Is this bill intended to create another Black district?" Rep. Beaullieu responded: "Yes, ma'am." *Id*. at 2:51:00-2:51:17.

Rep. Mike Bayham then rose in opposition, declaring that "St. Bernhard [Parish] has never been split into two congressional districts." *Id*. at 2:52:07-2:52:10. He continued:

> Looking at these precincts, and I know every precinct, I've campaigned in every precinct in St. Bernhard, we have two precincts, for example, that are in the second congressional district. One, Precinct 24, gave President Trump 75% of the vote. Precinct 25 gave President Trump 69% of the vote. Those are in the second district. And the first district is Precinct 44 which gave President Biden 83% of the vote. Precinct 45 gave President Biden 85% of the vote. It seems like these precincts were just thrown together like a mechanical claw machine just grabbing people and dropping them off.

Id. at 2:52:17-2:23:05. St. Bernhard Parish is divided between District 1 and 2. Rep. Bayham concluded: "We are being told that we have to redraw all of this in a period of less than eight days. That is not how you make sausage. That's how you make a mess. I cannot in good conscience vote for this bill that divides my community and I will stand by that for my community." *Id*. at 2:53:10-2:53:33. No other representatives spoke. *Id*.

SB8 passed the House by a vote of 86-16 on January 19, 2024. **Ex. L**. The same day, it returned to the Senate with amendments, where it passed by a vote of 27-11, and went to the Governor's desk. **Ex. L**. The Governor publicly approved it and signed it into law the following Monday, January 22, 2024, and it became immediately effective. **Ex. L, N, O**.

VI. Plaintiffs filed this lawsuit.

On January 31, 2024, Plaintiffs, voters from all six of the newly enacted congressional districts who plan to vote in the 2024 congressional election, sued the Louisiana Secretary of State in her official capacity under 42 U.S.C. § 1983, challenging the newly enacted congressional districts as unconstitutional under the Fourteenth and Fifteenth Amendments and seeking declaratory and injunctive relief. **Dkt. 1; Ex. GG-RR**. Plaintiffs now request a preliminary injunction, asking this Court to stop the irreparable harm and violation of their constitutional rights and to institute a new map to remedy these constitutional violations.

ARGUMENT

Plaintiffs "seeking a preliminary injunction must establish that (1) they are likely to succeed on the merits, (2) there is a 'substantial threat' they will suffer an 'irreparable injury' otherwise, (3) the potential injury 'outweighs any harm that will result' to the other side, and (4) an injunction will not 'disserve the public interest.'" *Missouri v. Biden*, 83 F.4th 350, 373 (5th Cir. 2023) (quoting *Atchafalaya Basinkeeper v. U.S. Army Corps of Eng'rs*, 894 F.3d 692, 696 (5th Cir. 2018)). Plaintiffs can establish all four factors, and they respectfully request the Court to enter an injunction to stop the use of SB8 and institute Plaintiffs' proposed remedial map.

I. Plaintiffs are likely to prevail on the merits.

Plaintiffs are likely to succeed on the merits of both Count I and II. **Dkt. 1.**

a. *Hays* decides this case.

Hays "presents us with what we in Louisiana call a 'Goose' case," meaning it is almost factually identical to the case before this Court today. *Hays*, 936 F. Supp. at 368. Louisiana is right back where it was 30 years ago. Like the slash district of 1993, District 6 in SB8 today "is approximately 250 miles long." *Id*. "The District thinly links minority neighborhoods of several

municipalities from Shreveport in the northwest to Baton Rouge in the southeast (with intermittent stops along the way at Alexandria, Lafayette, and other municipalities), thereby artificially fusing numerous and diverse cultures, each with its unique identity, history, economy, religious preference, and other such interests." *Id*.

In 1993, as now, the Legislature's racial gerrymandering was not confined to one district. *Cf. id*. at 364 n.17. Abutting districts received super-majority non-African American populations and "disproportionately small" African American populations, thereby "minimiz[ing] the influence" of those African American voters in the super-majority districts. *Cf. id*.

There, as here, there is not only circumstantial evidence of intentional racial segregation based on the map—there is *direct evidence* of statements from legislators in *both* chambers, made as SB8 was being passed, that their intent was to create racially gerrymandered districts. *Cf. id*. at 368-69. In 1993, as now, this is the State's *second* attempt to create a congressional map based on one Census in the face of an impending congressional election. *Cf. id*. at 364.

Finally, there, as here, this Court cannot remedy the map by ordering yet another do-over. *Cf. id*. at 371-72. Election procedures start too soon, and the likelihood of another constitutional violation is too high. History is repeating itself, and Louisiana must answer for its persistent unconstitutional actions. The State failed to create a redistricting map thirty years ago and has already failed twice this census cycle. How many more years will it take for these unconstitutional racial gerrymanders to cease? Absent action from this Court, there is no end in sight to this madness. Like this Court did thirty years ago, the Court must issue its own map. *Cf. id*. at 371-72.

b. Plaintiffs are likely to succeed on Count I.

Plaintiffs are likely to succeed on Count I, racial gerrymandering in violation of the Fourteenth Amendment. The Equal Protection Clause of the Fourteenth Amendment provides: "No

State shall . . . deny any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1. The Equal Protection Clause forbids States from racial gerrymandering—that is, "separat[ing] its citizens into different voting districts on the basis of race." *Miller*, 515 U.S. at 911. That is because "[a]t the heart of the Constitution's guarantee of equal protection lies the simple command that the Government must treat citizens as individuals, not as simply components of a racial, religious, sexual or national class." *Id*. (quoting *Metro Broad., Inc. v. FCC*, 497 U.S. 547, 602 (1990) (O'Connor, J., dissenting)). To protect this guarantee, race-based redistricting is subject to strict scrutiny. *Bethune-Hill v. Va. State Bd. of Elecs*., 580 U.S. 178, 187 (2017).

To trigger strict scrutiny, plaintiffs must first demonstrate that "race was the predominant factor" behind redistricting decisions. *Id*. Then, the burden shifts to the State to satisfy strict scrutiny, the "most rigorous and exacting standard of constitutional review." *Miller*, 515 U.S. at 920. The State can only meet this "rigorous and exacting standard" if it can prove both that it has a compelling interest in segregating voters based on race and that its racially drawn map is narrowly tailored to achieve that interest. *Id*.

i. Race was the predominant purpose behind the State's redistricting.

To show that race predominated in the State's calculus, Plaintiffs must show that the State subordinated other traditional redistricting factors—such as compactness, contiguity, respect for communities of interest, natural geographic boundaries, and parish lines—to racial considerations. *Cooper v. Harris*, 581 U.S. 285 (2017); *Allen v. Milligan*, 599 U.S. 1, 35 (2023).

Plaintiffs can rely on "circumstantial evidence of a district's shape and demographics or more direct evidence going to legislative purpose" or a mix of both to show race was the predominant factor behind the Legislature's districting decisions. *Bethune-Hill*, 580 U.S. at 187. Plaintiffs do not need to present a specific type of direct or circumstantial evidence. *Cooper*, 581

U.S. at 319 n.4. Here, Plaintiffs have presented sufficient direct and circumstantial evidence that race was not only the State's predominant purpose behind SB8—race was the State's sole purpose.

1. Direct Evidence

First, Plaintiffs have presented direct evidence "that the State's [decisionmakers] purposefully established a racial target." *Cooper*, 581 U.S. at 299. SB8's author, sponsor, and other lawmakers expressly stated that attaining a certain racial percentage within the districts was the nonnegotiable goal. *Shaw v. Hunt* (*Shaw II*), 517 U.S. 899, 906–07 (1996). The legislators "were not coy in expressing that goal" and instead "repeatedly told their colleagues that [the two districts] had to be majority-minority." *Cooper*, 581 U.S. at 299. Both SB8 author Sen. Womack and sponsor Rep. Beaullieu separately stated that the goal was to create "two congressional districts with a majority of Black voters." Senate Archive, *supra*; House Archive, *supra*. They claimed they drew "the boundaries for District 2 and District 6" to include "over 50% Black voting age population." Senate Archive, *supra*; House Archive, *supra*. They said they drew solely with that goal in mind:

> Given the State's current demographics, there is not a high enough Black population in the Southeast portion of Louisiana to create two majority Black districts and to also comply with the U.S. Constitution's one-vote one-person requirement. *That is the reason why* District 2 is drawn around Orleans Parish, *why* District 6 includes the Black population of East Baton Rouge Parish and travels up the I-49 corridor and the Red River to include Black population in Shreveport.

Senate Archive, *supra* (emphasis added); *see also* House Archive, *supra*. The one question Rep. Beaullieu was asked after presenting SB8 was: "Is this bill intended to create another Black district?" He answered: "Yes." House Archive, *supra*.

Other lawmakers expressed that the goal was to reach a threshold majority of African American voters in two districts. Sen. Duplessis called it the "focus of why we're here today." *Id*. Sen. Carter, for example, stated that he was concerned about District 2 only having a "51%" African American majority, but because the district reached the threshold majority, he approved it.

Senate Archive, *supra*. Sen. Duplessis expressed the same sentiment about "the numbers." *Id*. Sen. Carter relayed Congressman Carter's statement that the singular goal was to create "two majority-minority districts." *Id*. Sen. Carter and Sen. Duplessis discussed the importance of how District 2 would "perform" as an African American majority district. *Id*. Rep. Marcelle discussed the goal to get "a second congressional district." House Archive, *supra*.

Lawmakers made clear that they did not consider traditional redistricting criteria when fixing these racial quotas. In fact, Sen. Womack disavowed that he had complied with traditional redistricting criteria when drafting SB8. Sen. Jay Morris asked Sen. Womack about the two majority-minority districts: "Among the factors that you considered, was the community of interest of the district something that was considered in coming up with this version of the map that we have before us? . . . You didn't consider the community of interests of people having something in common with one another within the district?" Senate Archive, *supra*, at 11:10-11:53. Sen. Womack responded: "No, I didn't because it was, we had to draw two districts and that's the only way we could get two districts . . . ." *Id*. at 11:54-12:05; *see also id*. at 12:09-12:48. Sen. Womack repeatedly referred to the hundreds of miles between Baton Rouge and Shreveport in District 6 as merely a "corridor." *Id*. at 9:55-10:00, 12:50-12:55. He also admitted: "I don't think it has a heart of the district." *Id*. at 13:25-13:35. District 6, he said, simply "had to be drawn like it had to be drawn to pick that up," referring to African American voters in Northern Louisiana. *Id*. at 13:05-13:20. These remarks show the Legislature found no tie or common interest between the district's northern region and its southeastern and Acadiana regions. When Sen. Morris raised traditional redistricting criteria concerns, Sen. Womack sympathized but said: "Where we had to draw two minority districts, that's the way the numbers worked out. You've worked with redistricting before and you have to work everyone around that the best you can." *Id*. at 18:08-18:30.

Neither Sen. Womack nor Rep. Beaullieu (the two sponsors) mentioned compactness in their discussions. It was wholly absent from every proponents' discussion of the bill. Only critics flagged compactness as a special concern. Both sponsors acknowledged the odd shape of District 6 when addressing "why" it narrowly "travels up the I-49 corridor and the Red River." Senate Archive, *supra*.; House Archive, *supra*.

Like the two sponsors, other key legislators admitted that SB8 was based on race, not traditional redistricting criteria. Sen. Pressly stated that the line between District 4 and District 6 was "purely based on race," and did not account for the "commonalities of interest" of people in Northwest Louisiana and the "unique," "rich culture," "industries," and even natural disasters that distinguished the region from the rest of the State. Senate Archive, *supra*. Rep. Bayham also raised concerns about the failure to abide by traditional redistricting criteria. He said the divide between voters in Districts 1 and 2 did not even split on partisan lines. Rather the line-drawing seemed "like a mechanical claw machine just grabbing people and dropping them off." House Archive, *supra*. When Sen. Morris asked whether "communities of interest" were considered, Sen. Womack answered negatively. Senate Archive, *supra*. Traditional redistricting factors were disregarded.

Even if the State had considered race-neutral factors, the record reveals that those "considerations only came into play *only after* the race-based decision had been made." *Bethune-Hill*, 580 U.S. at 189 (quotation omitted) (emphasis added). Race predominated in the decision.

The State also conceded previously that the State could not comply with traditional redistricting criteria by creating two majority-African American districts. *Cf. Miller*, 515 U.S. at 919 (noting that an attorney general's objection to creating "three majority-black districts on the ground that to do so the State would have to 'violate all reasonable standards of compactness and contiguity'" was "powerful evidence that the legislature subordinated traditional districting

principles to race when it ultimately enacted a plan creating three majority-black districts"). Speaking on behalf of the State while serving as Attorney General, Governor Landry said it was "impossible" for the State to create a second majority-African American district without violating the U.S. Constitution and traditional redistricting criteria, "without impermissibly resorting to mere race as a factor" and without engaging in an unconstitutional "racial gerrymander." **Ex. H at 13-15**. These filings from "a state official," not to mention one of the key lawmakers in enacting SB8, is "powerful evidence" that the State "subordinated traditional districting principles to race when it ultimately enacted a plan creating [the] majority-black districts." *Miller*, 515 U.S. at 919.

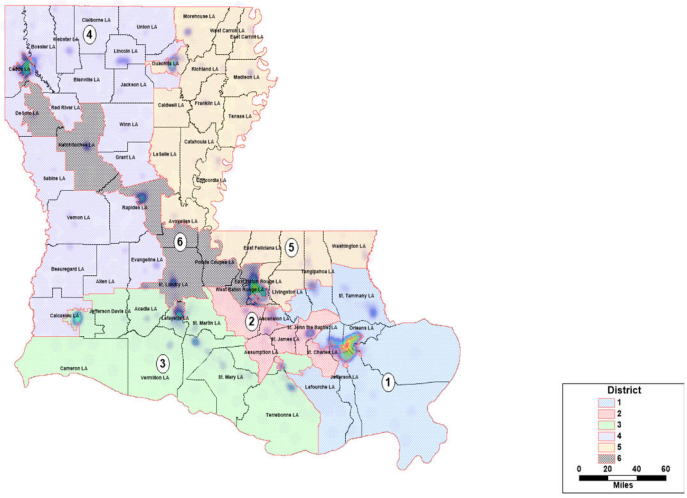
2. Circumstantial Evidence

Even without this abundant direct evidence, plentiful circumstantial evidence establishes that the State did not abide by traditional redistricting criteria, including compactness, contiguity, and cohesiveness of communities of interest, but instead drew all six districts based on race.

The State engaged in racial gerrymandering across all six districts, just as it did in all seven districts in 1993. *Cf. Hays*, 936 F. Supp. at 364 n.17 (noting that the racial gerrymandering pervaded in all districts because the Legislature pushed predominately African American "neighborhoods into the majority-minority district" and non-African American ones into the adjoining districts, which required "splitting parishes, splitting precincts, splitting metropolitan areas, and combining distant and disparate geographical, economic, social, religious and cultural groups and areas"). "Districts share borders, after all, and a legislature may pursue a common redistricting policy toward multiple districts." *Bethune-Hill*, 580 U.S. at 192.

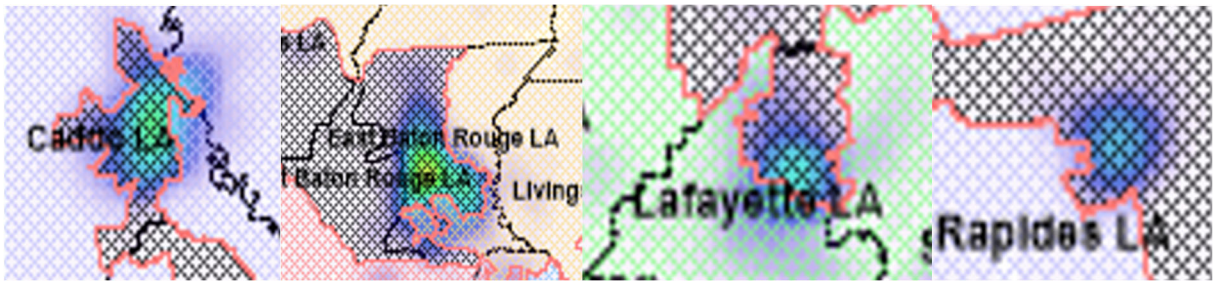
First, the very shape of the districts show that the State simply tried to "connect the dots" of African American voters in Districts 2 and 6 and exclude as many African American voters in Districts 1, 3, 4, and 5. **Ex. A at 22-23**. The largest concentrations of African American voters are

in New Orleans, Baton Rouge, and Shreveport. ***Id.* at 22**. The district lines show the State's purpose was to pack as many African American voters as possible into Districts 2 and 6. ***Id.* at 23**.



Id. District 6 stretches just far enough to reach African American voters in Northwest Shreveport and Southeast Baton Rouge, not one block further. District 6 takes a sudden detour from its narrow diagonal trek to barely encircle African American voters in Lafayette in the heart of District 3 and Acadiana—a distinct region of Louisiana. A closer view of the lines drawn around the major pockets of African American voters in District 6 demonstrates the intentional gerrymandering.

Shreveport Baton Rouge Lafayette Alexandria



Id. Other areas with high African American populations, for example, De Soto Parish, were also exactly carved in. ***Id.* at 23-26; Ex. W**. The legislature's precise tracing around the dots to include as many African American voters as possible and as few non-African American voters as possible demonstrates that it intentionally drew these lines purely based on race.

Second, all the districts are "narrow and bizarrely shaped," demonstrating that the singular goal was to segregate voters by race. *Milligan*, 599 U.S. at 28 (quoting *Bush v. Vera*, 517 U.S. 952, 965 (1996) (plurality)).

District 6, for example, is a narrow diagonal line that runs along the Interstate 49 corridor. Compared to North Carolina's infamous slash district that stretched approximately 160 miles along the Interstate 85 corridor and was struck down as an unconstitutional racial gerrymander by the Supreme Court in *Shaw*, this is an easy case. *Id.* at 635. District 6 stretches at least 230 miles between its appendages in Shreveport and Baton Rouge, cities in opposite corners of the State. **Ex. A at 26**. *Cf. Hays*, 936 F. Supp. at 370 (It "meanders for roughly 250 miles from the northwestern corner of the state to the southeast, dividing parishes and municipalities while surgically agglomerating pockets of minority populations along the way."). It then plunges South to the heart of Cajun Country in Lafayette to encompass African American voters there. In Rapides Parish, it dwindles to a width of 2.7 miles before continuing its snake upward toward Shreveport. **Ex. A at 26**. In DeSoto Parish, it is only 1.9 miles wide. ***Id.***; *cf. Miller*, 515 U.S. at 917 ("[I]t was 'exceedingly obvious' from the shape of the Eleventh District, together with the relevant racial demographics, that the drawing of narrow land bridges to incorporate within the district outlying appendages containing nearly 80% of the district's total black population was a deliberate attempt to bring black populations into the district."). District 6's appendages are also sinuous, some just a few blocks wide. **Ex. A at 24-26**. Each twist and turn tightly encircles African American voters.

Districts 5 and 4 are equally bizarre. Like a crooked hourglass, District 5's massive northern and southern portions touch only at a narrow impassible "land bridge[]" demonstrating that this district was an intentional racial gerrymander. *Miller v. Johnson*, 515 U.S. 900, 917 (1995). District

4 is nearly halved by District 6; it extends from northern to southern Louisiana, despite the diverging interests of these two regions. **Ex. P**.

It would be difficult to draw less compact districts. *Shaw v. Reno* (*Shaw I*), 509 U.S. 630, 646–48 (1993). District 6 has a compactness score of 0.05, with 0 measuring total non-compactness and 1, total compactness. **Ex. A at 16-17**. Both Districts 4 and 5 score 0.08. ***Id.* at 17**. District 2 scores just 0.11. ***Id.*** District 1 and District 3 score 0.16 and 0.19, respectively. ***Id.***

The districts also slice and divide many parishes. *Bush v. Vera*, 517 U.S. 952, 974 (1996) (plurality opinion); *Cooper*, 581 U.S. at 301 n.3 (finding a "conflict with traditional redistricting principles" from "split[] numerous counties and precincts"). The plan split (16) parishes into thirty-four (34) parts. ***Id.* at 10, 14**. The splits affected 2,930,650 people who reside in all districts, or 63% of the State's total population. ***Id.* at 10, 14**.

The districts also separate communities of interest and unite disparate groups of people with nothing in common apart from race. Communities of interest are often defined geographically, such as by parishes, cities, and towns. ***Id.* at 6-7**. They also cluster around groups with a common culture, values, economy, religion, or local tradition. ***Id.* at 7**. Importantly, communities of interest are determined by the people. ***Id.* at 5**. Here, the Legislature ignored traditional communities of interest and instead presumed that African American voters all share the same interests and issues because of their race. The Legislature thereby created and defined its own community of interest based solely on racial characteristics. Cities as culturally and economically diverse as Shreveport, Alexandria, Baton Rouge, and Lafayette are linked together only based on race. Senate Archive, *supra* (Sen. Pressly); **Ex. MM**; *cf. Miller*, 515 U.S. at 908-09 (noting that one district "centered around four discrete, widely spaced urban centers that ha[d] absolutely nothing to do with each other, and stretch[ed] the district hundreds of miles across rural counties and narrow swamp

corridors" was a geographic "monstrosity"). The rural areas between these cities are treated as mere land bridges to reach pockets of African American voters, rather than important areas with their own unique ideals, values, cultures, and economic needs. **Ex. A at 21-23, 26**. The disparate needs of Northern and Southern Louisiana are especially stark. Among other things, the South faces hurricanes; the North deals with tornadoes and ice storms. Senate Archive, *supra* (Sen. Pressly). These areas also have divergent industries, agriculture, and economies. *Id*.; **Ex. MM**.

Not only does the map unite different communities of interest, but it also *divides* a larger number of communities of interest. SB8 split 83 municipalities, or over 1.55 million people, as well as dozens of parishes. **Ex. A at 15**. One example is where District 6 carves out a long, narrow peninsula in District 4 even though the cultural and industrial unity of people in Caddo Parish and Northwest Louisiana is incredibly strong. Senate Archive, *supra* (Sen. Pressly).

Additionally, the dramatic changes in percentages of voters by race across districts demonstrates that these fluctuations were not random—they were intentional choices to segregate voters based on race. *Cooper*, 581 U.S. at 310. The chart below records the percentage of African American and non-African American VAP for each district under the 2022 map and the current map, as enacted under SB8. **Ex. F, Q**.

District	2022 African American	2022 Non-African American	SB8 African American	SB8 Non-African American
1	13.482%	86.518%	12.692%	87.308%
2	58.650%	41.350%	51.007%	48.993%
3	24.627%	75.373%	22.568%	77.432%
4	33.820%	66.180%	20.579%	79.421%
5	32.913%	67.087%	26.958%	73.042%

6	23.861%	76.139%	53.990%	46.010%

In all four majority non-African American districts, racial disparities grew more dramatic. For example, in District 4, the percentage of non-African American voters shot up 13% and the percentage of African American voters decreased proportionally, creating a severe gap between non-African American and African American voters. *Cf. Cooper*, 581 U.S. at 310 (finding that an increase in BVAP of less than 7% was a "sizable jump"). The gap between African American and non-African American voters also grew in Districts 1, 3, and 5. Now all four majority-non-African American districts are super-majority districts, with non-African American voters holding roughly 87%, 79%, 77%, and 73% of the VAP in every single one, and African American voters comprising only 12%, 22%, 20% and 27% of those districts. The State's goal was to create non-African American super-majorities and to exclude African American voters, "minimizing the *influence*" of African American voters in those districts. *Hays*, 936 F. Supp. at 365 n.17 ("Racial minority political influence in the resulting super-majority districts . . . is either lost or significantly diminished because office holders and office seekers no longer need to heed the voices of the minority residents . . . once their influence has been gerrymandered away.").

The changes in District 2 and District 6 also demonstrate the State's racial gerrymandering. District 6 was the most dramatic, swinging from a non-African American majority district to an African American majority district by decreasing and increasing those VAPs by 30%, over *four times greater* than the "sizable jump" observed by the Supreme Court in *Cooper v. Harris*. 581 U.S. at 311. District 2, where the African American population decreased, still demonstrates a racial gerrymander. There, the African American population decreased but held the majority at 51%, a number that both Sen. Carter and Sen. Duplessis noted as sufficient to create a majority-African American district. This choice was deliberate. *Cf. Cooper*, 581 U.S. at 311 (noting the

State's deliberate decision to increase a district's BVAP to 50.7% so African Americans would hold a majority indicated racial gerrymandering).

Finally, Plaintiffs have presented an alternative map, which "is helpful but not necessary to meet [their] burden" to show racial predominance. *Cooper*, 581 U.S. at 319. That map includes markedly more compact districts that actually trace communities of interest. **Ex. A. at 28**. At the same time, it retains the core of District 2, which has long elected African Americans around Orleans Parish and its environs. ***Id***.

ii. The State's racial gerrymandering cannot survive this Court's strict scrutiny.

Since Plaintiffs have satisfied their burden to show race predominated in the State's decision, the State has the burden to satisfy strict scrutiny, meaning the State must show it segregated voters based on race by drawing these districts in pursuit of a compelling state interest, and the resulting segregated districts were narrowly tailored to achieve that compelling interest. *Shaw II*, 517 U.S. at 908. This analysis proceeds in two steps.

First, the State must show it enacted these maps pursuant to a compelling state interest. Only if the State identifies a compelling interest may the State proceed to its second burden, the even more rigorous narrow tailoring requirement.

The Supreme Court has assumed (but never decided) that satisfaction of the Voting Rights Act of 1965, 52 U.S.C. § 10101 ("VRA") is a compelling interest. But to show the racially gerrymandered districts were narrowly tailored to satisfy the VRA without violating the Constitution, the State must present actual "evidence or analysis supporting [the] claim that the VRA *require*[*s*]" the districts as drawn on a district-by-district basis. *Wis. Legislature v. Wis. Elecs. Comm'n*, 595 U.S. 398, 403 (2022) (emphasis added); *see also Bethune-Hill v. Va. State Bd. of*

Elecs., 580 U.S. 178, 191-92 (2017). Not any evidence or analysis suffices. The Supreme Court has required "a strong showing of a pre-enactment analysis with justifiable conclusions." *Abbott v. Perez*, 138 S. Ct. 2305, 2335 (2018) (citing *Bethune-Hill*, 580 U.S. at 191-92). Courts will not approve a racial gerrymander that proceeds on a legally mistaken view of the VRA. *Cooper*, 581 U.S. at 306. If the State relies on the VRA, its claim will fail for at least two reasons.

First, the State did not engage in "a strong . . . pre-enactment analysis with justifiable conclusions" before it segregated voters into race-based districts. *Abbott v. Perez*, 138 S. Ct. 2305, 2335 (2018). This analysis must be district-by-district. *Bethune-Hill*, 580 U.S. at 191. So even if the State was under the mistaken belief that it could create two majority-African American and four majority-non-African American districts and comply with traditional redistricting criteria, the State's failure to engage in a strong pre-enactment analysis with justifiable conclusions as to each of the specific districts enacted in SB8 dooms the State's case.

Second, the State proceeded on a mistaken understanding of the VRA. *Cooper*, 581 U.S. at 305. VRA Section 2 "never require[s] adoption of districts that violate traditional redistricting principles." *Milligan*, 599 U.S. at 30 (citation omitted); *see also Cooper*, 581 U.S. at 305; *Hays*, 936 F. Supp. at 370 ("[T]he VRA simply does not require the enactment of a second majority-minority district in Louisiana."). And even if these districts did not violate traditional criteria, VRA Section 2 never requires the State "to maximize the number of reasonably compact majority-minority districts." *Johnson v. DeGrandy*, 512 U.S. 997, 1022 (1994).

That's because the VRA should never compel a state to violate the Constitution, and a state's attempt to "concentrate[] a *dispersed* minority population in a single district by disregarding traditional districting principles such as compactness, contiguity, and respect for political subdivisions" and create a "reapportionment plan that includes in one district individuals who

belong to the same race, *but who are otherwise separated by geographical and political boundaries*," presents "serious constitutional concerns." *Milligan*, 599 U.S. at 27 (quoting *Shaw I*, 509 U.S. at 647). VRA claims are rarely successful today because "minority populations' geographic diffusion" across States and integration of various racial groups often prevents creation of "an additional majority-minority district" that satisfies the compactness requirement. *Milligan*, 599 U.S. at 29. African Americans are a dispersed minority across the State of Louisiana. **Ex. A at 22**. The State's attempt to force this dispersed group into two districts fails constitutional scrutiny.

Additionally, the State has already conceded that it did not abide by traditional redistricting criteria. It admitted that after the 2020 Census, it is "impossible" that "a second majority-minority district can be drawn without impermissibly resorting to mere race as a factor," that any attempt to do so would be an unconstitutional "racial gerrymander," and that attempts to slice voters into districts that could create such a map demonstrate "the exact type of evidence of racial intent that dooms legislative action." **Ex. H. at 13-15**. These statements alone (even without legislators' countless statements that they ignored traditional criteria, *see* Senate Archive, *supra*; House Archive, *supra*) show that the State did not follow traditional criteria. *Miller*, 515 U.S. at 919. SB8 is simply not narrowly tailored to meet any alleged interest in complying with the VRA.

c. Plaintiffs are likely to succeed on Count II.

Plaintiffs are also likely to succeed on Count II—intentional discrimination in violation of the Fourteenth and Fifteenth Amendments. The Supreme Court has recently reiterated that the Equal Protection Clause forbids not just *Shaw*-style racial classifications, it prohibits *all* discrimination:

> These decisions reflect the "'core purpose' of the Equal Protection Clause: "do[ing] away with *all* governmentally imposed discrimination based on race." *Palmore v. Sidoti*, 466 U.S. 429, 432 (1984) (footnote omitted)…

> Eliminating racial discrimination means eliminating *all of it*. And the Equal Protection Clause, we have accordingly held, applies "without regard to any differences of race, of color, or of nationality"—it is "*universal* in [its] application." *Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886). For "[t]he guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color." *Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265, 289–290 (1978) (opinion of Powell, J.). "If both are not accorded the same protection, then it is not equal." *Id*. at 290.

Students for Fair Admissions, Inc. v. President & Fellows of Harv. Coll., 600 U.S. 181, 206 (2023) (emphases added). The election context is no different.

The Fifteenth Amendment only reinforces these decisions in the election context, as it expressly prohibits discrimination between voters based on race and abridgement of voting rights based on race. *Gomillion v. Lightfoot*, 364 U.S. 339, 342 (1960); U.S. Const. amend. XV, § 1 ("The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude."). The Fifteenth Amendment "right to vote" may "be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise." *LULAC v. Edwards Aquifer Auth*., 937 F.3d 457, 462 (5th Cir. 2019) (quoting *Reynolds v. Sims*, 377 U.S. 533, 555 (1964)). In doing so, the "Fifteenth Amendment nullifies sophisticated as well as simple-minded modes of discrimination." *Gomillion*, 364 U.S. at 342 (quoting *Lane v. Wilson*, 307 U.S. 268, 275 (1939)).

SB8 has discriminated against Plaintiffs based solely on race. Plaintiffs recognize that no group of voters is entitled to proportional representation under the U.S. Constitution, and the application of traditional race-neutral criteria may often result in the mathematical underrepresentation or overrepresentation of racial, religious, or political groups. But the Constitution clearly protects all racial groups from representational schemes which have as their sole purpose a discriminatory quota that imposes an intentional overrepresentation of voters of a

particular race over all other voters in a jurisdiction. *See Gomillion*, 364 U.S. 339.[3] A claim that an election scheme is based predominantly on such discriminatory racial intent and results in the intended harm is actionable under the Fourteenth and Fifteenth Amendments. *Reno v. Bossier Parish Sch. Bd.*, 520 U.S. 471, 481 (1997); *Fusilier v. Landry*, 963 F.3d 447, 463 (5th Cir. 2020).

As shown above, the legislators' statements alone prove discriminatory intent. Legislators admitted they intentionally drew these districts to create precisely two majority-African American districts, even while fully aware that this violated all traditional redistricting criteria and enforced a racial quota based on super-proportional representation at the expense of other voters. This cut the majority-non-African American districts from five to four. In doing so, the State sought to "*substantially disadvantage[] certain voters in their opportunity to influence the political process effectively*." *Shaw I*, 509 U.S. at 663 (White, J., dissenting). That intent alone sufficiently shows discrimination.

Circumstantial evidence also shows discriminatory intent. *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 266 (1977). For example, the history of SB8, the whirlwind session that led to its passage, the special nature of the session announced on the Governor's first day in office, contemporaneous viewpoints expressed by SB8's key decisionmakers (discussed at length), and its known discriminatory impact all show that SB8 was passed with discriminatory intent. *Id*. at 266-68; *Fusilier*, 963 F.3d at 463. SB8 was created by means of an irregular procedure. It was the first legislative session after the Governor assumed office, it was a special session to focus exclusively on redistricting, and it was announced by the Governor on his very first day in

[3] Justice Stevens dissented in *Shaw* and *Miller* because he found the stereotyping harm in both to be insufficient, concluding that "[n]either in *Shaw* itself nor in the cases decided today has the Court coherently articulated what injury this cause of action is designed to redress." *Miller*, 515 U.S. at 929 (Stevens, J., dissenting). Justice Stevens explained that plaintiffs in those cases had made no showing of "vote dilution … to an identifiable group of voters" nor could they under the facts. *Id.* (Stevens, J., dissenting). Louisiana's current redistricting scheme obviates Justice Stevens's concerns about the missing harm in prior redistricting challenges.

office. SB8 was introduced, passed by both Chambers, and signed by the Governor in a matter of eight days. There was little debate, and the entire process was rushed to create two majority-African American districts and reduce the existing five majority-non-African American districts to four. While the Legislature had spent months travelling across the State and soliciting public input for the prior redistricting law, legislators did not even have time to inform their constituents about the redistricting bill or special session—much less ask their constituents for their opinions and provide proper representation on their behalf. *See* Senate Archive, *supra*, at 28:00-29:30.

Likewise, SB8 had a discriminatory impact and discriminatory effect on Plaintiffs. **Ex. GG-RR**. SB8 undoubtedly "bears more heavily on one race than another." *Arlington Heights*, 429 U.S. at 266 (citing *Washington v. Davis*, 426 U.S. 229, 242 (1976)). Here, as in *Gomillion*, SB8 imposes an obvious racial preference which hampers the ability of non-African American voters to engage in the typical compromises and influence that would exist in districts drawn consistent with traditional redistricting principles.

Here, the percentage of majority-minority gerrymandered districts compared to total districts is greater than the percentage of the minority's proportion of the citizen VAP. African Americans constitute a little more than 29% of the citizen VAP. The redistricting intentionally creates two majority-African American districts of the six districts, or slightly more than 33%. Although this gap is not large, the size of the gap is not the point. Instead, it is the intentional creation of the gap that works an injury.[4] Using a mandatory racial quota to not only approach, but to exceed, the African American share of the citizen VAP is an additional concrete harm to all non-

[4] To the extent any such intentional discrimination could ever be excused by means-end analysis, the State cannot meet strict scrutiny here for the reasons discussed in point I.A.

African American voters, amounting to the application of affirmative action in redistricting, unseen in previous racial gerrymandering cases.[5] *Cf. Students for Fair Admissions, Inc.*, 600 U.S. 181.

II. Plaintiffs will suffer irreparable injury absent injunctive relief.

Plaintiffs have suffered and will suffer a loss of constitutional rights when they cast their ballots in the 2024 election. Such harm is irreparable without immediate equitable relief. *BST Holdings, LLC v. OSHA*, 17 F.4th 604, 618 (5th Cir. 2021) ("[T]he loss of constitutional freedoms . . . 'unquestionably constitutes irreparable injury.'" (quoting *Elrod v. Burns*, 347 U.S. 373 (1976))); *see also Book People, Inc. v. Wong*, 91 F.4th 318 (5th Cir. 2024); *Opulent Life Church v. City of Holly Springs, Miss.*, 697 F.3d 279, 294 (5th Cir. 2012); *Deerfield Med. Ctr. v. City of Deerfield Beach*, 661 F. 2d 328, 338 (5th Cir. unit B 1981); *DeLeon v. Perry*, 975 F. Supp. 2d 632, 663 (W.D. Tex. 2014), *aff'd sub nom.*, *DeLeon v. Abbott*, 791 F.3d 619 (5th Cir. 2015) ("Federal courts at all levels have recognized that violation of constitutional rights constitutes irreparable harm as a matter of law."). Racial gerrymandering and discriminatory voting laws create irreparable injuries to voters, requiring "immediate relief." *United States v. City of Cambridge*, 799 F.2d 137, 140 (4th Cir. 1986); *see also*, *e.g.*, *Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012); *Williams v. Salerno*, 792 F.2d 323, 326 (2d Cir. 1986); *cf. Alternative Political Parties v. Hooks*, 121 F.3d 876 (3d Cir. 1997). After all, "once the election occurs, there can be no do-over and redress" for Plaintiffs. *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014). This Court must act now.

[5] The harm in *Shaw v. Reno* and all its progeny, including *Hays*, arises from stereotyping based on race and is felt by all voters in racially gerrymandered districts. That harm is present in this case as well. But in those earlier racial gerrymandering cases, the percentage of the challenged majority-minority gerrymandered districts compared to total districts was still less than the percentage of the minority's proportion of the citizen VAP. Here, the reverse is true. Thus, Plaintiffs experience an additional harm by virtue of their race.

III. The balance of equities weighs in Plaintiffs' favor.

The equities favor Plaintiffs. This racial gerrymander violates the constitutional rights of all Louisiana voters of all races who have been stereotyped and districted based on their race and presumed voting characteristics, masking their actual preferences and reducing their influence in their communities. *See Gomillion*, 364 U.S. 339. SB8 separates both sets of voters from their communities and puts them in districts with other voters hundreds of miles away, with whom they have little in common apart from race. **Ex. A, MM**. The result is they do not have the same power to appeal to their representatives—some of whom may have no knowledge of their region or culture. The harms to all voters go even deeper; when the State engages in race-based redistricting, it stereotypes all voters "as the product of their race, evaluating their thoughts and efforts—their very worth as citizens—according to a criterion barred to the Government by history and the Constitution." *Miller*, 515 U.S. at 912 (quoting *Metro Broad., Inc. v. FCC*, 497 U.S. 547, 604 (1990) (O'Connor, J., dissenting)); *see also Shaw I*, 509 U.S. at 647; *Students for Fair Admissions*, 600 U.S. at 220-21 (quoting *Miller*, 515 U.S. at 911-12, and *Shaw I*, 509 U.S. at 647).

Compared to this, the State's interests are minimal. Any interest in enforcing a redistricting law that violates constitutional rights is "illegitimate." *See BST Holdings*, 17 F.4th at 618. That's especially true in the election context, given that elections are at the heart of democracy and meant to reflect the people's true democratic choice. Moreover, Plaintiffs' requested remedy gives Defendant adequate time to enforce the new map in advance of the 2024 congressional election.

IV. The preliminary injunction does not weigh against the public interest.

Finally, a preliminary injunction is in the public interest. *See Ingebrigtsen v. Jackson Pub. Sch. Dist.*, 88 F.3d 274, 280 (5th Cir. 1996) (holding that where an enactment is unconstitutional, "the public interest [is] not disserved by an injunction preventing its implementation"); *DeLeon*,

791 F.3d 619 ("[A] preliminary injunction preventing the enforcement of an unconstitutional law serves, rather than contradicts, the public interest."); *G & V Lounge, Inc. v. Mich. Liquor Control Comm'n*, 23 F.3d 1071 (6th Cir. 1994) ("[I]t is always in the public interest to prevent the violation of a party's constitutional rights."). Prohibiting the Defendant Secretary from implementing SB8 during the pendency of this litigation before election processes begin would merely "freeze[] the status quo," precisely the purpose of a preliminary injunction. *Wenner v. Tex. Lottery Comm'n*, 123 F.3d 321, 326 (5th Cir. 1997); *see also Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981).

V. Conclusion: Plaintiffs are entitled to an injunction of SB8 and issuance of a new map.

Because Plaintiffs are very likely to succeed on their claims, the remedy is clear: This Court should enjoin use of this map and issue one that remedies Plaintiffs' rights in advance of the election. *Reynolds v. Sims*, 377 U.S. 533, 585 (1964) ("[O]nce a State's legislative apportionment scheme has been found to be unconstitutional, it would be the unusual case in which a court would be justified in not taking appropriate action to [e]nsure that no further elections are conducted under the invalid plan."); *Louisiana v. United States,* 380 U.S. 145, 154 (1965) (noting that in the face of racial discrimination, a district court has "not merely the power but the duty to render a decree which will so far as possible eliminate the discriminatory effects of the past as well as bar like discrimination in the future"); *United States v. Paradise*, 480 U.S. 149, 184 (1987) (noting it is within a district court's discretion to craft remedies for racial discrimination). Indeed, it would be unusual for a court to not take appropriate action to ensure no elections are conducted under an unconstitutional districting plan. *See, e.g.*, *Wright v. Sumter Cnty. Bd. of Elecs. & Registration*, 361 F. Supp.3d 1296, 1305 (M.D. Ga. 2018), *aff'd*, 979 F.3d 1282 (11th Cir. 2020); *Navajo Nation v. San Juan Cnty.*, 2:12- CV-00039, 2017 WL 6547635, at *19 (D. Utah Dec. 21, 2017), *aff'd*, 929 F.3d 1270 (10th Cir. 2019) (same).

Injunctive relief should be two-fold. First, the Court should strike down the current map as unconstitutional and enjoin Defendant Secretary of State Nancy Landry from enforcing it. Second, the Court should issue a remedial map for Defendant to use to qualify candidates and carry out the election. Plaintiffs are entitled to this requested relief under either Count I or Count II. Like *Hays*, the State's record here leaves no doubt that it would not follow traditional redistricting criteria and avoid intentional race-based discrimination by enacting a new map. *Hays*, 936 F. Supp. at 372; *see also Hays v. Louisiana*, 862 F. Supp. 119, 124-25 (W.D. La. 1994). Thus, Plaintiffs urge this Court to adopt Illustrative Plan 1. **Ex. A at 12**.

Dated this 7th day of February, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that, on this 7th day of February 2024, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which gives notice of filing to all counsel of record. Additionally, copies of all pleadings and other papers filed in this action to date or to be presented to the Court at the hearing have been mailed to the adverse party.

/s/ Paul Loy Hurd
Paul Loy Hurd

Exhibit E

IN THE UNITED STATES DISTRICT COURT FOR THE

WESTERN DISTRICT OF LOUISIANA

PHILLIP CALLAIS, *et al.*
PLAINTIFFS

C.A. No.

v.

NANCY LANDRY, in her
official capacity as Secretary
of State for Louisiana
DEFENDANT

EXPERT REPORT OF

Michael C. Hefner

ON BEHALF OF PLAINTIFFS

February 5, 2024

TABLE OF CONTENTS

EXPERT WITNESS REPORT OF MICHAEL C HEFNER

I. Introduction

This report has been prepared at the request of Paul Loy Hurd, APLC and Graves Garrett Greim LLC, the firms representing the Plaintiffs in this complaint. Geographic Planning & Demographic Services, LLC was retained by the law firms as an expert to determine the application of certain traditional redistricting criteria in the drafting of the Enacted 2024 Congressional Plan as adopted by the Louisiana Legislature in January 2024.

My rate for this case is $325 per hour. I have testified previously in the cases of *Terrebonne Parish Branch NAACP, et. al v. Piyush Jindal*, CA No. 3:14-cv-69-JJB-SCR and *Keith Kishbaugh vs The City of Lafayette Government, Lafayette Parish Government, and Lafayette City-Parish Government and Theresa D. Thomas, et. al v. St. Martin Parish School Board.* I have not published any publications within the past ten years.

I am an expert in demography and have been practicing in a professional capacity in that field since 1990. As a life-long resident of Louisiana, I am very familiar with the State of Louisiana and many of the parishes and communities within. Since my early years, I have traveled to many of the various parts of the State leading bicycling tours as well as my own private cycling destinations. In my official capacity as a demographer and a specialist in redistricting, my work has taken me to most of the parishes and communities in the State.

Projects ranged from parish and regional housing studies, school attendance zone configurations, student assignment work for school desegregation cases, student population projection studies, site location analysis, private marketing studies, economic development studies, technical assistance with demographics and grant submissions, and numerous election district redistricting projects. All those projects involved an intensive study of the areas being served. The studies encompassed researching news articles, historical publications, demographics, community characteristics, and interviews with local citizens. This level of research better prepared me for the work being done on behalf of the client and produced a quality product that was more responsive to their needs. That experience has well prepared me to serve as an expert witness in this case regarding communities of interest and other applicable redistricting criteria with the newly enacted Congressional plan.

A full description of my qualifications is found in Appendix Exhibit 2 in accordance with 28 U.S.C. §1746, 26(a)(2)(B), the Fed. R. Civ. Proc. and Rules 702 and 703, the Fed R. of Ev.

A. Factual Background

On August 12, 2021, the U.S. Census Bureau released the PL 94-171 redistricting file based on the 2020 census. The Louisiana Legislature then embarked upon a State-wide tour of each of the regions of the State to gather citizen input prior to convening the legislative session to take up State-wide and Congressional redistricting.

On or about February 18, 2022, the Legislature voted to approve the Congressional district plan under HB 1/SB 5 (HB1). The Governor vetoed the plan stating that a second majority African American Congressional district needed to be created to match the African American State-wide proportionality.

The Legislature subsequently overrode the veto thus putting the HB1 Congressional plan in to effect. The plan was then challenged, and the subsequent trial was suspended pending the decision of the U.S. Supreme Court in the Alabama Congressional Case.[1]

Upon that decision and after appeals before the 5th Circuit Court, the trial on the Louisiana plan was resumed. The District Court imposed a deadline for the Louisiana Legislature to draft and approve a new plan that contained a second majority-minority African American congressional district. Failure to do would cause the Court to draft its own plan.

During a special session called by newly elected Governor Jeffery Landry, the Louisiana Legislature adopted a new Congressional plan under Senate Bill 8 (SB8) that created a second majority-minority African American district out of Congressional District 6. After the new plan was signed into law by the Governor, the Plaintiffs then filed their complaint against the plan.

This report will analyze the effects of the new SB8 plan on communities of interest, district compactness, and the preservation of core districts.[2] All three are redistricting criteria traditionally used for redistricting purposes.[3] The use of race in the SB8 plan will also be provided in the analysis.

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[1] *Allen, Alabama Secretary of State, et. al. v Milligan, et. al.,* No. 21-1086, (U.S.S.C., June 8, 2023)

[2] Traditional redistricting criteria consist of: Compactness, Contiguity, Preservation of counties and other political subdivisions, Preservation of Communities of Interest, Preservation of Prior Core Districts, and avoid pairing of incumbents. In this report, there are no issues with Contiguity, One-Man One Vote, or Incumbency.

[3] The Louisiana Legislature set for rules for redistricting, among which are "that all plans shall respect the recognized political boundaries and natural geography of this state, to the extent practicable", and "In order to minimize voter confusion, due consideration shall be given to traditional district alignments". *Committee Rules for Redistricting*, Committee on House and Governmental Affairs, January 19, 2011.

B. Methodology

Plan Review and Analysis

The election plan was reviewed using the latest 2020 Census Data in the PL:94-171 file as released to Louisiana on August 12, 2021, for redistricting purposes. Both the U.S. Department of Justice and the State of Louisiana specify this file to be used in the absence of any approved special census counts.

The precinct geography used for the plan review was based on the 2024 state-wide precincts in effect as of the time of the SB8 plan approval. This precinct file represented the latest precinct geography as per mergers and splits from parish governing authority redistricting.

Evaluations of the SB8 2024 Enrolled plan and the Illustrative Plan 1 submitted by the Plaintiffs were reviewed in the context of customary traditional redistricting criteria as described in Section 2 of the Voting Rights Act but more specifically to the charge: the preservation of communities of interest, compactness, and preservation of prior core districts.[4] The use of race in the SB8 plan was charged as well. To provide additional comparisons, the HB1 2022 enacted plan was also reviewed. That plan was in effect for the last Congressional election.

Technical Specifications

GIS Software:	Maptitude for Redistricting ver. 2023, Caliper Corporation. ArcPro ver. 3.2.1, ESRI, Inc.
Election Data:	Louisiana Secretary of State Election databases.
Base Maps:	U.S. Census Bureau TIGER 2020 Line File, Enhanced Caliper Street file, precinct geography updated as found on the Louisiana Legislative Website

II. What Defines a Community of Interest?

Communities of interest are formed by people, often within a geographic or a defined area, who self-identify themselves with others who share similar traits based on political issues, culture, economic, occupation, religion, or local traditions.[5] That commonality results in interests and concerns that affect the group as a whole.

[4] The Louisiana Legislature adopted Joint Rule 21 and HCR 90 of the 2021 Regular Legislative Session that established the redistricting criteria to be used for State-level redistricting purposes. https://legiscan.com/LA/text/HCR90/2021.

[5] Duda, Jeremy "The Redistricting Conundrum: Just What is a Community of Interest?", AZ Mirror, December 2, 2021. https://www.azmirror.com/2021/12/03/the-redistricting-conundrum-just-what-is-a-community-of-interest/

Because of that self-identification, there is no set standard for a community of interest. Criteria that bind people together into a cohesive unit vary from one group to another as are set by the group. The specificity of the issues shared by a community of interest also can vary by level of geography.

As an example, parents of students attending a particular high school can constitute a community of interest centered around school issues and may be very specific. This would be an important consideration for a school board redistricting plan. Larger geographic areas, such as precincts, may have communities that are connected by issues in their neighborhood and surrounding areas. In fact, precincts often encompass neighboring neighborhoods within the specific geographic boundary of a precinct, and they gather to vote at a specific location. Aggregation of precincts that share common interests is a consideration for parish-level redistricting.

Likewise, parish-level geography may take a more generalized approach to issues that affect the parish itself. A collection of parishes constitutes a region that may have in common issues at a state-wide or national interest. The larger the geography, the broader and more generalized are the cohesive characteristics that bind people into a community of interest.

A good example of a regional community of interest is where parishes that share similar political concerns are grouped together into a Congressional district. That allows a more homogenous representation of that area in Congress when it comes to national issues and gives voice to those residents.[6] Many states formally recognize the importance of maintaining communities of interest when it comes to redrawing the election districts after each census.[7] While Louisiana does not have an adopted definition when it comes to communities of interest, many other states do.[8] A review of those guidelines helps illuminate the definition and importance of communities of interest.[9]

III. Preservation of Communities of Interest in Redistricting

Preservation of communities of interest is one of the seven traditional redistricting criteria used when designing election districts. It is closely related to the compactness and preservation of core districts redistricting criteria. From a representation perspective, keeping communities of interest together allows

[6] Buchler, Justin. "Competition, representation, and Redistricting: The Case against Competitive Congressional Districts." Journal of Theoretical Politics 17, no. 4: 431-463.
[7] "Communities of Interest", Brennan Center for Justice, November 2010. https://www.brennancenter.org/sites/default/files/analysis/6%20Communities%20of%20Interest.pdf
[8] The Louisiana Legislature adopted Joint Rule 21 and HCR 90 of the 2021 Regular Legislative Session has a provision elevating the preservation of the communities of interest within the same district above that of respecting established boundaries of parishes, municipalities, other political subdivisions, and natural boundaries of the State. *(See also FN 3).*
[9] Id.

those persons to have a voice in affairs that affect them. When an election plan splits apart those communities, those voices are submerged, resulting in a disenfranchisement in the electoral process and for representation on issues that affect them.

Because modern day redistricting software is so powerful and robust with features that can quickly calculate demographic and plan boundary changes, a demographer drawing an election plan can easily become focused on the mathematical perfection or a specific objective of a plan. Use of specifically defined characteristics such as precinct and parish boundaries, total population counts, racial makeup, and voting age populations often dominate the attention of the mapmaker because they are easy to quantify. Inclusion and exclusion of persons within a particular district can be readily ascertained on the effectiveness of the desired objectives of the mapmaker.

Because communities of interest are not always clearly defined, they are quite easy to overlook, particularly when inclusion of an area that some see having nebulous characteristics complicates the mathematics of a plan. Without local knowledge, it can be difficult to readily identify areas that share common issues, culture, economics, and even religion.

However difficult it may be to factor in communities of interest in pursuing a mathematically based plan, failure to do so can exert a tremendous obstacle to the effectiveness of an election plan once enacted. This can be especially true with a state's Legislative or Congressional plan.

Since *Miller v Johnson*, the Supreme Court has recognized the importance of communities of interest as a race-neutral criteria in redistricting.[10] This approach can ensure that the interests and values shared by a community are represented and given a voice in the elected body.[11]

IV. Parishes and Municipalities as Communities of Interest

For this analysis, two levels of communities of interest will be used. Parishes and municipalities both form political units that are cohesive in the many common issues that bring them together.[12]

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[10] Miller v. Johnson, 515 U.S. 900 (1995).

[11] "*Now is the time to draw districts that give a voice to minority voters who share a certain community of interest. Instead of simply gathering Black or Hispanic voters into a bizarrely-shaped district in in order to elect a representative who shares their skin color, districts should be drawn today to ensure that the voters' mutual interests, which have been shaped by their share conditions and history, are aggregated in the legislature*." M. Malone, Stephen J. "Recognizing Communities of Interest in a Legislative Apportionment Plan." Virginia Law Review, vol. 83, no. 2, 1997, pp. 461–92, https://doi.org/10.2307/1073783.

[12] *See FN 3*.

Municipalities are even more focused around common interests. As compared to a parish, the fewer number of people within the more concise geography such as a village, town, or city, makes it even more important to preserve the strength of their voice when it comes to legislative matters.

The effects of the adopted SB8 Congressional plan and the Plaintiffs Illustrative Plan 1 on those two areas will be compared as well as the prior HB1 2022 enacted plan. The first analysis will be at the parish level. The second analysis will be at the municipal level.

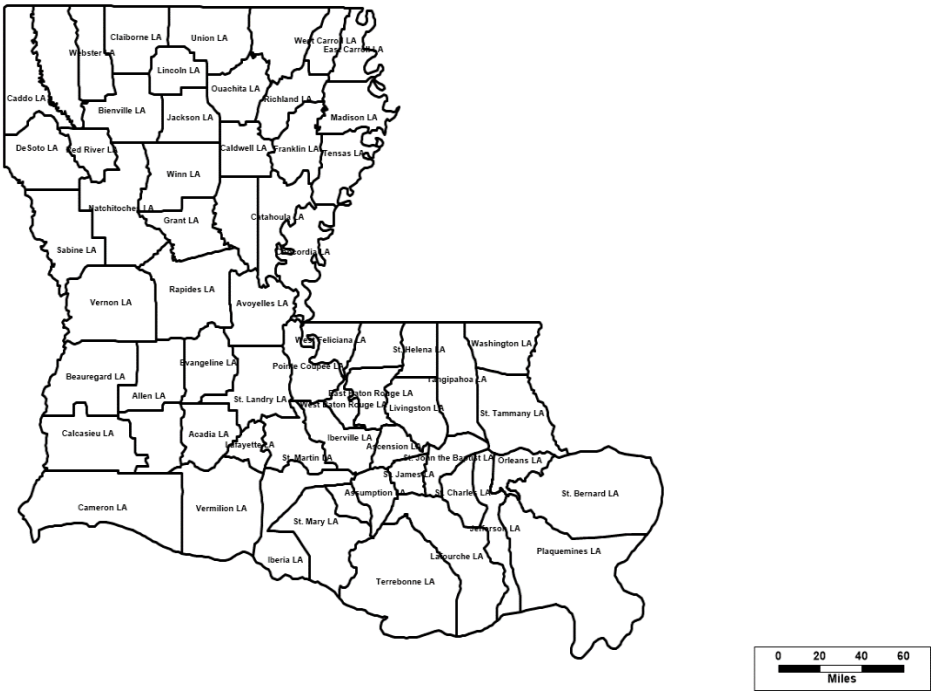
A. Parish Level

A plan drawn in a race-neutral manner should have few split parishes. While it is inevitable that some parishes may be split to balance the number of persons in each congressional district, the availability of a large number of geographical units (parishes) and population allows the one-man, one-vote requirement to be met with very few parish splits if done in a race-neutral way.

Splitting a parish divides a population that holds common interests among two or more congressional districts. This can detrimentally affect the voice those residents have on those issues in common when reaching out to their elected representative. The more parishes that are split within a congressional district, the more those voices are diminished since they rarely represent a majority of voters in any given congressional district. It is only natural that areas within a congressional district with a larger and cohesive population will drown out those populations split among multiple districts.

A map of the parishes in Louisiana is shown below. This part of the analysis will focus on those parishes and how they have been used in the three congressional plans.

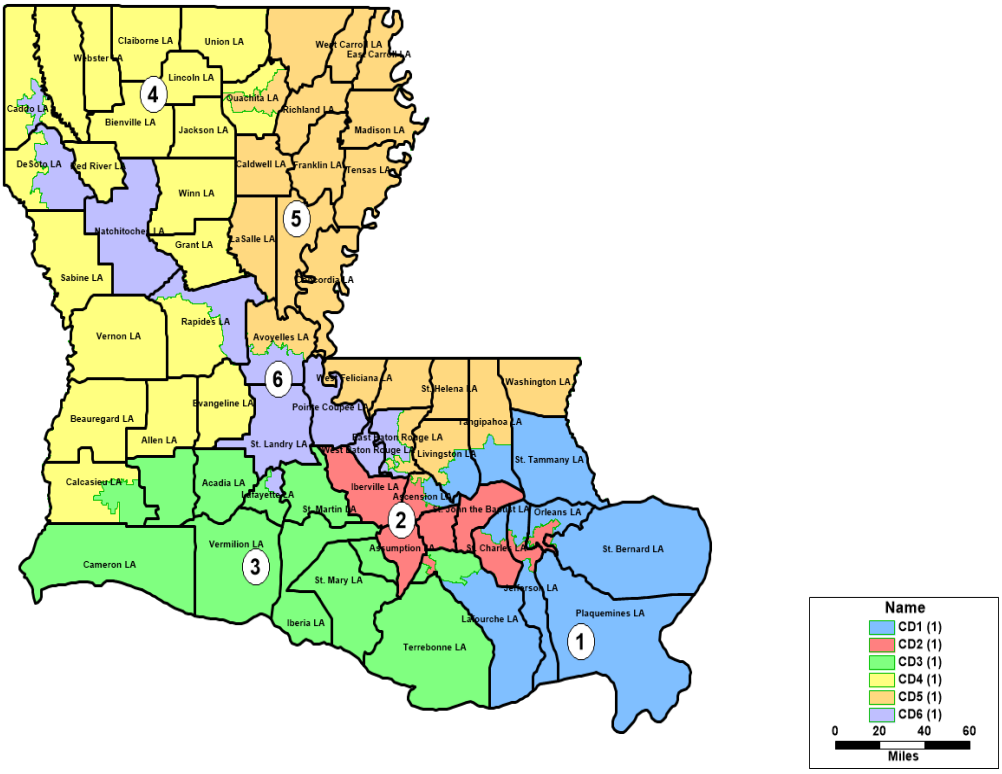
MAP 1- Louisiana Parishes



Senate Bill 8 2024 Enacted Plan

The SB8 plan enacted in January divides a number of parishes across the State. In particular, Congressional District 6 was drawn to connect part of East Baton Rouge Parish with the central part of Caddo Parish in Shreveport. Colloquially referred to as the "slash district" this district was drawn as the second majority-minority African American district. The bizarre shape of the district in context with the other congressional districts is striking. Map 2 shows the SB8 plan as enacted with the parish boundaries overlaid. Congressional District 6, the second majority-minority district that was created under this plan, is shown in purple.

MAP 2 – SB8 2024 Enacted Plan



As readily apparent, CD 6 now bisects the State diagonally from Baton Rouge to Shreveport. It nearly divides CD 4 in half, with that district having to loop around to the north and west of Shreveport to maintain contiguity.

From a communities of interest redistricting criteria, the SB8 enacted plan split a large number of parishes. Sixteen (16) parishes were split into thirty-four (34) parts to create a plan that contained a second minority district. The splits affected 2,930,650 persons or 63% of the State's 2020 Census Population.[13]

As a comparison, this plan configuration differs radically from the earlier HB1 plan enacted in 2022 and was used for the last Congressional election. In that plan, the traditional core districts were retained as well as the one majority-minority district (CD 2). The number of split parishes was less than SB8, with thirteen (13) parishes split into thirty (30) parts. This represented 2,045,200 persons, or 44% of the State's 2020 population.

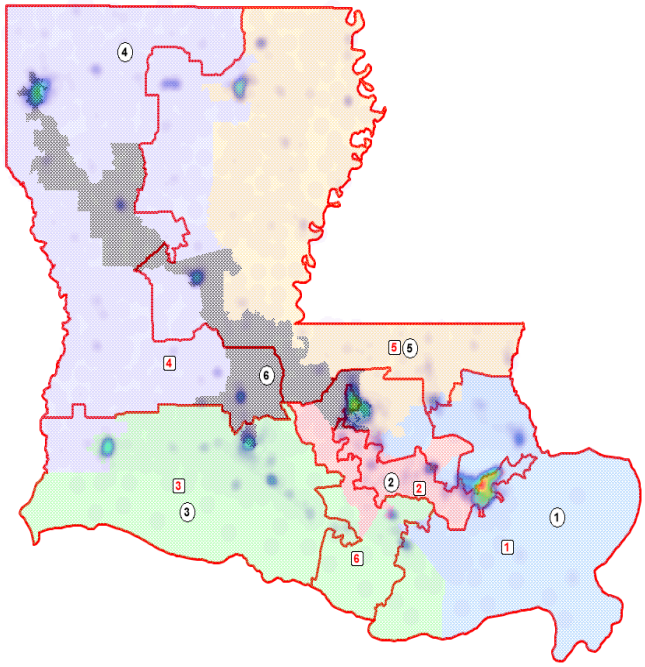
[13] The 2020 Census Count for Louisiana was 4,657,757 persons.

Map 3 illustrates the HB1 plan enacted in 2022 as a red outline superimposed on the SB8 districts. The concentrations of African American voting age populations as they are distributed across the State are also shown.

In comparing the two maps, you can see where the focus on race in the SB 8 plan to create a second majority-minority district significantly changed the configuration of Congressional Districts 3, 4, 5, and 6. Only Districts 1 and 2 stayed anywhere close to their previous configuration. In the HB1 plan CD 2 represented the largely African American population between New Orleans and Baton Rouge along the Mississippi River industrial corridor.

The SB8 enacted plan completely revised CD 6 to design it to stretch from Baton Rouge to Shreveport. This was necessary to tie in the pockets of African American voting age populations to create the second majority minority district.[14] In doing so, it split far more parishes than otherwise necessary.

Map 3 – SB8 Enacted Plan with HB1 Plan Outlined



[14] The voting age population (VAP) are those respondents to the 2020 Census who were 18 years of age and older and were eligible to register to vote.

The Illustrative Plan 1 proffered by the Plaintiffs is much more efficient. As a plan drawn in a race-neutral manner, it divides only nine (9) parishes into twenty (20) parts and affects 1,523,411 persons or 33% of the State's population. This is nearly half of what the SB8 enacted plan affects. Map 4 shows a map of Illustrative Plan 1. Table 1 provides the demographics of the plan.

Map 4– Plaintiffs' Illustrative Plan 1

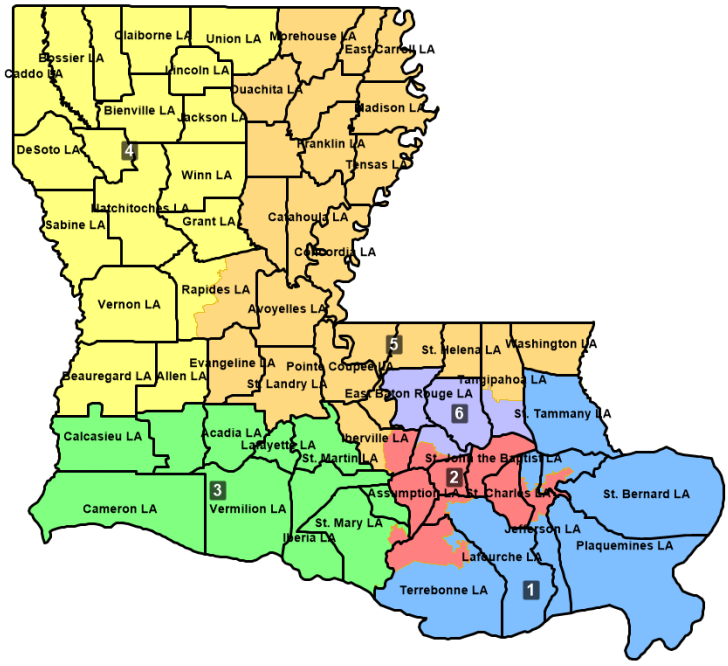
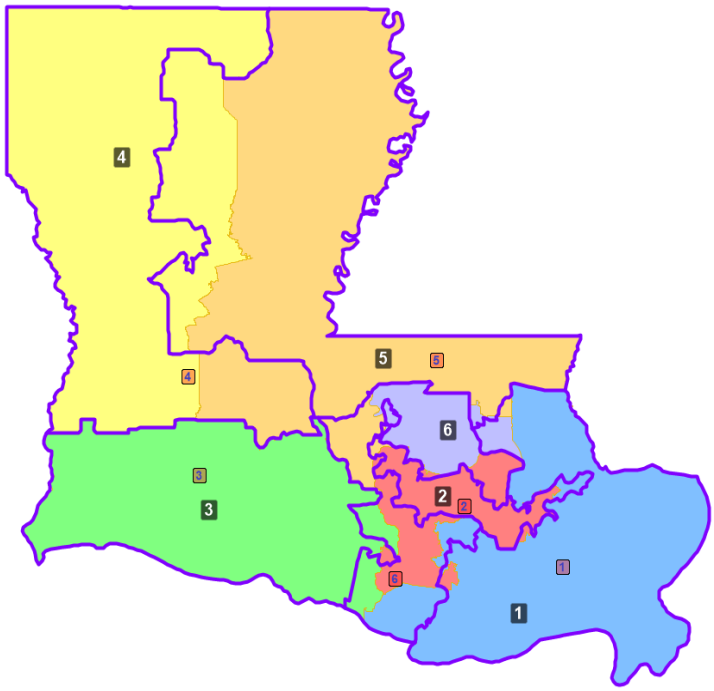


Table 1 – Illustrative Plan 1 Demographics

Louisiana Congressional Districts Plaintiffs' Illustrative Plan 1 Demographics												
Name	TOT_POP	Deviation	% Deviation	TOT_WHITE	% TOT_WHITE	TOT_BLACK	% TOT_BLACK	VAP_TOTAL	VAP_WHITE	% VAP_WHITE	VAP_BLACK	% VAP_BLACK
District 1	776271	-22	0.0%	547649	70.5%	108170	13.9%	603640	440965	73.1%	76145	12.6%
District 2	776280	-13	0.0%	268636	34.6%	415473	53.5%	599913	224336	37.4%	307901	51.3%
District 3	776261	-32	0.0%	508437	65.5%	204617	26.4%	586481	398509	67.9%	143574	24.5%
District 4	776310	17	0.0%	449099	57.9%	266586	34.3%	595679	357794	60.1%	193797	32.5%
District 5	776294	1	0.0%	450031	58.0%	283509	36.5%	592815	357703	60.3%	202994	34.2%
District 6	776341	48	0.0%	433800	55.9%	264764	34.1%	592020	345204	58.3%	191358	32.3%

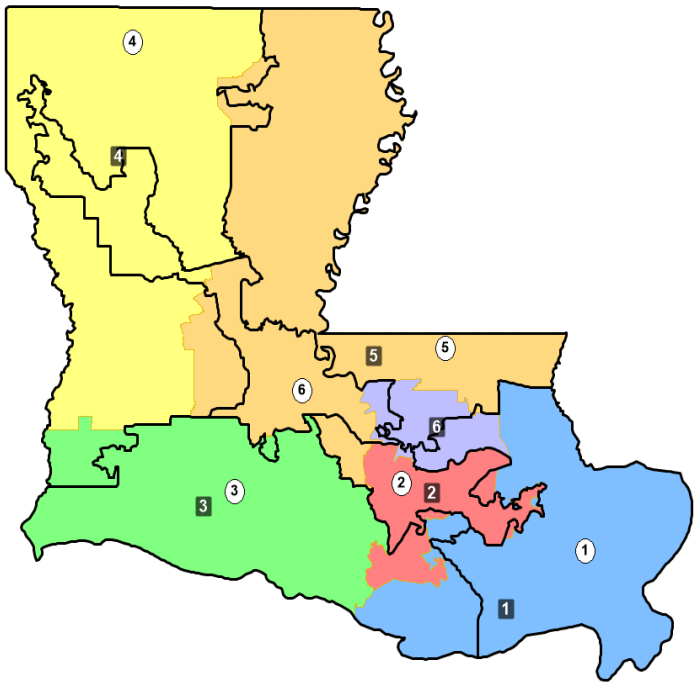
Illustrative Plan 1 retains the core districts but splits fewer parishes in creating a balanced plan with one majority-minority district in the traditional CD 2. In Map 5, the Illustrative Plan is shown with the HB1 2022 enacted plan outlined. The similarities with the core districts of the prior HB1 2022 plan are clearly seen.

Map 5– Illustrative Plan 1 with HB1 Enacted Plan Outlined



The Illustrative Plan is shown in Map 6 with the SB8 2024 enacted plan outlined. The effect of drawing a plan specifically to create a second majority-minority district is evident. Illustrative Plan 1 is shown in color with the SB8 enacted plan outlined in black and labeled with white circles.

Map 6 – Illustrative Plan 1 with SB 8 Enacted Plan Outlined



The following table summarizes the parish-level splits among the three plans.

Table 2- Summary of Parish- Level Splits

Louisiana Congressional Plan Comparison Communities of Interest Analysis-Split Parish Comparisons						
District	HB1 (2022 Enacted)		SB8 (2024 Enacted)		Illustrative Plan 1	
	Number of Split Parish Parts	Split Population	Number of Split Parish Parts	Split Population	Number of Split Parish Parts	Split Population
CD1	5	444,419	8	488,242	4	444,422
CD2	9	756,125	6	662,367	7	640,023
CD3	2	95,006	3	342,803	1	43,225
CD4	1	7,473	5	292,806	2	45,158
CD5	2	108,172	6	536,204	4	173,305
CD6	11	634,005	6	608,228	2	177,278
Total Splits/Pop	30	2,045,200	34	2,930,650	20	1,523,411
Split Parishes	13		16		9	
Zero Pop Parishes	0		0		1	20

B. Municipal Level

Municipalities are even more intimate among their populations when it comes to common interests. Municipalities are often formed around religion, economic, political, education, tradition, or other concerns. These core interests bind those citizens together.

When municipalities are divided into two or more State-level election districts, the voices of those citizens are submerged among the louder and more numerous voices in whole communities. This disenfranchises voters and diminishes their ability to compete for the attention of their representatives and in competing for scarce resources.

The SB8 2024 enacted plan splits more municipalities than either the prior HB1 plan or the Illustrative Plan 1. The primary focus on creating the second majority minority district cast aside considerations of maintaining intact as many municipalities as possible. Like with the parish analysis, SB8 causes more harm to municipal citizens than either of the HB1 or Illustrative plans.

The following table shows the number of municipalities that are split under each plan analyzed and the number of persons affected.

Table 3 – Summary of Split Municipalities

Louisiana Congressional Plan Comparison Communities of Interest Analysis-Split Municipality Comparisons						
District	HB1 (2022 Enacted)		SB8 (2024 Enacted)		Illustrative Plan 1	
	Number of Split Municipalities	Split Population	Number of Split Municipalities	Split Population	Number of Split Municipalities	Split Population
CD1	14	329,382	14	296,863	13	344,157
CD2	19	503,298	12	402,112	19	394,549
CD3	5	15,115	15	195,800	6	10,700
CD4	4	11,400	15	114,335	2	2,137
CD5	3	16,829	12	156,087	10	63,443
CD6	19	221,258	15	390,415	4	21,299
Total Splits/Pop	64	1,097,282	83	1,555,612	54	836,285
Whole Municipalities	459		447		464	
Zero Pop Municipalities	2		3		2	

The SB8 enacted plan split eighty-three (83) municipalities with 447 remaining whole. The number of persons represented by the splits was 1,555,612. The prior enacted HB1 plan split sixty-four (64)

municipalities while keeping 459 intact. This was nineteen (19) fewer splits than SB8 and twelve (12) more whole municipalities.

Illustrative Plan 1, by comparison, is far more cognizant of maintaining municipal integrity. That plan divided only fifty-four municipalities which represented 836,285 persons. This is twenty-nine (29) fewer split municipalities than SB8 with roughly half of the citizens affected by being split into two or more congressional districts. Overall, the Illustrative Plan 1 retains 464 whole communities, seventeen (17) more than SB8.

V. Compactness

Compactness works together with preservation of communities of interest. A compact district is much less likely to divide communities of interest in the drafting of a plan. Conversely, districts that are not compact, and indeed, are drawn out and elongated in order to achieve some pre-determined objective in a plan, typically split more communities of interest than would otherwise be necessary.

In this case, the compactness of a district goes to the heart of whether it is feasible to create a second majority-minority district. The minority population not only needs to be numerous enough, but also compact enough to create a district using traditional redistricting principals.[15]

To assist with compact analysis of a plan, there are several mathematical models that can be used. One of the most popular is the Polsby-Popper model. This model is most used to evaluate the compactness of a district but accounts for the degree to which a district has been gerrymandered. Under this model, a score of "0.0" is least compact, and a score of "1.0" is most compact.[16]

To assist with the compactness analysis, Table 4 was created to illustrate the Polsby-Popper scores for the three plans analyzed in this report.

[15] Thornburg v. Gingles, 478 U.S. 30 (1986)

[16] Belottie, P., Buchanan, A., Ezazipour, S. "Political Districting to Optimize the Polsby-Popper Compactness Score" https://austinlbuchanan.github.io/files/Political_Districting_to_Optimize_Polsby_Popper_Compactness_OO_style.pdf

Table 4 – Polsby-Popper Compactness Scores

Louisiana Congressional Plan Comparison Polsby-Popper Compact Scores							
Plan	**CD1**	**CD2**	**CD3**	**CD4**	**CD5**	**CD6**	**Plan Mean**
HB1 Enacted Plan 2022	0.16	0.06	0.29	0.16	0.12	0.07	0.14
SB8 Enacted Plan 2024	0.16	0.11	0.19	0.08	0.08	0.05	0.11
Plaintiffs Illustrative Plan 1	0.19	0.13	0.32	0.3	0.12	0.33	0.23
Scores closer to 1.0 are more compact.							

SB8 2024 Enacted Plan as Compared to the Prior HB1 2022 Enacted Plan

Congressional District 2 has historically represented the large concentration of African Americans between New Orleans and Baton Rouge as connected through those African American populations who reside in the Mississippi River parishes between those two cities. The district is numerous and compact enough to create a district using traditional redistricting principals.[17]

The compactness scores in CD 2 changed between the HB1 and SB8 plans. Because CD 2 was shifting African American population over to CD 6 in SB8, it became a bit more geographically concentrated and therefore more compact.

In the SB8 2024 enacted plan, the 6th Congressional district was drawn to connect the African American population in Caddo Parish with the remainder of the African American population in the East Baton Rouge area. Those two areas are the only areas with substantially enough African American population to create the majority-minority district. Along the way, the district meanders to loop in the African American population in northeast Lafayette Parish, northeast Rapides Parish, east DeSoto Parish, and south Avoyelles Parish to increase the minority population counts.

But due to the racial gerrymandering necessary to create CD 6 as a second majority-minority district in the SB8 plan, the compactness scores go down in CD 3, CD 4, CD 5, and CD 6. Four out of six districts are less compact in SB8 as compared to the prior enacted HB1 plan. Only CD 1 has an unchanged compact score.

The reduction in compactness for the individual districts in SB8 over HB1 reduces the overall compactness score. The mean score for SB8 is 0.11, a reduction of 0.03 in the Polsby-Popper score.

[17] See FN2.

SB8 2024 Enacted Plan as Compared to Plaintiffs' Illustrative Plan 1

When comparing SB8 to the Plaintiffs' Illustrative Plan 1, the race-centric focus and the machinations necessary to create a second majority-minority district are evident in the Polsby-Popper scores. When applying traditional redistricting criteria in a race neutral manner, it is shown that state-wide districts can be drawn more compact.

In all six congressional districts, Illustrative Plan 1 is considerably more compact than the SB8 enacted plan. In CD 4 and CD 6, the differences are striking.

The lack of compactness, especially in CD 6, lends credence that the African American population outside of CD 2 are not sufficiently concentrated enough to create a second majority-minority district using traditional redistricting criteria. The elongated stretching of CD 6 across the State was necessary to bring those disparate African American clusters together into one district so as to have a minority population greater than 50%. That stretching brings the compactness score in CD 6 to just above "0". Of the six congressional districts, CD 6 is the least compact.

By drawing a plan that does not use race as the primary characteristic, it is possible to draw districts that are much more compact. Plaintiffs' Illustrated Plan 1 is 48% more compact than the enacted SB8 plan. CD 6 in the Illustrative Plan is 15% more compact than in the SB8 plan.

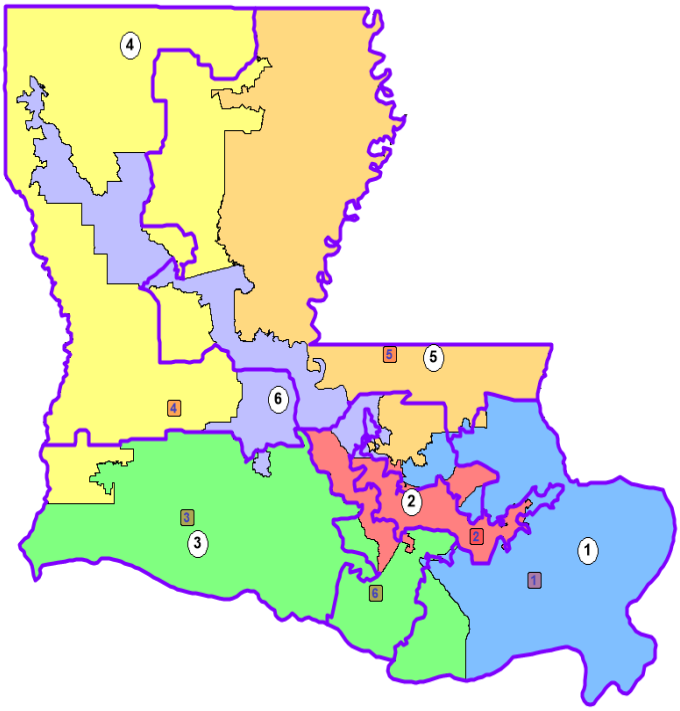
VI. Preservation of Core Districts

Traditional redistricting criteria call for minimizing the changes in the core districts that were previously in effect. This is to reduce voter confusion and maintain continuity of representation over time.[18]

When the SB8 plan was adopted by the Legislature, it departed radically from the prior HB1 plan enacted in 2022. The departure was rationalized on the presumption that a second majority-minority district was necessary in the Congressional plan. A comparison to the prior HB1 plan to the SB8 plan is shown in Map 7. The SB8 districts are colored with the HB1 districts outlined in purple.

[18] "Redistricting Criteria" National Conference of State Legislatures, July 16, 2021. https://www.ncsl.org/redistricting-and-census/redistricting-criteria

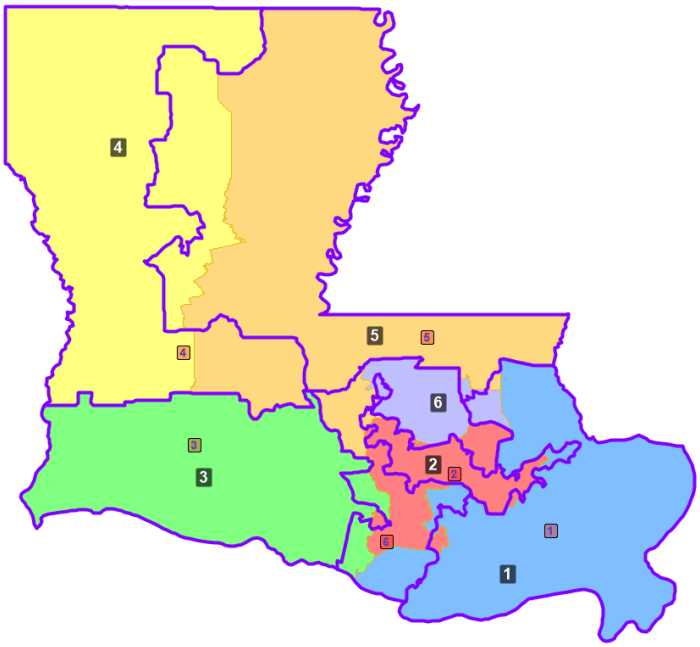
Map 7 – Comparison of SB8 Enacted Plan with HB1 Enacted Plan (2022)



The SB8 map bears very little resemblance to the earlier HB1 enacted plan. The configuration for CD 6, is radically different. Previously it represented the area from north Baton Rouge, thence around westerly and southerly to Lafourche and Terrebonne Parishes. Under the 2024 enacted plan, CD 6 now stretches from north Baton Rouge diagonally across the State into Shreveport.

Plaintiffs' Illustrated Plan 1 shows that a congressional district configuration can be drawn that closely aligns with the prior core districts and makes as little changes as needed to rebalance the population and satisfy other redistricting criteria. Map 8 shows how Illustrative Plan 1 compares to the prior HB1 2022 enacted plan.

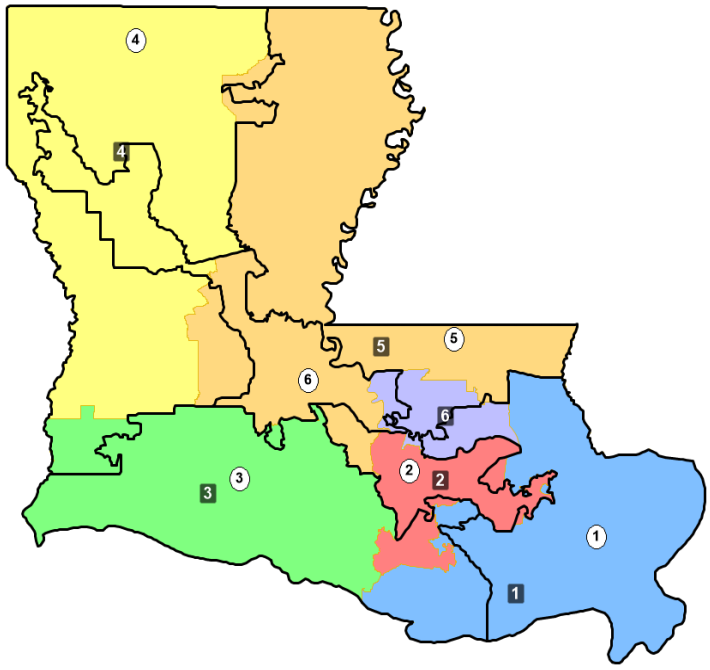
Map 8 – Illustrative Plan 1 with HB1 Enacted Plan (2022) Outlined



Plaintiffs Illustrative Plan 1 improves over the prior enacted plan by minimizing the contours of the districts. The boundaries are cleaner and easier to follow.

Alternatively, the Illustrative Plan 1 greatly improves over the district boundaries in the SB8 enacted plan. Map 9 shows the differences between the two plans.

MAP 9 – Illustrative Plan 1 with SB8 Enacted Plan (2024) Outlined



As with the earlier enacted plan, Illustrative Plan 1 is much more aligned with the core election districts. Due to the emphasis on creating a second majority-minority district, SB8 had to radically depart from the core districts to achieve the objective. This runs counter to the intent of the preservation of core districts redistricting criteria.

VII. Race Considerations

The awareness of race is part and parcel of drawing any new redistricting plan. But where race is the sole or primary consideration of whether to put a person in or out of a district, then that plan becomes a racially driven plan. The intricacies of placing people in and out of districts typically become contorted and are reflected in the boundary lines of the plan.

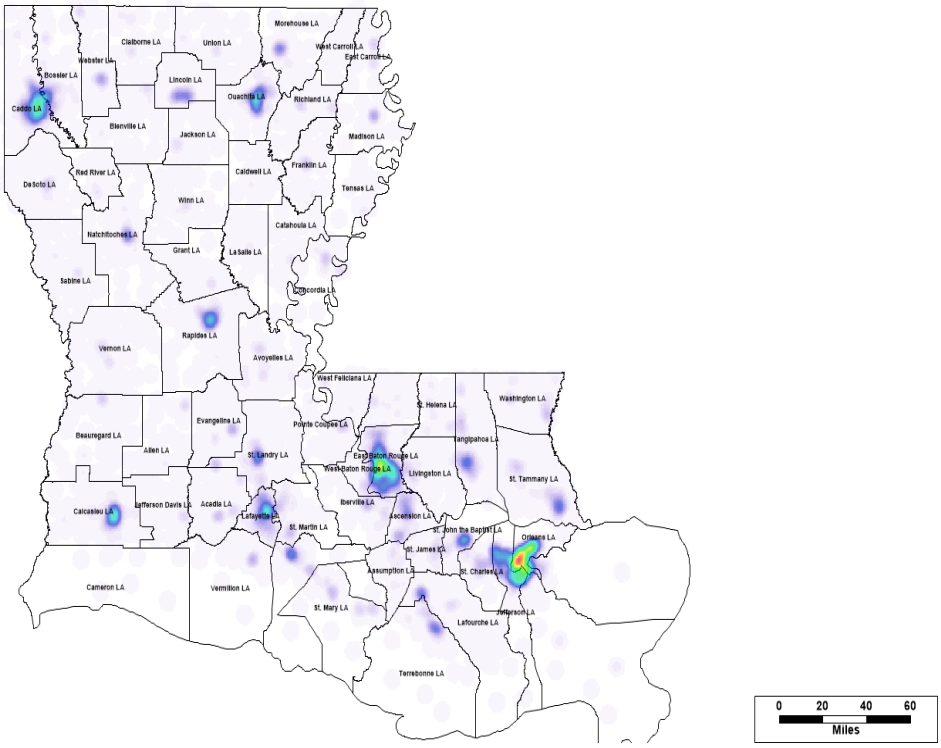
The use of Geographic Information System software provides a great deal of power to the mapmaker to achieve certain objectives with a redistricting plan. Because of that, it is important for the mapmaker to adhere to traditional redistricting criteria in drawing a plan.

As noted earlier in this report, the widely advertised reason for a new congressional plan was for the sole purpose of creating a second majority-minority district. The Legislature responded to this demand from the Court and others accordingly and adopted the SB8 plan in January 2024.

While in the aggregate, it appears that the State has a sufficient number of African American voting age population to justify a second majority-minority district, the issue is the geographical dispersion of that population. Once outside the New Orleans to Baton Rouge corridor, the number of concentrated predominately African American communities are far fewer and become separated by significant distances.

The following map shows the distribution of the African American voting age population in the State. The clusters of African Americans are shown in thematic colors corresponding to the density.

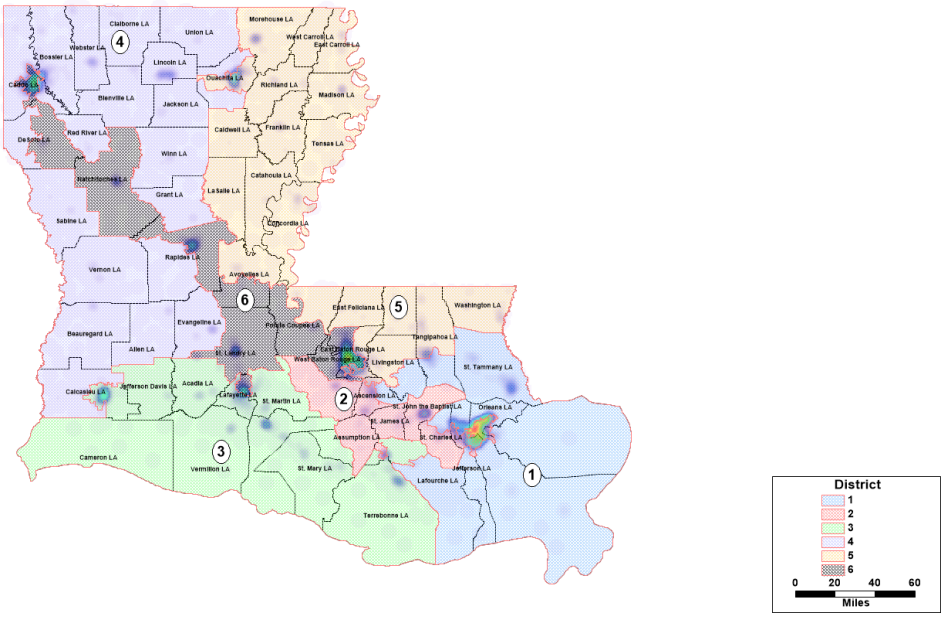
Map 10 – Heat Map of African American Voting Age Population (2020 Census)



Map 10 clearly show the geographic challenge in trying to connect enough African American populations "dots" in CD 6 to make it a majority-minority district. Once outside the CD 2 district along the Mississippi River corridor, the densities of the African American voting age populations are less and further apart.

The following map shows how the mapmaker stretched CD 6 across the State to capture what significant African American clusters it could to create a district with more than fifty percent (50%+) African American voting age population.

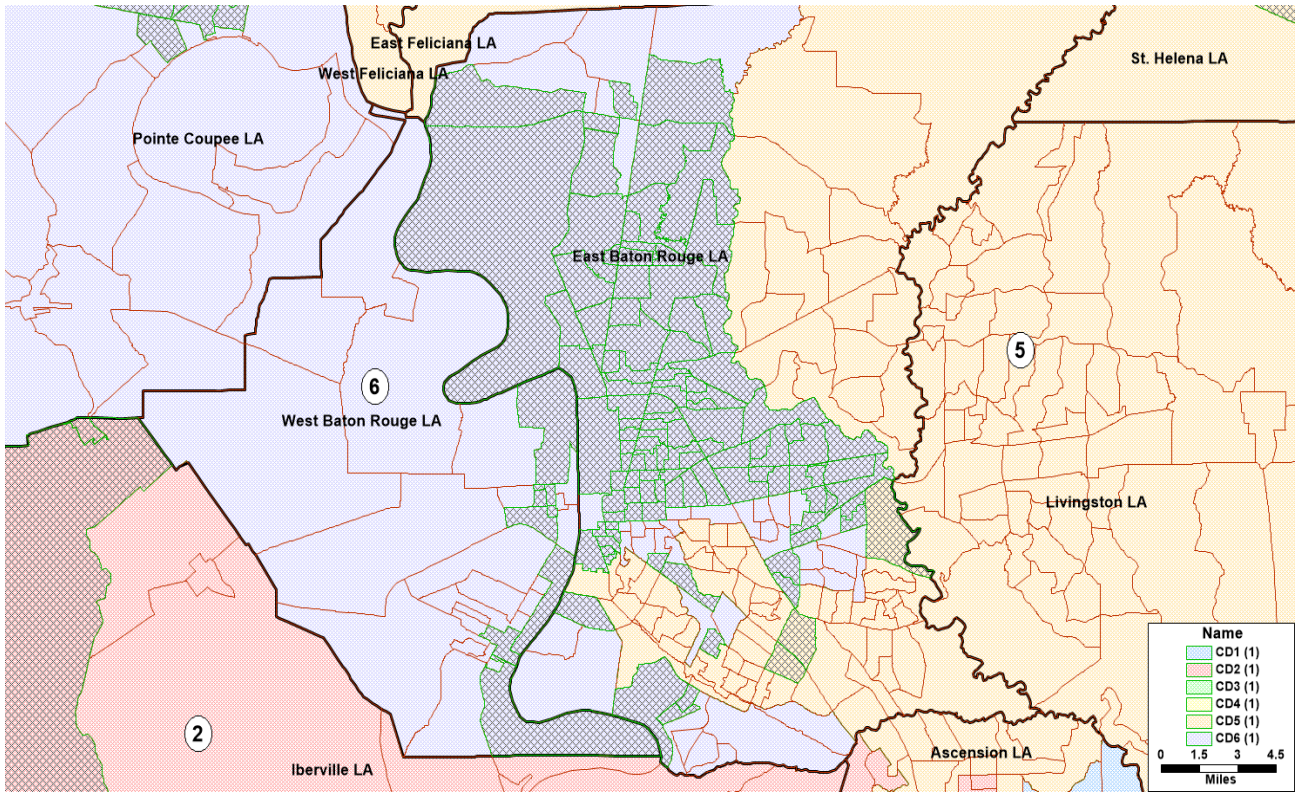
Map 11 – SB 8 Plan with African American Populations



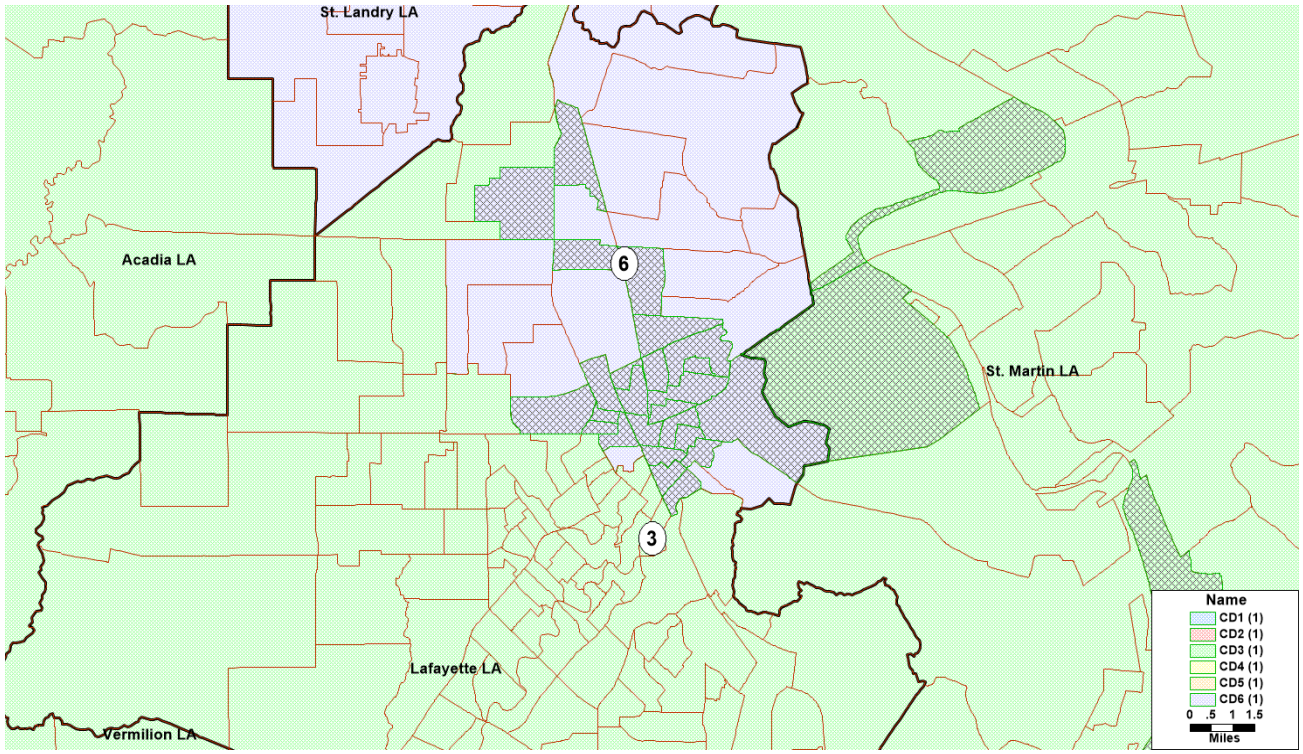
Because of the challenge in meeting that race objective, the SB8 plan had to include or exclude persons based on their racial characteristics. This technique can be easily seen in the next series of maps.

Each maps shows the details of how the district boundaries were created by using the racial profile of the precincts in each respective area to either include or exclude. The precincts that are majority African American in each map are shown with a hatch pattern. With that distinction it is easy to see why certain precincts were included or excluded. When examined more closely here at the parish-level, it can be readily seen where CD 6 was carefully drafted to include as many majority African American precincts as possible, while minimizing or excluding where possible, those with more White populations.

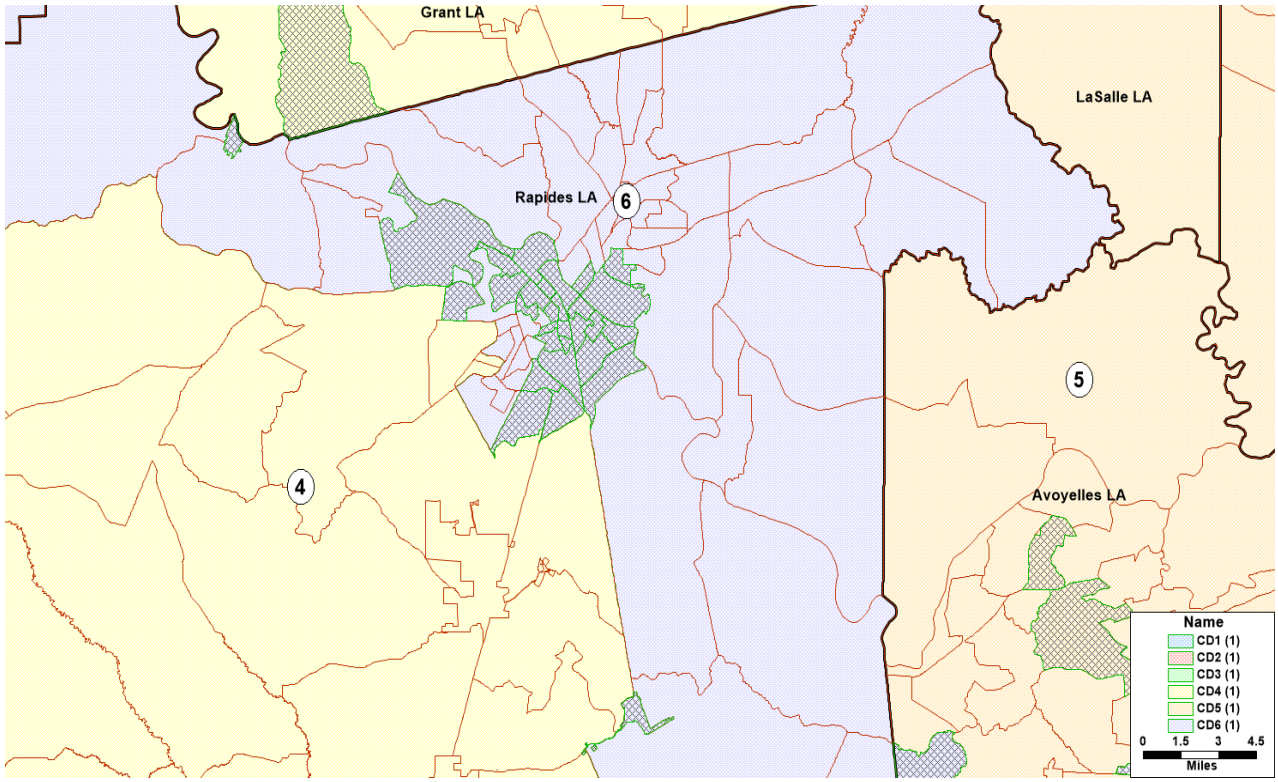
Map 11 – East Baton Rouge Parish



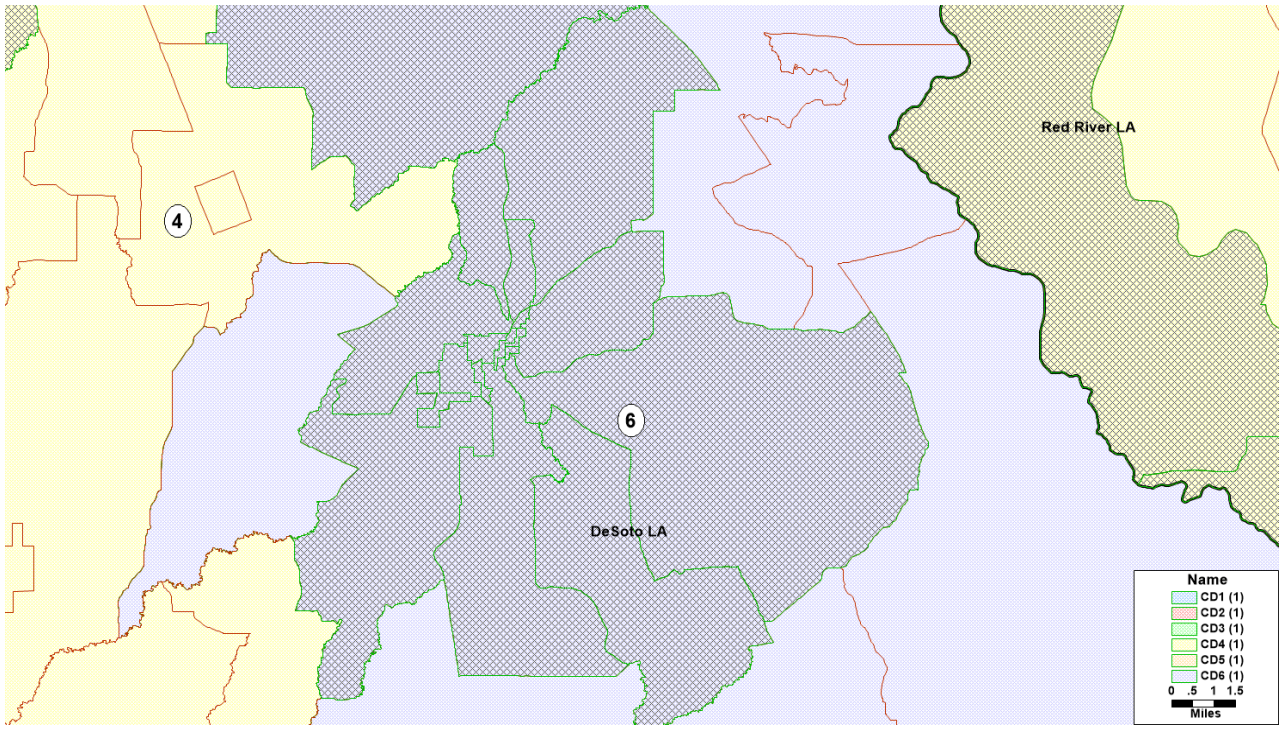
Map 12 – Lafayette Parish



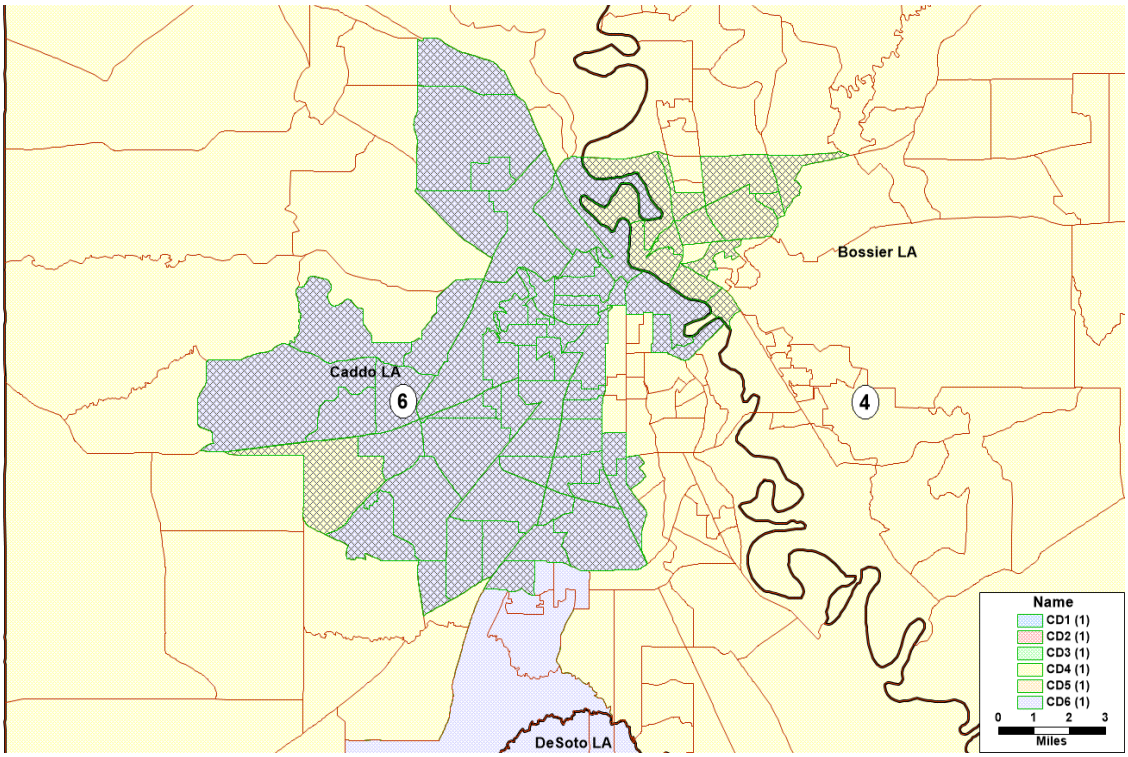
Map 13 – Alexandria Area in Rapides Parish



Map 14 – Mansfield Area in DeSoto Parish



Map 15 – Shreveport Area in Caddo Parish



The plan was careful to capture the majority-minority precincts with a sizable African American voting age population while including only those non-minority districts necessary to make the connections from one majority-minority area to another. More evident of that is the tenuous connections made as CD 6 crosses the state along its 230-mile length .

In north Lafayette Parish, the district is only 3 miles wide. In Rapides Parish, the district narrows down to 2.7 miles. In DeSoto Parish, the district is 1.9 miles wide. This compares unfavorably to the width of the district, being some 54 miles wide around the Natchitoches area and 59 miles wide from Lafayette to Avoyelles Parishes.

The long narrow and undulating shape of the district, when seen in the context of the location of the African American populations, strongly indicates that race considerations were primary when drawing the district and deciding who to put in or put out. Of course, the media reports, comments from Legislators, and rulings from judicial branch all focused on the creation of a second minority district, with little regards on what it would take to create such a district so it should not come as a surprise.

VIII. Conclusions and Opinions

The Senate Bill 8 Enacted Plan, as adopted in January 2024, does not comply with several traditional redistricting criteria. This is driven by the necessity of achieving the stated objectives with the new plan. Contemporary media reports, comments from Legislators, and rulings from judicial branch all focused on a purported requirement to create a second minority district.

Modern redistricting software possesses considerable power to quickly evaluate the effects of moving populations in and out of prospective districts. It is very easy to get focused on a pre-determined outcome and employ the power of the software to try and achieve it.

Efforts by the Legislature to use this tool to establish a second majority African American Congressional District in proportion to the overall State ratio resulted in a plan configuration that broke up both major and minor communities of interest as one of several issues.

The fact that so many communities of interest were either divided among the Congressional districts or paired with unlikely and dissimilar larger cities begs the question of whether the distribution of African Americans are compact enough to create a second majority-minority Congressional district. In the Statewide aggregate, the ratio may suggest that it is. But the actual distribution of the African American population tells a different story when it takes extreme and race-centric measures to arrive at even bare minimum majority configuration using the most generous definition of race aggregation.

Considering the extent to which disparate communities of interest are paired together under the 2024 Enacted plan and the splitting of other small towns and cities, the only reasonable opinion to reach is that the SB8 plan, as adopted by the Legislature, was designed specifically to reach a pre-determined minimal mathematical racial threshold that could result in the creation of a second majority African American Congressional district. This was the stated result the Legislature and others were seeking. And that is what the mapmaker of SB8 plan provided.

In my opinion, the process used by the mapmaker to meet those goals subrogated other traditional redistricting principals. As analyzed *supra*, communities of interest were unnecessarily divided because of race. The use of race as a primary, if not the sole consideration in the drawing of CD 6 as a second majority-minority district resulted in far fewer compact districts. The redistricting principal of preservation of core election districts was completely disregarded due to the need to draw a second district with over fifty percent African American voting age population. As shown in Section VII., it was clear that certain precincts were included or excluded in any given district due to the racial characteristics predominate in the precinct. The effort elevated the racial component in designing a plan above the other traditional redistricting criteria.

The Plaintiffs' Illustrative Congressional Plan 1 shows that a reasonable plan can be drawn in a race-neutral manner and respects the use of traditional redistricting principals. That plan preserves more communities of interest, provides for more compact election districts, preserves the core election districts, including the traditional majority-minority CD 2, and balances the population within each district well within one percent (1%) of each other.

The Illustrative Plan may not lead to the outcome some were looking for but based on the analysis of the 2024 enacted plan, but by properly applying traditional redistricting criteria results in a plan with more cohesive areas of representation, compact districts, and preservation of communities of interest far better than the current plan.

IX. Certification

The opinions expressed above are sworn, under penalty of perjury, to be true and based on the facts and criteria available to the expert witness as of the time of this report. This expert reserves the right to supplement this report as new information becomes available or as requested by the Plaintiffs.

Signed this 5th day of February 2024.

s/s 

Michael C. Hefner, Esq.
Expert Witness for the Plaintiffs

APPENDIX

Exhibit 1

Michael C. Hefner

Vitae of Reapportionment, Economic, & Demographic Work Experience

1.0 Qualifications

1.1 Demographic, Reapportionment and Economic Development Experience

Mike Hefner is the Chief Demographer and owner of Geographic Planning and Demographic Services, LLC. He has extensive experience working with specialized demographics, census counts from the Census Bureau and use of the Bureau's TIGER Line Files, dating back to 1990. These computer-generated map files are used to enumerate the Census as well as serving as the base map for reapportionments and other demographic uses.

Hefner served as the Economic Development Manager and later became the Assistant Director of the Evangeline Economic and Planning District from 1990-1995. Among other things, EEPD was the Census Data Center Affiliate for District 4. During that time, he served as the Census Bureau's liaison for the 8 Parish Acadiana area. He and staff from the Imperial Calcasieu Planning District were the first in the State to use the Census Bureau's TIGER Line Files and related census data on PC-based computers. He was also among the first in the State to fully computerize the functions of reapportioning based on PCs. During this time he also provided extensive assistance to other Planning and Development Districts statewide in use of the TIGER Line Files, the 1990 Census data, and reapportionment through the use of PC computers.

Hefner also provides demographic services under contract to the newly renamed Acadiana Regional Development District. His experience, combined with his familiarity of the service area of the District, provides the district with a comprehensive source of demographic and economic data.

From 1995 to 1999, Hefner served as the Executive Director of the Enterprise Center of Louisiana. In that capacity, he provided hundreds of hours of assistance to entrepreneurs starting or expanding a business. In addition, he provided economic development assistance to municipalities and parish entities throughout the eight parish Acadiana Area. He also served as President of the Louisiana Business Incubator Association.

Hefner also served on the Lafayette Parish School Board, having first been appointed to the Board in 1986 to fill the unexpired term of his father-in-law, E. Lloyd Faulk. He was elected to the Board in 1990 and re-elected in the elections of 1994, 1998, 2002 and 2006. He has served in the capacity of President and Vice President of the Board. Hefner chose not to run for re-election in 2010 due to anticipated schedule conflicts arising from 2010 redistricting projects.

1.2 Legal Qualifications

In connection with the 1990 Census, Hefner was certified as an expert witness in the United States District Court Western District of Louisiana and testified when the Evangeline Parish School Board defended a Section 2 suit brought against their reapportionment plan by a citizen of the parish. The citizen filed suit against a Parish School Board on the plan after they had adopted and received Justice Department Section 5 approval. The plan was successfully defended.

For the 2000 Census, Hefner was retained by the Attorney General of the State of Louisiana and the Department of Elections to develop alternative plans and provide expert testimony in the case of City of Baker School Board vs. State of Louisiana. The case was heard in the 19th Judicial Circuit Court and

Hefner was the sole witness presented by the State. That case was ruled in favor of the State at both the district court and the Appellate Court.

After the 2000 census redistricting the redistricting plan for St. Landry Parish School Board was challenged under Section 2 of the Voting Rights Act. Hefner served as the expert witness for the defendants. The case was resolved among the parties based on some suggested modifications by Hefner.

Hefner currently serves as an expert witness in demography and reapportionment for the Louisiana Department of Justice. Recent cases involve the method of election for the five judicial seats in the 32nd JDC in Terrebonne Parish and in the 40th JDC. Hefner's earlier work in the Terrebonne 32nd JDC case on behalf of the Louisiana Secretary of State played a large part in successfully dismissing the Secretary as a defendant in the case. Hefner is also providing expert witness services in a case concerning the minority representation in the current Louisiana Congressional Districts.

Hefner is currently certified as an Expert Witness in reapportionment and demography for the U.S. District Court Western District of Louisiana, the Middle District of Louisiana, and the 15th and 19th District Courts in Louisiana. Most recently, Hefner was reaffirmed as an expert in reapportionment and demography in the 15th Judicial District Court in the case of Keith Kishbaugh vs The City of Lafayette Government, Lafayette Parish Government, and Lafayette City-Parish Government.

Hefner also provided expert witness services in the area of demographics for St. Bernard Parish (Defendant) as well as for the Burlington Northern and Santa Fe litigation (Defendant). The BNSF litigation involved demographics of the population using a plume analysis. The St. Bernard Parish case involved determining the number of persons and households in the collection area using a variety of sources.

Hefner has never been rejected as an expert witness in any case. His qualifications have survived several *Daubert* challenges.

Hefner completed his legal education and received his Juris Doctorate in law in January 2008. He successfully passed the California Bar exam and is a member in good standing with the California Bar.

2.0 Past Reapportionment, Economic Development, Demographic & Mediation/Facilitation Work

2.1 Reapportionment, Demography & Economic Development

After the 1990 Census, Hefner provided Technical Assistance Services to some 22 governmental entities for reapportionment. In addition, some half dozen was performed directly whereby the full scope of the reapportionment process was conducted. Much of the Technical Assistance comprised of drawing up a number of possible plans with the associated data for consultants and governmental staff working on reapportionment or providing detailed demographic data at the precinct and/or census block level.

With the release of the 2000 Census, Hefner had been primarily involved in performing analyzing population trends in connection with the reapportionment services to over 41 jurisdictions throughout Louisiana.

For the 2010 Census, Hefner successfully completed redistricting plans for over 73 jurisdictions. Hefner has also performed a number of market analyses for private companies and site location analysts.

Hefner is currently serving on a legislative committee charged with reviewing redistricting statutes. He was appointed by the Louisiana Secretary of State to represent demographers.

Additionally, population census counts, updates, and projections have been conducted for several municipal governments, water, fire, and wastewater districts. The projections have withstood state reviews and court scrutiny as well as U.S. Department of Justice review where applicable.

During his tenure at the Evangeline Economic and Planning District, Hefner provided numerous economic and site location analyses for major corporations looking to locate or expand in south central Louisiana. Nearly every municipality, water district, wastewater district, and Parish government in the 8 parish Acadiana area was the recipient of one or more demographic studies performed at their request.

In addition, Hefner performed Economic Needs Assessments for each of the 8 Parishes in the District annually and developed reports of the findings to the U.S. Department of Commerce. Many of these assessments were used to help secure millions of dollars in infrastructure grants.

2.2 School Demographic Work

In the highly specialized area of school demographics, Hefner has provided demographic services to the Lafayette Parish School Board, the St. Landry Parish School Board, the Pointe Coupee Parish School Board, the St. John the Baptist School Board, the Vermilion Parish School Board, the Bossier Parish School Board, the E. Feliciana Parish School Board, the Evangeline Parish School Board, the Union Parish School Board, the Ouachita Parish School Board, Monroe City School Board, the W. Baton Rouge Parish School Board, the DeSoto Parish School Board, the Jackson Parish School Board, the Lincoln Parish School Board, the St. Martin Parish School Board, the St. Mary Parish School Board, the Concordia Parish School Board, and the U.S. Department of Justice. For the Lafayette, Bossier, St. Martin, St. Mary, E. Feliciana, Vermilion, Evangeline, Union, Ouachita, Monroe City, DeSoto, W. Baton Rouge Parish School Boards as well as for the U.S. Department of Justice, much of the demographic work has concentrated on general population trends, student demographics, analyzing, and/or constructing school attendance zones in connection with their respective desegregation cases.

Recent efforts in St. Landry, Concordia, Evangeline, Monroe City, Union, DeSoto, Ouachita, St. John the Baptist, St. Martin, St. Mary, and Bossier have centered on modification of their school attendance zones as they relate to their school facilities in order to meet the mandates of their respective desegregation litigation. Pointe Coupee was a combined project of consolidating schools, redrawing attendance zones, and a complete redesign of their bus transportation system and a complete audit of their contract bus routes. The U.S. Department of Justice project involved the student assignment plan for the Avoyelles Parish School Board and Morehouse Parish School Board.

To date the school districts in Ouachita, Evangeline, St. Landry, Avoyelles, and Morehouse Parishes have received Unitary Status based on the student assignment work conducted by Hefner. Union has recently received Unitary Status.

The use of computer GIS software has been extensively used to help with these efforts and provides the maximum opportunity to rapidly assess a number of different school district configurations or to analyze existing zones. Hefner is one of the few, if not the only one in the State currently using specialized GIS software for these educational-related activities.

2.3 Mediation/Facilitation

Hefner has extensive mediation and facilitation experience. For the Federal courts, he was one of the representatives from the School Board chosen to facilitate an agreement regarding the District's dress code and the exercise of religious customs of students attending Lafayette Parish Public Schools. A successful agreement was reached thereby avoiding a costly court hearing and trial.

Hefner also facilitated the Consent Decree response in the Alfreda Trahan v. Lafayette Parish School Board desegregation case. After the court ruling of May 19, 2002, Judge Richard Haik ordered the Board to develop a new desegregation plan within 6 weeks. Hefner was chosen by the Board President to facilitate the development of that plan. Street wisdom at that time said it would take over a year for the Board to develop a plan and one could never be developed that all parties would agree to. By bringing all parties together from the beginning, a plan was developed within 5 weeks that all parties to the desegregation suit signed off on and the plan was later accepted by Judge Haik.

Hefner also exercised mediation and facilitation skills during many of the reapportionment projects undertaken during the past two censuses. Competing interests often came to the surface during many of the reapportionment discussions, which had to be successfully mediated in order to come reach agreement on a plan that would meet community and legal criteria. Many reapportionment projects conducted after the 2000 and 2010 censuses required mediation among elected officials as well as among some community leadership. All reapportionment projects conducted by Hefner received Section 5 approval from the U.S. Department of Justice on the first submission prior to the *Shelby* ruling.

2.4 Government Demographic, GIS, Reapportionment Projects, Expert Witness Testimony:

Acadia Parish Police Jury (reapportionment 2000, 2010, 2020 precinct mergers, 2021 prospective precincts).
Acadia Parish School Board (reapportionment 2000, 2010, 2020).
Acadia Parish Police Jury (parish wide GIS project).
Allen Parish Police Jury (reapportionment 2020).
Allen Parish School Board (reapportionment 2020).
Ascension Parish School Board (student attendance boundaries, school site selection, reapportionment 2020)
Ascension Parish Council (reapportionment 2020)
Avoyelles Parish Police Jury (reapportionment 2020).
Bossier Parish School Board (new school zones, student pop projections, school site planning).
Bossier Parish School Board (grade realignments/school zone modification project).
Bossier Parish School Board (school desegregation expert witness services).
Bossier Parish School Board (reapportionment 2010, 2020).
Bossier Parish Police Jury (reapportionment 2020).
Cameron Parish School Board (Reapportionment 2010).
Central Community School System (5/10 Year student projection report, reapportionment 2020)
DeSoto Parish Police Jury (Precinct mergers and consolidations, 2021 prospective precincts, 2020 redistricting, 2023 precinct mergers).
Concordia Parish School Board (desegregation-student assignment, transportation).
DeSoto Parish School Board (desegregation plan review, student projections, plan modification, USDoJ plan review, expert witness services, 2020 redistricting).
East Baton Rouge Parish School Board (Five-year student projection reports 2017, 2018, redistricting 2020).
East Baton Rouge Metro Council (redistricting 2020).
Evangeline Parish Police Jury (reapportionment 2000, 2010, 2020, Census update, precinct mergers).
Evangeline Parish School Board (reapportionment 1990, 2000, 2010, 2020).
Evangeline Parish School Board (School Consolidations, student projections, student assignment plans, and expert witness services).
E. Feliciana Parish Police Jury (Precinct realignments, 2021 Prospective Precincts, 2020 redistricting).

E. Feliciana Parish School Board (change in board composition, 12-year student population projections, 2020 redistricting).
Lafayette Parish School Board/Consolidated Council (TA) (reapportionment 2000, 2010, 2020).
Lafayette Parish School Board (30-year study of Parish demographic shifts by race, comprehensive student assignment plan, 2017 five-year student projection report with 2023 update).
Lafayette Consolidate Government (City of Lafayette & Lafayette Parish council reapportionments for charter revision, expert witness testimony).
Livingston Parish Police Jury (precinct realignments).
Iberia Parish HRC Council (reapportionment 1990, 2000, 2010, 2020, precinct mergers, 2021 prospective precincts).
Iberia Parish School Board (reapportionment 2000, 2010, 2020).
Iberia Parish School Board (student assignment plan 2018, 2019, 2023).
Iberia Parish HRC Council (Membership reduction plans).
Iberville Parish Police Jury (precinct realignments).
Jackson Parish School Board (student assignment plans, basic student projection report, expert witness services).
Madison Parish (Precinct realignments).
Monroe City School Board (Student projections and Zone Alignments 2010-2012, 2020, 2022).
Ouachita Parish School Board (Unitary Status *Green* factor review and expert witness services).
Plaquemine Parish Police Jury (precinct realignments).
Pointe Coupee Parish Police Jury (election districts for new Home Rule Charter implementation, precinct mergers, 2021 prospective precincts, 2020 redistricting).
Pointe Coupee Parish School Board (reapportionment 2000, 2010, 2020).
Pointe Coupee Parish School Board (transportation routing/school consolidation/zone boundary changes, bus audits).
Richland Parish School Board (student assignment plans).
St. Bernard Parish Government (residential housing study)
St. John the Baptist School Board (5/10 year student census projections).
St. Landry Parish Police Jury (reapportionment 2000, 2010 for new Home Rule Charter, 2020 redistricting).
St. Landry Parish Council (precinct realignments, Census LUCA updates, precinct mergers, 2021 prospective precincts).
St. Landry Parish School Board (reapportionment 2000, 2010, 2020).
St. Landry Parish School Board (student assignment plans, bus transportation plan, student population projection report, expert witness services).
St. James Parish School Board (student assignment, school attendance boundaries, 5-Year projection report, reapportionment 2010, 2020).
St. James Parish Council (Housing study).
St. John the Baptist Parish School Board (10-year student projection report)
St. Martin Parish HRC Council (reapportionment 2000, 2010, 2020).
St. Martin Parish School Board (reapportionment 2000, 2010, 2020).
St. Martin Parish School Board (2016 student assignment plans, expert witness services).
St. Martin Parish HRC Government (parish wide GIS project, Census LUCA updates).
St. Martin Parish Government (precinct realignments and mergers, 2021 prospective precincts).
St. Mary Parish HRC Council (reapportionment 2000 and 2010).
St. Mary Parish HRC Council (precinct realignments).

St. Mary Parish School Board (2010, 2020 reapportionment, student assignment plans, expert witness services).
State of Louisiana-Secretary of State (alternative reapportionment plans, demographic and reapportionment expert witness services).
State of Louisiana-Louisiana Department of Justice (32nd JDC, 40JDC demographic and reapportionment expert witness services.)
State of Louisiana-Louisiana Department of Justice (2022 Congressional Districts reapportionment expert witness services.)
Tangipahoa Parish School Board (5/10 Year Student Projection Report).
City of Scott (reapportionment 1990, 2000, 2010, 2020 Census LUCA update).
City of Eunice (reapportionment 1990, 2000, 2010, 2020).
City of Broussard (reapportionment 2000, 2010, 2020).
City of Broussard (50-year population study).
City of Breaux Bridge (reapportionment 2010, 2020).
City of Crowley (reapportionment 1990, 2000, 2010, 2020).
City of Donaldsonville (reapportionment 2020).
City of Marksville (reapportionment 2010, 2020).
City of Rayne (reapportionment 2000, 2010, 2020).
City of Church Point (reapportionment 2000, 2010, 2020).
City of Opelousas (reapportionment 2010, 2020).
City of Central (reapportionment 2020).
City of Ville Platte (reapportionment 2010, 2020).
City of Zachary (2010, 2020 reapportionment).
Town of Sunset (reapportionment 2000, 2010, 2020).
Town of Mamou (reapportionment 2000, 2010, 2020).
Town of Washington (reapportionment 2000, 2010, 2020).
Town of Bunkie (reapportionment 2000, 2010, 2020).
Town of Cottonport (reapportionment 2000, 2010, 2020).
Town of Kinder (reapportionment 2000, 2010, 2020).
Town of Tallulah (reapportionment 2000).
Town of Springhill (reapportionment 2010, 2020).
Town of St. Francisville (reapportionment 2020).
Tucson Independent School District No. 1, Tucson AZ (Desegregation Initiatives and Review).
City of Youngsville (census update 2004, 2014, reclassification as a City in 2004, 30-Year Demographic Projection).
Union Parish School Board (student assignment plan for Union Parish Deseg case, expert witness services).
U.S. Department of Justice (student assignment plan for Avoyelles Parish Schools, expert witness services).
U.S. Department of Justice (student assignment plan review for Morehouse Parish, expert witness services).
Vermilion Parish School Board (school rezoning, parish-wide street and address updates, student population projection report, 2020).
Vermilion Parish School Board (reapportionment 2000, 2010, 2020).
Webster Parish School Board (school attendance plan, expert witness services).
W. Feliciana Parish HRC Council (Precinct mergers, 2021 prospective precincts, redistricting 2020).
W. Feliciana Parish Police Jury (redistricting plan for Home Rule Charter compliance).

W. Feliciana Parish School Board (Twelve-year student projection report 2018, Report Update 2019).
W. Baton Rouge Parish School Board (5-year student projection, redistricting 2010, 2020)
Winona-Montgomery Consolidated School District (School desegregation-Transportation bus route analysis).

1990 Census Reapportionments:

City of Crowley
City of Scott
City of Eunice
Evangeline Parish School Board
Iberia Parish Council (TA)

Several Private Consultants *(primarily city engineers doing redistricting plans)*
Vermilion Parish Police Jury (TA)
Lafayette Parish School Board (TA)
Town of Ville Platte (TA)
City of Breaux Bridge (TA)
Town of St. Martinville (TA)

3.0 Educational Background

- Graduated from Concord Law School earning a Juris Doctorate in law. Successfully passed the February 2008 administration of the California Bar exam. Member of the California Bar, Bar #257492.
- Commissioned as a Louisiana Notary Public, May 2015.
- Completed Public Service course sessions at the Leadership Institute, Greensboro, NC March 1993
- Graduated from the Basic Economic Development Course, University of Kansas, 1992
- Completed Leadership Lafayette, Class II, 1987
- Graduated from University of Southwestern Louisiana 1978, Degree in Business Administration, Marketing
- Graduated from Our Lady of Fatima High School, 1974

4.0 Community Leadership

- Member of the Lafayette Parish School Board, District 5, 1986, 1990 to 2010. Did not seek reelection due to meeting conflicts anticipated with redistricting.
- Past Chairman and director on the Board of Directors for Goodwill Industries.
- Director CADENCE non-profit board.
- Past Chairman of the Lafayette Parish Industrial Development Board
- Past Chairman of the Louisiana Business Incubation Association
- Past Chairman Citizens for Public Education

- One of the charter founders of the Lafayette Public Education Foundation, past member.

5.0 Contact Information:

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