

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT MARTINSBURG

JEFFERSON COUNTY COMMISSION;
PATRICIA NOLAND, *as an individual
and behalf of all others similarly situated*;
and DALE MANUEL, *as an individual and
behalf of all others similarly situated*,

Plaintiffs, and

THORNTON COOPER,

Intervening Plaintiff,

v.

Civil Action No. 3:11-CV-96
(KING, BAILEY, BERGER)

NATALIE E. TENNANT, *in her capacity as
the Secretary of State*; EARL RAY TOMBLIN,
*in his capacity as the Chief Executive Officer
of the State of West Virginia*; JEFFREY
KESSLER, *in his capacity as the Acting
President of the Senate of the West Virginia
Legislature*; and RICHARD THOMPSON, *in
his capacity as the Speaker of the House of
Delegates of the West Virginia Legislature*,

Defendants.

COMPLAINT BY INTERVENING PLAINTIFF THORNTON COOPER.

Thornton Cooper, Intervening Plaintiff, *pro se*, states as follows:

PARTIES.

1. Thornton Cooper, Intervening Plaintiff, is a native, citizen, and resident of Kanawha County, West Virginia, and is also an attorney and political cartographer. He actively participated and testified in federal cases involving the redistricting of West Virginia's congressional districts following the 1980 and 1990 Censuses. He was qualified as an expert in the latter case, *Stone v. Hechler*, 782 F. Supp. 1116, 1122, 1123 (N. D. W. Va. 1992).

2. The first Defendant, the **Honorable Natalie E. Tennant**, is the Secretary of State of the State of West Virginia, and serves as the chief election official of West Virginia. She is sued in her official capacity.

3. The remaining Defendants, the **Honorable Earl Ray Tomblin**, the **Honorable Jeffrey Kessler**, and the **Honorable Richard Thompson**, are, respectively, the Governor of the State of West Virginia, the President of the West Virginia State Senate, and the Speaker of the West Virginia House of Delegates. Each is sued in his official capacity.

JURISDICTION AND VENUE.

4. Jurisdiction in this civil action is proper under the provisions of 28 U.S.C. §§ 1331, 1343, 2201, and 2202 and 42 U.S.C. § 1983.

5. Venue in this civil action is proper under 28 U.S.C. § 1391 because some of the violations of constitutional rights described herein occurred to residents of the Eastern Panhandle of West Virginia.

6. Intervening Plaintiff Thornton Cooper joined the original Plaintiffs in requesting that a three-judge district court be convened in accordance with 28 U.S.C.

§ 2284. That court has now been convened.

ALLEGATIONS OF FACT.

7. Following the 2010 Census, West Virginia, with a population of 1,852,994, was assigned a total of three (3) members of Congress in accordance with *Article I, §2, clause 3*, of the *United States Constitution* and with the *Fourteenth Amendment* thereto, and pursuant to 2 *U.S.C. § 2a(a)*, under a rather complicated algebraic formula known as the “method of equal proportions”. See, *U. S. Dep’t of Commerce v. Montana*, 503 U.S. 442, 112 S. Ct. 1415, 118 L. Ed. 2d 87 (1992).

8. Under the 2001 redistricting statute, West Virginia, as of the beginning of 2011, was divided as follows: (a) The First Congressional District, with a 2010 population of 615,991, consisted of Barbour, Brooke, Doddridge, Gilmer, Grant, Hancock, Harrison, Marion, Marshall, Mineral, Monongalia, Ohio, Pleasants, Preston, Ritchie, Taylor, Tucker, Tyler, Wetzel, and Wood Counties. (b) The Second Congressional District, with a population of 648,186, consisted of Berkeley, Braxton, Calhoun, Clay, Hampshire, Hardy, Jackson, Jefferson, Kanawha, Lewis, Mason, Morgan, Pendleton, Putnam, Randolph, Roane, Upshur, and Wirt Counties. (c) The Third Congressional District, with a population of 588,817, consisted of Boone, Cabell, Fayette, Greenbrier, Lincoln, Logan, McDowell, Mercer, Mingo, Monroe, Nicholas, Pocahontas, Raleigh, Summers, Wayne, Webster, and Wyoming Counties.

9. In the spring of 2011, the West Virginia State Senate Redistricting Committee (with its staff, also known as the State Senate Redistricting Task Force) SSRC, chaired by State Senator John Unger, II, began holding public hearings across the state to obtain public comment on redistricting congressional districts, State Senate

districts, and House of Delegates districts. During the spring and summer of 2011, twelve (12) hearings by that committee were held across the state.

10. Intervening Plaintiff Thornton Cooper attended all twelve (12) of the above hearings, the last of which was held on Thursday, July 21, 2011, in Princeton. At those hearings, he submitted three (3) different plans for redistricting the state's congressional districts and made oral presentations about his various proposals. Those submissions (and all of his oral presentations to that committee) are set forth in detail, and are mapped out, on the West Virginia State Senate's website.

11. Of all the plans submitted to the SSRC, Intervening Plaintiff Thornton Cooper's three (3) submissions are, to the best of his knowledge, the plans closest to numerical equality that divide no counties between or among congressional districts. Under the 2010 Census results, the ideal population for a West Virginia congressional district, to the nearest integer, is 617,665. For the purpose of discussion only, State Senator Brooks McCabe agreed to have the Legislature's redistricting office analyze each one of Mr. Cooper's three congressional redistricting plans before that plan was actually submitted by Mr. Cooper to the SSRC at a public hearing.

12. Under the first of Mr. Cooper's congressional redistricting plans, which was identified by the redistricting office as "Congressional Plan 1 McCabe and Cooper", the populations of the three congressional districts are 617,341, 617,869, and 617,784. A copy of that Plan, including population and deviation figures and a color map of the districts, is attached hereto as Attachment A.

13. Under the second of Mr. Cooper's congressional redistricting plans, which was identified by the redistricting office as "Congressional Plan 2 McCabe and

Cooper”, the populations of the three congressional districts are 617,778, 617,432, and 617,784. A copy of that Plan, including population and deviation figures and a color map of the districts, is attached hereto as Attachment B.

14. Under the third of Mr. Cooper’s congressional redistricting plans, which was identified by the redistricting office as “Congressional Plan 3 McCabe and Cooper”, the populations of the three congressional districts are 617,778, 617,667, and 617,549. A copy of that Plan, including population and deviation figures and a color map of the districts, is attached hereto as Attachment C.

15. Following the conclusion of these hearings by the SSRC, the First Extraordinary Session of the 2011 Legislature was convened in Charleston. During that special session, the Legislature, on Friday, August 5, 2011, passed Senate Bill No. 1008, relating to the redistricting of West Virginia’s Congressional districts. That bill amended the congressional-districts language in *W.Va. Code* §1-2-3, as last amended in 2001, by moving Mason County from the Second Congressional District to the Third Congressional District. Defendants Jeffrey Kessler and Richard Thompson voted for that bill. That bill took effect from passage and was subsequently signed by Defendant, and then Acting Governor, Earl Ray Tomblin.

16. The population variances among congressional districts under Enrolled Senate Bill No. 1008 are much greater than the population variances under any of Intervening Plaintiff Thornton Cooper’s three congressional redistricting (3) plans and are also much greater than the population variances in the 1991 legislation that was allowed to stand in *Stone v. Hechler, supra*.

17. Under Enrolled Senate Bill No. 1008, West Virginia is divided as follows:

(a) The First Congressional District, with a population of 615,991, consists of Barbour, Brooke, Doddridge, Gilmer, Grant, Hancock, Harrison, Marion, Marshall, Mineral, Monongalia, Ohio, Pleasants, Preston, Ritchie, Taylor, Tucker, Tyler, Wetzel, and Wood Counties. (b) The Second Congressional District, with a population of 620,862, consists of Berkeley, Braxton, Calhoun, Clay, Hampshire, Hardy, Jackson, Jefferson, Kanawha, Lewis, Morgan, Pendleton, Putnam, Randolph, Roane, Upshur, and Wirt Counties. (c) The Third Congressional District, with a population of 616,141, consists of Boone, Cabell, Fayette, Greenbrier, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Nicholas, Pocahontas, Raleigh, Summers, Wayne, Webster, and Wyoming Counties.

18. The new Second Congressional District, in which Intervening Plaintiff Thornton Cooper resides, is the most populous of these districts, exceeding the population of the old and new First Congressional District by 4,871 people.

19. Under Article I, § 4, of the *West Virginia Constitution*, for "the election of representatives to Congress, the State shall be divided into districts, corresponding in number with the representatives to which it may be entitled; which districts shall be compact. Each district shall contain as nearly as may be, an equal number of population, to be determined according to the rule prescribed in the Constitution of the United States."

20. The Second Congressional District under Enrolled Senate Bill No. 1008 is not compact.

FIRST CAUSE OF ACTION.

21. Intervening Plaintiff Thornton Cooper incorporates by reference the allegations set forth in Paragraphs 1 through 20 as if set forth herein in full.

22. Under *Article I, § 2*, of the *United States Constitution*, a state is required to make a good-faith effort to achieve precise mathematical equality between and among congressional districts. *Kirkpatrick v. Preisler*, 394 U.S. 526, 89 S. Ct. 1225, 22 L. Ed. 2d 519 (1969).

23. Because, in enacting Enrolled Senate Bill No. 1008, it ignored its duty to achieve, or even to attempt to achieve, precise mathematical equality between and among congressional districts, the West Virginia Legislature violated both *Article I, § 2*, of the *United States Constitution* and *Article I, § 4*, of the *West Virginia Constitution*.

24. As the West Virginia Secretary of State, Defendant Natalie Tennant, pursuant to *W. Va. Code § 3-1A-6*, is the chief election official of West Virginia. She is required to carry out her responsibilities in accordance with the *West Virginia Constitution*.

25. More specifically, it is with Defendant Tennant's office that all West Virginia candidates for the U.S. House of Representatives must file their respective "certificates of announcement", *W. Va. Code § 3-5-7(b)(1)*, (or mail them with proper postmarks) "not earlier than the second Monday in January next preceding the primary election day, and not later than the last Saturday in January next preceding the primary election day," *W. Va. Code § 3-5-7(c)*. Among the information that must be included on a candidate's certificate of announcement is the "name of the office sought; the **district**, if any; and the division, if any". *W. Va. Code § 3-5-7(d)(2)*. (emphasis added)

26. By the 84th day before the 2012 primary election, the Secretary of State is required to prepare a “certificate of candidates” , which includes, among other things, the name and residential address of every candidate who has filed a certificate of announcement with her office and the office for which he or she is a candidate. *W. Va. Code* § 3-5-9. After completing her certificate of candidates, the “Secretary of State shall ascertain therefrom the candidates whose names are to appear on the primary election ballot in the several counties in the state and shall certify to the clerk of the county commission in each county the certificate information relating to each of the candidates whose names are to appear on the ballot in that county.” *Id.*

27. Intervening Plaintiff Thornton Cooper seeks to have this Honorable Court (a) require that the Secretary of State provide such information relating to the West Virginia candidates for the U. S. House of Representatives to the respective county clerks in West Virginia as if those candidates had filed their certificates of announcement with respect to the three (3) districts in one of the congressional-redistricting plans that he has already submitted to the SSRC or with respect to some other plan that he may submit to this Honorable Court and (b) require her **not** to provide such information as if the candidates had filed their certificates of announcement with respect to the three (3) congressional districts described in Enrolled Senate Bill No. 1008.

PRAYER FOR RELIEF.

Wherefore, Intervening Plaintiff Thornton Cooper respectfully requests:

(a) that the three-judge district court already convened in accordance with 28 U.S.C. § 2284 now review the claims made by the original Plaintiffs and by Intervening Plaintiff Thornton Cooper in this civil action;

(b) that that three-judge district court enter a declaratory judgment that the three (3) congressional districts described in Enrolled Senate Bill No. 1008 violate Intervening Plaintiff Thornton Cooper's rights under federal and state law and are, therefore, null and void;

(c) that that three-judge district court enjoin the Defendants from using the congressional districts under the earlier 2001 redistricting plan and under Enrolled Senate Bill No. 1008 in any future primary or general election;

(d) that that three-judge district court require Defendant Natalie Tennant to conduct the 2012 primary and general elections under the congressional districts set forth in one of the three (3) redistricting plans already submitted to the SSRC by Intervening Plaintiff Thornton Cooper or in one or more other plans that he may submit to the three-judge court during this litigation.

(e) that that three-judge district court grant Intervening Plaintiff Thornton Cooper any attorney's fees, expenses, or costs that he may incur in this litigation pursuant to 42 U.S.C. § 1988(b); and

(f) that that three-judge district court grant any other relief that it may deem proper.

THORNTON COOPER

Intervening Plaintiff

Pro Se

/s/ Thornton Cooper
Thornton Cooper (WVSB No. 823)
3015 Ridgeview Drive
South Charleston, WV 25303
(304) 744-9616 (home)
thornbush@att.net

Dated: December 3, 2011

Plan: Congressional Plan 1 McCabe and Cooper
Plan Type: Congressional 2010 Census
Administrator: Jo Vaughan
User: Jo Vaughan

ATTACHMENT A
to Intervening Plaintiff Thornton
Cooper's Complaint in
Civil Action No. 3:11-CV-96

Population Summary Report

Friday May 6, 2011

3:30 PM

DISTRICT	POPULATION	DEVIATION	% DEVI.
1	617,341	-324	-0.05
2	617,869	204	0.03
3	617,784	119	0.02

Total Population: 1,852,994
Ideal District Population: 617,665
Summary Statistics
Population Range: 617,341 to 617,869
Ratio Range: 1.00
Absolute Range: -324 to 204
Absolute Overall Range: 528.00
Relative Range: -0.05% to 0.03%
Relative Overall Range: 0.09%
Absolute Mean Deviation: 215.67
Relative Mean Deviation: 0.03%
Standard Deviation: 283.51

Administrator: Jo Vaughan
User: Jo Vaughan

Population Summary Report

Friday May 6, 2011

3:30 PM

DISTRICT	POPULATION	DEVIATION	% DEVN.
1	617,341	-324	-0.05
2	617,869	204	0.03
3	617,784	119	0.02

Total Population: 1,852,994

Ideal District Population: 617,665

Summary Statistics

Population Range: 617,341 to 617,869

Ratio Range: 1.00

Absolute Range: -324 to 204

Absolute Overall Range: 528.00

Relative Range: -0.05% to 0.03%

Relative Overall Range: 0.09%

Absolute Mean Deviation: 215.67

Relative Mean Deviation: 0.03%

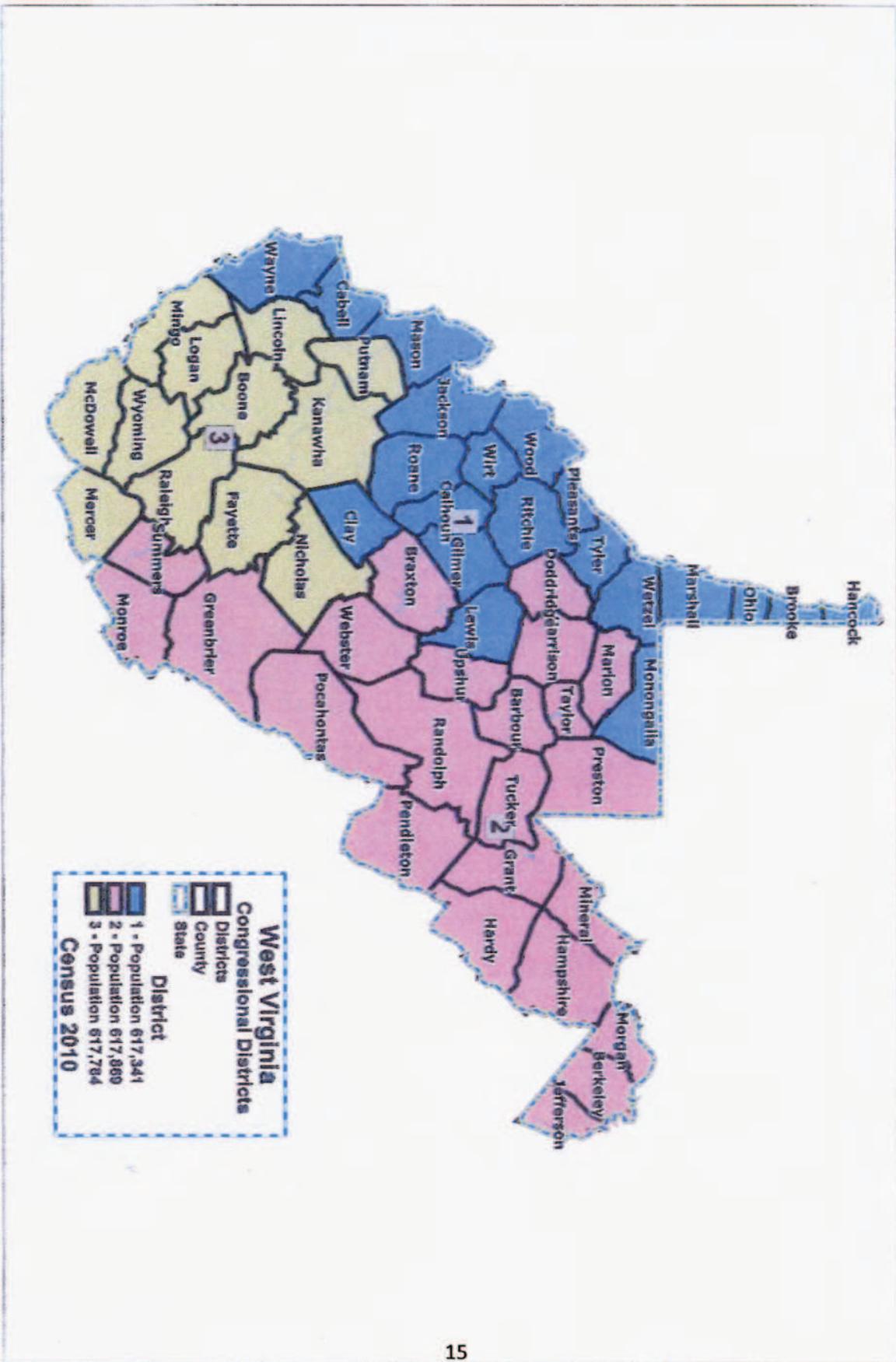
Standard Deviation: 283.51

Plan Components Report

5/6/2011
3:36:19PM

	Population
District 1	
Brooke WV County	24,069
Cabell WV County	96,319
Calhoun WV County	7,627
Clay WV County	9,386
Gilmer WV County	8,693
Hancock WV County	30,676
Jackson WV County	29,211
Lewis WV County	16,372
Marshall WV County	33,107
Mason WV County	27,324
Monongalia WV County	96,189
Ohio WV County	44,443
Pleasants WV County	7,605
Ritchie WV County	10,449
Roane WV County	14,926
Tyler WV County	9,208
Wayne WV County	42,481
Wetzel WV County	16,583
Wirt WV County	5,717
Wood WV County	86,956
District 1 Subtotal	617,341
District 2	
Barbour WV County	16,589
Berkeley WV County	104,169
Braxton WV County	14,523
Doddridge WV County	8,202
Grant WV County	11,937
Greenbrier WV County	35,480
Hampshire WV County	23,964
Hardy WV County	14,025

	Population
District 2 (continued)	
Harrison WV County	69,099
Jefferson WV County	53,498
Marion WV County	56,418
Mineral WV County	28,212
Monroe WV County	13,502
Morgan WV County	17,541
Pendleton WV County	7,695
Pocahontas WV County	8,719
Preston WV County	33,520
Randolph WV County	29,405
Summers WV County	13,927
Taylor WV County	16,895
Tucker WV County	7,141
Upshur WV County	24,254
Webster WV County	9,154
District 2 Subtotal	617,869
District 3	
Boone WV County	24,629
Fayette WV County	46,039
Kanawha WV County	193,063
Lincoln WV County	21,720
Logan WV County	36,743
McDowell WV County	22,113
Mercer WV County	62,264
Mingo WV County	26,839
Nicholas WV County	26,233
Putnam WV County	55,486
Raleigh WV County	78,859
Wyoming WV County	23,796
District 3 Subtotal	617,784
State Total	1,852,994



Plan: Congressional Plan 2 McCabe and Cooper
Plan Type: Congressional 2010 Census
Administrator: Jo Vaughan
User:

ATTACHMENT B
to Intervening Plaintiff Thornton
Cooper's Complaint in
Civil Action No. 3:11-CV-96

Population Summary Report

Friday May 13, 2011

12:59 PM

DISTRICT	POPULATION	DEVIATION	% DEVI
1	617,776	113	0.02
2	617,432	-233	-0.04
3	617,784	119	0.02

Total Population: 1,852,994
Ideal District Population: 617,665
Summary Statistics
Population Range: 617,432 to 617,784
Ratio Range: 1.00
Absolute Range: -233 to 119
Absolute Overall Range: 352.00
Relative Range: -0.04% to 0.02%
Relative Overall Range: 0.06%
Absolute Mean Deviation: 155.00
Relative Mean Deviation: 0.03%
Standard Deviation: 201.52

Administrator: Jo Vaughan
User:

Population Summary Report

Friday May 13, 2011

12:59 PM

DISTRICT	POPULATION	DEVIATION	% DEVM.
1	617,778	113	0.02
2	617,432	-233	-0.04
3	617,784	119	0.02

Total Population: 1,852,994

Ideal District Population: 617,665

Summary Statistics

Population Range: 617,432 to 617,784

Ratio Range: 1.00

Absolute Range: -233 to 119

Absolute Overall Range: 352.00

Relative Range: -0.04% to 0.02%

Relative Overall Range: 0.06%

Absolute Mean Deviation: 155.00

Relative Mean Deviation: 0.03%

Standard Deviation: 201.52

Plan: Congressional Plan 2 McCabe and Cosper
Plan Type: Congressional 2010 Census
Administrator: Jo Vaughan
User: Jo Vaughan

Plan Components Report

Friday, May 13, 2011

1:03 PM

	POPULATION
District 1	
Barbour WV County	16,589
Berkeley WV County	104,169
Brooke WV County	24,069
Doddridge WV County	8,202
Grant WV County	11,937
Hampshire WV County	23,964
Hancock WV County	30,676
Hardy WV County	14,025
Jefferson WV County	53,498
Marshall WV County	33,107
Mineral WV County	28,212
Monongalia WV County	96,189
Morgan WV County	17,541
Ohio WV County	44,445
Pendleton WV County	7,695
Pleasants WV County	7,605
Preston WV County	33,520
Randolph WV County	29,405
Tucker WV County	7,141
Tyler WV County	9,208
Wetzel WV County	16,583
District 1 Subtotal	617,778
District 2	
Braxton WV County	14,523
Cabell WV County	56,319
Callhoun WV County	7,627
Clay WV County	9,386
Gilmer WV County	8,693
Greenbrier WV County	35,480
Harrison WV County	69,099

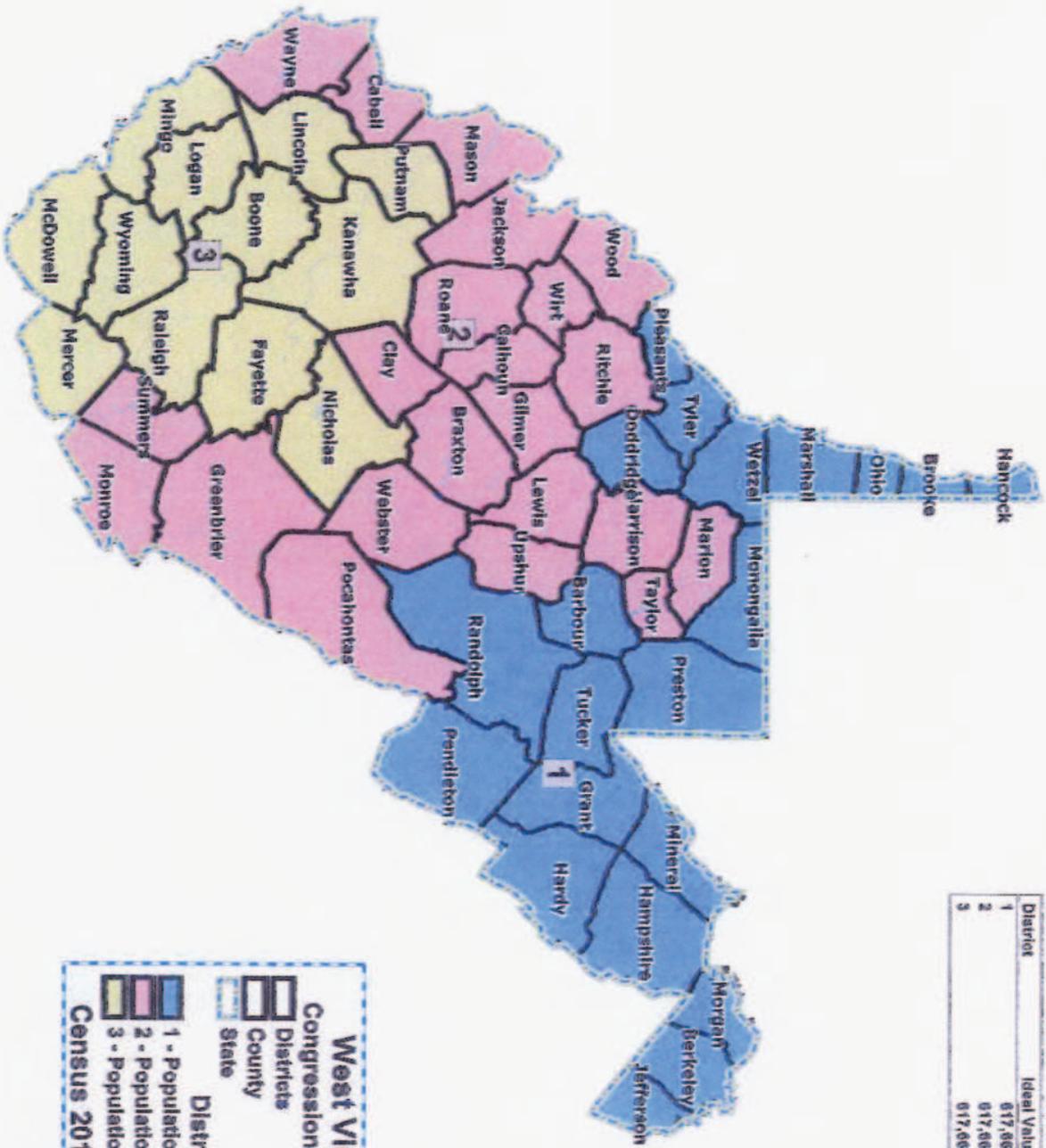
Plan: Congressional Plan 2 McCabe and Cooper
Type: Congressional 2010 Census

Administrator: Jo Vaughan
User: Jo Vaughan

POPULATION

District 2 (continued)

Jackson WV County	29,211
Lewis WV County	16,371
Marion WV County	56,418
Mason WV County	27,324
Monroe WV County	13,502
Pocahontas WV County	8,719
Ritchie WV County	10,449
Roane WV County	14,926
Summers WV County	13,927
Taylor WV County	16,895
Upshur WV County	24,254
Wayne WV County	42,481
Webster WV County	9,154
Wirt WV County	5,717
Wood WV County	36,956
District 2 Subtotal	617,432
District 3	
Boone WV County	24,629
Fayette WV County	46,039
Kanawha WV County	193,063
Lincoln WV County	21,720
Logan WV County	36,743
McDowell WV County	22,113
Mercer WV County	62,264
Mingo WV County	26,839
Nicholas WV County	26,233
Putnam WV County	55,486
Raleigh WV County	78,859
Wyoming WV County	23,796
District 3 Subtotal	617,784
State totals	1,853,994



District	Ideal Value	Population	Deviation	% Deviation
1	617,666	617,776	110	0.02%
2	617,665	617,432	-233	-0.04%
3	617,665	617,784	119	0.02%

West Virginia
Congressional Districts

Districts
 County
 State

District

1 - Population 617,776
 2 - Population 617,432
 3 - Population 617,784

Census 2010 Plan 2

ATTACHMENT C
to Intervening Plaintiff Thornton
Cooper's Complaint in
Civil Action No. 3:11-CV-96

Plan: Congressional Plan 3 McCabe and Cooper
Plan Type: Congressional 2010 Census
Administrator: Jo Vaughan
User:

Population Summary Report

Thursday May 19, 2011

4:52 PM

DISTRICT	POPULATION	DEVIATION	% DEVI.
1	617,778	113	0.02
2	617,667	2	0.00
3	617,549	-116	-0.02

Total Population: 1,852,994
Ideal District Population: 617,665
Summary Statistics
Population Range: 617,549 to 617,778
Ratio Range: 1.00
Absolute Range: -116 to 113
Absolute Overall Range: 229.00
Relative Range: -0.02% to 0.02%
Relative Overall Range: 0.04%
Absolute Mean Deviation: 77.00
Relative Mean Deviation: 0.01%
Standard Deviation: 114.52

Administrator: Jo Vaughan
User:

Population Summary Report

Thursday May 19, 2011

4:52 PM

DISTRICT	POPULATION	DEVIATION	% DEVN.
1	617,778	113	0.02
2	617,667	2	0.00
3	617,649	-118	-0.02

Total Population: 1,852,994

Ideal District Population: 617,665

Summary Statistics

Population Range: 617,549 to 617,778

Ratio Range: 1.00

Absolute Range: -116 to 113

Absolute Overall Range: 229.00

Relative Range: -0.02% to 0.02%

Relative Overall Range: 0.04%

Absolute Mean Deviation: 77.00

Relative Mean Deviation: 0.01%

Standard Deviation: 114.52

Plan: Congressional Plan 3 McCabe and Cooper
Plan Type: Congressional 2010 Census
Administrator: Jo Vaughan
User:

Plan Components Report

Thursday, May 19, 2011

4:54 PM

	POPULATION
District 1	
Barbour WV County	16,589
Berkeley WV County	104,169
Brooke WV County	24,069
Doddridge WV County	8,202
Grant WV County	11,937
Hampshire WV County	23,964
Hancock WV County	30,676
Hardy WV County	14,025
Jefferson WV County	53,498
Marshall WV County	33,107
Mineral WV County	28,212
Monongalia WV County	96,189
Morgan WV County	17,541
Ohio WV County	44,443
Pendleton WV County	7,695
Pleasants WV County	7,605
Preston WV County	33,520
Randolph WV County	29,405
Tucker WV County	7,141
Tyler WV County	9,208
Wetzel WV County	16,583
District 1 Subtotal	627,778
District 2	
Bone WV County	24,629
Cabell WV County	96,319
Clay WV County	9,386
Jackson WV County	29,211
Kanawha WV County	193,063
Lincoln WV County	21,720
Mason WV County	27,324

Plan: Congressional Plan 3 McCabe and Cooper
Type: Congressional 2010 Census

Administrator: Jo Vaughan
User:

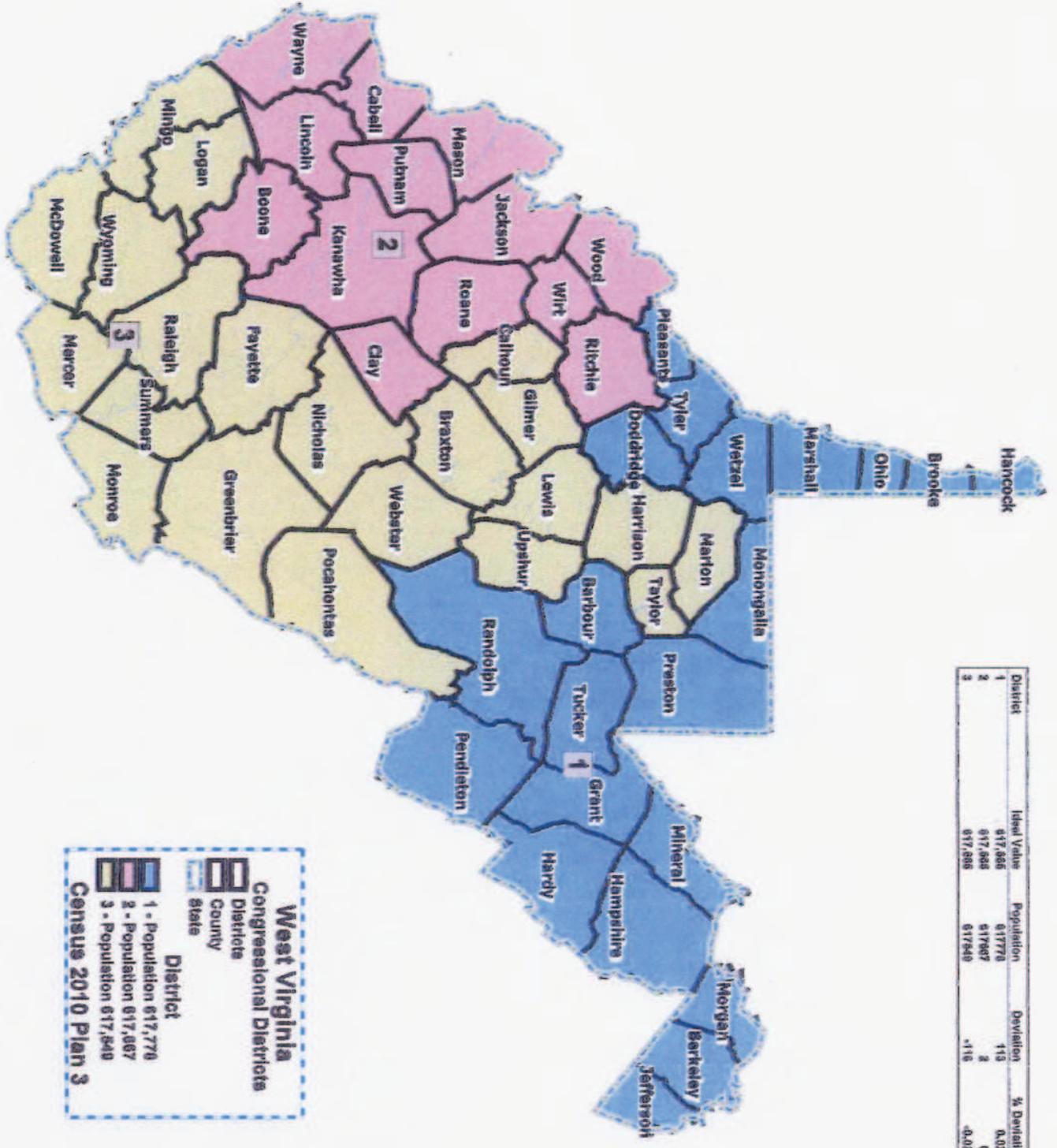
POPULATION

District 2 (continued)

Putnam WV County	55,486
Ritchie WV County	10,449
Roane WV County	14,926
Wayne WV County	42,481
Wirt WV County	5,717
Wood WV County	86,956
District 2 Subtotal	617,667

District 3

Braxton WV County	14,523
Calhoun WV County	7,627
Fayette WV County	46,039
Gilmer WV County	8,693
Greenbrier WV County	35,480
Harrison WV County	69,099
Lewis WV County	16,372
Logan WV County	36,743
Marion WV County	56,418
McDowell WV County	22,113
Mercer WV County	62,264
Mingo WV County	26,839
Monroe WV County	13,502
Nicholas WV County	26,233
Pocahontas WV County	8,719
Raleigh WV County	78,859
Summers WV County	13,927
Taylor WV County	16,893
Upshur WV County	24,254
Webster WV County	9,154
Wyoming WV County	23,796
District 3 Subtotal	617,549
State totals	1,852,994



District	Ideal Value	Population	Deviation	% Deviation
1	617,686	617,778	118	0.02%
2	617,686	617,667	-2	0%
3	617,686	617,649	-118	-0.02%

West Virginia
Congressional Districts

District

1 - Population 617,778
 2 - Population 617,667
 3 - Population 617,649

Census 2010 Plan 3

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT MARTINSBURG

JEFFERSON COUNTY COMMISSION;
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and behalf of all others similarly situated*;
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KESSLER, *in his capacity as the Acting
President of the Senate of the West Virginia
Legislature*; and RICHARD THOMPSON, *in
his capacity as the Speaker of the House of
Delegates of the West Virginia Legislature*,

Defendants.

CERTIFICATE OF SERVICE.

I, Thornton Cooper, do hereby certify that on December 3, 2011, I electronically filed the foregoing **COMPLAINT BY INTERVENING PLAINTIFF THORNTON**

COOPER with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

David M. Hammer, Esq.
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Martinsburg, WV 25401
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and do hereby further certify that on December 3, 2011, I have mailed, by United States Postal Service, this document to the following non-CM/ECF participants:

The Honorable Natalie E. Tennant
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Charleston, WV 25305-0770;

The Honorable Earl Ray Tomblin
Governor of the State of West Virginia
State Capitol Building
1900 Kanawha Boulevard, East
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The Honorable Darrell McGraw
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