

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

Lisa Hunter, Jacob Zabel, Jennifer Oh, John
Persa, Geraldine Schertz, *and* Kathleen
Qualheim,

Plaintiffs,

Billie Johnson, Eric O'Keefe, Ed Perkins, *and*
Ronald Zahn,

Proposed Intervenor-Plaintiffs

v.

Marge Bostelmann, Julie M. Glancey, Ann S.
Jacobs, Dean Knudson, Robert F. Spindell, Jr.,
and Mark L. Thomsen, *in their official
capacities as members of the Wisconsin
Elections Commission,*

Defendants,

The Wisconsin Legislature,

Intervenor-Defendant,

Congressmen Glenn Grothman, Mike
Gallagher, Bryan Steil, Tom Tiffany, *and* Scott
Fitzgerald,

Proposed Intervenor-Defendants.

Case No. 3:21-cv-512-jdp-ajs-ec

DECLARATION OF KEVIN M. LEROY

Kevin M. LeRoy, declares as follows:

1. I am counsel for Proposed-Intervenors Congressmen Glenn Grothman, Mike Gallagher, Bryan Steil, Tom Tiffany, and Scott Fitzgerald, who are also probable candidates for re-election to the U.S. House of Representatives in 2022.

2. Attached as **Exhibit 1** is a true and correct copy of the file-stamped Complaint in *Carter v. Degraffenreid*, No. 132 MD 2021 (Pa. Commw. Ct., filed Apr. 26, 2021).

3. Attached as **Exhibit 2** is a true and correct copy of the file-stamped Complaint in *English v. Ardoin*, No. 2021-03538-C § 10 (La. Civ. Dist. Ct., filed Apr. 26, 2021).

4. Attached as **Exhibit 3** is a true and correct copy of the file-stamped Complaint in *Sachs v. Simon*, No. 62-CV-21-2213 (Minn. Dist. Ct., filed Apr. 26, 2021).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 29th day of August, 2021.

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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

CAROL ANN CARTER; MONICA PARRILLA;
REBECCA POYOUROW; WILLIAM TUNG; ROSEANNE
MILAZZO; BURT SIEGEL; SUSAN CASSANELLI; LEE
CASSANELLI; LYNN WACHMAN; MICHAEL
GUTTMAN; MAYA FONKEU; BRADY HILL; MARY
ELLEN BALCHUNIS; TOM DEWALL; STEPHANIE
MCNULTY; and JANET TEMIN,

Petitioners,

v.

VERONICA DEGRAFFENREID, in her official capacity as
the Acting Secretary of the Commonwealth of Pennsylvania;
JESSICA MATHIS, in her official capacity as Director for

No.

the Pennsylvania Bureau of Election Services and Notaries,
Respondents.

PETITION FOR REVIEW
ADDRESSED TO THE COURT'S ORIGINAL JURISDICTION

INTRODUCTION

1. This is an action challenging Pennsylvania's current congressional district map, which has been rendered unconstitutionally malapportioned by a decade of population shifts. Petitioners ask this Court to declare Pennsylvania's current congressional district plan unconstitutional; enjoin Respondents from using the current plan in any future elections; and implement a new congressional district plan that adheres to the constitutional requirement of one-person, one-vote should the General Assembly and Governor fail to do so.

2. On April 26, 2021, the U.S. Secretary of Commerce delivered the apportionment data obtained by the 2020 Census to the President. Those data confirm the inevitable reality that population shifts that occurred during the last decade have rendered Pennsylvania's congressional plan unconstitutionally malapportioned. *See Arrington v. Elections Bd.*, 173 F. Supp. 2d 856, 860 (E.D. Wis. 2001) (three-judge court) (explaining that "existing apportionment schemes become instantly unconstitutional upon the release of new decennial census data" (internal quotation marks omitted)).

3. Specifically, the current configuration of Pennsylvania's congressional

districts violates (1) the Free and Equal Elections Clause of the Pennsylvania Constitution; (2) Article I, Section 2 of the U.S. Constitution; (3) 2 U.S.C. § 2c; and (4) the Petition Clause of the Pennsylvania Constitution. The Pennsylvania Constitution’s Free and Equal Elections Clause guarantees its citizens the right to “make their votes equally potent in the election; so that some shall not have more votes than others, and that all shall have an equal share.” *Patterson v. Barlow*, 60 Pa. 54, 75 (1869). Article 1, Section 2 of the U.S. Constitution requires states to “achieve population equality ‘as nearly as is practicable’” when drawing congressional districts. *Karcher v. Daggett*, 462 U.S. 725, 730 (1983) (quoting *Wesberry v. Sanders*, 376 U.S. 1, 7-8 (1964)). 2 U.S.C. § 2c provides that a state should have “a number of [congressional] districts equal to the number of Representatives to which such State is so entitled.” And the Petition Clause of the Pennsylvania Constitution secures voters’ right to associate with other voters to elect their preferred candidates, “not simply as [a] restriction[] on the powers of government, as found in the Federal Constitution, but as [an] inherent and ‘invaluable’ right[] of man.” *Commonwealth v. Tate*, 432 A.2d 1382, 1388 (Pa. 1981).

4. Petitioners will be forced to cast unequal votes if the current congressional map is not brought into compliance with constitutional requirements. Because the current congressional plan is unconstitutionally malapportioned, it cannot be used in any future election. Moreover, if a new congressional plan is not

in place in a timely manner, Petitioners' right to associate with other voters in support of their preferred candidates will be infringed.

5. While "the primary responsibility and authority for drawing federal congressional legislative districts rests squarely with the state legislature," when "the legislature is unable or chooses not to act, it becomes the judiciary's role to determine the appropriate redistricting plan." *League of Women Voters v. Commonwealth*, 178 A.3d 737, 821-22 (Pa. 2018) (*League of Women Voters I*).

6. In Pennsylvania, congressional district plans must be enacted through legislation, which requires the consent of both legislative chambers and the Governor (unless both legislative chambers override the Governor's veto by a two-thirds vote). *League of Women Voters I*, 178 A.3d at 742; Pa. Const., Art. III, § 4; Pa. Const., Art. IV, § 15.

7. There is no reasonable prospect that Pennsylvania's political branches will reach consensus to enact a lawful congressional district plan in time to be used in the upcoming 2022 election. Currently, Republicans hold majorities (though not veto-proof majorities) in both chambers of the General Assembly, and Governor Wolf, who has veto power, is a Democrat. The last time Pennsylvania began a redistricting cycle in which its political branches were politically split as they are now, those branches failed to enact a congressional redistricting plan, forcing Pennsylvania's judiciary to take responsibility for enacting a new plan. *See Mellow*

v. Mitchell, 607 A.2d 204 (Pa. 1992).

8. Given the long and acrimonious history of partisan gerrymandering litigation challenging Pennsylvania's previous congressional district map, it is clear that Pennsylvania's political branches are extremely unlikely to agree to a new congressional district plan prior to the 2022 election. Just three years ago, the Republican-controlled General Assembly and Governor Wolf failed to agree on a new congressional plan following the Pennsylvania Supreme Court's invalidation of the plan enacted in 2011, forcing the Court to draw its own. *See League of Women Voters of Pa. v. Commonwealth*, 181 A.3d 1083, 1086 (Pa. 2018) (*League of Women Voters II*). Because there is no reason to believe that the General Assembly and the Governor will be able to reach agreement this time around, this Court should intervene to protect the constitutional rights of Petitioners and voters across the Commonwealth.

9. While there is still time for the General Assembly and the Governor to enact a new congressional plan, this Court should assume jurisdiction now and establish a schedule that will enable the Court to adopt its own plan in the near-certain event that the political branches fail to timely do so.

JURISDICTION AND VENUE

10. This Court has original jurisdiction over this Verified Petition for Review under 42 Pa. C.S. § 761(a)(1) because this matter is asserted against

Commonwealth officials in their official capacities.

PARTIES

11. Petitioners are citizens of the United States and are registered to vote in Pennsylvania. Petitioners intend to advocate and vote for Democratic candidates in the upcoming 2022 primary and general elections. Petitioners reside in the following congressional districts.

Petitioner's Name	County of Residence	Congressional District
Carol Ann Carter	Bucks	1
Monica Parrilla	Philadelphia	2
Rebecca Poyourow	Philadelphia	3
William Tung	Philadelphia	3
Roseanne Milazzo	Montgomery	4
Burt Siegel	Montgomery	4
Susan Cassanelli	Delaware	5
Lee Cassanelli	Delaware	5
Lynn Wachman	Chester	6
Michael Guttman	Chester	6
Maya Fonkeu	Northampton	7
Brady Hill	Northampton	7
Mary Ellen Balchunis	Dauphin	10
Tom DeWall	Cumberland	10
Stephanie McNulty	Lancaster	11
Janet Temin	Lancaster	11

12. As shown below, Petitioners reside in districts that are likely overpopulated relative to other districts in the state. Thus, they are deprived of the right to cast an equal vote, as guaranteed to them by the U.S. Constitution and the Pennsylvania Constitution.

13. Respondent Veronica Degraffenreid is the Acting Secretary of the

Commonwealth and is sued in her official capacity only. In that capacity, Acting Secretary Degraffenreid is charged with general supervision and administration of Pennsylvania's elections and election laws. Acting Secretary Degraffenreid is Pennsylvania's Chief Election Official and a member of the Governor's Executive Board. Among her numerous responsibilities in administering elections, Acting Secretary Degraffenreid is responsible for receiving election results from counties for each congressional district in the Commonwealth, and tabulating, computing, canvassing, certifying, and filing those results. 25 P.S. § 3159.

14. Respondent Jessica Mathis is the Director for the Bureau of Election Services and Notaries, a branch of the Pennsylvania Department of State, and she is sued in her official capacity only. In this capacity, Director Mathis is charged with supervising and administering the Commonwealth's elections and electoral process. The Bureau of Election Services and Notaries is responsible for planning, developing, and coordinating the statewide implementation of the Election Code.

FACTUAL ALLEGATIONS

I. Pennsylvania's current congressional districts were drawn using 2010 Census data.

15. Pennsylvania's congressional district map was most recently redrawn in 2018. On January 22, 2018, the Pennsylvania Supreme Court held that the then-controlling congressional district map enacted in 2011 by a Republican-controlled General Assembly and Republican Governor "plainly and palpably" violated the

Pennsylvania Constitution's Free and Equal Elections Clause because it was "corrupted by extensive, sophisticated gerrymandering and partisan dilution." *See League of Women Voters I*, 178 A.3d at 741, 821. The Court provided the General Assembly and the Governor an opportunity to enact a lawful map, but they failed to do so. Thus, the Court adopted its own map on February 19, 2018. *League of Women Voters II*, 181 A.3d 1083.

16. Because the results of the 2010 Census were the most accurate population data to date, the Court relied exclusively on those data when drawing the new map. According to the 2010 Census, Pennsylvania had a population at that time of 12,702,379. Therefore, a decade ago, the ideal population for each of Pennsylvania's congressional districts (i.e., the state's total population divided by the number of districts) was 705,688 persons.

17. While the districts crafted by the Court in 2018 had perfectly equal populations (with each district's population deviating from all others by no more than one person), those populations were determined using 2010 data.

II. The 2020 Census is complete.

18. In 2020, the U.S. Census Bureau conducted the decennial census required by Article I, Section 2 of the U.S. Constitution. On April 26, 2021, the U.S. Secretary of Commerce delivered the results of the 2020 Census to the President.

19. The results of the 2020 Census report that Pennsylvania's resident

population, as of April 2020, is 13,002,700. This is a significant increase from a decade ago, when the 2010 Census reported a total population of 12,702,379.

20. However, because Pennsylvania's population growth over the last decade has been slower compared to many other states, Pennsylvania has lost a congressional district. Pennsylvania has been apportioned 17 congressional seats for the 2020 cycle, one fewer than the 18 seats Pennsylvania was apportioned following the 2010 Census. Thus, beginning with the upcoming 2022 election, Pennsylvania voters will elect only 17 members to the U.S. House of Representatives.

21. According to the 2020 Census results, the ideal population for each of Pennsylvania's congressional districts is 764,865.

III. As a result of significant population shifts in the past decade, Pennsylvania's congressional districts are unconstitutionally malapportioned.

22. In the past decade, Pennsylvania's population has shifted significantly. Because the 2020 Census has now been completed, the 2010 population data used to draw Pennsylvania's congressional districts are obsolete, and any prior justifications for the existing maps' deviations from population equality are no longer applicable.

23. By mid-to-late August 2021, the U.S. Secretary of Commerce will deliver to Pennsylvania its redistricting data file in a legacy format, which the Commonwealth may use to tabulate the new population of each political

subdivision.¹ On or around September 30, 2021, the U.S. Secretary of Commerce will deliver to Pennsylvania that same detailed population data showing the new population of each political subdivision in a tabulated format.² These data are commonly referred to as “P.L. 94-171 data,” a reference to the 1975 legislation that first required this process, and are typically delivered no later than April of the year following the Census. *See* Pub. L. No. 94-171, 89 Stat. 1023 (1975).

24. 2019 Census Bureau data make clear that significant population shifts have occurred in Pennsylvania’s congressional districts since 2010, skewing the current districts far from population equality.

25. The table below estimates how the populations of each of Pennsylvania’s congressional districts shifted between 2010 and 2019. For each district, the “2010 Population” column represents the district’s 2010 population according to the 2010 Census, and the “2019 Population” column indicates the estimated 2019 population according to the U.S. Census Bureau’s 2019 American Community Survey (ACS) 1-Year Survey. The “Shift” column represents the difference in district population between 2010 and 2019. The “Deviation from Ideal 2019 Population” column shows how far the estimated 2019 population of each

¹ *See U.S. Census Bureau Statement on Release of Legacy Format Summary Redistricting Data File*, U.S. Census Bureau (Mar. 15, 2021), <https://www.census.gov/newsroom/press-releases/2021/statement-legacy-format-redistricting.html>.

² *See Census Bureau Statement on Redistricting Data Timeline*, U.S. Census Bureau (Feb. 12, 2021), <https://www.census.gov/newsroom/press-releases/2021/statement-redistricting-data-timeline.html>.

district strays from the estimated ideal 2019 congressional district population. And the “Percent Deviation” column shows that deviation as a percentage of the ideal district population as of 2019.

District	2010 Population	2019 Population	Shift	Deviation from Ideal 2019 Population	Percent Deviation
1	705,687	713,411	+7,724	+2,189	+0.31%
2	705,688	722,722	+17,034	+11,500	+1.62%
3	705,688	741,654	+35,966	+30,432	+4.28%
4	705,687	730,701	+25,014	+19,479	+2.74%
5	705,688	719,973	+14,285	+8,751	+1.23%
6	705,688	735,283	+29,595	+24,061	+3.38%
7	705,688	731,467	+25,779	+20,245	+2.85%
8	705,687	698,973	-6,714	-12,249	-1.72%
9	705,687	699,832	-5,855	-11,390	-1.60%
10	705,688	744,681	+38,993	+33,459	+4.70%
11	705,688	734,038	+28,350	+22,816	+3.21%
12	705,688	701,387	-4,301	-9,835	-1.38%
13	705,688	697,051	-8,637	-14,171	-1.99%
14	705,688	678,915	-26,773	-32,307	-4.54%
15	705,688	672,749	-32,939	-38,473	-5.41%
16	705,687	678,333	-27,354	-32,889	-4.62%
17	705,688	706,961	+1,273	-4,261	-0.60%
18	705,688	693,858	-11,830	-17,364	-2.44%

26. The table above indicates population shifts since 2010 have rendered Congressional Districts 8, 9, 12, 13, 14, 15, 16, 17, and 18 significantly underpopulated, and Congressional Districts 1, 2, 3, 4, 5, 6, 7, 10, and 11 significantly overpopulated. Indeed, the figures in the table above indicate that, between 2010 and 2019, the maximum deviation among Pennsylvania’s 18

congressional districts (*i.e.*, the difference between the most and least populated districts divided by the ideal district population) increased from 0 to more than 10 percent. Notably, this table does not account for the severe malapportionment that will result from the fact that Pennsylvania has lost a congressional district.

27. Due to these population shifts, Pennsylvania's existing congressional district configuration is unconstitutionally malapportioned. It also contains more districts than the number of representatives that Pennsylvanians may send to the U.S. House in 2022.

28. If used in any future election, the current congressional district configuration will unconstitutionally dilute the strength of Petitioners' votes because they live in districts with populations that are significantly larger than those in which other voters live.

IV. Pennsylvania's political branches will likely fail to enact lawful congressional district maps in time for the next election.

29. In Pennsylvania, congressional district plans are enacted via legislation, which must pass both chambers of the General Assembly and be signed by the Governor (unless the General Assembly overrides the Governor's veto by a two-thirds vote in both chambers). *League of Women Voters I*, 178 A.3d at 742; Pa. Const., Art. III, § 4; Pa. Const., Art. IV, § 15. Currently, both chambers of Pennsylvania's General Assembly are controlled by the Republican Party, and the Governor is a Democrat. Republican control of the General Assembly is not large

enough to override a gubernatorial veto. This partisan division among Pennsylvania's political branches makes it extremely unlikely they will enact a lawful congressional districting plan in time to be used during the upcoming 2022 election.

30. Pennsylvania law does not set a deadline by which congressional redistricting plans must be in place prior to the first congressional election following release of the Census. Nonetheless, it is in the interests of voters, candidates, and Pennsylvania's entire electoral apparatus that finalized congressional districts be put in place as soon as possible, well before candidates in those districts must begin to collect signatures on their nomination papers. Potential congressional candidates cannot make strategic decisions—including, most importantly, whether to run at all—without knowing their district boundaries. And voters have a variety of interests in knowing as soon as possible the districts in which they reside and will vote, and the precise contours of those districts. These interests include deciding which candidates to support and whether to encourage others to run; holding elected representatives accountable for their conduct in office; and advocating for and organizing around candidates who will share their views, including by working together with other district voters in support of favored candidates.

31. Nomination papers for candidates seeking to appear on the ballot for the 2022 partisan primary election can be circulated as early as February 15, 2022,

less than a year away. 25 P.S. § 2868. And the deadline for filing those papers falls just a few weeks later. *Id.* It is in everyone’s interest—candidates and voters alike—that district boundaries are set well before this date. Delaying the adoption of the new plan even until the ballot petition deadline will substantially interfere with Petitioners’ abilities to associate with like-minded citizens, educate themselves on the positions of their would-be representatives, and advocate for the candidates they prefer. *Cf. Anderson v. Celebrezze*, 460 U.S. 780, 787-88 (1983) (“The [absence] of candidates also burdens voters’ freedom of association, because an election campaign is an effective platform for the expression of views on the issues of the day, and a candidate serves as a rallying point for like-minded citizens.”).

32. While the General Assembly was able to enact redistricting plans after the 2010 Census without court intervention, Republicans had trifecta control over the state government at that time. The last time Pennsylvania began a redistricting cycle with political branches divided along partisan lines, as they are now, they failed to enact a new congressional redistricting plan. This failure required intervention by Pennsylvania’s judiciary, which drew and adopted a congressional district map. *Mellow*, 607 A.2d 204. Similarly, after the Pennsylvania Supreme Court invalidated Pennsylvania’s congressional plan three years ago, the Republican-controlled General Assembly was unable to come to agreement with Governor Wolf on a new plan, forcing the Court to draw a remedial map. *League of Women Voters II*, 181

A.3d at 1086.

33. Pennsylvania is once again entering a redistricting cycle with political branches divided between the two major parties. If anything, the partisan differences among the major parties have only grown starker since their last attempt to reach consensus on redistricting plans in 1991. In just the last two years, Governor Wolf and the Republican-controlled General Assembly have repeatedly conflicted over a broad range of policies such as the state's response to the COVID-19 pandemic, emergency executive powers, environmental issues, and gun regulations, with the Governor using his veto power on numerous occasions. Additionally, the Census delays have compressed the amount of time during which the legislative process would normally take place. As a result, the political branches are highly likely to be at an impasse this cycle and to fail to enact a new congressional district plan. This would deprive Petitioners of equal representation in Congress and their freedom of association. To avoid such an unconstitutional outcome, this Court must intervene to ensure Petitioners and other Pennsylvanians' voting strength is not diluted.

CLAIMS FOR RELIEF

COUNT I

Violation of Free and Equal Elections Clause Pa. Const., Art. I, § 5 Congressional Malapportionment

34. Petitioners reallege and reincorporate by reference all prior paragraphs

of this Petition and the paragraphs in the count below as though fully set forth herein.

35. The Pennsylvania Constitution's Free and Equal Elections Clause provides: "Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage." Pa. Const., Art. I, § 5. This clause "should be given the broadest interpretation, one which governs all aspects of the electoral process, and which provides the people of this Commonwealth an equally effective power to select the representative of his or her choice, and bars the dilution of the people's power to do so." *League of Women Voters I*, 178 A.3d at 814.

36. The Free and Equal Elections Clause "establishe[s] a critical 'leveling' protection in an effort to establish the uniform right of the people of this Commonwealth to select their representatives in government." *Id.* at 807.

37. The "equality" prong of the Free and Equal Elections Clause requires that voting districts be drawn "by laws which shall arrange all the qualified electors into suitable districts, and make their votes equally potent in the election; so that some shall not have more votes than others, and that all shall have an equal share." *Id.* at 809 (quoting *Patterson*, 60 Pa. at 75). Thus, any scheme that "has the effect of impermissibly diluting the potency of an individual's vote for candidates for elective office relative to that of other voters will violate the guarantee of 'free and equal' elections afforded by Article I, Section 5." *Id.*

38. Pennsylvania’s current congressional district plan places voters into districts with significantly disparate populations, causing voters in underpopulated districts to have more “potent” votes compared to voters, like Petitioners, who live in districts with comparatively larger populations.

39. Any future use of Pennsylvania’s current congressional district plan would violate Petitioners’ right to an undiluted vote under the Free and Equal Elections Clause.

COUNT II

Violation of Article I, Section 2 of the United States Constitution Congressional Malapportionment

40. Petitioners reallege and reincorporate by reference all prior paragraphs of this Petition and the paragraphs in the count below as though fully set forth herein.

41. Article 1, Section 2 of the U.S. Constitution provides that members of the U.S. House of Representatives “shall be apportioned among the several States . . . according to their respective Numbers.” This provision “intends that when qualified voters elect members of Congress each vote be given as much weight as any other vote,” *Wesberry*, 376 U.S. at 7, meaning that state congressional districts must “achieve population equality ‘as nearly as is practicable,’” *Karcher*, 462 U.S. at 730 (quoting *Wesberry*, 376 U.S. at 7-8).

42. Article I, Section 2 “permits only the limited population variances which are unavoidable despite a good-faith effort to achieve absolute equality, or for

which justification is shown.” *Karcher*, 462 U.S. at 730 (quoting *Kirkpatrick v. Preisler*, 394 U.S. 526, 531 (1969)). And “the State must justify each variance, no matter how small.” *Id.* (quoting *Kirkpatrick*, 394 U.S. at 530-31). Given this requirement, when the Pennsylvania Supreme Court adopted its own congressional plan in 2018, it crafted a plan in which the population deviation among districts was no more than *one person*. Now, as indicated in the table above, the population deviation among Pennsylvania’s congressional districts may be as high as 71,932 people.

43. In light of the significant population shifts that have occurred since the 2010 Census, and the recent publication of the results of the 2020 Census, the current configuration of Pennsylvania’s congressional districts—which was drawn based on 2010 Census data—is now unconstitutionally malapportioned. No justification can be offered for the deviation among the congressional districts because any justification would be based on outdated population data.

44. Any future use of Pennsylvania’s current congressional district plan would violate Petitioners’ constitutional right to cast an equal, undiluted vote.

COUNT III

Violation of 2 U.S.C. § 2c Congressional Malapportionment

45. Petitioners reallege and reincorporate by reference all prior paragraphs of this Petition and the paragraphs in the count below as though fully set forth herein.

46. 2 U.S.C. § 2c provides that, in a state containing “more than one Representative,” “there shall be established by law a number of districts equal to the number of Representatives to which such State is so entitled.”

47. Pennsylvania’s current congressional district plan contains 18 districts. But Pennsylvania is currently allotted only 17 seats in the U.S. House. As a result, the current congressional district plan violates Section 2c’s requirement that the number of congressional districts be “equal to the number of Representatives to which [Pennsylvania] is so entitled.”

48. Any future use of Pennsylvania’s current congressional district plan would violate 2 U.S.C. § 2c and would unlawfully dilute Petitioners’ votes.

COUNT IV

Violation of Petition Clause Pa. Const., Art. I, § 20 Freedom of Association

49. Petitioners reallege and reincorporate by reference all prior paragraphs of this Petition and the paragraphs in the count below as though fully set forth herein.

50. The Pennsylvania Constitution’s Petition Clause provides: “The citizens have a right in a peaceable manner to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances or other proper purposes, by petition, address or remonstrance.” Pa. Const., Art. I, § 20. “The Pennsylvania Constitution affords greater protection of

speech and associational rights than does our Federal Constitution.” *Working Families Party v. Commonwealth*, 169 A.3d 1247, 1260 (Pa. Commw. Ct. 2017) (citing *DePaul v. Commonwealth*, 969 A.2d 536, 546 (Pa. 2009)); *see also Commonwealth v. Tate*, 432 A.2d 1382, 1388 (Pa. 1981) (“It is small wonder, then, that the rights of freedom of speech, assembly, and petition have been guaranteed since the first Pennsylvania Constitution, not simply as restrictions on the powers of government, as found in the Federal Constitution, but as inherent and ‘invaluable’ rights of man.”).

51. Impeding candidates’ abilities to run for political office—and consequently Petitioners’ abilities to assess candidate qualifications and positions, organize and advocate for preferred candidates, and associate with like-minded voters—infringes on Petitioners’ right to association.

52. Given the delay in publication of the 2020 Census data and the near-certain deadlock among the political branches in adopting a new congressional district plan, it is significantly unlikely that the legislative process will timely yield a new plan. This would deprive Petitioners of the ability to associate with others from the same lawfully apportioned congressional district, and, therefore, is likely to significantly, if not severely, burden Petitioners’ right to association.

53. There is no legitimate or compelling interest that can justify this burden.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully request that this Court:

- a. Declare that the current configuration of Pennsylvania's congressional districts violates Article I, Section 5 of the Pennsylvania Constitution; Article I, Section 2 of the U.S. Constitution; 2 U.S.C. § 2c; and Article I, Section 20 of the Pennsylvania Constitution;
- b. Enjoin Respondents, their respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them, from implementing, enforcing, or giving any effect to Pennsylvania's current congressional district plan;
- c. Establish a schedule that will enable the Court to adopt and implement a new congressional district plan by a date certain should the political branches fail to enact such plan by that time;
- d. Implement a new congressional district plan that complies with Article I, Section 5 of the Pennsylvania Constitution; Article I, Section 2 of the U.S. Constitution; 2 U.S.C. § 2; and Article I, Section 20 of the Pennsylvania Constitution, if the political branches fail to enact a plan by a date certain set by this Court;
- e. Award Petitioners their costs, disbursements, and reasonable attorneys' fees; and

f. Grant such other and further relief as the Court deems just and proper.

Dated: April 26, 2021

Respectfully submitted,

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Marcel S. Pratt, No. 307483
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CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Edward D. Rogers

Signature: /s/ Edward D. Rogers

Name: Edward D. Rogers

Attorney No.: 69337

VERIFICATION

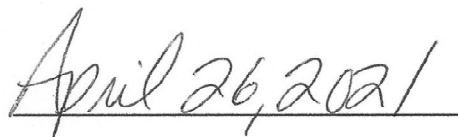
I, Carol Ann Carter, hereby state:

1. I am a petitioner in this action;
2. I verify that the statements made in the foregoing Petition for Review are true and correct to the best of my knowledge, information, and belief; and
3. I understand that the statements in said Petition for Review are subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Signed:

A handwritten signature in black ink, appearing to read "Carol Ann Carter", written over a horizontal line.

Dated:

A handwritten date "April 26, 2021" written in black ink over a horizontal line.

NOTICE TO PLEAD

TO: Acting Secretary Veronica Degraffenreid
Pennsylvania Department of State
Office of the Secretary
302 North Office Building, 401 North Street
Harrisburg, PA 17120

Director Jessica Mathis
Pennsylvania Bureau of Election Services and Notaries
210 North Office Building, 401 North Street
Harrisburg, PA 17120

You are hereby notified to file a written response to the enclosed
Petition for Review within thirty (30) days from service hereof or a judgment may
be entered against you.

Dated: April 26, 2010

/s/ Robert J. Clark
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CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, I caused the foregoing Petition for Review to be served upon the following parties and in the manner indicated below, which service satisfies the requirements of Pa. R.A.P. 1514 and 121:

By Certified Mail:

Acting Secretary Veronica Degraffenreid
Pennsylvania Department of State
Office of the Secretary
302 North Office Building, 401 North Street
Harrisburg, PA 17120

Director Jessica Mathis
Pennsylvania Bureau of Election Services and Notaries
210 North Office Building, 401 North Street
Harrisburg, PA 17120

Dated: April 26, 2021

/s/ Robert J. Clark
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DISTRICT COURT

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**CIVIL DISTRICT COURT
PARISH OF ORLEANS
STATE OF LOUISIANA**

CAMERON ENGLISH, RYAN BERNI, POOJA
PRAZID, LYNDA WOOLARD, STEPHEN
HANDWERK, AMBER ROBINSON, JAMES
BULLMAN, and KIRK GREEN,

Plaintiffs,

v.

R. KYLE ARDOIN, in his official capacity as
Louisiana Secretary of State,

Defendant.

Civil Action No. _____

PETITION FOR INJUNCTIVE AND DECLARATORY RELIEF

Plaintiffs Cameron English, Ryan Bem, Pooja Prazid, Lynda Woolard, Stephen Handwerk, Amber Robinson, James Bullman, and Kirk Green, by and through their undersigned counsel, file this Petition for Declaratory and Injunctive Relief against Defendant R. Kyle Ardoin, in his official capacity as Louisiana Secretary of State, and allege as follows:

NATURE OF THE ACTION

1. This is an action challenging Louisiana’s current congressional districts, which were rendered unconstitutionally malapportioned by a decade of population shifts. Plaintiffs ask this Court to declare Louisiana’s current congressional district plan unconstitutional, enjoin Defendant from using the current plan in any future election, and implement a new congressional district plan that adheres to the constitutional requirement of one-person, one-vote should the Legislature and Governor fail to do so.

2. On April 26, 2021, the U.S. Secretary of Commerce delivered the apportionment data obtained by the 2020 Census to the President. Those data make clear that the configuration of Louisiana’s congressional districts does not account for the current population numbers in Louisiana, in violation of state and federal law. *See Arrington v. Elections Bd.*, 173 F. Supp. 2d 856, 860 (E.D. Wis. 2001) (three-judge court) (explaining that “existing apportionment schemes become instantly unconstitutional upon the release of new decennial census data” (internal quotation marks omitted)).

3. Specifically, the current configuration of Louisiana’s congressional districts, *see* La. Rev. Stat. § 18:1276.1, violates Article I, Section 2 of the U.S. Constitution and Article I, Sections 7 and 9 of the Louisiana Constitution. The current congressional plan therefore cannot be

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used in any upcoming elections, including the 2022 elections.

4. There is no reasonable prospect that Louisiana’s political branches will reach consensus to enact a lawful congressional district plan in time to be used in the upcoming 2022 elections. Governor John Bel Edwards is a Democrat, while the State House of Representatives and State Senate are controlled by Republicans who lack the supermajority necessary to override a veto from the Governor. There is no reason to believe that the political divisions between the parties are amenable to compromise. Put simply, it is near-certain that Louisiana’s political branches will fail to reach consensus on a new congressional plan.

5. Because Louisiana’s political branches will likely fail to enact a new congressional district plan, this Court should intervene to protect the constitutional rights of Plaintiffs and voters across this state. Absent this Court’s intervention, Plaintiffs will be forced to cast unequal votes in violation of their constitutional rights.

6. While there is still time for the Legislature and the Governor to enact a new congressional plan, this Court should assume jurisdiction now and establish a schedule that will enable the Court to adopt its own plan in the near-certain event that the political branches fail to timely do so.

JURISDICTION AND VENUE

7. This Court has original jurisdiction over the subject matter of this action pursuant to Article V, Section 16(A) of the Louisiana Constitution because the matter concerns “the right to office or other public position” and “civil or political right[s].”

8. Venue is proper in this District because the cause of action arises in the parish where this court has jurisdiction. *See* La. Rev. Stat. § 13:5104(A).

9. This Court has authority to enter a declaratory judgment in this action under Louisiana Code of Civil Procedure Article 1871. This Court also has the authority to grant injunctive relief under the Louisiana Code of Civil Procedure. *See* La. Code Civ. P. 3601(A).

PARTIES

10. Plaintiffs are citizens of the United States and are registered to vote in Louisiana. Plaintiffs intend to advocate and vote for Democratic candidates in the upcoming 2022 primary and general elections. Plaintiffs reside in the following congressional districts.

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Plaintiff's Name	Parish of Residence	Congressional District
Ryan Berni	Orleans	1
Pooja Prazid	St. Bernard	1
Cameron English	Orleans	2
Lynda Woolard	Orleans	2
Stephen Handwerk	Lafayette	3
Amber Robinson	Lafayette	3
James Bullman	East Baton Rouge	6
Kirk Green	East Baton Rouge	6

11. Plaintiffs reside in districts that are now likely overpopulated relative to other districts in the state. If the 2022 elections are held pursuant to the map currently in place, then Plaintiffs will be deprived of their right to cast an equal vote, as guaranteed to them by the U.S. Constitution and the Louisiana Constitution.

12. Defendant R. Kyle Ardoin is the Louisiana Secretary of State. He is the “chief election officer of the state,” La. Rev. Stat. § 18:421(A), and as such will be “involved in providing, implementing, and/or enforcing whatever injunctive or prospective relief may be granted” to Plaintiffs. *Hall v. Louisiana*, 974 F. Supp. 2d 978, 993 (M.D. La. 2013).

FACTUAL ALLEGATIONS

I. Louisiana’s current congressional districts were drawn using 2010 Census data.

13. Louisiana’s current congressional district map was drawn in 2011 using 2010 Census data. The congressional district plan was enacted on April 14, 2011.

14. According to the 2010 Census, Louisiana had a population of 4,533,372. Accordingly, a decade ago, the ideal population for each of Louisiana’s six congressional districts (i.e., the state’s total population divided by the number of districts) was 755,562 persons.

15. The 2010 congressional plan had a maximum deviation (i.e., the difference between the most populated district and least populated district) of 162 people.

16. That plan has been used in every Louisiana election since 2012.

II. The 2020 Census is complete.

17. In 2020, the U.S. Census Bureau conducted the decennial census required by Article I, Section 2 of the U.S. Constitution. On April 26, 2021, the U.S. Secretary of Commerce delivered the results of the 2020 Census to the President.

18. The results of the 2020 Census report that Louisiana’s resident population, as of April 2020, is 4,657,757. This is an increase from a decade ago, when the 2010 Census reported a

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population of 4,533,372.

19. Louisiana will again be apportioned six congressional districts for the next decade.

20. According to the 2020 Census results, the ideal population for each of Louisiana's congressional districts is 776,293.

III. As a result of significant population shifts in the past decade, Louisiana's congressional districts are unconstitutionally malapportioned.

21. In the past decade, Louisiana's population has shifted significantly. Because the 2020 Census has now been completed, the 2010 population data used to draw Louisiana's congressional districts are obsolete, and any prior justifications for the existing map's deviations from population equality are no longer applicable.

22. By mid-to-late August 2021, the U.S. Secretary of Commerce will deliver to Louisiana its redistricting data file in a legacy format, which the state may use to tabulate the new population of each political subdivision.¹ On or around September 30, 2021, the U.S. Secretary of Commerce will deliver to Louisiana that same detailed population data showing the new population of each political subdivision in a tabulated format.² These data are commonly referred to as "P.L. 94-171 data," a reference to the 1975 legislation that first required this process, and are typically delivered no later than April of the year following the Census. *See* Pub. L. No. 94-171, 89 Stat. 1023 (1975).

23. Recent Census Bureau data make clear that significant population shifts have occurred in Louisiana since 2010, skewing the current congressional districts far from population equality.

24. The table below estimates how the populations of each of Louisiana's congressional districts shifted between 2010 and 2019. For each district, the "2010 Population" column represents the district's 2010 population according to the 2010 Census, and the "2019 Population" column indicates the district's estimated 2019 population according to the Census Bureau's 2019 American Community Survey (ACS) 1-Year Survey. The "Shift" column represents the shift in population between 2010 and 2019, and the "Deviation from Ideal 2019 Population" and "Percent Deviation from Ideal 2019 Population" columns show how far the estimated 2019 population of

¹ *See U.S. Census Bureau Statement on Release of Legacy Format Summary Redistricting Data File*, U.S. Census Bureau (Mar. 15, 2021), <https://www.census.gov/newsroom/press-releases/2021/statement-legacy-format-redistricting.html>.

² *See Census Bureau Statement on Redistricting Data Timeline*, U.S. Census Bureau (Feb. 12, 2021), <https://www.census.gov/newsroom/press-releases/2021/statement-redistricting-data-timeline.html>.

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each district strays from the ideal 2019 congressional district population.

District	2010 Population	2019 Population	Shift	Deviation from Ideal 2019 Population	Percent Deviation from Ideal 2019 Population
1	755,445	799,917	+44,472	+25,118	+3.24%
2	755,538	788,021	+32,483	+13,222	+1.71%
3	755,596	785,101	+29,505	+10,302	+1.33%
4	755,605	737,675	-17,930	-37,124	-4.79%
5	755,581	734,377	-21,204	-40,422	-5.22%
6	755,607	803,704	+48,097	+28,905	+3.73%

25. The table above indicates population shifts since 2010 have rendered Congressional Districts 4 and 5 significantly underpopulated, and Congressional Districts 1, 2, 3, and 6 significantly overpopulated. Indeed, according to these estimates, the maximum deviation among Louisiana's congressional districts (i.e., the difference between the most and least populated districts divided by the ideal district population) increased from 0 to nearly 9 percent between 2010 and 2019.

26. Due to these population shifts, Louisiana's existing congressional district map is unconstitutionally malapportioned. If used in any future election, this district configuration will unconstitutionally dilute the strength of Plaintiffs' votes because Plaintiffs live in districts with populations that are significantly larger than those in which other voters live.

IV. Louisiana's political branches will likely fail to enact a lawful congressional district map in time for the next election.

27. In Louisiana, a congressional district plan is enacted through legislation, which must pass both chambers of the Legislature and be signed by the Governor. *See* La. Const. art. III, § 6. Currently, both chambers of Louisiana's Legislature are controlled by the Republican Party and the Governor is a Democrat. The partisan division among Louisiana's political branches makes it extremely unlikely they will pass a lawful congressional redistricting plan in time to be used during the upcoming 2022 election.

28. The Census delays have compressed the amount of time during which the legislative process would normally take place. This increases the already significant likelihood the political branches will reach an impasse this cycle and fail to enact a new congressional district plan, leaving the existing plan in place for next year's election. To avoid such an unconstitutional outcome, this Court must intervene to ensure Plaintiffs' and other Louisianians' voting strength is not diluted.

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It is in the interest of voters, candidates, and Louisiana’s entire electoral system

that finalized congressional districts be put in place as soon as possible. Potential congressional candidates cannot make strategic decisions—including, most importantly, whether to run at all—without knowing their district boundaries. And voters have a variety of interests in knowing as soon as possible the districts in which they reside and will vote, and the precise contours of those districts. These interests include deciding which candidates to support and whether to encourage others to run; holding elected representatives accountable for their conduct in office; and advocating for and organizing around candidates who will share their views, including by working together with other district voters in support of favored candidates.

30. Delaying the adoption of the new plan will substantially interfere with Plaintiffs’ abilities to associate with like-minded citizens, educate themselves on the positions of their would-be representatives, and advocate for the candidates they prefer. *Cf. Anderson v. Celebrezze*, 460 U.S. 780, 787–88 (1983) (“The [absence] of candidates also burdens voters’ freedom of association, because an election campaign is an effective platform for the expression of views on the issues of the day, and a candidate serves as a rallying point for like-minded citizens.”).

31. In light of Louisiana’s likely impasse, this Court must intervene to ensure Plaintiffs and other Louisiana voters do not suffer unconstitutional vote dilution.

CLAIMS FOR RELIEF

COUNT I

**Violation of Article I, Section 2 of the United States Constitution
Congressional Malapportionment**

32. Plaintiffs reallege and reincorporate by reference all prior paragraphs of this Petition and the paragraphs in the count below as though fully set forth herein.

33. Article 1, Section 2 of the U.S. Constitution provides that members of the U.S. House of Representatives “shall be apportioned among the several States . . . according to their respective Numbers.” This provision “intends that when qualified voters elect member of Congress each vote be given as much weight as any other vote,” *Wesberry v. Sanders*, 376 U.S. 1, 7 (1964), meaning that state congressional districts in a state must “achieve population equality ‘as nearly as is practicable,’” *Karcher v. Daggett*, 462 U.S. 725, 730 (1983) (quoting *Wesberry*, 376 U.S. at 7–8).

34. Article I, Section 2 “permits only the limited population variances which are unavoidable despite a good-faith effort to achieve absolute equality, or for which justification is

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show” *Id.* at 730 (quoting *Kirkpatrick v. Preisler*, 394 U.S. 526, 531 (1969)). Any variation from

exact population equality must be narrowly justified. *See id.* at 731.

35. As a result of this requirement, when Louisiana’s existing congressional plan was enacted in 2011, the deviation in population among districts was no more than 162 people. Now, as indicated in the table above, the population deviation among the current congressional districts may be as high as 69,327 people.

36. In light of the significant population shifts that have occurred since the 2010 Census, and the recent publication of the results of the 2020 Census, the current configuration of Louisiana’s congressional districts—which were drawn based on 2010 Census data—is now unconstitutionally malapportioned. No justification can be offered for the deviation among the congressional districts because any justification would be based on outdated population data.

37. Any future use of Louisiana’s current congressional district plan would violate Plaintiffs’ constitutional right to an undiluted vote.

COUNT II

**Violation of Article I, Sections 7 and 9 of the Louisiana Constitution
 Freedom of Association**

38. Plaintiffs reallege and reincorporate by reference all prior paragraphs of this Petition and the paragraphs in the count below as though fully set forth herein.

39. The Louisiana Constitution provides that “[n]o law shall curtail or restrain the freedom of speech” and “[n]o law shall impair the right of any person to assemble peaceably.” La. Const. art. I, §§ 7, 9. “The freedom of association protected by the First and Fourteenth Amendments of the U.S. Constitution is also guaranteed by Article I, Sections 7 and 9 of the Louisiana Constitution of 1974.” *Shane v. Parish of Jefferson*, 209 So. 3d 726, 741 (La. 2015) (citing *La. Republican Party v. Foster*, 674 So. 2d 225, 229 (La. 1996)). “The fundamental right of freedom of association protected by these constitutional provisions includes the right of persons to engage in partisan political organizations,” and any “state action that may have the effect of curtailing the freedom to associate is subject to the closest scrutiny.” *Id.* at 741 & n.11 (citing *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 460–61 (1958)).

40. Impeding candidates’ abilities to run for political office—and, consequently, Plaintiffs’ abilities to assess candidate qualifications and positions, organize and advocate for preferred candidates, and associate with like-minded voters—infringes on Plaintiffs’ First Amendment right to association. *See, e.g., Anderson*, 460 U.S. at 787–88 & n.8.

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41. Given the delay in publication of the 2020 Census data and the deadlock among the political branches in adopting a new congressional district plan, it is significantly unlikely that the legislative process will timely yield a new plan. This would deprive Plaintiffs of the ability to associate with others from the same lawfully apportioned congressional districts and, therefore, is likely to significantly, if not severely, burden Plaintiffs' First Amendment right to association.

42. There is no legitimate, let alone compelling, interest that can justify this burden.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

- a. Declare that the current configuration of Louisiana's congressional districts, *see* La. Rev. Stat. § 18:1276.1, violates Article I, Section 2 of the U.S. Constitution and Article I, Sections 7 and 9 of the Louisiana Constitution;
- b. Enjoin Defendant, his respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them, from implementing, enforcing, or giving any effect to Louisiana's current congressional districting plan;
- c. Establish a schedule that will enable the Court to adopt and implement a new congressional district plan by a date certain should the political branches fail to enact such plan by that time;
- d. Implement a new congressional district plan that complies with Article I, Section 2 of the U.S. Constitution and Article I, Sections 7 and 9 of the Louisiana Constitution, if the political branches fail to enact a plan by a date certain set by this Court;
- e. Grant such other and further relief, including but not limited to all costs of these proceedings as well as any attorneys' fees that may be legally proper under applicable law, as the Court deems just and proper.

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Date: April 26, 2021

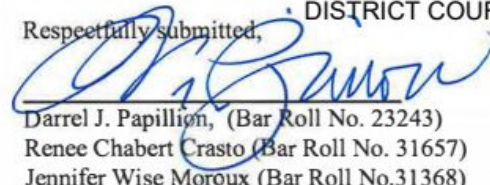
Respectfully submitted,

DISTRICT COURT

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**Pro Hac Vice Application Forthcoming*

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Case Type: Civil

Frank Sachs; Dagny Heimisdottir; Michael Arulfo;
Tanwi Prigge; Jennifer Guertin; Garrison O'Keith
McMurtrey; Mara Lee Glubka; Jeffrey Strand;
Danielle Main; and Wayne Grimmer,

Plaintiffs,

v.

Steve Simon, in his official capacity as Minnesota
Secretary of State,

Defendant.

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

Court File No:

INTRODUCTION

Plaintiffs Frank Sachs, Dagny Heimisdottir, Michael Arulfo, Tanwi Prigge, Jennifer Guertin, Garrison O'Keith McMurtrey, Mara Lee Glubka, Jeffrey Strand, Danielle Main, and Wayne Grimmer file this Complaint for Declaratory and Injunctive Relief against Defendant Steve Simon, in his official capacity as the Minnesota Secretary of State, and hereby state and allege as follows:

1. This is an action challenging Minnesota's current state legislative and congressional districts, which have been rendered unconstitutionally malapportioned by a decade of population shifts. Plaintiffs ask this Court to declare Minnesota's current state legislative and congressional district plans unconstitutional; enjoin Defendant from using the current plans in any future elections; and implement new state legislative and congressional district plans that adhere to the constitutional requirement of one-person, one-vote should the Legislature and Governor fail to do so.

2. On April 26, 2021, the U.S. Secretary of Commerce delivered the apportionment counts obtained by the 2020 Census to the President. Those data confirm the inevitable reality that the population shifts that occurred during the last decade have rendered Minnesota's state legislative and congressional plans unconstitutionally malapportioned. *See Arrington v. Elections Bd.*, 173 F. Supp. 2d 856, 860 (E.D. Wis. 2001) (three-judge court) (explaining that "existing apportionment schemes become instantly unconstitutional upon the release of new decennial census data" (internal quotation marks omitted)).

3. Specifically, the current configurations of Minnesota's State House and State Senate districts, as drawn by the Special Redistricting Panel after the 2010 Census, violate Article I, Section 2 of the Minnesota Constitution; Article IV, Sections 2 and 3 of the Minnesota Constitution; and the Fourteenth Amendment to the U.S. Constitution. Similarly, the current configuration of Minnesota's congressional districts, as drawn by the same Special Redistricting Panel after the 2010 Census, violates Article I, Section 2 of the Minnesota Constitution; Article IV, Section 3 of the Minnesota Constitution; and Article I, Section 2 of the U.S. Constitution. Plaintiffs will be forced to cast unequal votes if the current state legislative and congressional maps are not brought into compliance with constitutional requirements. The current state legislative and congressional plans therefore cannot be used in any upcoming elections, including the 2022 elections. Moreover, if new state legislative and congressional plans are not put in place in a timely manner, Plaintiffs' right to associate with other voters in support of their preferred candidates will be infringed.

4. Currently, the Minnesota Democratic-Farmer-Labor ("DFL") Party controls a majority of the State House; the Republican Party controls a majority of the State Senate; and the Governor is a member of the DFL Party. There is no reasonable prospect that Minnesota's political

branches will reach consensus to enact lawful state legislative and congressional district plans in time to be used in the upcoming 2022 elections. The U.S. Secretary of Commerce will be sending Minnesota its detailed census data on a significantly delayed schedule. Even when census data was timely delivered in the past, courts were still forced to draw Minnesota's state legislative maps in every redistricting cycle since 1970, and its congressional maps in every redistricting cycle since 1980. Since the 1990s, Minnesota's state courts have taken the lead to ensure that Minnesota's citizens are able to cast their votes under constitutional legislative and congressional maps.

5. Because there is no reason to believe the Legislature and the Governor will be able to reach agreement this time around, the judiciary should intervene to protect the constitutional rights of Plaintiffs and voters across this state. While there is still time for the Legislature and Governor to enact new plans, it is appropriate for the Court to assume jurisdiction now and establish a schedule that will enable the Court to adopt its own plans in the near-certain event that the political branches fail timely to do so. In fact, in light of the risk that the political branches will not pass new legislative and congressional maps before the 2022 elections, the Minnesota Supreme Court has already assumed jurisdiction over a separate case filed in Carver County challenging the existing state legislative and congressional district plans. *See Order, Wattson v. Simon*, No. A21-0243 (Minn. Mar. 22, 2021).

PARTIES

6. Plaintiffs are citizens of the United States and registered voters in Minnesota. Plaintiffs intend to advocate and vote for DFL candidates in the upcoming 2022 primary and general elections. Plaintiffs reside in the following congressional and state legislative districts:

Plaintiff	County of Residence	Congressional District	State Senate District	State House District
Frank Sachs	Dakota	2	57	57B
Dagny Heimisdottir	Dakota	2	51	51B
Michael Arulfo	Hennepin	3	50	50B
Tanwi Prigge	Hennepin	3	34	34B
Jennifer Guertin	Ramsey	4	66	66A
Garrison O'Keith McMurtrey	Ramsey	4	66	66B
Mara Lee Glubka	Hennepin	5	50	50A
Jeffrey Strand	Hennepin	5	59	59A
Danielle Main	Wright	6	29	29A
Wayne Grimmer	Anoka	6	35	35A

7. As the charts below demonstrate, Plaintiffs reside in districts that are now likely overpopulated relative to other districts in the state.¹ If the 2022 elections are held pursuant to the maps that are currently in place, Plaintiffs will be deprived of their right to cast equal votes as guaranteed to them by the U.S. Constitution and the Minnesota Constitution.

8. Defendant Steve Simon is the Minnesota Secretary of State and is named as a Defendant in his official capacity. He is the state's chief elections officer and, as such, is responsible for the administration and implementation of election laws in Minnesota. The Secretary is responsible for implementing the state's redistricting plans. *See* Minn Stat. § 204B.146, subd. 2 (instructing Secretary of State to maintain database of current district

¹ All Plaintiffs except for Plaintiff Glubka reside in congressional, State Senate, and State House districts that are all projected to be overpopulated. Plaintiff Glubka resides in congressional and State Senate districts that are projected to be overpopulated, but a State House district that is projected to be slightly underpopulated.

boundaries, revise those boundaries whenever election district boundaries are changed, and provide those boundaries to the Legislature and State Demographer). The Secretary acted, and will act, under color of state law at all times relevant to this action.

JURISDICTION AND VENUE

9. Plaintiffs bring this action under the Minnesota Constitution and the U.S. Constitution. As a court of general jurisdiction, this Court has authority to hear these claims. *See* Minn. Const. art. VI, § 3; Minn. Stat. § 484.01.

10. This Court is authorized to grant declaratory relief pursuant to the Declaratory Judgments Act. *See* Minn. Stat. § 555.01; Minn. R. Civ. P. 57. This Court also has the authority to grant permanent injunctive relief to redress the claims asserted in this Complaint. *See Cherne Indus., Inc. v. Grounds & Assocs., Inc.*, 278 N.W.2d 81, 91–92 (Minn. 1979).

11. Venue in Ramsey County is proper because the cause of action arose in part in Ramsey County, and Defendant’s official residence is in Ramsey County. *See* Minn. Stat. §§ 542.03, 542.09.

FACTUAL ALLEGATIONS

I. Minnesota’s current state legislative and congressional districts were drawn using 2010 Census data.

12. Nearly a decade ago, after Minnesota’s political branches failed to enact state legislative and congressional maps on their own, the Chief Justice of the Minnesota Supreme Court assigned the task to a special redistricting panel in an effort to ensure Minnesota’s districts would not be malapportioned for the next decade.

13. That special panel of judges, known as the “*Hippert Panel*,” arose from state court litigation filed in January 2011 challenging Minnesota’s state legislative and congressional districts as unconstitutionally malapportioned following the publication of the 2010 Census data.

14. At the time, according to the 2010 Census, Minnesota had a population of 5,303,925. Accordingly, a decade ago, the ideal population for each of Minnesota's congressional districts (*i.e.*, the state's total population divided by the number of districts) was 662,991 persons. *See* Final Order Adopting a Congressional Redistricting Plan at 4, *Hippert v. Ritchie*, A11-152 (Minn. Spec. Redis. Panel Feb. 21, 2012) (the "2010 Congressional Plan"). Similarly, based on the 2010 Census, the ideal population for each State Senate district was 79,163 persons, and the ideal population for each State House district was 39,582 persons. *See* Final Order Adopting a Legislative Redistricting Plan at 4, *Hippert v. Ritchie*, A11-152 (Minn. Spec. Redis. Panel Feb. 21, 2012) (the "2010 State Legislative Plan").

15. The Special Redistricting Panel's 2010 Congressional Plan drew eight congressional districts, each containing either 662,991 or 662,990 persons—as close to exact population equality as the Special Redistricting Panel could achieve. *See* 2010 Congressional Plan at Appendix B. Similarly, the Special Redistricting Panel drew 67 State Senate districts, minimizing population deviations wherever possible, with each State Senate district containing between 78,683 to 79,811 persons. *See* 2010 State Legislative Plan at Appendix B. Finally, the Special Redistricting Panel drew 134 State House districts, similarly minimizing population deviations wherever possible, with each State House district containing between 39,286 to 39,921 persons. *See id.*

16. When the 2010 congressional and state legislative district plans were drawn, there was a 0 percent population deviation among Minnesota's congressional districts, and no State Senate or State House district's population deviated by more than 2 percent from the population of the ideal district. *See* 2010 State Legislative Plan at 13.

17. Since these orders from the Special Redistricting Panel were implemented in

February 2012, Minnesota has not substantively redrawn its congressional or state legislative districts, meaning that Minnesota's current congressional and state legislative districts were drawn using data from the 2010 Census.

II. The 2020 Census is now complete.

18. In 2020, the U.S. Census Bureau conducted the decennial census required by Article I, Section 2 of the U.S. Constitution. On April 26, 2021, the U.S. Secretary of Commerce delivered the results of the 2020 Census to the President.

19. The results of the 2020 Census report that Minnesota's resident population, as of April 2020, is 5,706,494. This is a significant increase from a decade ago, when the 2010 Census reported a population of 5,303,925.

20. Minnesota will again be apportioned eight congressional districts for the next decade.

21. According to the 2020 Census results, the ideal population for each of Minnesota's congressional districts is now 713,312; the ideal population for each State House district is now 42,586; and the ideal population for each State Senate district is now 85,172.

III. As a result of significant population shifts in the past decade and the publication of the 2020 Census results, Minnesota's state legislative and congressional districts are unconstitutionally malapportioned.

22. In the past decade, Minnesota's population has shifted significantly. Because the 2020 Census has now been completed, the 2010 population data used to draw Minnesota's state legislative and congressional districts are obsolete and any prior justifications for the existing maps' deviations from population equality are no longer applicable.

23. By mid-to-late August 2021, the U.S. Secretary of Commerce will deliver to Minnesota its redistricting data file in a legacy format, which the state may use to tabulate the new

populations of each political subdivision.² This will occur after the Legislature’s regular session will have ended. On or about September 30, 2021, the U.S. Secretary of Commerce will deliver to Minnesota that same detailed population data showing the new population of each political subdivision in a tabulated format.³ These data are commonly referred to as “P.L. 94-171 data,” which refers to the legislation enacting this process, and are typically delivered no later than April of the year following the Census. *See* Pub. L. No. 94-171, 89 Stat. 1023 (1975).

24. Recent Census Bureau data make clear that significant population shifts have occurred in Minnesota since 2010, skewing the current state legislative and congressional districts far from population equality.

25. The table below estimates how the populations of each of Minnesota’s congressional districts shifted between 2010 and 2019. For each district, the “2010 Population” column represents the district’s 2010 population according to the 2010 Census, and the “2019 Population” column indicates the district’s estimated 2019 population according to the U.S. Census Bureau’s 2019 1-Year American Community Survey (“ACS”). The “Shift” column represents the shift in population between 2010 and 2019. The “Deviation from Ideal 2019 Population” column shows how far the estimated 2019 population of each district strays from the ideal 2019 congressional district population. And the “Percent Deviation” column shows that deviation as a percentage of the ideal district population.

² *See U.S. Census Bureau Statement on Release of Legacy Format Summary Redistricting Data File*, U.S. Census Bureau (Mar. 15, 2021), <https://www.census.gov/newsroom/press-releases/2021/statement-legacy-format-redistricting.html>.

³ *See Census Bureau Statement on Redistricting Data Timeline*, U.S. Census Bureau (Feb. 12, 2021), <https://www.census.gov/newsroom/press-releases/2021/statement-redistricting-data-timeline.html>.

District	2010 Population	2019 Population	Shift from 2010 to 2019	Deviation from Ideal 2019 Population	Percent Deviation
1	662,991	679,003	+16,012	-25,951	-3.68%
2	662,991	717,698	+54,707	+12,744	+1.81%
3	662,990	730,214	+67,224	+25,260	+3.58%
4	662,990	719,873	+56,883	+14,919	+2.12%
5	662,991	724,373	+61,382	+19,419	+2.75%
6	662,990	729,029	+66,039	+24,075	+3.42%
7	662,991	668,096	+5,105	-36,858	-5.23%
8	662,991	671,346	+8,355	-33,608	-4.77%

26. The table above indicates that population shifts since 2010 have rendered Minnesota's First, Seventh, and Eighth Congressional Districts significantly underpopulated, and Minnesota's Second, Third, Fourth, Fifth, and Sixth Congressional Districts significantly overpopulated. Further, between 2010 and 2019, the maximum deviation among Minnesota's congressional districts (*i.e.*, the difference between the most and least populated districts divided by the ideal district population) increased from 0 percent to nearly 9 percent.

27. The populations of Minnesota's state legislative districts have similarly shifted in the past decade. **Exhibit A** to this Complaint provides a table showing the 2010 populations for each State House district and its estimated 2019 population, according to the Minnesota State Demographic Center.⁴ **Exhibit B** to this Complaint provides the same for each State Senate district.

28. As demonstrated by **Exhibit A**, the maximum deviation among State House districts reached 23 percent by 2019. And as demonstrated by **Exhibit B**, the maximum deviation

⁴ The 2019 State House and State Senate district population information comes from the Demographic Center's maps entitled "2019 Population by House District" and "2019 Population by Senate District," both of which can be found at <https://www.gis.leg.mn/html/maps.html>.

among State Senate districts had already reached 20 percent. The deviation among districts in these maps has likely only increased since 2019.

29. In light of these population shifts, Minnesota's existing congressional and state legislative district configurations are unconstitutionally malapportioned. If these district configurations are used in any future elections, Plaintiffs' votes will be unconstitutionally diluted because Plaintiffs live in districts with populations that are significantly larger than those in which other voters live.

IV. Minnesota's political branches are exceedingly likely to fail to enact constitutional state legislative and congressional district maps in time for the 2022 elections.

30. Article IV, Section 3 of the Minnesota Constitution tasks the Legislature with redrawing congressional and state legislative district plans at its first session following each Census.

31. Under Minnesota law, it is the Legislature's "intention" to "complete congressional and legislative redistricting activities in time to permit counties and municipalities to begin the process of reestablishing precinct boundaries as soon as possible after the congressional and legislative redistricting plans *but in no case later than 25 weeks before the state primary election in the year ending in two.*" Minn. Stat. § 204B.14, subd. 1a (emphasis added).

32. For this redistricting cycle, 25 weeks prior to Minnesota's primary election is February 15, 2022. This deadline makes sense. Under Minnesota law, a candidate for federal or state office must file the required affidavits and nominating petitions no later than 70 days before the state's primary. *See* Minn. Stat. § 204B.09, subd. 1a. In 2022, that filing deadline will be May 31. The February deadline for redistricting ensures that candidates have at least a small window to understand the contours of the districts in which they are eligible to run so that they can make informed decisions about seeking office, and that voters have time to learn about the candidates

and determine their polling locations.

33. Minnesota's political branches have failed to pass constitutional maps after each Census for the past 50 years. Instead, Minnesota courts have routinely stepped in to ensure that the state's citizens are not forced to elect their leaders under unconstitutional maps. In fact, courts have drawn Minnesota's state legislative district maps in every redistricting cycle since 1970 and its congressional district maps in every redistricting cycle since 1980.

34. In the 1970s and 1980s, federal courts oversaw Minnesota's redistricting, drawing new maps after Minnesota's political branches failed to do so. *See generally Beens v. Erdahl*, 349 F. Supp. 97 (D. Minn. 1972); *LaComb v. Growe*, 541 F. Supp. 160 (D. Minn. 1982).

35. Since the 1990s, Minnesota's state courts have had primary responsibility for drawing new maps.

36. In 1991, for example, soon after publication of the 1990 Census data, Minnesota citizens filed a preemptive state-court action challenging the holdover 1980-cycle congressional and state legislative plans, which needed to be redrawn in light of the new Census data. In that suit, the Chief Justice of the Minnesota Supreme Court appointed a three-judge redistricting panel to draw new maps if the political branches failed to enact new plans. *See Cotlow v. Growe*, No. C8-91-985 (Minn. Spec. Redis. Panel June 4, 1991). After Republican Governor Arne Carlson vetoed the DFL-controlled Legislature's proposed congressional and state legislative plans, the panel proceeded to draw and implement new plans on its own.

37. Similarly, in 2001, shortly after publication of the 2000 Census, Minnesota citizens filed another preemptive state-court action alleging that the current congressional and state legislative districts were unconstitutional based on the 2000 Census results, which again led the Chief Justice of the Minnesota Supreme Court to appoint a special redistricting panel to draw a

constitutional map. *See Zachman v. Kiffmeyer*, 629 N.W.2d 98, 98 (Minn. 2001). The Legislature—which was split between a DFL-controlled State Senate and Republican-controlled State House—failed to pass congressional or state legislative plans. As a result, the *Zachman* Panel drew and implemented its own plans. *See Zachman v. Kiffmeyer*, No. C0-01-160 (Minn. Spec. Redis. Panel Mar. 19, 2002).

38. Following the same trend as earlier cycles, Minnesota citizens filed a preemptive state-court action soon after the publication of the 2010 Census data in anticipation that Minnesota’s political branches would fail to pass new constitutional maps. In February 2011, Chief Justice Lorie Skjerven Gildea appointed a special redistricting panel ready to act and implement new maps if the political branches failed to do so. *See Hippert v. Ritchie*, No. A11-152 (Minn. Feb. 14, 2011). And after DFL Governor Mark Dayton vetoed the Republican-controlled Legislature’s proposed maps, the *Hippert* Panel ultimately issued final orders implementing new congressional and state legislative maps in time for the 2012 election cycle. *See* 2010 Congressional Plan; 2010 State Legislative Plan. The maps drawn by the *Hippert* Panel remain in place today.

39. Once again, Minnesota is entering a new redistricting cycle and the state’s political branches are divided on partisan lines. Currently, the State House is controlled by the DFL Party; the State Senate is controlled by the Republican Party; and the Governor is a member of the DFL Party. Just as in previous cycles, the partisan division among Minnesota’s political branches makes it extremely unlikely that they will be able to pass and implement lawful state legislative or congressional redistricting plans in time to be used in the upcoming 2022 elections. The Census delays have compressed the amount of time during which the legislative process would normally take place. This increases the already significant likelihood the political branches will reach an impasse this cycle and fail to enact new legislative and congressional district plans, leaving the

existing plans in place for next year's election. To avoid such an unconstitutional outcome, this Court must intervene to ensure Plaintiffs' and others' voting strength is not diluted.

40. Indeed, based on this risk, the Minnesota Supreme Court has already assumed jurisdiction over a case filed two months ago in Carver County challenging the existing state legislative and congressional plans. *See Order, Wattson v. Simon*, No. A21-0243 (Minn. Mar. 22, 2001) (granting petition to appoint multi-judge panel to decide case “as well as any other redistricting challenges that may be filed based on the 2020 Census,” but staying appointment of panel and further proceedings until “it is determined that panel action must commence in order to permit the judicial branch to fulfill its proper role in assuring that valid redistricting plans are in place for the 2022 state legislative and congressional elections”).

41. Any delay in adopting new state legislative and congressional plans will substantially interfere with Plaintiffs' abilities to associate with like-minded citizens, educate themselves on the positions of their would-be representatives, and advocate for the candidates they prefer. *Cf. Anderson v. Celebrezze*, 460 U.S. 780, 787–88 (1983) (“The [absence] of candidates also burdens voters' freedom of association, because an election campaign is an effective platform for the expression of views on the issues of the day, and a candidate serves as a rallying point for like-minded citizens.”). Potential candidates cannot make strategic decisions—including, most importantly, whether to run at all—without knowing the district boundaries. And voters have a variety of interests in knowing as soon as possible the districts in which they reside and will vote, and the precise contours of those districts. These interests include deciding which candidates to support and whether to encourage others to run; holding elected representatives accountable for their conduct in office; and advocating for and organizing around candidates who will share their views, including by working together with other district voters in support of favored candidates

42. In light of the likely impasse, this Court must intervene to ensure Plaintiffs and other Minnesota voters are able to elect their representatives in Congress and the Legislature under constitutional maps.

CLAIMS FOR RELIEF

COUNT I

Violation of Article I, § 2, and Article IV, §§ 2 and 3 of the Minnesota Constitution State Legislative and Congressional Malapportionment

43. Plaintiffs reallege and reincorporate by reference all prior paragraphs of this Complaint as though fully set forth herein.

44. Article I, Section 2 of the Minnesota Constitution guarantees that “[n]o member of this state shall be disfranchised or deprived of any of the rights or privileges secured to any citizen thereof.” Minn. Const. art. I, § 2. As the Minnesota Supreme Court has held, the right to vote and the right to participate in the political franchise are fundamental rights under the Minnesota Constitution. *See Kahn v. Griffin*, 701 N.W.2d 815, 831 (Minn. 2005).

45. Article IV, Section 2 of the Minnesota Constitution states that “representation in both houses *shall be apportioned equally* throughout the different sections of the state in proportion to the population thereof.” Minn. Const. art. IV, § 2 (emphasis added).

46. Article IV, Section 3 of the Minnesota Constitution, titled “Census enumeration apportionment,” indicates that apportionment of congressional and state legislative districts is to be done “after each enumeration of the inhabitants of this state made by the authority of the United States”—that is, after the federal government has completed the Census. Minn. Const. art. IV, § 3.

47. Failure to reapportion Minnesota’s districts based on the 2020 Census would violate these provisions. Any future use of Minnesota’s current state legislative or congressional district plans would violate Plaintiffs’ right to an undiluted vote under the Minnesota Constitution,

see id. art. I, § 2, and would violate the Minnesota Constitution’s direction to apportion based upon the Census after each Census is completed, *see id.* art. IV, § 3. Moreover, failure to apportion Minnesota’s state legislative districts equally would violate the Minnesota Constitution’s express command to apportion state legislative districts “equally . . . in proportion to the population thereof.” *Id.* art. IV, § 2.

COUNT II

Violation of the Fourteenth Amendment to the U.S. Constitution State Legislative Malapportionment

48. Plaintiffs reallege and reincorporate by reference all prior paragraphs of this Complaint and the paragraphs in the counts below as though fully set forth herein.

49. The Fourteenth Amendment to the U.S. Constitution prohibits a state from “deny[ing] to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV, § 1. This provision “requires that the seats in both houses of a bicameral state legislature [] be apportioned on a population basis.” *Reynolds v. Sims*, 377 U.S. 533, 568 (1964).

50. In light of the significant population shifts that have occurred since the 2010 Census, and the recent publication of the results of the 2020 Census, the current configurations of Minnesota’s state legislative districts—which were drawn based on 2010 Census data—are unconstitutionally malapportioned. These districts are no longer apportioned on a “population basis.” Instead, they are based on outdated population data published a decade ago.

51. Any future use of Minnesota’s current state legislative district plans would violate Plaintiffs’ constitutional right to an undiluted vote.

COUNT III

Violation of Article I, § 2 of the U.S. Constitution Congressional Malapportionment

52. Plaintiffs reallege and reincorporate by reference all prior paragraphs of this

Complaint and the paragraphs in the count below as though fully set forth herein.

53. Article I, Section 2 of the U.S. Constitution provides that members of the U.S. House of Representatives “shall be apportioned among the several States . . . according to their respective Numbers.” U.S. Const. art. I, § 2, cl. 3. This provision “intends that when qualified voters elect members of Congress each vote be given as much weight as any other vote,” *Wesberry v. Sanders*, 376 U.S. 1, 7 (1964), meaning that state congressional districts must “achieve population equality ‘as nearly as is practicable,’” *Karcher v. Daggett*, 462 U.S. 725, 730 (1983) (quoting *Wesberry*, 376 U.S. at 7–8).

54. Article I, Section 2 requires an even higher standard of exact population equality among congressional districts than what the Fourteenth Amendment requires of state legislative districts. It “permits only the limited population variances which are unavoidable despite a good-faith effort to achieve absolute equality, or for which justification is shown.” *Karcher*, 462 U.S. at 730 (quoting *Kirkpatrick v. Preisler*, 394 U.S. 526, 531 (1969)). Any variation from exact population equality must be narrowly justified. *See id.* at 731.

55. In order to comply with this requirement, the deviation in population among Minnesota’s congressional districts should be no more than *one person*. The *Hippert* Panel achieved that goal following the 2010 Census. Now, as indicated in the table above, the population deviation among the current congressional districts may be as high as nearly 62,000 persons.

56. Given the significant population shifts that have occurred since the 2010 Census, and the recent publication of the results of the 2020 Census, the current configuration of Minnesota’s congressional districts—which were drawn based on 2010 Census data—is now unconstitutionally malapportioned.

57. Any future use of Minnesota’s current congressional district plan would violate

Plaintiffs' constitutional right to an equal, undiluted vote.

COUNT IV

Violation of the First and Fourteenth Amendments to the U.S. Constitution Freedom of Association

58. Plaintiffs reallege and reincorporate by reference all prior paragraphs of this Complaint and the paragraphs in the count below as though fully set forth herein.

59. Among other rights, the First Amendment protects the “freedom of association” from infringement by the federal government, which applies to state governments pursuant to the Fourteenth Amendment. *Williams v. Rhodes*, 393 U.S. 23, 30–31 (1968) (citing *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 276–77 (1964)).

60. Impeding candidates' abilities to run for political office—and, consequently, Plaintiffs' abilities to assess candidate qualifications and positions, organize and advocate for preferred candidates, and associate with like-minded voters—infringes on Plaintiffs' First Amendment right to association. *See, e.g., Anderson*, 460 U.S. at 787–88 & n.8.

61. Given the delay in publication of the 2020 Census data and the near-certain deadlock among the political branches in adopting new state legislative and congressional district plans, it is significantly unlikely that the legislative process will timely yield a new plan. This would deprive Plaintiffs of the ability to associate with others from the same lawfully apportioned state legislative and congressional districts and, therefore, is likely to significantly, if not severely, burden Plaintiffs' First Amendment right to association.

62. There is no legitimate, let alone compelling, interest that can justify this burden.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in their favor against Defendant, and:

- a. Enter a declaratory judgment pursuant to Minn. Stat. § 555.01 and Minn. R. Civ. P. 57 that the current configurations of Minnesota's State House and State Senate districts violate Article I, Section 2 of the Minnesota Constitution; Article IV, Sections 2 and 3 of the Minnesota Constitution; and the First and Fourteenth Amendments to the U.S. Constitution;
- b. Enter a declaratory judgment pursuant to Minn. Stat. § 555.01 and Minn. R. Civ. P. 57 that the current configuration of Minnesota's congressional districts violates Article I, Section 2 of the Minnesota Constitution; Article IV, Section 3 of the Minnesota Constitution; Article I, Section 2 of the U.S. Constitution; and the First and Fourteenth Amendments to the U.S. Constitution;
- c. Enter an order enjoining Defendant, his respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them, from implementing, enforcing, or giving any effect to Minnesota's current state legislative or congressional districting plans;
- d. Establish a schedule that will enable the Court to adopt and implement new state legislative and congressional district plans by a date certain should the political branches fail to enact such plans by that time;
- e. Implement new state legislative and congressional district plans that comply with the Minnesota Constitution and the U.S. Constitution in the event that Minnesota's Legislature and Governor fail to enact legislation establishing new, constitutional districts prior to the February 15, 2022 statutory deadline;
- f. Award Plaintiffs their costs, disbursements, and attorneys' fees, pursuant to applicable statutory and common law; and

- g. Grant Plaintiffs such other and further relief as the Court deems necessary and proper.

Dated: April 26, 2021

Respectfully submitted,

LOCKRIDGE GRINDAL NAUEN P.L.L.P.

By:  _____

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ACKNOWLEDGEMENT

The undersigned hereby acknowledges that costs, disbursements, and reasonable attorneys' and witness fees may be awarded pursuant to Minn. Stat. § 549.211, subd. 2, to the party against whom the allegations in this pleading are asserted.



Charles N. Nauen

Exhibit A: 2010–2019 Shifts in State House Districts

District	2010 Population	2019 Estimate	Shift from 2010 to 2019	Deviation from 2019 Ideal	Percent Deviation
01A	39,563	39,344	-219	-3,064	-7.23%
01B	39,676	39,458	-218	-2,950	-6.96%
02A	39,725	40,946	+1,221	-1,462	-3.45%
02B	39,808	41,204	+1,396	-1,204	-2.84%
03A	39,462	38,435	-1,027	-3,973	-9.37%
03B	39,664	39,926	+262	-2,482	-5.85%
04A	39,892	44,654	+4,762	+2,246	+5.30%
04B	39,709	41,411	+1,702	-997	-2.35%
05A	39,367	41,354	+1,987	-1,054	-2.49%
05B	39,540	40,289	+749	-2,119	-5.00%
06A	39,501	38,802	-699	-3,606	-8.50%
06B	39,616	38,612	-1,004	-3,796	-8.95%
07A	39,416	39,892	+476	-2,516	-5.93%
07B	39,491	39,968	+477	-2,440	-5.75%
08A	39,861	40,965	+1,104	-1,443	-3.40%
08B	39,457	41,678	+2,221	-730	-1.72%
09A	39,508	40,096	+588	-2,312	-5.45%
09B	39,536	39,545	+9	-2,863	-6.75%
10A	39,314	41,309	+1,995	-1,099	-2.59%
10B	39,388	39,836	+448	-2,572	-6.07%
11A	39,681	40,161	+480	-2,247	-5.30%
11B	39,581	39,452	-129	-2,956	-6.97%
12A	39,736	38,845	-891	-3,563	-8.40%
12B	39,621	41,111	+1,490	-1,297	-3.06%
13A	39,582	41,116	+1,534	-1,292	-3.05%
13B	39,623	44,757	+5,134	+2,349	+5.54%
14A	39,770	42,281	+2,511	-127	-0.30%
14B	39,758	41,414	+1,656	-994	-2.34%
15A	39,434	40,367	+933	-2,041	-4.81%
15B	39,699	42,731	+3,032	+323	+0.76%
16A	39,701	38,214	-1,487	-4,194	-9.89%
16B	39,670	38,217	-1,453	-4,191	-9.88%
17A	39,388	37,331	-2,057	-5,077	-11.97%
17B	39,442	40,424	+982	-1,984	-4.68%
18A	39,721	39,813	+92	-2,595	-6.12%
18B	39,461	38,468	-993	-3,940	-9.29%
19A	39,572	41,308	+1,736	-1,100	-2.59%

19B	39,704	44,832	+5,128	+2,424	+5.72%
20A	39,681	43,117	+3,436	+709	+1.67%
20B	39,549	41,725	+2,176	-683	-1.61%
21A	39,482	39,415	-67	-2,993	-7.06%
21B	39,733	40,100	+367	-2,308	-5.44%
22A	39,615	37,841	-1,774	-4,567	-10.77%
22B	39,513	39,239	-274	-3,169	-7.47%
23A	39,559	37,460	-2,099	-4,948	-11.67%
23B	39,479	38,728	-751	-3,680	-8.68%
24A	39,465	39,666	+201	-2,742	-6.47%
24B	39,546	40,280	+734	-2,128	-5.02%
25A	39,426	43,549	+4,123	+1,141	+2.69%
25B	39,762	44,459	+4,697	+2,051	+4.84%
26A	39,637	44,537	+4,900	+2,129	+5.02%
26B	39,449	42,752	+3,303	+344	+0.81%
27A	39,545	38,504	-1,041	-3,904	-9.21%
27B	39,743	40,683	+940	-1,725	-4.07%
28A	39,525	38,754	-771	-3,654	-8.62%
28B	39,893	39,686	-207	-2,722	-6.42%
29A	39,347	42,703	+3,356	+295	+0.70%
29B	39,336	42,241	+2,905	-167	-0.39%
30A	39,450	43,859	+4,409	+1,451	+3.42%
30B	39,416	46,561	+7,145	+4,153	+9.79%
31A	39,393	42,762	+3,369	+354	+0.83%
31B	39,602	42,363	+2,761	-45	-0.11%
32A	39,917	42,823	+2,906	+415	+0.98%
32B	39,488	41,645	+2,157	-763	-1.80%
33A	39,563	46,100	+6,537	+3,692	+8.71%
33B	39,576	43,147	+3,571	+739	+1.74%
34A	39,921	46,217	+6,296	+3,809	+8.98%
34B	39,890	44,147	+4,257	+1,739	+4.10%
35A	39,608	44,606	+4,998	+2,198	+5.18%
35B	39,439	42,137	+2,698	-271	-0.64%
36A	39,644	41,457	+1,813	-951	-2.24%
36B	39,423	42,292	+2,869	-116	-0.27%
37A	39,553	43,076	+3,523	+668	+1.57%
37B	39,686	47,148	+7,462	+4,740	+11.18%
38A	39,531	43,492	+3,961	+1,084	+2.56%
38B	39,598	43,465	+3,867	+1,057	+2.49%
39A	39,483	42,408	+2,925	0	0.00%
39B	39,447	44,507	+5,060	+2,099	+4.95%

40A	39,493	42,965	+3,472	+557	+1.31%
40B	39,573	43,024	+3,451	+616	+1.45%
41A	39,540	42,744	+3,204	+336	+0.79%
41B	39,579	43,072	+3,493	+664	+1.57%
42A	39,739	42,744	+3,005	+336	+0.79%
42B	39,768	43,056	+3,288	+648	+1.53%
43A	39,719	42,908	+3,189	+500	+1.18%
43B	39,688	41,348	+1,660	-1,060	-2.50%
44A	39,542	44,528	+4,986	+2,120	+5.00%
44B	39,567	43,547	+3,980	+1,139	+2.69%
45A	39,496	43,071	+3,575	+663	+1.56%
45B	39,398	42,438	+3,040	+30	+0.07%
46A	39,386	43,673	+4,287	+1,265	+2.98%
46B	39,414	43,589	+4,175	+1,181	+2.78%
47A	39,470	46,222	+6,752	+3,814	+8.99%
47B	39,523	47,162	+7,639	+4,754	+11.21%
48A	39,458	42,444	+2,986	+36	+0.08%
48B	39,688	42,149	+2,461	-259	-0.61%
49A	39,599	43,999	+4,400	+1,591	+3.75%
49B	39,653	43,314	+3,661	+906	+2.14%
50A	39,571	42,237	+2,666	-171	-0.40%
50B	39,627	43,154	+3,527	+746	+1.76%
51A	39,687	42,189	+2,502	-219	-0.52%
51B	39,559	42,655	+3,096	+247	+0.58%
52A	39,400	42,190	+2,790	-218	-0.51%
52B	39,651	41,441	+1,790	-967	-2.28%
53A	39,648	44,514	+4,866	+2,106	+4.97%
53B	39,541	45,702	+6,161	+3,294	+7.77%
54A	39,741	42,672	+2,931	+264	+0.62%
54B	39,742	41,844	+2,102	-564	-1.33%
55A	39,368	43,935	+4,567	+1,527	+3.60%
55B	39,435	45,312	+5,877	+2,904	+6.85%
56A	39,640	45,497	+5,857	+3,089	+7.28%
56B	39,728	42,498	+2,770	+90	+0.21%
57A	39,286	44,090	+4,804	+1,682	+3.97%
57B	39,888	45,158	+5,270	+2,750	+6.48%
58A	39,504	46,477	+6,973	+4,069	+9.59%
58B	39,788	42,975	+3,187	+567	+1.34%
59A	39,653	45,178	+5,525	+2,770	+6.53%
59B	39,622	45,143	+5,521	+2,735	+6.45%
60A	39,625	45,146	+5,521	+2,738	+6.46%

60B	39,575	45,089	+5,514	+2,681	+6.32%
61A	39,635	45,158	+5,523	+2,750	+6.48%
61B	39,454	44,951	+5,497	+2,543	+6.00%
62A	39,496	44,999	+5,503	+2,591	+6.11%
62B	39,729	45,265	+5,536	+2,857	+6.74%
63A	39,668	45,195	+5,527	+2,787	+6.57%
63B	39,503	44,009	+4,506	+1,601	+3.77%
64A	39,630	43,920	+4,290	+1,512	+3.56%
64B	39,670	45,964	+6,294	+3,556	+8.38%
65A	39,531	43,810	+4,279	+1,402	+3.31%
65B	39,412	43,678	+4,266	+1,270	+2.99%
66A	39,435	42,957	+3,522	+549	+1.29%
66B	39,440	43,709	+4,269	+1,301	+3.07%
67A	39,453	43,724	+4,271	+1,316	+3.10%
67B	39,746	44,048	+4,302	+1,640	+3.87%

Exhibit B: 2010–2019 Shifts in State Senate Districts

District	2010 Census	2019 Estimate	Shift from 2010 to 2019	Deviation from 2019 Ideal	Percent Deviation
1	79,239	78,802	-437	-5,976	-7.05%
2	79,533	82,150	+2,617	-2,628	-3.10%
3	79,126	78,361	-765	-6,417	-7.57%
4	79,601	86,065	+6,464	+1,287	+1.52%
5	78,907	81,643	+2,736	-3,135	-3.70%
6	79,117	77,414	-1,703	-7,364	-8.69%
7	78,907	79,860	+953	-4,918	-5.80%
8	79,318	82,643	+3,325	-2,135	-2.52%
9	79,044	79,641	+597	-5,137	-6.06%
10	78,702	81,145	+2,443	-3,633	-4.29%
11	79,262	79,613	+351	-5,165	-6.09%
12	79,357	79,956	+599	-4,822	-5.69%
13	79,205	85,873	+6,668	+1,095	+1.29%
14	79,528	83,695	+4,167	-1,083	-1.28%
15	79,133	83,098	+3,965	-1,680	-1.98%
16	79,371	76,431	-2,940	-8,347	-9.85%
17	78,830	77,755	-1,075	-7,023	-8.28%
18	79,182	78,281	-901	-6,497	-7.66%
19	79,276	86,140	+6,864	+1,362	+1.61%
20	79,230	84,842	+5,612	+64	+0.07%
21	79,215	79,515	+300	-5,263	-6.21%
22	79,128	77,080	-2,048	-7,698	-9.08%
23	79,038	76,188	-2,850	-8,590	-10.13%
24	79,011	79,946	+935	-4,832	-5.70%
25	79,188	88,008	+8,820	+3,230	+3.81%
26	79,086	87,289	+8,203	+2,511	+2.96%
27	79,288	79,187	-101	-5,591	-6.60%
28	79,418	78,440	-978	-6,338	-7.48%
29	78,683	84,944	+6,261	+166	+0.20%
30	78,866	90,240	+11,374	+5,462	+6.44%
31	78,995	85,125	+6,130	+347	+0.41%
32	79,405	84,468	+5,063	-310	-0.37%
33	79,139	89,247	+10,108	+4,469	+5.27%
34	79,811	90,364	+10,553	+5,586	+6.59%
35	79,047	86,743	+7,696	+1,965	+2.32%
36	79,067	83,749	+4,682	-1,029	-1.21%
37	79,239	90,224	+10,985	+5,446	+6.42%

38	79,129	86,957	+7,828	+2,179	+2.57%
39	78,930	86,915	+7,985	+2,137	+2.52%
40	79,066	85,989	+6,923	+1,211	+1.43%
41	79,119	85,816	+6,697	+1,038	+1.22%
42	79,507	85,800	+6,293	+1,022	+1.20%
43	79,407	84,256	+4,849	-522	-0.62%
44	79,109	88,075	+8,966	+3,297	+3.89%
45	78,894	85,509	+6,615	+731	+0.86%
46	78,800	87,262	+8,462	+2,484	+2.93%
47	78,993	93,384	+14,391	+8,606	+10.15%
48	79,146	84,593	+5,447	-185	-0.22%
49	79,252	87,313	+8,061	+2,535	+2.99%
50	79,198	85,391	+6,193	+613	+0.72%
51	79,246	84,844	+5,598	+66	+0.08%
52	79,051	83,631	+4,580	-1,147	-1.35%
53	79,189	90,216	+11,027	+5,438	+6.41%
54	79,483	84,516	+5,033	-262	-0.31%
55	78,803	89,247	+10,444	+4,469	+5.27%
56	79,368	87,995	+8,627	+3,217	+3.79%
57	79,174	89,248	+10,074	+4,470	+5.27%
58	79,292	89,452	+10,160	+4,674	+5.51%
59	79,275	90,321	+11,046	+5,543	+6.54%
60	79,200	90,235	+11,035	+5,457	+6.44%
61	79,089	90,109	+11,020	+5,331	+6.29%
62	79,225	90,264	+11,039	+5,486	+6.47%
63	79,171	89,204	+10,033	+4,426	+5.22%
64	79,300	87,884	+8,584	+3,106	+3.66%
65	78,943	87,488	+8,545	+2,710	+3.20%
66	78,875	86,306	+7,431	+1,528	+1.80%
67	79,199	87,772	+8,573	+2,994	+3.53%