

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF LOUISIANA

LOUISIANA STATE CONFERENCE
OF THE NATIONAL ASSOCIATION
FOR THE ADVANCEMENT OF
COLORED PEOPLE, *et. al.*,

Plaintiffs,

v.

Case No. 3:19-cv-00479-JWD-SDJ

STATE OF LOUISIANA, *et al.*,

Defendants.

**AMENDED MOTION TO INTERVENE AND FOR TEMPORARY RESTRAINING
ORDER AND PRELIMINARY INJUNCTION TO MAINTAIN THE STATUS QUO**

John L. Weimer, Greg Champagne, Mike Tregre, and Craig Webre, in their individual capacities as voters from Louisiana Supreme Court District Six (the “Intervenor Voters”), and John L. Weimer, in his capacity as a candidate for Louisiana Supreme Court Justice from District Six (the “Intervenor Candidate”) (collectively, the “Intervenors”) through undersigned counsel, respectfully move under Federal Rule of Civil Procedure 24 to intervene in this action, and also move for a temporary restraining order and preliminary injunction to maintain the status quo pursuant to Federal Rule of Civil Procedure 65.¹

Intervenor Voters are voters within Louisiana Supreme Court District Six (“District Six”) and are entitled to vote in the election currently set for November 8, 2022.² Intervenor Candidate

¹ The Intervenors propose to intervene as aligned with the Defendants, and propose the attached Answer, Cross-Claim, and Affirmative Defense as Exhibit 1 to this motion.

² See La. Const. art. 5 § 22 (“Except as otherwise provided in this Section, all judges shall be elected. Election shall be at the regular congressional election.”); see also 2022 Elections, LOUISIANA SECRETARY OF STATE, <https://www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/ElectionsCalendar2022.pdf> (last visited July 5, 2022); Public Notice Affidavit, Exh. 2; Affidavits of John L. Weimer, Greg Champagne, Mike Tregre, and Craig Webre, Exh. 3–6.

John L. Weimer, in addition to his capacity as a voter in District Six, intends to qualify as a candidate for the office of Louisiana Supreme Court Justice for District Six when qualifying begins on July 20, 2022.³

Intervenors previously filed a Motion to Intervene for the limited purpose of filing a Motion to Partially Lift Consent Stay Order, and a Motion for Expedited Hearing on Motion to Intervene and Motion to Partially Lift Consent Stay Order.⁴ Rec. Doc. 109; Rec Doc. 109-2; Rec. Doc. 110. At a status conference on July 1, 2022, the presiding District Judge referred those motions to Magistrate Judge Johnson and directed that, if the Motion to Intervene is granted by the Magistrate Judge, the “Court will determine the issue of whether to lift the stay in this matter.” *See* Rec. Doc. 113. Due to the rapidly approaching deadline for qualifying as a candidate in District Six, and the change in capacity of one of the Intervenors, however, the Intervenors respectfully request that the Court consider and grant this amended motion to intervene and grant the requested injunctive relief on an expedited basis.⁵

I. THE REQUIREMENTS OF INTERVENTION ARE SATISFIED

The Intervenors are entitled to intervene as a matter of right pursuant to Federal Rule of Civil Procedure 24(a).⁶ “A party seeking to intervene as of right must satisfy four requirements: (1) The application must be timely; (2) the applicant must have an interest relating to the property

³ *See* Affidavit of John L. Weimer, Exh. 3.

⁴ The initial filings only named the Intervenor Voters; the Intervenor Candidate is concurrently filing notice of joinder to that motion.

⁵ *See* Affidavits of Intervenors, attached as Exhibits 3–6, which set forth the facts necessary for standing and to support the request for temporary and preliminary injunctive relief.

⁶ As an initial matter, the Intervenors have standing to seek relief relating to the Consent Stay Order agreed to by the existing parties, in that the denial of their constitutional right to vote and right to access the ballot are concrete and particularized injuries; such injuries are fairly traceable to the Consent Stay Order, and the requested relief would maintain the status quo and ensure that these rights are not infringed. *See, e.g., League of United Latin Am. Citizens, Dist. 19 v. City of Boerne*, 659 F.3d 421, 428 (5th Cir. 2011).

or transaction that 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 its ability to protect its interest; and (4) the applicant's interest must be inadequately represented by the existing parties to the suit.” *Brumfield v. Dodd*, 749 F.3d 339, 341 (5th Cir. 2014).

The unusual factual circumstances of this case confirm timeliness. The Consent Stay Order was entered without notice to the Intervenor (or the general voting public, for that matter). The Secretary of State's website continues to indicate that the election will proceed on November 8, 2022, and the status reports submitted by the parties are under seal. The Intervenor filed as soon as it became apparent that their constitutional rights were subject to impairment, and there will be no prejudice to the District Five voter Plaintiffs or the other Defendants by maintaining the status quo in District Six.

Second, the Intervenor has an interest relating to the property or transaction that is the subject of the action. Specifically, they are seeking to protect their right to vote on the scheduled November 8, 2022 Supreme Court election, a right which the Consent Stay Order abrogates. *See League of United Latin Am. Citizens, Dist. 19 v. City of Boerne*, 659 F.3d 421, 434–35 (5th Cir. 2011); *see also Johnson v. Mortham*, 915 F. Supp. 1529, 1536 (N.D. Fla.1995) (“Registered voters have . . . a sufficiently substantial interest to intervene[] in an action challenging the voting district in which the voters are registered.”). Moreover, the Intervenor Candidate has a constitutional right as a candidate to appear on the ballot that is unfairly and unnecessarily infringed by the Consent Stay. *See Anderson v. Celebrezze*, 460 U.S. 780, 793 (1983); *see also Morial v. Judiciary Comm’n of Louisiana*, 565 F.2d 295, 301 (5th Cir. 1977) (Candidacy is “an important, if not constitutionally ‘fundamental,’ right.”).

Third, the Intervenor is situated such that the disposition of this action may render Intervenor entirely unable to protect their interests as to (1) their pre-existing right to vote in the District Six election and, (2) as to the Intervenor Candidate, his constitutional right to seek elected office as Supreme Court Justice in District Six. They will have no other procedural vehicle as non-parties to this litigation to seek the modification or partial lift of the Consent Stay Order with respect to District Six.

Fourth, the Intervenor's interests are not adequately represented by any existing party as no named plaintiff represents the voters of District Six, and both parties have indicated that they oppose the relief that the Intervenor seek. Therefore, the parties cannot adequately represent the Intervenor. *See League of United Latin Am. Citizens, Dist. 19*, 659 F.3d at 435 ("The existing parties . . . oppose the relief that [proposed Intervenor] seeks; thus, they do not adequately represent his interest.").

Alternatively, the Intervenor requests that the Court exercise its discretion and permit them to intervene pursuant to under Rule 24(b). *See* Fed. R. Civ. P. 24(b)(1)(B) (authorizing the Court to allow intervention of a non-party who "has a claim or defense that shares with the main action a common question of law or fact."); *Franciscan All., Inc. v. Azar*, 414 F. Supp. 3d 928, 934 (N.D. Tex. 2019) ("Intervention is appropriate when: '(1) timely application is made by the intervenor, (2) the intervenor's claim or defense and the main action have a question of law or fact in common, and (3) intervention will not unduly delay or prejudice the adjudication of the rights of the original parties.'"); *Wal-Mart Stores, Inc. v. Tex. Alcoholic Beverage Comm'n*, 834 F.3d 562, 565 (5th Cir. 2016) ("Federal courts should allow intervention when no one would be hurt and the greater justice could be attained.") (citation omitted).

II. THE INTERVENTION MUST BE GRANTED ON AN EXPEDITED AND IMMEDIATE BASIS TO PERMIT THE PRELIMINARY INJUNCTION TO BE HEARD AND RELIEF ENTERED IN ACCORDANCE WITH *PURCELL* AND APPROACHING DEADLINES

The qualifying period for candidates for the District Six seat is set to begin on July 20, 2022. The status quo, as explained below, is the maintenance of the November 8, 2022 election as scheduled. Voters and candidates have a right to vote and access the ballot, and no compelling state interest to infringe on these fundamental and important rights is present or apparent in the record of this case. Accordingly, expedited consideration and preliminary injunctive relief are appropriate.

III. THE INTERVENORS ARE ENTITLED TO A TEMPORARY RESTRAINING ORDER AND A PRELIMINARY INJUNCTION TO PRESERVE THE STATUS QUO

The Intervenor further move for and are entitled to preliminary injunctive relief pursuant to Federal Rule of Civil Procedure 65. For the reasons explained in further detail in the Memorandum in Support, the Intervenor satisfy each of the elements for injunctive relief. In sum, the Intervenor are likely to succeed on the merits because it is apparent that the present lawsuit does not concern District Six and the Consent Stay agreed to by the parties was based on a hoped-for resolution that has not occurred (and likely will not occur prior to the November 8, 2022 election), and should not apply to divest the voters of District Six of their constitutional right to vote, absent any compelling state interest to the contrary. The Intervenor will also suffer irreparable harm if the District Six election is stayed indefinitely pursuant to the Consent Stay Order and the balance of equities and public interest both favor maintaining the status quo to allow this rapidly approaching District Six election to proceed without delay. At the July 1, 2022 status conference, in this matter, counsel for the parties indicated they will not consent to lifting the stay and allowing the District Six election to proceed as scheduled. Thus, the conference eliminated any doubt that immediate relief is required to avoid irreparable injury to the Intervenor.

IV. CONCLUSION

For these reasons, all of which are discussed more fully in the Memorandum in Support, the Intervenor respectfully request that the Court immediately grant their motion to intervene, enter a temporary restraining order to maintain the status quo to permit qualifying of a candidate for District Six to proceed notwithstanding the Consent Stay order, and then granting a preliminary injunction modifying the Consent Stay to permit the District Six election to proceed on November 8, 2022, pursuant to existing election laws and the State Constitution.

Dated: July 5, 2022.

Respectfully submitted,

/s/ John P. D'Avello

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District Six, and John L. Weimer, in his capacity as
a candidate for Louisiana Supreme Court Justice
from District Six*

LOCAL CIVIL RULE 7(E) CERTIFICATE

The Intervenor certify that they circulated their initial Motion to Intervene (Rec. Doc. 109) to counsel for all parties just before 7:00 a.m. on June 29, 2022, accompanied by a request that counsel advise by 2:00 p.m. as to whether their clients oppose the motion. The State of Louisiana, through counsel, responded that it “opposes your intervention.” No response was received from the Plaintiffs or the Secretary of State of Louisiana as of the time of filing the Motion to Intervene. The parties appeared at a status conference concerning that motion on Friday, July 1, 2022. (Rec. Doc. 113.) The parties indicated at that time that they would not consent to intervention.

/s/ John P. D’Avello
John P. D’Avello

LOCAL CIVIL RULE 65 CERTIFICATE

The Intervenor certify that the parties’ attorneys have been provided actual notice of the application and copies of all pleadings and other papers filed in the action to date or to be presented to the Court at the hearing in this matter by filing the foregoing using the Court’s ECF system which constitutes services on all counsel having appeared of record in this proceeding.

/s/ John P. D’Avello
John P. D’Avello

CERTIFICATE OF SERVICE

I certify that on July 5, 2022, the foregoing was filed using the Court’s ECF System, which constitutes services on all counsel having appeared of record in this proceeding.

/s/ John P. D’Avello
John P. D’Avello

**UNITED STATES DISTRICT COURT FOR THE
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**MEMORANDUM IN SUPPORT OF AMENDED
MOTION TO INTERVENE AND FOR TEMPORARY RESTRAINING
ORDER AND PRELIMINARY INJUNCTION TO MAINTAIN THE STATUS QUO**

John L. Weimer, Greg Champagne, Mike Tregre, and Craig Webre, in their individual capacities as voters from Louisiana Supreme Court District Six (the “Intervenor Voters”), and John L. Weimer, in his capacity as a candidate for Louisiana Supreme Court Justice from District Six (the “Intervenor Candidate”) (collectively, the “Intervenors”), through undersigned counsel, respectfully move under Federal Rule of Civil Procedure 24 to intervene in this action, and also move for a temporary restraining order and preliminary injunction to maintain the status quo pursuant to Federal Rule of Civil Procedure 65.

The Intervenor Voters previously filed a Motion to Intervene for the limited purpose of filing a Motion to Partially Lift Consent Stay Order, and a Motion for Expedited Hearing on Motion to Intervene and Motion to Partially Lift Consent Stay Order.¹ Rec. Doc. 109; Rec Doc. 109-2; Rec. Doc. 110. At a status conference on July 1, 2022, the presiding District Judge referred those motions to Magistrate Judge Johnson and directed that, if the Motion to Intervene is granted

¹ The Intervenor Candidate is concurrently filing a notice of joinder to that motion.

by the Magistrate Judge, the “Court will determine the issue of whether to lift the stay in this matter.” *See* Rec. Doc. 113. However, due to the rapidly approaching deadline for qualifying as a candidate for the Louisiana Supreme Court election in District Six, and the change in capacity of one of the Intervenors, the Intervenors respectfully request that the Court consider and grant this amended motion to intervene and grant the requested injunctive relief on an expedited basis.²

I. INTRODUCTION

Intervenor Voters John L. Weimer, Greg Champagne, Mike Tregre, and Craig Webre are voters within Louisiana Supreme Court District Six (“District Six”) and are entitled to vote in the election currently set for November 8, 2022. Intervenor Candidate John L. Weimer, in addition to his capacity as a voter in District Six, intends to qualify as a candidate for the office of Louisiana Supreme Court Justice for District Six when qualifying opens on July 20, 2022.³

The Complaint in this lawsuit seeks to redraw District Five, generally in the Baton Rouge area. *See Allen v. Louisiana*, 14 F.4th 366, 369 (5th Cir. 2021) (“Plaintiffs thus seek to create a second majority-black district, alleging it could be drawn in District 5, which includes East Baton Rouge Parish and surrounding parishes.”). The Intervenors take no position on the parties’ arguments relative to District Five, or on the ultimate merits of the claims and defenses of any party in this litigation. On May 2, 2022, the parties to this litigation filed a Consent Motion to Stay All Louisiana Supreme Court Elections. Rec. Doc. 100 (the “Consent Motion”). The basis of the Consent Motion filed by the parties in part was that the pending case, even though no rulings on

² *See* Affidavits of Intervenors, attached as Exhibits 3–6 to the Amended Motion to Intervene, which set forth the facts necessary for standing and to support the request for temporary and preliminary injunctive relief.

³ *See* La. Const. art. 5 § 22 (“Except as otherwise provided in this Section, all judges shall be elected. Election shall be at the regular congressional election.”); *see also* Exh. 2 to Amended Motion to Intervene; 2022 Elections, LOUISIANA SECRETARY OF STATE, <https://www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/ElectionsCalendar2022.pdf> (last visited July 5, 2022).

the merits have occurred, presents issues “better resolved through a negotiated settlement.” *Id.* at 1. The following day, the Court entered the Consent Stay, but recognized in its Order that the stay may need to be modified “if the parties are unable to reach agreement, the Legislature does not approve districts agreed upon by the Parties, or the voters refuse to approve any proposed constitutional amendments.” Rec. Doc. 101 (the “Consent Stay”). Absent further action by the parties, the Consent Stay operates to enjoin indefinitely *all* Louisiana Supreme Court elections going forward, *id.* (ordering that “all Louisiana Supreme Court elections are stayed until the State’s Supreme Court voting districts have been reapportioned” subject to certain conditions for modification).

The Intervenors, therefore, filed their initial Motion to Intervene and attached Motion to Partially Lift Consent Stay Order, requesting that the Court and the parties modify the May 4, 2022 Order, and allow the upcoming election in Louisiana Supreme Court District Six to proceed. Rec. Doc. 109-2 at 11. The parties, however, indicated at a July 1, 2022 status conference that they will not consent to that modification of the Consent Stay. Accordingly, the Intervenors now file the Amended Motion to Intervene and to seek temporary and preliminary injunctive relief to maintain the status quo and permit the District Six qualifying and election to proceed.

II. THE INTERVENORS HAVE ARTICLE III STANDING

The Intervenors have standing to seek relief relating to the Consent Stay Order agreed-to by the existing parties. *See League of United Latin Am. Citizens, Dist. 19 v. City of Boerne*, 659 F.3d 421, 428 (5th Cir. 2011). The Intervenors’ injuries are concrete and particularized in that the Consent Stay Order, if permitted to remain in place, will deprive the Intervenors of their pre-existing right to vote and, for Intervenor Candidate, his constitutional right to qualify for and seek elected office on November 8, 2022. *See id.* at 429–30; *League of United Latin American Citizens*,

Council No. 4434 v. Clements, 999 F.2d 831, 844 (5th Cir. 1993). The Intervenor’s concrete and particularized injuries are also “fairly traceable” to the parties, as, without the parties’ agreed-upon motion for a Consent Stay, the November 8, 2022 election for the District Six Supreme Court seat would proceed as required under state law. And, the injuries are redressable by the requested relief *i.e.*, a modification or partial lift of the stay, or the injunctive relief as requested herein, will maintain the status quo, permit qualifying of candidates to proceed, and ensure the voters of District Six their right to vote in the November 8, 2022 election. In sum, the Intervenor’s are requesting different relief from what the existing parties are seeking, namely, either an injunction to permit the District Six election to proceed or a partial lifting of the Consent Stay Order. For these reasons, the Intervenor’s have independent standing under Article III.

III. LEGAL STANDARD FOR INTERVENTION

Federal Rule of Civil Procedure 24(a) requires a federal court to permit intervention of 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). Federal Rule of Civil Procedure Rule 24(b) permits a federal court to allow intervention of non-parties that tender “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). “The inquiry is a flexible one, and a practical analysis of the facts and circumstances of each case is appropriate.” *Id.* at 341 (quotation marks omitted). “Intervention should generally be allowed where no one would be hurt and greater justice could be attained.” *Ross v. Marshall*, 426 F.3d 745, 753 (5th Cir. 2005).

IV. THE INTERVENORS ARE ENTITLED TO INTERVENTION OF RIGHT

The Intervenor is entitled to intervene as a matter of right pursuant to Federal Rule of Civil Procedure 24(a). “A party seeking to intervene as of right must satisfy four requirements: (1) The application must be timely; (2) the applicant must have an interest relating to the property or transaction that 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 its ability to protect its interest; and (4) the applicant’s interest must be inadequately represented by the existing parties to the suit.” *Brumfield*, 749 F.3d at 341.

A. The Intervention is Timely.

The Intervenor’s Amended Motion to Intervene is timely. *See Sierra Club v. Espy*, 18 F.3d 1202, 1205 (5th Cir. 1994), (identifying forth four factors by which to evaluate the timeliness of an intervention motion as: (1) the length of time applicants knew or should have known of their interest in the case; (2) prejudice to existing parties caused by applicants’ delay; (3) prejudice to applicants if their motion is denied; and (4) any unusual circumstances). *First*, the Consent Stay Order was signed on May 3, 2022. The Intervenor was not contacted before the Consent Stay was entered. Indeed, they only learned of the Consent Stay recently through other sources. Accordingly, the Intervenor had no reason to intervene prior to the Consent Stay, as it would be unreasonable to believe that any action or stay of the upcoming Louisiana Supreme Court election in District Six would be impacted by pending litigation concerning voters within District Five. The Intervenor, therefore, only recently became aware of the state-wide Consent Stay affecting all Supreme Court elections that would impact District Six.⁴ *Second*, the existing parties have not been prejudiced by any minimal delay, as the Intervenor is not requesting any modification of

⁴ Although the Secretary of State’s website does not reflect that the election is stayed, he confirmed, through counsel, at a July 1, 2022 status conference that he opposes the request to lift the stay.

the Consent Stay Order with respect to District Five, the district specifically at issue in this litigation. *Third*, the Intervenor will be prejudiced if their motion is denied, as they will be deprived of the right to vote (and qualify as a candidate in) the upcoming November 8, 2022 election for District Six, without any finding on the merits of the allegations in the operative complaint and without any consideration of their fundamental constitutional rights. *See also* discussion at pp. 11–16, *infra*. *Finally*, the Consent Stay Order staying all elections, when only the District Six election is near in time, indicates a special and unusual circumstance.

B. The Intervenor Has an Interest in the Subject Matter of the Action as Their Constitutional Rights Have Been Infringed by the Consent Stay Entered in the Action.

The Intervenor has an interest relating to the property or transaction that is the subject of the action. Specifically, they are seeking to protect their right to vote in the scheduled November 8, 2022 Supreme Court election, a right which the Consent Stay Order abrogates. *See League of United Latin Am. Citizens, Dist. 19 v. City of Boerne*, 659 F.3d 421, 434–35 (5th Cir. 2011); *see also Johnson v. Mortham*, 915 F. Supp. 1529, 1536 (N.D. Fla.1995) (“Registered voters have . . . a sufficiently substantial interest to intervene[] in an action challenging the voting district in which the voters are registered.”). Moreover, the Intervenor Candidate has a constitutional right as a candidate to appear on the ballot that is unfairly and unnecessarily infringed by the Consent Stay. *See Anderson v. Celebrezze*, 460 U.S. 780, 793 (1983); *see also Morial v. Judiciary Comm’n of Louisiana*, 565 F.2d 295, 301 (5th Cir. 1977) (Candidacy is “an important, if not constitutionally ‘fundamental,’ right.”).

C. The Disposition of the Action as a Practical Matter Has and Will Continue to Impair the Intervenors' Constitutional Rights Unless a Preliminary Injunction is Entered or the Consent Stay is Modified.

The Intervenors are situated such that disposition of the action will impair or impede their ability to protect their interests because the disposition of this action may render Intervenors entirely unable to protect their interests to (1) their pre-existing right to vote in the District Six election and, (2) as to Intervenor Candidate Weimer, his constitutional right to seek elected office as Supreme Court Justice in District Six, as they will have no other procedural vehicle as non-parties to the litigation to seek the modification or a partial lift of the Consent Stay Order with respect to District Six.

D. The Intervenors' Interests Are Not Adequately Represented by the Existing Parties.

The Intervenors interests are not adequately represented by any existing party. No named plaintiff represents the voters of District Six, and all parties have indicated that they oppose the relief that the Intervenors seek. Therefore, the parties cannot adequately represent the Intervenors. *See League of United Latin Am. Citizens, Dist. 19*, 659 F.3d at 435 (“The existing parties . . . oppose the relief that [proposed Intervenor] seeks; thus, they do not adequately represent his interest.”).

The Intervenors are accordingly entitled to intervene as a matter of right under Federal Rule 24(a)(2) of the Federal Rules of Civil Procedure to protect their right to vote in the upcoming election. *See id.* at 433 (5th Cir. 2011) (holding that a voter had a right to intervene when a consent decree deprived him of his right to vote); *see also Reynolds v. Sims*, 377 U.S. 533, 555 (1964) (“The right to vote freely for the candidate of one’s choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government. . . . [A]ny alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized.”);

Dunn v. Blumstein, 405 U.S. 330, 336 (1972) (“[A]s a general matter, before that right (to vote) can be restricted, the purpose of the restriction and the assertedly overriding interests served by it must meet close constitutional scrutiny.”) (internal quotations omitted). The Intervenor propose to intervene as aligned with the Defendants, and propose the attached Answer, Cross-Claim, and Affirmative Defenses as Exhibit 1 to their motion.

V. ALTERNATIVELY, THE COURT SHOULD ALLOW PERMISSIVE INTERVENTION

In the alternative, Intervenor request that the Court exercise its discretion and permit them to intervene pursuant to under Rule 24(b). See Fed. R. Civ. P. 24(b)(1)(B) (authorizing the Court to allow intervention of a non-party who “has a claim or defense that shares with the main action a common question of law or fact.”). “Intervention is appropriate when: ‘(1) timely application is made by the intervenor, (2) the intervenor’s claim or defense and the main action have a question of law or fact in common, and (3) intervention will not unduly delay or prejudice the adjudication of the rights of the original parties.’” *Franciscan All., Inc. v. Azar*, 414 F. Supp. 3d 928, 934 (N.D. Tex. 2019). “Federal courts should allow intervention when no one would be hurt and the greater justice could be attained.” *Wal-Mart Stores, Inc. v. Tex. Alcoholic Beverage Comm’n*, 834 F.3d 562, 565 (5th Cir. 2016) (citation omitted).

The Intervenor satisfy these elements and should be permitted to intervene. The motion is timely, for reasons set forth above. See *Martinez v. United States*, No. 05-cv-055, 2005 WL 8155760, at *5 (W.D. Tex. Dec. 12, 2005) (“The timeliness standards for permissive intervention are the same as those for intervention of right.”). The Intervenor’s claims and defenses and the main action have questions of law or fact in common, namely, whether the Supreme Court election in District Six necessarily should be impacted by the Consent Stay Order that was designed to permit resolution of a Voting Rights Act complaint directed only to District Five.

Finally, intervention will not unduly delay or prejudice the adjudication of the rights of the original parties. The only Supreme Court election pending during this election cycle is for District Six, and whatever arguments and issues the current parties have relative to the redistricting concerns regarding District Five will therefore be unaffected by the modification or partial lift of the present Consent Stay Order. Rather the fundamental rights of voters in District Six will be protected by maintaining the status quo.

VI. THE INTERVENTION MUST BE GRANTED ON AN EXPEDITED AND IMMEDIATE BASIS TO PERMIT THE PRELIMINARY INJUNCTION TO BE HEARD AND RELIEF ENTERED IN ACCORDANCE WITH *PURCELL* AND APPROACHING DEADLINES

The qualifying period for candidates for the District Six seat is set to begin on July 20, 2022. The status quo, as explained below, is the maintenance of the November 8, 2022 election as scheduled. The status quo is *not* the continuance of a Consent Stay entered under a hoped-for resolution that has not come to pass. Voters and candidates have a right to vote and access the ballot, and no compelling state interest to infringe on these respectively fundamental and important rights is present or apparent in the record. Accordingly, expedited consideration and preliminary injunctive relief is appropriate.

VII. THE INTERVENORS ARE ENTITLED TO A TEMPORARY RESTRAINING ORDER AND A PRELIMINARY INJUNCTION TO PRESERVE THE STATUS QUO

The Intervenor further move for and are entitled to injunctive relief pursuant to Federal Rule of Civil Procedure 65 for the following reasons.

A. Standards for Injunctive Relief.

A movant is entitled to a preliminary injunction upon establishing: (1) a substantial likelihood of success on the merits, (2) a substantial threat of irreparable injury if the injunction is not issued, (3) that the threatened injury if the injunction is denied outweighs any harm that will result if the injunction is granted, and (4) that the grant of an injunction will not disserve the public

interest. *Robinson v. Hunt Cty., Texas*, 921 F.3d 440, 451 (5th Cir. 2019); *see also Speaks v. Kruse*, 445 F.3d 396, 399–400 (5th Cir. 2006). Mandatory preliminary relief will be granted where the law “clearly favors” the movant. *See Martinez v. Mathews*, 544 F.2d 1233, 1243 (5th Cir. 1976). Such is the case here.

B. The Intervenors Are Likely to Succeed on the Merits.

The Intervenors are likely to succeed on the merits because it is apparent that the present lawsuit does not concern District Six and Consent Stay agreed to by the parties should not apply to divest the voters of District Six of their constitutional right to vote, absent any compelling state interest to the contrary.

1. The Hoped-For Resolution of This Matter, as Reflected in the Conditions of the Stay, Did Not Occur.

The Consent Motion states: “At the April 19, 2022 Status Conference, the Parties informed the Court of their mutual intent to resolve this case through a negotiated settlement to be ratified by the State Legislature and, to the extent necessary, the people of Louisiana.” Rec. Doc. 100-1 at 6. Following administrative closure to allow the parties to file a motion to stay, the parties to the case moved to stay the upcoming Louisiana Supreme Court elections, which stay was granted. Rec. Doc. 101. The Court ordered that the stay may be terminated “if the parties are unable to reach agreement, the Legislature does not approve districts agreed upon by the Parties, or the voters refuse to approve any proposed constitutional amendments.” *Id.* The resolution has not yet occurred, and the conditions Consent Stay itself indicate that the stay should be modified with respect to District Six.⁵

⁵ No one contacted any of the Intervenors before entering the Consent Stay, which they learned about only recently through other sources.

The stay was entered in May 2022 based on the reasonable hope of the parties that a solution may be available in the then-pending legislative session—but that hope did not come to fruition. The parties did not submit to any Legislative Committee any “districts agreed upon by the Parties” during the Regular Legislative Session. Similarly, the parties did not submit to the Governor any “districts agreed upon by the Parties” for inclusion in the Special Session called for the express purpose of other redistricting considerations. *See* Proclamation No. 89 JBE 2022 (June 7, 2022) (calling the Legislature into special session “[t]o legislate relative to the redistricting of the Congressional districts of Louisiana[.]”). Any resolution involving redistricting or a constitutional amendment, therefore, will not occur before the November 8, 2022 election (and certainly not before qualifying for candidates to run for the District Six seat occurs between July 20 and 22, 2022). The assumption implicit in the stay that a pre-election solution could be reached is no longer reasonable. *See Benisek v. Lamone*, 138 S. Ct. 1942, 1945 (2018) (affirming the district court’s denial of a preliminary injunction when the time to complete “a new districting scheme in advance of the [] election . . . had already come and gone”). The conditions warranting an injunction or modification of the stay are therefore apparent, and the Intervenor’s requested relief should be granted.

2. *The Consent Stay Has the Same Effect as an Injunction, But There Has Been No Adjudication of the Merits of Any Claim by Preliminary Injunction or Otherwise.*

The Consent Stay orders that “all Supreme Court elections are stayed until the Supreme Court’s voting districts have been reapportioned”, subject to certain conditions that have not yet taken place, as explained above. Rec. Doc. 101. The Consent Stay further provides that either party can seek to terminate the stay, and that the parties should submit to the Court every 45 days a joint statement under seal as to their progress. *Id.* The Consent Stay makes no specific mention of the

November 8, 2022 election, but its broad language plainly includes that currently-scheduled election and also implicates the period to qualify candidates for that election that opens on July 20, 2022. The parties confirmed at a July 1, 2022 status conference that they maintain the Consent Stay extends to the District Six election process.

The record of the case demonstrates that no determination has been made on the merits of the allegations in the complaint. Rather, the stay was ordered in response to a joint motion of the parties seeking to “temporarily paus[e]” elections, Rec. Doc. 100 at 1, to permit time to reach a negotiated resolution. Both parties, however, expressly have reserved their arguments on the merits should a resolution not be reached. *See* Memorandum in Support of Motion to Stay All Supreme Court Elections, Rec. Doc. 100-1, at p. 2, fn. 2. Accordingly, there has been no finding on the merits and neither party has requested one.

The Consent Stay does not stay the litigation itself; rather, it stays “all Supreme Court elections” until an uncertain date in the future. The effect of the Consent Stay, therefore, is the same as a preliminary injunction barring the democratic election process in “all” Supreme Court Districts. However, there has been no motion for a preliminary injunction, and no requisite finding of a likelihood of success on the merits that would or could support a halt to the election process. Moreover, the Consent Stay stays elections in *all* Districts, including District Six, in a case where the Complaint is brought *only* by the voters of District Five. As the Fifth Circuit has noted, a consent order relating to one District does not govern “the other six Districts,” and a possible need to redraw lines in one district to achieve a remedy in another district does not extend a court’s subject matter jurisdiction to another district. *See Allen v. State of Louisiana*, No. 20-30734 (5th

Cir. Sept. 17, 2021), at 1, 12.⁶ For the same reason that *Chisom*'s Consent Decree cannot reach District Five, *Allen*'s Consent Stay cannot reach District Six.

The Court has established an August 17, 2022 deadline to submit an Affidavit of Settlement Efforts, *see* Rec. Doc. 92, a date subsequent to the qualifying deadline for candidates for the District Six election. Even assuming an agreement could be reached by the parties by that date, further action undoubtedly will be necessary to accomplish any such agreement, including legislative action and possibly even voter approval of a constitutional amendment, if one is proposed. If no agreed resolution is reached, the trial is scheduled to commence with a jury on September 19, 2022. Given post-trial motions and likely appeals, it is highly unlikely that any judicial resolution will be reached prior to the November 8, 2022 election for District Six.

As will be discussed below, an injunction or a modification of the stay to permit the District Six election is necessary to lift an infringement of the fundamental right to vote of Intervenor and other voters in District Six, and to permit candidates including the Intervenor Candidate to qualify for election in District Six. But further, allowing this election to proceed should not affect any remedy that may ultimately be reached by the parties (with legislative approval) or by the Court after a trial. Indeed, during the pendency of this matter, three other Justices have been elected as and sworn in to serve the Louisiana Supreme Court. Just as those elections did not impact this litigation, nor will an election in District Six.

⁶ The four district court cases cited in the movants' memorandum in support of the stay are inapposite. In two of the cases, stay relief was ordered only after a merits adjudication. *See United States v. Euclid*, 523 F. Supp. 2d 641, 643 (N.D. Ohio 2007) (issuing stay order after bench trial on the merits); *United States v. Berks County, PA*, 250 F. Supp. 2d 525, 540 (E.D. Pa. 2003) (issuing stay order after a motion for a preliminary injunction had been granted). In the other two cited cases, which were apparently-related cases pending before Judge Kent in Galveston relating to two Texas Independent School Districts, the parties did jointly move to stay elections for school board trustees pending settlements. These stays, however, were limited and temporary, as consent settlements were filed less than two months later in both court records. *See Alexander v. Texas City ISD*, Civil Action No. 3:91-cv-00226 (S.D. Tex. 1991), and *Woods v. Dickinson ISD*, Civil Action No. 3:91-cv-00288 (S.D. Tex. 1991). In neither of these cases were the elections of third parties not otherwise before the court the subject of the temporary stay orders, and in neither case did voters intervene to request that the stay be lifted.

3. *The Plaintiffs are District Five Voters Challenging the Fairness of Their District, and No Compelling State Interest Justifies an Immediate Restriction on the Fundamental Rights of District Six Voters.*

“The right to vote freely for the candidate of one’s choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government.” *Reynolds v. Sims*, 377 U.S. 533, 555 (1964); *see also id.* at 561–62 (“[T]he right of suffrage is a fundamental matter in a free and democratic society.”). “[A]ny alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized.” *Id.* at 562; *see also Dunn v. Blumstein*, 405 U.S. 330, 336 (1972) (“[A]s a general matter, before that right (to vote) can be restricted, the purpose of the restriction and the assertedly overriding interests served by it must meet close constitutional scrutiny.”) (internal quotations omitted).⁷

These concerns are heightened “[w]hen an election is close at hand, [as] the rules of the road must be clear and settled. Late judicial tinkering with election laws can lead to disruption and to unanticipated and unfair consequences for candidates, political parties, and voters, among others.” *Merrill v. Milligan*, 142 S.Ct. 879, 880–81 (Mem) (2022) (Kavanaugh, J, concurring); *see also Republican Nat’l Comm. v. Democratic Nat’l Comm*, 140 S.Ct 1205, 1207 (2020) (stating that the Court “has repeatedly emphasized that lower federal courts should ordinarily not alter the election rules on the eve of an election”); *Purcell v. Gonzalez*, 549 U.S. 1, 127 S.Ct. 5, 166 L.Ed.2d 1 (2006) (per curiam) (establishing that federal district courts ordinarily should not enjoin state

⁷In addition to impairing the fundamental right to vote of registered voters in District Six, the Consent Stay also impairs the important constitutional right of candidates to seek office. The Louisiana Constitution currently does not permit persons who have reached the age of 70 from seeking office. *See* La. Const. art. V, § 23(B) (“Except as otherwise provided in this Section, a judge shall not remain in office beyond his seventieth birthday. A judge who attains seventy years of age while serving a term of office shall be allowed to complete that term of office.”). In the event that a candidate who is eligible to run for the November election is barred by the Consent Stay from running until a later date (after he or she has reached the age of 70), the result would be that an eligible candidate would be barred from running for an office they are now constitutionally entitled to seek under current law.

election laws in the period close to an election, and that federal appellate courts should stay injunctions when lower federal courts contravene that principle).

The Fifth Circuit recently addressed the importance of “preserving the status quo in a voting case on the eve of an election.” *Tex. Alliance for Retired Americans v. Hughes*, 976 F.3d 564, 567 (5th Cir. 2020). The Fifth Circuit emphasized that the district court erred in characterizing the relief sought by the plaintiffs as the status quo—despite the fact that the requested relief departed from existing law. *Id.* at 568. The Fifth Circuit observed, “[I]t is the *district court’s* eleventh-hour injunction that alters the status quo, not the Texas legislature’s 2017 duly enacted law.” *Id.* at 568 (emphasis original). The Court concluded, “the significant interest in ensuring the proper and consistent running of its [the State’s] election machinery . . . is severely hampered by the injunction.” *Id.* at 569. Here, the Consent Stay departs from existing law. It should be modified or an injunction should be entered to restore the application of currently existing election law to the District Six election cycle.

Although, as explained above, no consideration of the merits has yet occurred here, the rationale for lifting the stay with respect to the District Six election is the same. Namely, the status quo here is to allow the scheduled election in District Six, which is untouched by the present litigation or *Chisom*, to go forward, thereby ensuring that the voting rights of District Six voters remain unfringed.

Relatedly, a partial narrowing or lifting of the stay for this limited purpose will not impair the interests of either party. If the legislature post-election changes the contours of District Six in accord with future legislation or a future court decree, then the next election will occur in that new district. But such a remote and hypothetical possibility is no reason to deviate from the present status quo and enjoin this election, particularly when there is no practical prospect that the district

will be altered in time for the November 8, 2022 election. In sum, an injunction lifting the stay will not impair any future remedy available to the court or to the parties, and doing so will accommodate and ensure the existing constitutional rights of the voters of District Six. *See, e.g., League of United Latin Am. Citizens Council No. 4434 v. Clements*, 999 F.2d 831, 845 (5th Cir. 1993) (“The settlement agreement would deprive voters of the right to vote for all judges with general jurisdiction over their county.”).⁸

A further issue warrants lifting the stay and preserving the status quo, *i.e.*, allowing the November 8, 2022 election in District Six to proceed. Louisiana law provides that “[e]very public officer in this state except in case of impeachment or suspension shall continue to discharge the duties of his office until his successor is inducted into office.” La. R.S. 42:2. Consequently, the present Consent Stay, if it remains in place, may implicate provisions for the continuity of government. *Compare Miller v. Oubre*, 682 So.2d 231, 237 (La. 1996) (unanimously ruling that La. R.S. 42:2 applies to the judicial branch) *with* Original Complaint for Declaratory Relief, Rec. Doc. 1 at ¶ 21 (alleging that the governor has the right to appoint a justice if there is a vacancy). The fact that this question is or may be an unsettled legal question is an additional reason to allow the District Six election to proceed as planned, ensuring that the voters of District Six remain enfranchised. No compelling state interest to the contrary is present or apparent.

⁸ Rather than advance a compelling state interest, the Consent Stay actually impairs important state interests. The Intervenor Candidate is also the current sitting Justice from District Six, and acts as Chief Justice under the Louisiana Constitution, which mandates that the “judge oldest in point of service on the supreme court shall be chief justice.” La. Const. art. V, § 6. Assuming that the Intervenor Candidate qualifies to run again, and is elected, he would continue to serve as Chief Justice as required by the state constitution, and maintain the administrative stability of the Court and leadership of the state’s entire judicial system.

4. *The Fifth Circuit’s Ruling, Which is the Law of the Case, is Consistent With the Intervenor’s Request.*

The Fifth Circuit has previously affirmed this Court’s denial of the Defendants’ motion to dismiss for lack of subject matter jurisdiction, resolving the question of “[W]hether the Eastern District [of Louisiana] has exclusive subject-matter jurisdiction over all matters involving Louisiana Supreme Court districts under the [*Chisom* decree].” *See Allen v. State of Louisiana*, No. 20-30734 (5th Cir. Sept. 17, 2021) at 4. In answering in the negative, the Fifth Circuit agreed that this Court’s “jurisdiction over Plaintiffs’ suit was undisturbed by the *Chisom* decree, which principally concerned a different electoral district from the one at issue here.” *Id.* at 5. The *Chisom* decree, according to the Fifth Circuit, affects only the existing majority-black district in Orleans Parish (District Seven) and, “properly read in context, the decree’s references to “the system for electing the Louisiana Supreme Court” or to the “restructuring of the Supreme Court of Louisiana,” point to converting the one at-large district into the present-day majority-black district. Those references do not, as Louisiana argues, mean the decree overhauled all supreme court electoral districts.” *Id.* at 9.

Accordingly, the Fifth Circuit explained that “a federal consent decree cannot manacle a state’s entire judicial election system based on an alleged violation in one district” and a court would lack authority to enter such a decree “even if the parties asked it to.” *Id.* at 10; *see also Milliken v. Bradley*, 433 U.S. 267, 282 (1977) (“[F]ederal-court decrees exceed appropriate limits if they are aimed at eliminating a condition that does not violate the Constitution . . . or if they are imposed upon governmental units that were neither involved in nor affected by the constitutional violation” (citations omitted)); *Horne v. Flores*, 557 U.S. 433, 450 (2009) (same); *M.D. ex rel. Stukenberg v. Abbott*, 907 F.3d 237, 271 (5th Cir. 2018) (same)

Consistent with this guidance, a “stay” entered by consent cannot apply beyond the specific district at issue in the underlying litigation. The stay should apply, if at all, to the Fifth District, and no further. The Fifth Circuit explained that the mere “possibility” that some future remedy may also include District Seven is not enough to implicate subject matter jurisdiction as to another District. *See id.* at 12. The same principle applies to District Six.

This conclusion is likewise supported by the case filings and initial District Court decision. *See, e.g.,* Plaintiff’s Memorandum in Opposition to Defendant State of Louisiana’s Motion to Dismiss, Rec. Doc. 34 at 5 n.1 (“[T]he allegations in this case centering on Supreme Court District 5 and the Baton Rouge area are not implicated, much less preempted by the *Chisom* Decree. If there is any doubt on the issue of the relevance of *Chisom* to this case, Plaintiffs will stipulate that any remedy they seek will not affect the Supreme Court District 1.”); *id.* at 4 (“The [Voting Rights Act] allegations in this case focus solely on the single-member Supreme Court District 5 and the Baton Rouge area.”). Moreover, in denying the motion to dismiss, the District Court observed that “[c]onversely, as will be manifestly clear from this Ruling (particularly the standing section *infra*), a fair reading of the Complaint as a whole demonstrates that these Plaintiffs—from East Baton Rouge Parish, and thus outside the *Chisom* class—are in fact seeking relief by the redrawing of Supreme Court District 5 in Baton Rouge.” Ruling and Order, Rec. Doc. 47 at 22.

In sum, the present lawsuit does not concern District Six and, for this reason, the Consent Stay agreed to by the parties should not apply to divest the voters of District Six of their constitutional right to vote, absent any compelling state interest to the contrary.

C. The Intervenor Will Suffer Irreparable Harm Absent Injunctive Relief.

The consideration of this factor should not long detain the Court. There is no dispute that the fundamental constitutional rights of the Intervenor as voters of District Six will be severely

impaired absent injunctive relief. Nor is there any dispute that Intervenor Weimer's constitutional right to seek election to the District Six seat will be impaired. In both instances, these rights will be effectively denied unless the election is permitted to proceed on November 8, 2022 as existing state law currently provides. The deprivation of a constitutional right, even in a single instance, constitutes irreparable harm and cannot be cured by monetary relief. *See Elrod v. Burns*, 427 U.S. 347, 373, (1976) ("The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.").

Any argument that there is no harm because Intervenor Weimer, by the vote of his colleagues, may be permitted to continue to serve for some period beyond the expiration of his current term, does not alter the analysis. With respect to the Intervenor as voters, their rights will continue to be infringed, indeed denied entirely, by the absence of a November 8, 2022 election in District Six. In fact, the proposed ad hoc "appointment" of Justice Weimer merely confirms that the right of voters to elect their justice representative will be taken away from them and placed elsewhere, outside of their electoral reach as voters.

With respect to Justice Weimer as a candidate, the analysis also remains the same, as his hypothetical continuing service by appointment as an Ad Hoc Justice to fill a vacancy (even if permitted in these circumstances, which is an unsettled legal question) is not an equivalent of an elected term-of-office for him or any other candidate for the office. Justice Weimer seeks to protect his right to participate as a candidate in a democratic electoral process. The proposed hypothetical "appointment" process is no substitute for this important right. Further, unlike an Ad Hoc appointment, an elected Justice is entitled to serve during his or her entire term, subject only to removal from office. In contrast, an Ad Hoc Justice may be removed by a vote of a majority of the Court at any time. Further, it is unclear whether an Ad Hoc Justice would remain eligible to serve

after attaining the age of 70, whereas the right of an elected Justice to serve the remainder of a term is constitutionally mandated. This irreparable harm particularly extends to Intervenor Weimer. If the election is “postponed” for several years, the Louisiana Constitution may prohibit his candidacy if he has reached the age of 70 before he is installed. *See* La. Const. Art. V, § 23(B). Finally, at the July 1, 2022 status conference, counsel for the parties indicated they will not consent to lifting the stay and allowing the District Six election to proceed as scheduled on November 8, 2022. Thus, the conference eliminated any doubt that immediate relief is required to avoid irreparable injury to the Intervenor

For these reasons, the Intervenor easily satisfy the irreparable injury requirement.

D. The Third and Fourth Factors are Met, as the Balance of Equities and the Public Interest Both Favor Granting Injunctive Relief to Preserve the Status Quo.

The balance of equities clearly favors granting injunctive relief. Absent the requested relief being granted, the Intervenor’s constitutional right to vote and right to access the ballot will be infringed for an indefinite period. The concerns addressed above regarding open questions of law with respect the status of Supreme Court vacancies, including that of the Chief Justice, will further arise should the Consent Stay Order remain in place without modification. Conversely, should the requested relief be granted, the rights of the District Six voters and candidate will be preserved, and the other parties to this litigation will still be able to pursue, through a proper deliberative legislative process, the underlying aims of redistricting and to ensure the rights of District Five voters (who are not voting in the upcoming election) will be protected in accordance with the U.S. Constitution.

There should likewise be no doubt that the public interest is served by the entry of a preliminary injunction to preserve the existing election scheduled for District Six on November 8, 2022. As the Court is aware, there has been no finding that the plaintiffs in this case are entitled to

the relief they seek with regard to District Five. In addition to the contingency that the plaintiffs may not be able to demonstrate an entitlement to relief is the further contingency that any such relief may somehow affect District Six when, assuming relief is appropriate and redistricting occurs, the existing parameters of District Six may or may not be modified by future legislative acts. There is also a third (and perhaps fourth) contingency, that is, legislative approval of new as-yet-undrawn districts and perhaps even voter approval of as-yet-undrafted constitutional amendments. Against this formidable set of multiple contingencies are two indisputable interests that stand in the way of cancelling the November 8, 2022 election for District Six.

First, there is the interest of the State in enforcing its enacted laws respecting elections pursuant to existing districts that already have been legislatively approved. In *Robinson v. Ardoin*, 3:22-cv-00211 (M.D. La.), which is pending in another section of this District, the State recognized that any rushed solution to redistricting would interfere with the pending congressional mid-term elections scheduled for November 8, 2022, *the very same date as the election for District Six*. In *Robinson*, the State argued against injunctive relief that would have altered the status quo of elections taking place in those presently-existing congressional districts. Indeed, in an emergency application to the Fifth Circuit, the State noted that altering the rules for elections pending near-in-time to the election would cause “irreparable injury” to the citizens of the State. *See Robinson v. Ardoin*, Fifth Circuit Case No. 22-30333, Doc. 00516351454 at p. 27 (“any time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury”) (quoting Roberts. C.J. in *Maryland v. King*, 567 U.S. 1301, 1303 (2012) (internal citations omitted)). With respect to the balance of equities, the State similarly argued that the “equities tilt heavily” in favor of the public’s interest in the enforcement of its election laws. *Id.* at 28.

Second, the *Purcell* doctrine heavily favors the public's interest in maintaining the status quo of existing election laws near-in-time to an election. In *Purcell v. Gonzalez*, 549 U.S. 1 (2006), the Supreme Court established the doctrine that federal courts should refrain from entering orders changing elections that can result in voter confusion and act as a consequent incentive to stay away from the polls. *Id.* at 4-5. That risk is palpable here where the Consent Stay Order effectually cancels the District Six election on November 8, 2022. Unless an injunction is entered to limit the Consent Stay, candidates may refrain from qualifying for the election and voters may begin to believe reports that the District Six election has been cancelled. Indeed, both the State and Secretary Ardoin relied heavily on the *Purcell* doctrine in *Robinson* to argue that the parameters of the congressional elections on November 8, 2022 must not be changed at this late date by court order. And, Justice Alito, acting for the Supreme Court, agreed with them and issued a stay of the district court's injunction, thereby allowing existing election law and existing districts to govern November congressional elections.

These same principles apply here, even more so. The public interest cannot be served by having existing electoral districts used for the November election of federal congressional candidates, while a Consent Stay disenfranchises all voters of District Six from the state Supreme Court election based on a set of contingencies that may never come to pass. As the State aptly noted in its brief to the Fifth Circuit in *Robinson*, “[I]f the Court ultimately determines that Section 2 of the Voting Rights Act does not require the creation of a [new] district, Louisiana's entire electorate will suffer irreversible harm when they next cast their ballots for their congressional representatives.” Doc. 00516351454 at 28. So too for the voters of District Six. The public interest, therefore, “tilts heavily” in favor of a preliminary injunction consistent with Justice Alito's order in *Robinson*, and permitting the District Six election to proceed unaffected by the Consent Stay.

VIII. CONCLUSION

When the parties requested that the Court enter the Consent Stay, it was with their apparent hope that an amicable resolution of the issues in the case could be achieved while the legislature was in session. Such a resolution, while an ambitious goal, may have been achievable two months ago when the Consent Stay was entered. That hope, however, has not come to pass and now the balance of interests that may have warranted a temporary stay of all elections no longer supports that result. To the contrary, the constitutional rights of those affected by the stay have now become paramount, requiring an injunction to modify or limit the stay at least with respect to the impending District Six election on November 8, 2022, consistent with recent rulings by the U.S. Supreme Court. Accordingly, the Intervenors request that the Court immediately grant their motion to intervene, enter a temporary restraining order to maintain the status quo to permit qualifying for District Six to proceed notwithstanding the Consent Stay order, and then grant a preliminary injunction limiting the Consent Stay to permit the District Six election to proceed on November 8, 2022 pursuant to existing election laws and the State Constitution.

Dated: July 5, 2022.

Respectfully submitted,

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capacities as voters from Louisiana Supreme Court
District Six, and John L. Weimer, in his capacity as
a candidate for Louisiana Supreme Court Justice
from District Six*

CERTIFICATE OF SERVICE

I certify that on July 5, 2022, the foregoing was filed using the Court's ECF System, which constitutes services on all counsel having appeared of record in this proceeding.

/s/ John P. D'Avello
John P. D'Avello

**UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF LOUISIANA**

LOUISIANA STATE CONFERENCE
OF THE NATIONAL ASSOCIATION
FOR THE ADVANCEMENT OF
COLORED PEOPLE, *et. al.*,

Plaintiffs,

v.

Case No. 3:19-cv-00479-JWD-SDJ

STATE OF LOUISIANA, *et al.*,

Defendants.

**[PROPOSED] ORDER GRANTING AMENDED
MOTION TO INTERVENE AND FOR TEMPORARY RESTRAINING
ORDER AND PRELIMINARY INJUNCTION TO MAINTAIN THE STATUS QUO**

Considering the Amended Motion to Intervene and for Temporary Restraining Order and Preliminary Injunction to Maintain the Status Quo filed in this matter,

IT IS ORDERED that the Amended Motion to Intervene is GRANTED and John L. Weimer, Greg Champagne, Mike Tregre, and Craig Webre, in their individual capacities as voters from Louisiana Supreme Court District Six, and John L. Weimer, in his capacity as a candidate for Louisiana Supreme Court Justice from District Six, are permitted to participate in the above-captioned matter as Intervenor-Defendants.

IT IS FURTHER ORDERED that the Intervenor's request for a Temporary Restraining Order to maintain the status quo is **GRANTED**, and that qualifying as a candidate for the Supreme Court District Six election shall proceed notwithstanding the Consent Stay Order.

IT IS FURTHER ORDERED that the Intervenor's request for a preliminary injunction is **GRANTED** and that Consent Stay order is limited to permit the District Six election to proceed as scheduled on November 8, 2022 pursuant to existing election laws and the State Constitution.

Signed in Baton Rouge, Louisiana, on _____.

JUDGE JOHN W. deGRAVELLES
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF LOUISIANA

LOUISIANA STATE CONFERENCE
OF THE NATIONAL ASSOCIATION
FOR THE ADVANCEMENT OF
COLORED PEOPLE, *et. al.*,

Plaintiffs,

v.

Case No. 3:19-cv-00479-JWD-SDJ

STATE OF LOUISIANA, *et al.*,

Defendants.

**EXHIBIT LIST FOR
AMENDED MOTION TO INTERVENE AND FOR TEMPORARY RESTRAINING
ORDER AND PRELIMINARY INJUNCTION TO MAINTAIN THE STATUS QUO**

<u>Exhibit No.</u>	<u>Description</u>
Exh. 1	Answer, Cross-Claim, and Affirmative Defense and/or Counterclaim
Exh. 2	Affidavit of Public Notice
Exh. 2-A	2022 Election Information; https://www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/CongressionalRegularScheduleOffices.pdf
Exh. 2-B	Congressional/Presidential Elections: Offices Regularly Scheduled to be Filled, available at: CongressionalRegularScheduleOffices.pdf
Exh. 2-C	Candidate Inquiry for November 8, 2022 Election indicating Associate Justice Supreme Court, 6 th Supreme Court District, <i>available at</i> : Candidate Inquiry (la.gov) .
Exh. 3	Affidavit of John L. Weimer
Exh. 4	Affidavit of Greg Champagne
Exh. 5	Affidavit of Mike Tregre
Exh. 6	Affidavit of Craig Webre

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF LOUISIANA

LOUISIANA STATE CONFERENCE
OF THE NATIONAL ASSOCIATION
FOR THE ADVANCEMENT OF
COLORED PEOPLE, *et. al.*,

Plaintiffs,

v.

Case No. 3:19-cv-00479-JWD-SDJ

STATE OF LOUISIANA, *et al.*,

Defendants.

INTERVENORS' ANSWER, COUNTERCLAIM AND CROSS-CLAIM

John L. Weimer, in his capacity as a candidate for the Louisiana Supreme Court and voter in Supreme Court District Six, and Greg Champagne, Mike Tregre, and Craig Webre, in their individual capacities as voters in Supreme Court District Six (“Intervenors”), through undersigned counsel, and concurrent with the motion to intervene, answer the Original Complaint for Declaratory and Injunctive Relief (Rec. Doc. 1) as follows:

1.

The allegations in Paragraph 1 are admitted to the extent that the Louisiana Supreme Court is the highest court in the State.

2.

The Intervenors lack sufficient knowledge to admit or deny the allegations of Paragraph 2; to the extent a response is required, the allegations in Paragraph 2 are denied as written.

3.

The Intervenors lack sufficient knowledge to admit or deny the allegations of Paragraph 3; to the extent a response is required, the allegations in Paragraph 3 are denied as written.

4.

The Intervenor lack sufficient knowledge to admit or deny the allegations of Paragraph 4; to the extent a response is required, the allegations in Paragraph 4 are denied as written. Furthermore, the allegations in Paragraph 4 are legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

5.

The allegations in Paragraph 5 are legal conclusions and requests for relief to which no response is required; to the extent a response is required, the allegations are denied.

6.

The allegations in Paragraph 6 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

7.

The allegations in Paragraph 7 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied. The Intervenor specifically deny that the Court has jurisdiction to stay elections of Supreme Court Districts that are not explicitly the subject of this litigation.

8.

The allegations in Paragraph 8 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

9.

The Intervenor lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 9 are denied.

10.

The Intervenor lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 10 are denied.

11.

The Intervenor lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 11 are denied.

12.

The Intervenor lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 12 are denied.

13.

The Intervenor lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 13 are denied.

14.

The allegations of Paragraph 14 are admitted.

15.

The allegations of Paragraph 15 are admitted.

16.

The content of 52 U.S.C. § 10301(a) speaks for itself and no response is required. The remaining allegations in Paragraph 16 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

17.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 17 are denied.

18.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 18 are denied.

19.

The allegations in Paragraph 19 are admitted.

20.

The allegations in Paragraph 20 are admitted.

21.

The allegations in Paragraph 21 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

22.

The allegations in Paragraph 21 are also legal conclusions to which no response is required; to the extent a response is required, the allegations are denied as written.

23.

The allegations in Paragraph 23 are denied as written.

24.

The allegations in Paragraph 24 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied as written.

25.

The contents of the *Chisom* Consent Decree and 1992 La. Acts No. 512 speak for themselves and therefore no response is required; to the extent a response is required, the allegations in Paragraph 25 are denied.

26.

The allegations in Paragraph 26 are admitted.

27.

The allegations in Paragraph 27 are admitted.

28.

The allegations in Paragraph 28 are admitted.

29.

The allegations in Paragraph 29 are admitted.

30.

The allegations in Paragraph 30 are admitted.

31.

The allegations in Paragraph 31 are admitted.

32.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 32 are denied.

33.

The allegations in Paragraph 24 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied as written.

34.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 34 are denied. Furthermore, the allegations in Paragraph 34 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

35.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 35 are denied. Furthermore, the allegations in Paragraph 35 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

36.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 36 are denied. Furthermore, the allegations in Paragraph 36 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

37.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 37 are denied. Furthermore, the allegations in Paragraph 37 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

38.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 38 are denied. Furthermore, the allegations in

Paragraph 38 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

39.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 39 are denied. Furthermore, the allegations in Paragraph 39 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

40.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 40 are denied. Furthermore, the allegations in Paragraph 40 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

41.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 41 are denied. Furthermore, the allegations in Paragraph 41 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

42.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 47 are denied. Furthermore, the allegations in Paragraph 47 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

43.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 43 are denied.

44.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 44 are denied.

45.

The allegations in Paragraph 45 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

46.

The allegations of Paragraph 46 are admitted solely to the extent that Louisiana employs a majority-vote requirement for all Supreme Court elections. The Intervenor's lack sufficient knowledge to admit or deny the remaining allegations; to the extent a response is required, the remaining allegations of Paragraph 46 are denied. Furthermore, the remaining allegations in Paragraph 46 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

47.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 47 are denied. Furthermore, the allegations in Paragraph 47 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

48.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 48 are denied. Furthermore, the allegations in Paragraph 48 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

49.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 49 are denied as written.

50.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 50 are denied as written.

51.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 51 are denied as written.

52.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 52 are denied as written.

53.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 53 are denied as written.

54.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 54 are denied as written.

55.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 55 are denied.

56.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 56 are denied.

57.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 57 are denied. Furthermore, the allegations in Paragraph 57 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

58.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 58 are denied.

59.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 59 are denied.

60.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 60 are denied.

61.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 61 are denied.

62.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 62 are denied.

63.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 63 are denied.

64.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 64 are denied.

65.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 65 are denied. Furthermore, the allegations in Paragraph 65 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

66.

The Intervenor's incorporate Paragraphs 1–65 as if set forth fully herein.

67.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 67 are denied. Furthermore, the allegations in Paragraph 67 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

68.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 68 are denied. Furthermore, the allegations in Paragraph 68 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

69.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 69 are denied. Furthermore, the allegations in Paragraph 69 are legal conclusions to which no response is required; to the extent a response is required, the allegations are denied.

70.

The Intervenor's lack sufficient knowledge to admit or deny the allegations; to the extent a response is required, the allegations of Paragraph 70 are denied.

71.

The allegations in the Prayer for Relief require no answer. To the extent a response is required, the Intervenor's take no position as to whether the Plaintiffs are entitled to any of the relief they seek.

72.

Wherefore, the Intervenor's pray that this Answer be deemed good and sufficient, that after all proceedings are had the Plaintiff's claims be dismissed with prejudice at their cost; and for all general and equitable relief that justice requires, including but not limited to an award of Intervenor's' attorneys' fees and reasonable costs.

CROSS-CLAIM IN INTERVENTION

And now John L. Weimer, in his capacity as a candidate and voter for Louisiana Supreme Court District Six, and Greg Champagne, Mike Tregre, and Craig Webre, in their individual capacities (“Intervenors”), through undersigned counsel, bring the following Cross-claim against Defendant R. Kyle Ardoin, in his official capacity as Secretary of State, for preliminary injunctive relief:

I. PARTIES

73.

The Intervenors incorporate by reference as if set forth fully herein their responses to the Plaintiffs’ allegations regarding the named parties in this matter, *see* ¶¶ 10–15.

74.

The Intervenors Greg Champagne, Mike Tregre, and Craig Webre, in their individual capacities, are registered voters within Louisiana Supreme Court District Six (“District Six”) and are entitled to vote in the election currently set for November 8, 2022. Intervenor John L. Weimer is a candidate for the Louisiana Supreme Court from District Six and a registered voter in District Six.

II. JURISDICTION AND VENUE

75.

The Court has subject matter jurisdiction over Intervenor’s claims under 28 U.S.C. § 1331 because they arise under 42 U.S.C. § 1983.

76.

Venue is proper in this district under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claim occurred in this district .

III. FACTS

77.

Intervenors are each registered voters in Supreme Court District Six.

78.

The next election for Supreme Court Justice is set for November 8, 2022.

79.

The time to qualify as a candidate for District Six seat is set to occur between July 20 and July 22, 2022.

80.

On May 2, 2022, the Plaintiffs and Defendants to this case submitted a Consent Motion to Stay all Louisiana Supreme Court elections.

81.

On May 3, 2022, the Court, with the consent of the parties, entered an order staying all Louisiana Supreme Court elections until the state's Supreme Court voting districts have been reapportioned. Although the Secretary of State's website does not reflect that the election is stayed, his counsel confirmed at a July 1, 2022 status conference that he believes the stay order should remain intact.

82.

None of the Intervenors have been contacted by any of the parties in connection with any of the filings regarding the order staying elections.

83.

None of the Intervenors consent to the stay of all Louisiana Supreme Court elections.

84.

Absent the stay entered in this matter, all of the Intervenor would be entitled to vote in the District Six Supreme Court election.

85.

The stay in the present matter, if not modified or partially lifted, will irreparably infringe the Intervenor's right to vote in the upcoming November 8, 2022 election for Justice for District Six.

86.

Furthermore, Intervenor Weimer is qualified for candidacy and intends to qualify as a candidate for the District Six seat.

87.

During the pendency of this litigation, three other justices from the First, Fourth, and Seventh Louisiana Supreme Court Districts have been elected and sworn in as duly-elected Justices.

88.

The stay in the present matter, if not modified or partially lifted, would irreparably harm Intervenor Weimer's constitutional right to stand for election in District Six for which he is properly qualified.

IV. CROSS-CLAIM – VIOLATION OF 42 U.S.C. § 1983

89.

Intervenor repeat and reallege paragraphs 73 through 88 as if set forth fully herein.

90.

Made cross-claim defendant is R. Kyle Ardoin, in his official capacity as Louisiana Secretary of State. For the reasons alleged, the cross-claim defendant, by consenting to a stay order halting the election for a Supreme Court Justice from District Six, has infringed upon the Intervenor Voters' constitutional right to vote and the Intervenor Candidate's constitutional right as a candidate to seek office under existing state law. Accordingly, prospective injunctive relief as to the cross-claim is appropriate to restrain unconstitutional conduct pursuant to 42 U.S.C § 1983.

91.

By reason of the foregoing, Intervenorors are entitled to maintenance of the status quo by allowing the District Six election to proceed as authorized by the Louisiana Constitution and state law, and accordingly request that the Court enter a temporary restraining order to maintain the status quo to permit qualifying for District Six to proceed notwithstanding the Consent Stay Order, and then grant a preliminary injunction limiting the Consent Stay to permit the District Six election to proceed on November 8, 2022 pursuant to existing election laws and the State Constitution.

AFFIRMATIVE DEFENSE AND/OR COUNTERCLAIM IN INTERVENTION

93.

Intervenorors repeat and reallege paragraphs 73 through 88 as if set forth fully herein.

94.

The claims of the plaintiffs extend to whether District Five as currently drawn violates the Voting Rights Act ("VRA"). The Complaint does not allege a similar violation as to District Six, nor do the plaintiffs have standing to do so. The only potential relevance of District Six is that it may become part of a future redistricting exercise by the legislature. Accordingly, this VRA action as to District Five provides no legal basis to enjoin or stay a pending election in District Six, when

even the entitlement to any relief in District Five is contested by the State defendants and has not yet been adjudicated.

96.

By reason of the foregoing, Intervenor is entitled to maintenance of the status quo by allowing the District Six election to proceed as authorized by the Louisiana Constitution and state law, and accordingly request that the Court enter a temporary restraining order to maintain the status quo to permit qualifying for District Six to proceed notwithstanding the Consent Stay Order, and then grant a preliminary injunction limiting the Consent Stay to permit the District Six election to proceed on November 8, 2022 pursuant to existing election laws and the State Constitution..

Dated: July 5, 2022.

Respectfully submitted,

/s/ John P. D'Avello

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Mike Tregre, and Craig Webre, in their individual
capacities as voters from Louisiana Supreme Court
District Six, and John L. Weimer, in his capacity as
a candidate for Louisiana Supreme Court Justice
from District Six*

CERTIFICATE OF SERVICE

I certify that on July 5, 2022, the foregoing was filed using the Court's ECF System, which constitutes services on all counsel having appeared of record in this proceeding.

/s/ John P. D'Avello
John P. D'Avello

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF LOUISIANA

LOUISIANA STATE CONFERENCE
OF THE NATIONAL ASSOCIATION
FOR THE ADVANCEMENT OF
COLORED PEOPLE, *et. al.*,

Plaintiffs,

v.

Case No. 3:19-cv-00479-JWD-SDJ

STATE OF LOUISIANA, *et al.*,

Defendants.

**AFFIDAVIT OF PUBLIC NOTICE IN SUPPORT OF AMENDED
MOTION TO INTERVENE AND FOR TEMPORARY RESTRAINING
ORDER AND PRELIMINARY INJUNCTION TO MAINTAIN THE STATUS QUO**

**STATE OF LOUISIANA
PARISH OF ORLEANS**

BEFORE ME, the undersigned authority, personally came and appeared:

John P. D’Avello, who, after being duly sworn, did depose:

1. I am a person of the full age of majority and a resident of the Parish of Orleans.
2. I make this Affidavit based upon my own personal knowledge and belief.
3. Attached are true and correct copies of publicly-available information on the

Secretary of State’s website as of the filing of this affidavit. Specifically:

- a. 2022 Election Information, *available at*:


<https://www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/CongressionalRegularScheduleOffices.pdf>

- b. Congressional/Presidential Elections: Offices Regularly Scheduled to be Filled, *available at*: [CongressionalRegularScheduleOffices.pdf](https://www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/CongressionalRegularScheduleOffices.pdf)

- c. Candidate Inquiry for November 8, 2022 Election indicating Associate Justice Supreme Court, 6th Supreme Court District, *available at:* [Candidate Inquiry \(la.gov\)](#).


John P. D'Avello

Sworn to and subscribed before me,
Notary Public, this 5th day of July, 2022.


La. Bar No. 35933
La. Notary No. 148374

Kathryn W. Munson
Printed Name

My commission expires at death.



2022 ELECTIONS

Date of Election	January 15	March 26	April 30	June 4	November 8	December 10
Type of Election	Special General-Catahoula Police Juror, Dist. 3	Municipal Primary	Municipal General	Primary-Councilman, Dist. 2, City of Sulphur	Open Primary/Congressional	Open General/Congressional
Deadline: Specials	n/a	12/29/2021	n/a	n/a	6/22/2022	n/a
Deadline: Propositions	n/a	12/29/2021	3/7/2022	n/a	6/22/2022	10/17/2022
Qualifying Dates	n/a	1/26/2022 – 1/28/2022	n/a	n/a	7/20/2022 – 7/22/2022	n/a
In Person/By Mail Registration Deadline	12/15/2021	2/23/2022	3/30/2022	5/4/2022	10/11/2022*	11/9/2022
Geaux Vote Online Registration Deadline	12/25/2021	3/5/2022	4/9/2022	5/14/2022	10/18/2022	11/19/2022
Deadline to Request a Mail Ballot from Registrar (other than Military and Overseas)	1/11/2022	3/22/2022	4/26/2022	5/31/2022	11/4/2022	12/6/2022
Deadline for Registrar to Receive Voted Mail Ballot (other than Military and Overseas)	1/14/2022	3/25/2022	4/29/2022	6/3/2022	11/7/2022	12/9/2022
Early Voting Begins	➤ 1/3/2022	3/12/2022	4/16/2022	5/21/2022	10/25/2022	11/26/2022
Early Voting Ends	1/8/2022	3/19/2022	4/23/2022	5/28/2022	11/1/2022	12/3/2022

IMPORTANT NOTES

* Deadline advanced one day due to Columbus Day (Mail) Holiday.

➤ Early Voting adjusted due to New Year's Eve/New Year's Day Holiday.

DATES ARE SUBJECT TO CHANGE BY THE LEGISLATURE

Revised 4/2022

EXHIBIT 2a

CONGRESSIONAL / PRESIDENTIAL ELECTIONS: OFFICES REGULARLY SCHEDULED TO BE FILLED

Office Titles	Number Elected	Year Next Election	Years of Term	Beginning of Next Term	Expiration of Next Term	Comm. Issued	Commission Issuance Citation
President/Vice President	1/1	2020	4	Noon, Jan. 20 1/20/2021	Noon, Jan. 20 1/20/2025	None	US Constitution Amendment XX, §1
Presidential Electors	8	2020	one meeting	1st Mon. after 2nd Wed. in Dec.: 12/14/2020	1st Mon. after 2nd Wed. Dec.: 12/14/2020	SS 435	US Code Chapter 1, §1, §7 (Complimentary Certificate)
U. S. Senators	1 1	2020 2022	6 6	Noon, Jan. 3 1/3/2021 1/3/2023	Noon, Jan. 3 1/3/2027 1/3/2029	None	US Constitution Amendment XX, §1
U. S. Representatives	6	2020	2	Noon, Jan. 3 1/3/2021	Noon, Jan. 3 1/3/2023	None	US Constitution Amendment XX, §1
Supreme Court Justices	7	staggered	10	Jan. 1	Dec. 31	SS 402	LA Constitution Article V, §3, §22C
Court of Appeal Judges	53	staggered	10	varies	varies	SS 402	Check chart: "Court of Appeal Judges" LA Constitution Article V, §8C, §22C
Public Service Commissioners	5	staggered	6	Jan. 1	Dec. 31	SS 402	LA Constitution Article IV, §21 R.S.45:1161.1
District Judges	218	2020	6	Jan. 1: 1/1/2021	Dec. 31: 12/31/2026	SS402	LA Constitution Article V, §15C, §22C
District Attorneys	42	2020	6	2nd Mon. in Jan.: 1/11/2021	Sun. before 2nd Mon. in Jan.: 1/10/2027	SS 402	LA Constitution Article V, §26A R.S.16:1
Court Judges: Parish / Family / Juvenile	22	varies	varies	Jan. 1	Dec. 31	SS 402	LA Constitution Article V, §15C, §22C R.S.13:1594
Parish Presidents / Councils: Plaquemines East Baton Rouge	1 / 9 1 / 12	2022 2020	4 4	Jan. 1 1/1/2023 1/1/2021	Dec. 31 12/31/2026 12/31/2024	SS 402 SS 402 SS 402	Check chart: "Parish Governing Authorities" Pointe Coupee ran in 2018, then will permanently move to the Gubernatorial in 2023 per HRC
City Court Judges	67	varies	varies	Jan. 1	Dec. 31	SS 402	LA Constitution Article V, §15C, §22C
City Court Marshals	42	varies	6	Jan. 1	Dec. 31	SS 402	R.S.13:1879A, B, C
City Court Constables	3	varies	6	Jan. 1	Dec. 31	SS 402	R.S.13:1879A, B, C; R.S.13:2153.1A, B
City Court Clerks	2	varies	6	Jan. 1	Dec. 31	SS 402	R.S.13:2153.1A, B
School Board Members: All except Orleans & Laf. Orleans Parish Lafayette (runs in Gub., see pg. 11)	627 7	2022 2020	4 4	Jan. 1 1/1/2023 1/1/2021	Dec. 31 12/31/2026 12/31/2024	SS 402 SS 402	R.S.17:121 R.S.17:52A
Greater Lafourche Port Commission Member	9	2024	6	1/1/2025	12/31/2030	SS 402	R.S.18:513 R.S.34:1651B
Justices of the Peace	387	2020	6	Jan. 1: 1/1/2021	Dec. 31: 12/31/2026	SS 402	R.S.13:2582B
Constables	388	2020	6	Jan. 1: 1/1/2021	Dec. 31: 12/31/2026	SS 402	R.S.13:2583B, C
Municipal Offices - check chart starting on page 15:	419 947	2020 2022	4 4	varies varies	varies varies	SS 402 SS 402	Check Lawrason Act, Home Rule Charter, or Legislative / Special Charter

Total Offices: 3,286

Revised 8/2018

EXHIBIT 2b

Page 1



Candidate Inquiry

Election Date ▼

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Statewide/Multi-Parish **Parish**

Note: This information is UNOFFICIAL until qualifying is closed.

[View Races in Parish](#)

[New Candidate Data Request](#)

Associate Justice Supreme Court, 6th Supreme Court District

1 to be elected

No candidates

[New Candidate Data Request](#)

* The address on the proof of identity of the candidate is different than the candidate's address on the notice of candidacy.

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**UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF LOUISIANA**

LOUISIANA STATE CONFERENCE
OF THE NATIONAL ASSOCIATION
FOR THE ADVANCEMENT OF
COLORED PEOPLE, *et. al.*,

Plaintiffs,

v.

Case No. 3:19-cv-00479-JWD-SDJ

STATE OF LOUISIANA, *et al.*,

Defendants.

**AFFIDAVIT OF JOHN L. WEIMER IN SUPPORT OF AMENDED
MOTION TO INTERVENE AND FOR TEMPORARY RESTRAINING
ORDER AND PRELIMINARY INJUNCTION TO MAINTAIN THE STATUS QUO**

**STATE OF LOUISIANA
PARISH OF LAFOURCHE**

BEFORE ME, the undersigned authority, personally came and appeared:

Intervenor John L. Weimer, in his capacity as a candidate and a voter for Louisiana
Supreme Court Justice from District Six, who, after being duly sworn, did depose:

1. I am a person of the full age of majority and a resident of the Parish of Lafourche.
2. I make this Affidavit based upon my own personal knowledge and belief.
3. I am a registered voter in Louisiana Supreme Court District Six ("District Six").
4. Upon information and belief, the next election for the Supreme Court Justice for District Six has been set for November 8, 2022.
5. Upon information and belief, the time to qualify as a candidate for District Six seat has been set to occur between July 20 and July 22, 2022.

6. I was not contacted regarding the filing of the Consent Motion to Stay all Louisiana Supreme Court Elections (Rec. Doc. 100) in the present case and had no prior knowledge of it.

7. The parties submitted their Consent Motion to Stay all Louisiana Supreme Court elections (Rec. Doc. 100) to the Court on May 2, 2022.

8. The Court thereafter entered an Order staying all Louisiana Supreme Court elections until the state's Supreme Court voting districts have been reapportioned. Rec. Doc. 101.

9. I was not contacted by any of the parties in connection with any of the filings regarding the Consent Stay Order staying all Supreme Court elections.

10. I do not consent to the stay of all Louisiana Supreme Court elections.

11. Absent the stay entered in this matter, I would vote as I am entitled to do in the November 8, 2022 District Six election.

12. The stay in the present matter, if not enjoined or partially lifted, will irreparably harm my right to vote by disenfranchising me from the upcoming November 8, 2022 election for District Six.

13. I am currently the Supreme Court Justice for District Six and have been elected to this seat by the people of District Six since 2001.

14. On January 1, 2021, I became the 26th Chief Justice of the Louisiana Supreme Court.

15. I was elected to a 10-year term for my current seat in 2012 and my current term expires at the end of 2022.

16. I was born on October 2, 1954, and will turn 70 years old on October 2, 2024.

17. I intend to qualify as a candidate and run for the District Six seat in the upcoming November 8, 2022 election.

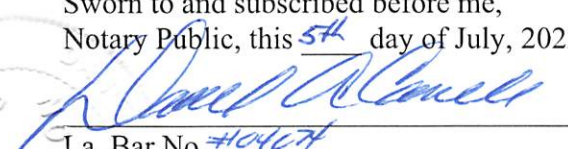
18. A majority of the members of the Supreme Court have indicated to me that they were not contacted or advised that a stay of all, or any, Supreme Court elections was being considered by the parties, or that the parties to this case had reached an agreement that a stay would be requested prior to the stay being granted.

19. The fact that a stay was granted was not communicated to me as Chief Justice or to the members of the Louisiana Supreme Court as a group by any of the parties, either officially or unofficially. The fact a stay had been granted was discovered as a result of a colleague being advised of the stay some weeks after the stay was granted.

20. The stay in the present matter, if not enjoined or partially lifted, would irreparably harm my constitutional right to qualify between July 20–22, 2022 and stand for an election on November 8, 2022 as a candidate for Justice in District Six which I am qualified to seek.


JOHN L. WEIMER

Sworn to and subscribed before me,
Notary Public, this 5th day of July, 2022.


La. Bar No. #10467

La. Notary No. _____

DANIEL A CAULL
Printed Name

My commission expires at death.

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF LOUISIANA

LOUISIANA STATE CONFERENCE
OF THE NATIONAL ASSOCIATION
FOR THE ADVANCEMENT OF
COLORED PEOPLE, *et. al.*,

Plaintiffs,

v.

Case No. 3:19-cv-00479-JWD-SDJ

STATE OF LOUISIANA, *et al.*,

Defendants.

**AFFIDAVIT OF GREG CHAMPAGNE IN SUPPORT OF AMENDED
MOTION TO INTERVENE AND FOR TEMPORARY RESTRAINING
ORDER AND PRELIMINARY INJUNCTION TO MAINTAIN THE STATUS QUO**

STATE OF LOUISIANA
PARISH OF _____

BEFORE ME, the undersigned authority, personally came and appeared:

Intervenor Greg Champagne, in his individual capacity as a District Six voter who, after
being duly sworn, did depose:

1. I am a person of the full age of majority and a resident of the Parish of _____.
2. I make this Affidavit based upon my own personal knowledge and belief.
3. I am a registered voter in Louisiana Supreme Court District Six ("District Six").
4. Upon information and belief, the next election for the Supreme Court Justice for District Six has been set for November 8, 2022.
5. Upon information and belief, the time to qualify as a candidate for District Six seat has been set to occur between July 20 and July 22, 2022.

6. I was not contacted regarding the filing of the Consent Motion to Stay all Louisiana Supreme Court Elections (Rec. Doc. 100) in the present case and had no prior knowledge of it.

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9. I was not contacted by any of the parties in connection with any of the filings regarding the Consent Stay Order staying elections.

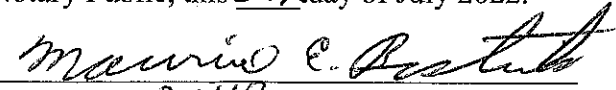
10. I do not consent to the stay of all Louisiana Supreme Court elections.

11. Absent the stay entered in this matter, I would vote as I am entitled to do in the November 8, 2022 District Six election.

12. The stay in the present matter, if not enjoined or partially lifted, will irreparably harm my right to vote by disenfranchising me from the upcoming November 8, 2022 election for District Six.


GREG CHAMPAGNE

Sworn to and subscribed before me,
Notary Public, this 5th day of July 2022.


La. Bar No. 20117
La. Notary No. _____

MAURICE E. BOSTICK
NOTARY PUBLIC
Parish of Orleans, State of Louisiana
Printed Name: _____
My Commission is for Life.

My commission expires at death.

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF LOUISIANA

LOUISIANA STATE CONFERENCE
OF THE NATIONAL ASSOCIATION
FOR THE ADVANCEMENT OF
COLORED PEOPLE, *et. al.*,

Plaintiffs,

v.

Case No. 3:19-cv-00479-JWD-SDJ

STATE OF LOUISIANA, *et al.*,

Defendants.

**AFFIDAVIT OF MIKE TREGRE IN SUPPORT OF AMENDED
MOTION TO INTERVENE AND FOR TEMPORARY RESTRAINING
ORDER AND PRELIMINARY INJUNCTION TO MAINTAIN THE STATUS QUO**

STATE OF LOUISIANA
PARISH OF ST. JOHN THE BAPTIST

BEFORE ME, the undersigned authority, personally came and appeared:

Intervenor Mike Tregre, in his individual capacity as a District Six voter who, after being
duly sworn, did depose:

1. I am a person of the full age of majority and a resident of the Parish of St. John the Baptist..
2. I make this Affidavit based upon my own personal knowledge and belief.
3. I am a registered voter in Louisiana Supreme Court District Six (“District Six”).
4. Upon information and belief, the next election for the Supreme Court Justice for District Six has been set for November 8, 2022.
5. Upon information and belief, the time to qualify as a candidate for District Six seat has been set to occur between July 20 and July 22, 2022.

6. I was not contacted regarding the filing of the Consent Motion to Stay all Louisiana Supreme Court Elections (Rec. Doc. 100) in the present case and had no prior knowledge of it.

7. The parties submitted their Consent Motion to Stay all Louisiana Supreme Court elections (Rec. Doc. 100) to the Court on May 2, 2022.

8. The Court thereafter entered an Order staying all Louisiana Supreme Court elections until the state's Supreme Court voting districts have been reapportioned. (Rec. Doc. 101).

9. I was not contacted by any of the parties in connection with any of the filings regarding the Consent Stay Order staying elections.


10. I do not consent to the stay of all Louisiana Supreme Court elections.

11. Absent the stay entered in this matter, I would vote as I am entitled to do in the November 8, 2022 District Six election.

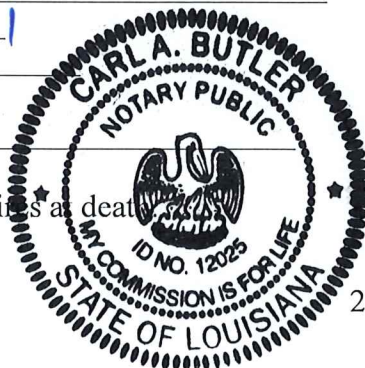
12. The stay in the present matter, if not enjoined or partially lifted, will irreparably harm my right to vote by disenfranchising me from the upcoming November 8, 2022 election for District Six.


MIKE TREGRE

Sworn to and subscribed before me,
Notary Public, this 5th day of July 2022


La. Bar No. 17261
La. Notary No. _____

Printed Name
My commission expires at death



UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF LOUISIANA

LOUISIANA STATE CONFERENCE
OF THE NATIONAL ASSOCIATION
FOR THE ADVANCEMENT OF
COLORED PEOPLE, *et. al.*,

Plaintiffs,

v.

Case No. 3:19-cv-00479-JWD-SDJ

STATE OF LOUISIANA, *et al.*,

Defendants.

**AFFIDAVIT OF CRAIG WEBRE IN SUPPORT OF AMENDED
MOTION TO INTERVENE AND FOR TEMPORARY RESTRAINING
ORDER AND PRELIMINARY INJUNCTION TO MAINTAIN THE STATUS QUO**

STATE OF LOUISIANA
PARISH OF LAFOURCHE

BEFORE ME, the undersigned authority, personally came and appeared:

Intervenor Craig Webre, in his individual capacity as a District Six voter who, after being
duly sworn, did depose:

1. I am a person of the full age of majority and a resident of the Parish of Lafourche.
2. I make this Affidavit based upon my own personal knowledge and belief.
3. I am a registered voter in Louisiana Supreme Court District Six ("District Six").
4. Upon information and belief, the next election for the Supreme Court Justice for District Six has been set for November 8, 2022.
5. Upon information and belief, the time to qualify as a candidate for District Six seat has been set to occur between July 20 and July 22, 2022.

6. I was not contacted regarding the filing of the Consent Motion to Stay all Louisiana Supreme Court Elections (Rec. Doc. 100) in the present case and had no prior knowledge of it.

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9. I was not contacted by any of the parties in connection with any of the filings regarding the Consent Stay Order staying elections.


10. I do not consent to the stay of all Louisiana Supreme Court elections.

11. Absent the stay entered in this matter, I would vote as I am entitled to do in the November 8, 2022 District Six election.

12. The stay in the present matter, if not enjoined or partially lifted, will irreparably harm my right to vote by disenfranchising me from the upcoming November 8, 2022 election for District Six.


CRAIG WEBRE

Sworn to and subscribed before me,
Notary Public, this 5TH day of July 2022


La. Bar No. 37822
La. Notary No. _____


Printed Name Miguel A. Jimenez, Jr.

My commission expires at death.