

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

SHANNON PEREZ, HAROLD )  
DUTTON, JR. AND GREGORY TAMEZ, )  
 )  
Plaintiffs, )

and )

EDDIE BERNICE JOHNSON, SHEILA )  
JACKSON-LEE, ALEXANDER GREEN, )  
MEMBERS OF THE UNITED STATES )  
CONGRESS )

*Plaintiff-Intervenors* )

CIVIL NO. SA-11-CA-360-  
OLG-JES-XR

STATE OF TEXAS, ET AL., )  
 )  
Defendants. )

MEXICAN AMERICAN LEGISLATIVE )  
CAUCUS, )

v. )

CIVIL NO. SA-11-CV-361-  
OLG-JES-XR

STATE OF TEXAS, ET AL. )

TEXAS LATINO REDISTRICTING TASK )  
FORCE )

v. )

CIVIL No. SA-11-CV-490-  
OLG-JES-XR

RICK PERRY )

MOTION TO INTERVENE OF CONGRESSPERSONS EDDIE BERNICE JOHNSON,  
SHEILA JACKSON-LEE AND ALEXANDER GREEN, MEMBERS OF THE UNITED  
STATES CONGRESS AS PLAINTIFF-INTERVENORS

1. Eddie Bernice Johnson, Sheila Jackson-Lee and Alexander Green, Members of the United States Congress (hereinafter African-American Congressional Intervenors) seek intervention to protect their interests and that of all African-American voters in Texas and particularly in counties directly connected with their districts which include Dallas, Tarrant, Harris and Fort Bend, and to ensure that the Texas redistricting process is fair and consistent with the Constitutional and statutory protections applying to African-American voters of Texas, particularly in the aforementioned counties. Johnson, Jackson and Lee respectively represent Congressional Districts (CDs) 30, 18 and 9 and herein seek to ensure that the Texas redistricting process is fair and consistent with the legal protection provided to African-American and protected voters in their districts and the State of Texas. The rights at stake are directly implicated by the claims of each of the different Plaintiffs. The African-American Congressional Intervenors cannot effectively protect the fundamental rights to ensure fair representation through redistricting without being part of this action.

2. The African-American Congressional Intervenors' request for intervention meets all the prerequisites for intervention as a matter of right: the request for intervention is timely; the rights at stake are directly implicated by claims of the Plaintiffs; and, unless it is part of this action, the African-American Congressional Intervenors cannot effectively protect their fundamental right to ensure a fair and unbiased redistricting process and outcome for African-American voters of Texas.

**FACTUAL BACKGROUND**

3. Congresswoman Eddie Bernice Johnson is an African-American who resides in Dallas Texas and represents CD30. She has served in Congress since 1993. Congresswoman Sheila Jackson-Lee is in her ninth term in the United States Congress. Congressman Alexander Green is in his fourth term in Congress. Each of the Congresspersons represents African-American voters and other protected voters who have acted in coalition with the African-American voters. The voters needs in CD 30, 18 and 9 are reflected in the work, efforts and votes of the African-American Congressional Intervenors. Congresspersons Johnson and Lee were in the previous redistricting case.

4. Defendant is the State of Texas. The State of Texas is a political subdivision covered under the provisions of the Voting Rights Act, 42 U.S.C. §§ 1973–1973aa-6, and responsible for the actions of its officials with regard to state-wide redistricting.

5. Defendant Rick Perry is the duly elected and acting Governor of the State of Texas. Under Article IV, Section 1, of the Texas Constitution, he is the chief executive officer of the Defendant State of Texas. He is sued in his official capacity.

6. Defendant David Dewhurst is the duly elected and acting Lieutenant Governor of Texas. Under Article IV, Section 16, of the Texas Constitution, he is the President of the Texas Senate. He is sued in his official capacity.

7. Defendant Joe Straus is the duly elected and acting Speaker of the Texas House of Representatives and is the presiding officer over the Texas House of Representatives. He is sued in his official capacity.

8. Defendant Hope Andrade is the duly appointed and acting Secretary of State of Texas. She is sued in her official capacity.

### **Procedural Posture**

9. Plaintiffs Shannon Perez, Harold Dutton, Jr., and Gregory Tamez filed their action on May 9, 2011. Plaintiff Mexican American Legislative Caucus filed their action on May 9, 2011. Plaintiffs Texas Latino Redistricting Task Force, et al., filed their action on June 17, 2011. On July 6, 2011, District Court Judge Orlando L. Garcia ordered that the three cases be consolidated under the lead case, *Perez, et al., v. State of Texas, et al.*, Civil Action No. SA-11-CA-360-OLG-JES-XR. No significant discovery has occurred, and no substantive hearings have been held.

10. Historically, courts have regularly found that redistricting plans in Texas have discriminated against African-American voters. *See, e.g., White v. Register*, 412 U.S. 755, 766-67 (1973) (affirming findings by the district court that African-American voters in Dallas County had been “effectively excluded from participation in the Democratic primary selection process”) (quoting *Graves v. Barnes*, 343 F.Supp. 704, 726 (W.D.Tex. 1972)); *Rollins v. Fort Bend Indep. Sch. Dist.*, 89 F.3d 1205, 1214 (5th Cir. 1996) (“The parties cannot and do not dispute that FBISD’s history is blemished by past racial discrimination.”); *LULAC v. N. E. Indep. Sch. Dist.*, 903 F. Supp. 1071 (W.D. Tex. 1995).

11. Importantly, history has shown that the redistricting process coupled with litigation is a key to maintaining or gaining representation reflecting the choice of the African-American community. If permitted to intervene, the African-American Congresspersons will demonstrate that the current redistricting plans for the United States Congress are not fair, undermine their interests, deny fair representation to voters and in fact will dilute and diminish the impact of African-American voters on election outcomes. CD 30, 18 and 9 are all drawn in a manner as to

be unfair to the African-American community such that the impact of African-American voters have been diminished as well as those in effective and protected coalitions with the African-American community.

12. 88% of Texas' population growth since 2000 was due to non-White growth and the State's plan only provides for potentially one additional seat. Only 45% of Texas's population is Anglo, while the proposed Congressional plan provides for only 11 of 36 seats for racial or ethnic minorities. With only three African-American opportunity seats (all of which are in jeopardy under the plan), the Congressional plan fails to provide for even rough proportionality. Further, the legislature failed to create a fourth seat, which could have easily been created.

### **ARGUMENT**

#### **I. Intervention Is Proper as a Matter of Right**

The African-American Congressional Intervenors who file this Motion to Intervene request intervention as a matter of right under Federal Rules of Civil Procedure 24(a).

Intervention as of right should be granted when the following four requirements are met:

(1) the motion to intervene is timely; (2) the potential intervener asserts an interest that is related to the property or transaction that forms the basis of the controversy in the case into which she seeks to intervene; (3) the disposition of that case may impair or impede the potential intervener's ability to protect her interest; and (4) the existing parties do not adequately represent the potential intervenor's interest.

*Doe #1 v. Glickman*, 256 F.3d 371, 375 (5th Cir. 2001) (citations omitted). Intervention should be liberally granted as “[f]ederal courts should allow intervention where no one would be hurt and the greater justice could be attained.” *Id.* at 375 (quoting *Sierra Club v. Espy*, 18 F.3d 1202, 1205 (5th Cir. 1994)). Thus, “intervention of right must be measured by a practical rather than technical yardstick.” *Edwards v. City of Houston*, 78 F.3d 983, 999 (5th Cir. 1996).

**A. The Intervention is Timely**

African-American Congressional Intervenors acted swiftly and with all practicable speed upon learning that Plaintiffs had filed the present action and the cases joined. Up to this point, no significant discovery has occurred and no substantive hearings have been held.

Timeliness is a flexible requirement that differs from case to case. *See McDonald v. E.J. Lavino Co.*, 430 F.2d 1065, 1074 (5th Cir. 1970). In addition, the Fifth Circuit has outlined the four factors that address the timeliness of a motion to intervene:

(1) how long the potential intervener knew or reasonably should have known of her stake in the case into which she seeks to intervene; (2) the prejudice, if any, the existing parties may suffer because the potential intervener failed to intervene when she knew or reasonably should have known of her stake in that case; (3) the prejudice, if any, the potential intervener may suffer if the court does not let her intervene; and (4) any unusual circumstances that weigh in favor of or against a finding of timeliness.

*Doe #1*, 256 F.3d at 376. As this motion to intervene has been filed only 11 days after the amended scheduling order, it is clear that African-American Congressional Intervenors meet the timeliness requirement.

**1. The African-American Congressional Intervenors Prepared and Filed This Intervention Motion Well Before Any Substantive Consideration by the Court or Significant Discovery has been Undertaken.**

Upon receiving notice of the action, the African-American Congressional Intervenors initiated steps to review the pleadings, confer with the attorney for Plaintiff, appear at the hearing of the three-judge panel in Austin, and then to file this motion. Under these facts and the facts of the case, the African-American Congressional Intervenors' motion to intervene is timely.

**2. Intervention Will Not Prejudice the Plaintiffs.**

Plaintiffs will not suffer any prejudice as a result of the African-American Congressional Intervenors' request for intervention. The lawsuit has only been recently filed. No significant

discovery has been completed and no substantive hears have been held. The case remains near its inception.

**3. The African-American Congressional Intervenors and Their Constituents Will Each Suffer Significant Prejudice if Intervention is Denied.**

The African-American Congressional Intervenors and many of their constituents will suffer substantial and significant harm if intervention is not granted. The allegations in Plaintiff's complaint directly implicate the rights of African-American voters. If the present redistricting plan put forth by the Texas Legislature is implemented, the voting power of African-Americans in Texas could be significantly diluted and the future of CD 30, 18 and 9 put at risk. The Courts clearly recognize this possibility. *See LULAC v. Perry*, 548 U.S. 399 (2006). The impact of the redistricting plan is vast as it encompasses the election of members of the Texas Legislature, the Members of Congress, and the Members of the Texas Railroad Commission. Although the African-American Congressional Intervenors acknowledge the good faith of Plaintiffs, the African-American Congressional Intervenors represent a largely different and distinct group of voters with some issues unique to those groups and areas. Many of the interests of many of the constituents of the African-American Congressional Intervenors are at risk of loss of their interests. This has a particularly harmful impact on the African-American voters in those districts and other protected minorities in those areas who are joined in coalition with them.

**4. No Unusual Circumstances Exist that Would Militate Against Intervention. In fact, the African-American Congressional Intervenors are unaware of any circumstances that would operate against their intervention.**

The African-American Congressional Intervenors are unaware of any circumstances that would operate against its intervention.

**B. The African-American Congressional Intervenors Have Substantial and Legally Protected Interests in the Case That It Cannot Protect Without Intervention and Is Inadequately Protected by the Named Plaintiffs.**

The African-American Congressional Intervenors are African-American elected officials and voters who have a significant and legally protected interest that are implicated in the present action. The Voting Right Act was passed primarily to prohibit discrimination against African-Americans in voting. 42 U.S.C. §§ 1973 *et seq.* Courts have historically and continue to recognize that redistricting schemes have been drawn so as to inhibit and dilute the voting strength of African-Americans. *See, e.g., White v. Register*, 412 U.S. 755 (1973); *Thornburg v. Gingles*, 478 U.S. 30 (1986); *LULAC v. N. E. Indep. Sch. Dist.*, 903 F. Supp. 1071 (W.D. Tex. 1995). . The history of litigation surrounding redistricting plans in Texas has shown that the State of Texas has violated Section 2 of the Federal Voting Rights Act and the Fourteenth Amendment to the US Constitution. *See e.g., LULAC v. Perry*, 548 U.S. 399 (2006); *White v. Register*, 412 U.S. 755 (1973); *Nixon v. Herndon*, 273 U.S. 536 (1927)

The Voting Rights Act seeks to ensure realistic possibilities of the voices of African-American voters being heard, and those protected groups working in their areas in coalition with them, and each of the African-American Congressional Intervenors has effectively represented each of those communities and acted to ensure that their voices were heard. Their rights and those of many of their constituents can only be effectively protected if the African-American Congressional Intervenors are granted intervention. None of the current parties will seek fair representation of African-American voters as a necessary component to any remedy, and none of the current parties is seeking to have rough proportionality of African-American representation. This has a particularly harmful impact on the African-American voters in those districts and other protected minorities in those areas who are joined in coalition with them. Intervention is

essential to protect the interests of the African-American Congressional Intervenors, many of their constituents and those protected groups working in coalition with them. African-American Congressional Intervenors desire to generate more support for issues important to their community, and one important element to this is the composition of the Texas delegation that goes to Washington.

**II. Alternatively, African-American Congressional Intervenors Should Be Allowed to Intervene Permissively Pursuant to Fed. R. Civ. P. 24(b).**

Permissive intervention is a matter of discretion for the court, and is appropriate when the intervention is timely, the intervenor's "claim or defense and the main action have a question of law or fact in common" and granting the intervention will not unduly delay or prejudice the original parties in the case. Fed. R. Civ. P. 24(b)(2). As previously discussed, the African-American Congressional Intervenors' motion for intervention is timely. There are common questions of law and fact between the claims of Plaintiffs and those of African-American Congressional Intervenors. These include whether the redistricting plan passed by the Texas Legislature violates Section 2 of the Voting Rights Act as to Congressional Districts 9, 18, and 30, and also overall in that it fails to provide for fair and effective representation of minority voters and those protected groups acting in coalition with them. The current plan will undermine the African-American/Latino coalition in many areas around the State and it puts in jeopardy the continued and proper representation of the African-American community. The plan carves out much of the economic wealth of the three districts, and changes their fundamental character. Thus, as an alternative ground, allowing the African-American Congressional Intervenors to intervene permissively is appropriate.

**PRAYER**

Based upon the foregoing, Plaintiff-Intervenors requests the court grant their motion as of right or permissively, and order the district court to file the attached complaint as a matter of record in this case and such other further relief as the court determines justice and equity so require.

Respectfully Submitted,

**Law Offices of Gary L. Bledsoe & Associates**

By:

\_\_\_\_\_  
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*Attorney for the Plaintiff-Intervenors*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 19<sup>th</sup> day of July, 2011 a true and correct copy of the Motion to Intervene of the Texas State Conference of NAACP Branches, Howard Jefferson, Juanita Wallace, and Rev. Bill Lawson was delivered to Plaintiffs and Defendants via the United States District Court, Western Division of Texas, San Antonio Division, ECF system.

/s/ Gary Bledsoe  
Gary L. Bledsoe

**CERTIFICATE OF CONFERENCE**

I hereby certify that the movants have complied with the conference requirements of Western District of Texas, Local Rule 7(h). On July 18, 2011, counsel for movants conferred with Jose Garza, attorney for MALC, who informed the undersigned counsel for movant that the motion is not opposed. On July 19, counsel for movants conferred with David Richards, counsel for Perez plaintiffs, who informed the undersigned counsel for movants that the motion is not opposed. On July 19, counsel for movants conferred with Defendants' counsel in the Attorney General's Office, who informed the undersigned counsel for movants that the motion is not opposed. On July 19, counsel for movants left a message for Nina Perales, counsel for Texas Latino Redistricting Task Force plaintiffs, but undersigned counsel received no response.

/s/ Gary Bledsoe  
Gary L. Bledsoe

UNITED STATES DISTRICT COURT  
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**ORDER**

On \_\_\_\_\_, the Court Considered the Plaintiff-Intervenor’s Motion to Intervene and the memorandum and arguments of counsel therein. After due consideration, the Court find the motion should be granted and Plaintiff-Intervenor should be allowed to participate fully in this litigation. The court hereby orders the U.S. district clerk to file the attached complaint as a matter of record in this case.

Signed on: \_\_\_\_\_

\_\_\_\_\_  
Presiding Judge

UNITED STATES DISTRICT COURT  
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**ORIGINAL COMPLAINT OF PLAINTIFF-INTERVENORS CONGRESSPERSONS  
EDDIE BERNICE JOHNSON, SHEILA JACKSON-LEE AND ALEXANDER GREEN**

1. This is an action to enforce Plaintiff-Intervenors' rights under the Fourteenth Amendment to the United States Constitution and under Section 2 of the Voting Rights Act, 42 U.S.C. § 1973 et seq. Plaintiff-Intervenors (Texas African-American Congressional Intervenors), voters and

members of the United States Congress, bring this action requesting declaratory and injunctive relief against the State of Texas to prevent the implementation of the proposed redistricting plan for Congressional districts in Harris, Fort Bend, Dallas and Tarrant Counties. The Congressional redistricting plan dilutes the voting strength of African-American voters, because in the totality of circumstances, African-American voters do not have an equal opportunity to elect candidates of their choice to Congress. If allowed to be implemented, this plan will undervalue the vote of Texas' African-American citizens and deny them fair representation in these governing bodies. Plaintiff-Intervenors seek the implementation of a Congressional redistricting plan that will not dilute the voting strength of African-American voters in Texas. Plaintiff-Intervenors also seek costs and attorneys' fees.

### **I. JURISDICTION**

2. Plaintiff-Intervenors' complaint arises under the United States Constitution and federal statutes. This Court has jurisdiction over this action under 28 U.S.C. § § 1331, 1343(a)(3) and (4), and 1988.

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b).

4. Plaintiff-Intervenors seek declaratory and injunctive relief pursuant to 28 U.S.C. § 2201 and 2202.

5. Plaintiff-Intervenors request the convening of a three-judge court pursuant to 28 U.S.C. § 2284.

### **II. PARTIES**

6. Plaintiff-Intervenors, the **AFRICAN-AMERICAN CONGRESSIONAL INTERVENORS**, are MEMBERS of the UNITED STATES CONGRESS and VOTERS. Since Texas has lost African-American Congressional representation in the past, it is vitally important

that African-American members of Congress participate as parties. Congresspersons Johnson and Jackson-Lee did in the last cycle and Congressman Green understands equally the need to participate this time.

7. Congresswoman Eddie Bernice Johnson is an African-American who resides in Dallas Texas and represents CD 30. She has served in Congress since 1993. Congresswoman Johnson was the first African-American female Chairperson of a Congressional subcommittee. She is a former Chair of the Congressional Black Caucus and currently a member of the House Transportation and Infrastructure Committee, the Aviation, Highways and Transit, and Water Resources and Environment Subcommittees. Congressperson Johnson has worked zealously to represent her district where she ably represents African-American voters and a coalition of African-American and Latino voters.

8. Congresswoman Sheila Jackson-Lee is in her ninth term in the United States Congress. She is a member of the Judiciary and Homeland Security Committees and is the founder and co-chair of the Congressional Children's Caucus. She has been a true advocate for immigration reform during her tenure in Congress and has worked zealously to represent her district, CD 18, where she ably represents African-American voters and a coalition of African-American and Latino voters.

9. Congressman Alexander Green is in his fourth term in Congress. He is a member of the Financial Services Committee, the Sub-Committee on Capital Markets and Government Sponsored Enterprises and the Subcommittee on Domestic Monetary Policy and Technology. He is a former elected Judge and President of the Houston-NAACP and ably and zealously represents African-American voters and a coalition of African-American and Latino voters in CD

10. Defendant is the State of Texas. The State of Texas is a political subdivision covered under the provisions of the Voting Rights Act and responsible for the actions of its officials with regard to state-wide redistricting.

11. Defendant Rick Perry is the duly elected and acting Governor of the State of Texas. Under Article IV, Section 1, of the Texas Constitution, he is the chief executive officer of the Defendant State of Texas. He is sued in his official capacity.

12. Defendant David Dewhurst is the duly elected and acting Lieutenant Governor of Texas. Under Article IV, Section 16, of the Texas Constitution, he is the President of the Texas Senate. He is sued in his official capacity.

13. Defendant Joe Strauss is the duly elected and acting Speaker of the Texas House of Representatives, and is the presiding officer over the Texas House of Representatives. He is sued in his official capacity.

14. Defendant Hope Andrade is the duly appointed and acting Secretary State of the State of Texas. She is being sued in her official capacity.

### **III. FACTS**

15. Section 2 of the Voting Rights Act of 1965, 42 U.S.C. 1973, applies nationwide and prohibits voting practices and procedures that result in the denial or abridgement of the right of any citizen to vote on account of race, color, or membership in a language minority group. Section 2 is a permanent provision of the federal Voting Rights Act.

12. Section 2 of the Voting Rights Act of 1965, 42 U.S.C. 1973, applies nationwide and prohibits voting practices and procedures that result in the denial or abridgement of the right of any citizen to vote on account of race, color, or membership in a language minority group. Section 2 is a permanent provision of the federal Voting Rights Act.

13. The total Texas population is 12% African-American according to the 2010 federal census. African-Americans comprise at least this percentage of the state's Citizen Voting Age population. Texas' African-American population is roughly equivalent to the total population of Mississippi, which has four representatives in the United States Congress.

14. After the last decennial census, the Texas Congressional apportionment will increase from 32 representatives to 36 representatives, due to an overall population increase of 20.6% (more than twice the average rate of growth nationally). Approximately 89% of the population growth in Texas this past decade—growth that resulted in our State's right to four additional Congressional representatives—is a result of minority growth. Both Latino growth and African-American growth eclipsed Anglo growth in both percentage and raw numbers—Latino growth represented 65% of the state's population growth, the African-American population grew 22%, and the Anglo population grew just 4.2%. Texas is now a majority-minority state—only 45% of the state's total population is Anglo.

15. Proportionally, African-Americans are underrepresented in the U.S. House of Representatives. Roughly proportional representation would require more than the three African-American opportunity districts that currently exist. Each of these Congresspersons receives many requests for assistance outside of their district because of the few African-American Congresspersons that are within the Texas delegation, even though the Texas' African-American population approximates that of Mississippi. The Congresspersons clearly have an interest, not only in Texas gaining another person who will work to advance the political interests of African-Americans statewide, but also in having plans that would permit them to be more effective by not marginalizing African-American voters in their districts or unnecessarily splitting communities of interest.

16. Legislative efforts to draw Texas Congressional map also led to the drawing of Congressional Districts 9, 18 and 30 in such a way as to be unfair and undermine the ability of African-Americans to effectively participate in the political process in those areas and it has similar impact on Latinos in those areas who have acted in coalition with African-Americans to further the interests of both communities.

17. The Congressional plans unnecessarily split communities of interest, delete important areas from the existing Congressional districts, and are designed to undermine or frustrate effective and long term voter coalitions in the area. The plan is the result in whole or in part of intentional discrimination.

18. The current Congressional redistricting plan does not include a Latino-majority congressional district in the Fort Worth area.

19. The Latino population in Tarrant County is sufficiently geographically compact to comprise the majority of citizen voting age persons in a congressional district.

20. A Congressional district can be created in the Fort Worth area that will afford Latino voters the opportunity to elect their candidate of choice.

21. Elections in Texas continue to be racially polarized.

22. African-Americans in Texas generally vote as a group and are politically cohesive.

23. Latinos in Texas vote as a group and are politically cohesive.

24. Latinos and African-Americans in Texas vote as a group and are politically cohesive. Latinos and African-Americans in CD 30, CD 9 and CD 18 vote as a group and are politically cohesive in ensuring the continued character of the districts. Latinos and African-Americans in Tarrant and Counties vote as a group and are politically cohesive.

25. Anglos in Texas generally vote as a group, are politically cohesive and vote sufficiently as a block to defeat the preferred candidate of Latino and African-American voters absent fair and equitable majority-minority single member districts. This has been documented by the Federal and State Courts, the US Commission on Civil Rights and by the US Congress.

#### **IV. CAUSES OF ACTION**

26. The allegations contained in paragraphs 1-25 are alleged as if fully set forth herein.

27. The current Congressional redistricting plan violates Section 2 of the Voting Rights Act, as amended, 42 U.S. § 1973. This plan results in a denial or abridgement of the right to vote of Plaintiff-Intervenors and their African-American constituents on account of their race, color, or ethnicity, by having the effect of canceling out or minimizing their individual voting strength as minorities in Texas. The state's proposed Congressional redistricting plan, passed by the Texas Legislature, does not afford Plaintiff-Intervenors or their African-American constituents an equal opportunity to participate in the political process and to elect representatives of their choice, and denies Plaintiff-Intervenors and their African-American constituents the right to vote in elections without discrimination of race, color, or previous condition of servitude in violation of 42 U.S.C. § 1973.

#### **Count II**

28. The allegations contained in paragraphs 1-25 are alleged as if fully set forth herein.

29. The Congressional redistricting plan adopted by the Texas Legislature was developed in such a way and with the intent to disadvantage African-American and other minority voters.

This intentional discrimination is in violation of the Fourteenth Amendment of the United States Constitution and 42 U.S.C. § 1983.

#### **Count III**

30. The allegations contained in paragraphs 1-25 are alleged as if fully set forth herein.

31. The current plan in place for the Congressional districts exceeds permissible population variances between the least populated and the most populated districts. The enforcement of such a plan by the Defendants violates the rights of all voters as guaranteed by the one person, one vote principle embodied within the Fourteenth Amendment of the U.S. Constitution, as protected by 42 U.S.C. § 1983.

32. There are no enforceable alternative plans currently in place.

33. The plans adopted by the Texas Legislature for the United States Congress, Texas House and Texas Senate have not yet received the necessary preclearance required by Section 5 of the Voting Rights Act, 42 U.S. C. § 1973c. These plans therefore cannot be implemented unless and until it receives Section 5 preclearance.

34. The plans adopted by the Texas Legislature for the United States Congress, Texas House and Texas Senate violate Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973, and thus cannot be implemented.

#### **V. BASIS FOR EQUITABLE RELIEF**

35. Plaintiff-Intervenors have no plain, adequate or complete remedy at law to redress the wrongs alleged herein and this suit for declaratory judgment and injunctive relief is their only means of securing adequate redress from all of the Defendants' unlawful practices.

36. Plaintiff-Intervenors will continue to suffer irreparable injury from all of the Defendants' intentional acts, policies, and practices set forth herein unless enjoined by this Court.

#### **VI. REQUEST FOR THREE JUDGE COURT**

37. Plaintiff-Intervenors request a three-judge trial court pursuant to 28 U.S.C. § 2284.

#### **VII. ATTORNEYS' FEES**

38. In accordance with 42 U.S.C. Section 1973-1(e) and 1988, Plaintiff-Intervenors are entitled to recover reasonable attorney's fees, expenses and costs.

**VIII. PRAYER**

39. Plaintiff-Intervenors respectfully pray that this Court enter Judgment granting:

A. A declaratory judgment that State Defendants' actions violate the rights of Plaintiff-Intervenors as protected by Section 2 of the Voting Rights Act, 42 U.S.C. § 1973 et seq., and the Fourteenth Amendment to the United States Constitution, 42 U.S.C. § 1983;

B. Preliminary and permanent injunctive relief requiring State Defendants, their successors in office, agents, employees, attorneys, and those persons acting in concert with them and/or at their discretion – to develop a Congressional redistricting plan that does not dilute African American and minority voting strength for the United States House of Representatives, and enjoining and forbidding the use of the current Congressional redistricting plan;

C. If need be, adopt an interim electoral plan for the 2012 elections for United States Congress;

D. An order of this Court retaining jurisdiction over this matter until all Defendants have complied with all orders and mandates of this Court;

E. An order requiring Defendants to pay all costs including reasonable attorneys' fees; and

F. Such other and further relief as the Court may deem just and proper.

Respectfully Submitted,

**Law Offices of Gary L. Bledsoe & Associates**

By:       /s/ Gary L. Bledsoe        
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*Attorney for the Plaintiff-Intervenors*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 19<sup>th</sup> day of July, 2011 a true and correct copy of Plaintiff-Intervenors' Complaint was delivered to Plaintiffs and Defendants via the United States District Court, Western Division of Texas, San Antonio Division, ECF system.

      /s/ Gary L. Bledsoe        
Gary L. Bledsoe