

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

DAN MCCONCHIE, in his official  
capacity as Minority Leader of the  
Illinois Senate and individually as a  
registered voter, JIM DURKIN, in his  
official capacity as Minority Leader of  
the Illinois House of Representatives  
and individually as a registered voter,  
the REPUBLICAN CAUCUS OF THE  
ILLINOIS SENATE, the REPUBLICAN  
CAUCUS OF THE ILLINOIS HOUSE  
OF REPRESENTATIVES, and the  
ILLINOIS REPUBLICAN PARTY,

Plaintiffs,

vs.

CHARLES W. SCHOLZ, IAN K.  
LINNABARY, WILLIAM M.  
MCGUFFAGE, WILLIAM J. CADIGAN,  
KATHERINE S. O'BRIEN, LAURA K.  
DONAHUE, CASANDRA B. WATSON,  
and WILLIAM R. HAINE, in their  
official capacities as members of the  
Illinois State Board of Elections,  
EMANUEL CHRISTOPHER WELCH,  
in his official capacity as Speaker of the  
Illinois House of Representatives, the  
OFFICE OF SPEAKER OF THE  
ILLINOIS HOUSE OF  
REPRESENTATIVES, DON HARMON,  
in his official capacity as President of  
the Illinois Senate, and the OFFICE OF  
THE PRESIDENT OF THE ILLINOIS  
SENATE,

Defendants.

Case No. 1:21-cv-03091

Circuit Judge Michael B. Brennan  
Chief District Judge Jon E.  
DeGuilio  
District Judge Robert M. Dow, Jr.

Three-Judge Court  
Pursuant to 28 U.S.C. § 2284(a)

**DEFENDANTS' RESPONSE TO PLAINTIFFS' LOCAL RULE 56.1**  
**STATEMENT OF MATERIAL FACTS**

Defendants, DON HARMON, in his official capacity as President of the Illinois Senate, and THE OFFICE OF THE PRESIDENT OF THE ILLINOIS SENATE, EMANUEL CHRISTOPHER WELCH, in his official capacity as Speaker of the Illinois House of Representatives, and the OFFICE OF THE SPEAKER OF THE ILLINOIS HOUSE OF REPRESENTATIVES (“Defendants”), by and through their undersigned counsel for their RESPONSE to Plaintiff’s Local Rule 56.1 Statement of Material Facts, states as follows:

**The Parties**

**A. Plaintiffs**

1. Plaintiff DAN MCCONCHIE is a state senator from Illinois’ 26th Senate District, a citizen of the United States and the State of Illinois, and a duly registered voter residing in Lake County, Illinois. Mr. McConchie is also the Minority Leader of the Illinois Senate, vested by Article IV, Section 6(c) of the Illinois Constitution with the duty to promote and express the views, ideas, and principles of the Senate Republican caucus in the 102nd General Assembly and of Republicans in every Senate District throughout the State of Illinois. Mr. McConchie is also the leader of the Plaintiff Republican Caucus of the Illinois Senate, having been elected its leader pursuant to Article IV, Section 6(c) of the Illinois Constitution and Rule 2-3 of the Illinois Senate.<sup>1</sup>

**RESPONSE:** Admit Plaintiff McConchie is a state senator from the 26<sup>th</sup> District, is a citizen, and registered voter residing in Lake County, and Minority Leader of the Illinois Senate. Admit he is the leader of the Republican Caucus of the Illinois Senate. Deny he is vested by Article IV, Section 6(c) of the Illinois Constitution with the duty to promote and express the views, ideas, and principles of the Senate Republican caucus in the 102nd General Assembly and of Republicans in every Senate District throughout the State of Illinois because Section 6(c) states only “For purposes of powers of appointment conferred by this Constitution, the Minority Leader of either house is a member of the numerically strongest political party other

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<sup>1</sup> Senator Dan McConchie Biography, Illinois General Assembly (<https://www.ilga.gov/senate/Senator.asp?MemberID=2672>).

than the party to which the Speaker or the President belongs, as the case may be.” Ill. Const. (1970), art. IV, § 6(c).

2. Plaintiff JIM DURKIN is a state representative from Illinois’ 82nd Representative District, a citizen of the United States and the State of Illinois, and a duly registered voter residing in Cook County, Illinois. Mr. Durkin is also the Minority Leader of the Illinois House of Representatives, vested by Article IV, Section 6(c) of the Illinois Constitution with the duty to promote and express the views, ideas, and principles of the House Minority Republican caucus in the 102nd General Assembly and of Republicans in every Representative District throughout Illinois. Mr. Durkin is also the leader of the Plaintiff Republican Caucus of the Illinois House of Representatives, having been elected its leader pursuant to Article IV, Section 6(c) of the Illinois Constitution and Rule 2 of the Illinois House of Representatives.<sup>2</sup>

**RESPONSE:** Admit Plaintiff Durkin is a state representative from the 82nd District, is a citizen, and registered voter residing in Cook County, and Minority Leader of the Illinois House of Representatives. Admit he is the leader of the Republican Caucus of the Illinois House. Deny he is vested by Article IV, Section 6(c) of the Illinois Constitution with the duty to promote and express the views, ideas, and principles of the Senate Minority Republican caucus in the 102nd General Assembly and of Republicans in every Senate District throughout the State of Illinois because Section 6(c) states only “For purposes of powers of appointment conferred by this Constitution, the Minority Leader of either house is a member of the numerically strongest political party other than the party to which the Speaker or the President belongs, as the case may be.” Ill. Const. (1970), art. IV, § 6(c).

3. Plaintiff REPUBLICAN CAUCUS OF THE ILLINOIS SENATE is an association consisting of 18 elected members of the Illinois Senate belonging to the Republican Party. The Republican Caucus of the Illinois Senate is comprised of members who reside and vote in various Senate Districts throughout the State of Illinois and represent their respective Senate Districts and constituent voters in the General Assembly. The Republican Caucus of the Illinois Senate is currently comprised of members representing Illinois Senate Districts 26, 32, 33, 35, 36, 37, 38, 41, 44, 45, 47, 50, 51, 53, 54, 55, 58, and 59.<sup>3</sup>

**RESPONSE:** Admit.

4. Plaintiff REPUBLICAN CAUCUS OF THE ILLINOIS HOUSE OF REPRESENTATIVES is an association consisting of 45 elected members of the Illinois House of Representatives belonging to the Republican Party. The Republican

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<sup>2</sup> Representative Jim Durkin Biography, Illinois General Assembly (<https://www.ilga.gov/house/rep.asp?MemberID=2810>).

<sup>3</sup> Current Illinois Senate Members (<https://www.ilga.gov/senate/default.asp?sortby=Party&sortbyformer=&sortbyGA=102>).

Caucus of the Illinois House of Representatives is comprised of members who reside and vote in various Representative Districts throughout the State of Illinois and represent their respective Representative Districts and constituent voters in the General Assembly. The Republican Caucus of the Illinois House of Representatives is currently comprised of members representing Illinois House Districts: 20, 37, 42, 45, 47, 50, 51, 52, 54, 63, 64, 65, 69, 70, 71, 73, 74, 75, 79, 82, 87, 88, 89, 90, 91, 93, 94, 95, 97, 99, 100, 101, 102, 104, 105, 106, 107, 108, 109, 110, 111, 115, 116, 117, and 118.<sup>4</sup>

**RESPONSE:** Admit.

5. Plaintiff ILLINOIS REPUBLICAN PARTY is an established political party in the State of Illinois, organized and existing under the election laws of the State of Illinois. The Illinois Republican Party is comprised of hundreds of thousands of members and voters who reside in every Senate District and Representative District in the State of Illinois.<sup>5</sup>

**RESPONSE:** Admit the Illinois Republican Party is an establish political party in the State of Illinois, organized and existing under the election laws of Illinois. Deny it is comprised of hundreds of thousands of “members” as neither the Election Code nor Party Bylaws provide for members beyond officers or central committeepersons.

## **B. Defendants**

6. The Illinois State Board of Elections is the entity responsible for overseeing and regulating public elections in Illinois as provided by Article III, Section 5 of the Illinois Constitution and 10 ILCS 5/1A-1, *et seq.* The Board has eight members, who are named as Defendants in this action (collectively the “Individual Board Member Defendants”).<sup>6</sup>

**RESPONSE:** Admit the Illinois State Board of Election is an entity responsible for overseeing and regulating public elections in Illinois. Deny it is the only entity, as the legislature, courts, and local election authorities also have responsibilities overseeing and regulating public elections. Admit the Board has eight members named as defendants.

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<sup>4</sup> Current Illinois House Members  
(<https://www.ilga.gov/house/default.asp?sortby=Party&sortbyformer=&sortbyGA=102>).

<sup>5</sup> 10 ILCS 5/1-1, *et seq.*

<sup>6</sup> Ill. Const. 1970, art. III, § 5; 10 ILCS 5/1A-1, *et seq.*

7. Defendant CHARLES W. SCHOLZ is the Chairman of the Illinois State Board of Elections.<sup>7</sup>

**RESPONSE:** Deny. The Chair of the State Board of Elections is Ian K. Linnabary.

8. Defendant IAN K. LINNABARY is the Vice Chairman of the Illinois State Board of Elections.<sup>8</sup>

**RESPONSE:** Deny. The Vice Chair of the State Board of Elections is Casandra B. Watson.

9. Defendant WILLIAM M. MCGUFFAGE is a member of the Illinois State Board of Elections.<sup>9</sup>

**RESPONSE:** Admit.

10. Defendant WILLIAM J. CADIGAN is a member of the Illinois State Board of Elections.<sup>10</sup>

**RESPONSE:** Admit.

11. Defendant KATHERINE S. O'BRIEN is a member of the Illinois State Board of Elections.<sup>11</sup>

**RESPONSE:** Deny. Ms. O'Brien is no longer a member of the State Board of Elections.

12. Defendant LAURA K. DONAHUE is a member of the Illinois State Board of Elections.<sup>12</sup>

**RESPONSE:** Admit.

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<sup>7</sup> Board Member Scholz, Illinois State Board of Elections (<https://www.elections.il.gov/abouttheboard/MemScholz.aspx>).

<sup>8</sup> Board Member Linnabary, Illinois State Board of Elections (<https://elections.il.gov/AbouttheBoard/MemLinnabary.aspx>).

<sup>9</sup> Board Member McGuffage, Illinois State Board of Elections (<https://www.elections.il.gov/abouttheboard/MemMcGuffage.aspx>).

<sup>10</sup> Board Member Cadigan, Illinois State Board of Elections (<https://www.elections.il.gov/abouttheboard/MemCadigan.aspx>).

<sup>11</sup> Board Member O'Brien, Illinois State Board of Elections (<https://www.elections.il.gov/abouttheboard/MemOBrien.aspx>).

<sup>12</sup> Board Member Donahue, Illinois State Board of Elections (<https://elections.il.gov/AbouttheBoard/MemDonahue.aspx>).

13. Defendant CASANDRA B. WATSON is a member of the Illinois State Board of Elections.<sup>13</sup>

**RESPONSE:** Admit.

14. Defendant WILLIAM R. HAINE is a member of the Illinois State Board of Elections.<sup>14</sup>

**RESPONSE:** Deny. Mr. Haine passed away on August 16, 2021.

15. Defendant EMANUEL CHRISTOPHER WELCH is a state representative from Illinois' 7th Representative District.<sup>15</sup>

**RESPONSE:** Admit.

16. Defendant the OFFICE OF THE SPEAKER OF THE ILLINOIS HOUSE OF REPRESENTATIVES is the office of the presiding officer of the Illinois House of Representatives, as designated by Article IV, Section 6(b) of the Illinois Constitution.<sup>16</sup>

**RESPONSE:** Admit.

17. Defendant DON HARMON is a state senator from the 39th Senate District.<sup>17</sup>

**RESPONSE:** Admit.

18. Defendant OFFICE OF THE PRESIDENT OF THE ILLINOIS SENATE is the office of the presiding officer of the Illinois Senate, as designated by Article IV, Section 6(b) of the Illinois Constitution.<sup>18</sup>

**RESPONSE:** Admit.

### **The General Assembly's Redistricting Plan**

19. To enable state officials to draw legislative districts of substantially equal population, the U.S. Census Bureau (the "Bureau") generally provides states

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<sup>13</sup> Board Member Watson, Illinois State Board of Elections (<https://www.elections.il.gov/abouttheboard/MemWatson.aspx>).

<sup>14</sup> Board Member Haine, Illinois State Board of Elections (<https://www.elections.il.gov/AbouttheBoard/MemHaine.aspx>).

<sup>15</sup> Representative Emanuel Chris Welch Biograph (<https://www.ilga.gov/house/rep.asp?MemberID=2419>).

<sup>16</sup> Ill. Const. 1970, art. IV, § 6(b).

<sup>17</sup> Senator Don Harmon Biography (<https://www.ilga.gov/senate/Senator.asp?MemberID=2125>).

<sup>18</sup> Ill. Const. 1970, art. IV, § 6(b).

with the official census population counts per Public Law 94-171 (the “PL 94-171 Data”) within one year of the April 1st census date.<sup>19</sup>

**RESPONSE:** Admit.

20. The most recent census date was April 1, 2020, so the date for the Bureau to release the PL 94-171 Data to the states was March 31, 2021. However, the Bureau was unable to release the data by that date. Instead, in March 2021, the Bureau announced that it would provide the PL 94-171 Data to the states by mid-August of 2021.<sup>20</sup>

**RESPONSE:** Admit.

21. On May 28, 2021, despite lacking the PL 94-171 Data, the Illinois General Assembly passed, on a purely partisan roll call, a state legislative redistricting plan (the “Redistricting Plan” or “Plan”), which includes a legislative map setting forth districts for the Illinois House of Representatives (“House Districts”) and the Illinois Senate (“Senate Districts”).<sup>21</sup>

**RESPONSE:** Admit on May 28, 2021 the General Assembly passed a legislative redistricting plan with constitutional majorities in each chamber. Deny the remaining alleged facts.

22. On June 4, 2021, Governor Pritzker approved the Redistricting Plan.<sup>22</sup>

**RESPONSE:** Admit.

23. In passing the Redistricting Plan, the General Assembly acknowledged that the Bureau had not yet provided the PL 94-171 Data and therefore the General Assembly could not use the data to draw the legislative map.<sup>23</sup>

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<sup>19</sup> 13 U.S.C. § 141(c).

<sup>20</sup> U.S. Census Bureau Statement on Release of Legacy Format Summary Redistricting Data File, Census.gov (Mar. 15, 2021) (<https://www.census.gov/newsroom/pressreleases/2021/statement-legacy-format-redistricting.html>).

<sup>21</sup> Public Act 102-0010 (<https://www.ilga.gov/legislation/publicacts/102/PDF/102-0010.pdf>) (“Pub. Act 102-0010”); Bill Status of HB2777, Illinois General Assembly (<https://www.ilga.gov/legislation/billstatus.asp?DocNum=2777&GAID=16&GA=102&DocTypeID=HB&LegID=131631&SessionID=110>) (“Bill Status HB2777”); House Roll Call for HB2777 ([https://www.ilga.gov/legislation/votehistory/102/house/10200HB2777sam001\\_05282021\\_008000C.pdf](https://www.ilga.gov/legislation/votehistory/102/house/10200HB2777sam001_05282021_008000C.pdf)); Senate Roll Call HB2777 ([https://www.ilga.gov/legislation/votehistory/102/senate/10200HB2777\\_05282021\\_023000T.pdf](https://www.ilga.gov/legislation/votehistory/102/senate/10200HB2777_05282021_023000T.pdf)).

<sup>22</sup> Bill Status HB2777.

<sup>23</sup> Pub. Act 102-0010 § 5(b)-(c).



**RESPONSE:** Admit.

24. Instead, the General Assembly stated that it drew the map using population estimates derived from the 2015-2019 five-year responses to the American Community Survey (“ACS”), along with certain unspecified “election data” and “public input.”<sup>24</sup>

**RESPONSE:** Admit.

25. The General Assembly did not acknowledge, let alone attempt to justify, any population deviations between the districts in the Plan. Instead, it incorrectly claimed that “each of the Districts contained in the 2021 General Assembly Redistricting Plan was drawn to be substantially equal in population.”<sup>25</sup>

**RESPONSE:** Deny. The bill and accompanying House and Senate Resolutions explained the data used and discussed deviations the data provided.

26. The House of Representative asserted that the “largest deviation [with respect to House Districts is] 0.37%, or 398 people, under the target population.”<sup>26</sup>

**RESPONSE:** Admit.

27. The Senate similarly asserted that the “largest deviation [with respect to Senate Districts is] +0.2%/-0.17%, or +422/-368 people, from the target population.”<sup>27</sup>

**RESPONSE:** Admit.

**Dr. Chen’s Analysis of the Maximum Population Deviations in the Redistricting Plan**

28. On August 12, 2021, the Census Bureau released the PL 94-171 Data in “legacy” format.<sup>28</sup>

**RESPONSE:** Admit.

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<sup>24</sup> House Resolution 359 (“HR0359”), at p. 5 (<https://www.ilga.gov/legislation/102/HR/PDF/10200HR0359lv.pdf>); Senate Resolution No. 326 (“SR326”), at p. 5 (<https://www.ilga.gov/legislation/102/SR/PDF/10200SR0326enr.pdf>).

<sup>25</sup> Pub. Act 102-0010 § 5(e)(1).

<sup>26</sup> HR039 at p. 6.

<sup>27</sup> SR326 at p. 6.

<sup>28</sup> Affidavit of Dr. Jowei Chen, attached as **Exhibit A** (“Chen Aff.”) ¶ 10.



29. Plaintiffs' expert, Dr. Jowei Chen, then used the PL 94-171 Data to calculate the populations in each House and Senate District in the Redistricting Plan.<sup>29</sup>

**RESPONSE:** Upon information and belief, admit.

30. Dr. Chen is an associate professor in the Department of Political Science at the University of Michigan, has extensive academic publications and experience regarding legislative districting and political geography, and has testified at deposition or trial in a number of redistricting cases.<sup>30</sup>

**RESPONSE:** Upon information and belief, admit.

31. Within an hour of its release, Dr. Chen was able to analyze that data and calculate the populations of the House and Senate Districts in the General Assembly's Redistricting Plan.<sup>31</sup>

**RESPONSE:** Upon information and belief, admit.

32. To calculate the populations of the House and Senate Districts in the Plan, Dr. Chen identified the districts to which each 2020 Census block is assigned and overlaid the appropriate Census block shapefiles provided by Defendants Emanuel Christopher Welch, in his official capacity as Speaker of the Illinois House of Representatives, the Office of Speaker of the Illinois House of Representatives, Don Harmon, in his official capacity as President of the Illinois Senate, and the Office of the President of the Illinois Senate (collectively, "the Leadership Defendants") onto the districts. Dr. Chen then used the PL 94-171 Data files to calculate the population of each House and Senate District in the Plan.<sup>32</sup>

**RESPONSE:** Upon information and belief, admit.

33. With respect to House Districts, Dr. Chen calculated that the ideal population of each of the 118 House Districts is 108,580.6. This number is based on the total Illinois population of 12,812,508, as reflected in the PL 94-171 Data.<sup>33</sup>

**RESPONSE:** Upon information and belief, admit this is Dr. Chen's calculation.

34. Dr. Chen calculated that the lowest-populated district is House District 83, whose population is 14.91% below the ideal population, and the highest-populated

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<sup>29</sup> Chen Aff. ¶¶ 11-12.

<sup>30</sup> Chen Aff. ¶¶ 1-3.

<sup>31</sup> Chen Aff. ¶¶ 13-14.

<sup>32</sup> Chen Aff. ¶ 11.

<sup>33</sup> Chen Aff. ¶ 15.

district is House District 5, whose population is 14.97% above the ideal population. Therefore, the maximum population deviation of the House Districts in the Plan is **29.88%**, the sum of the percentage deviations of House Districts 5 and 83.<sup>34</sup>

**RESPONSE:** Upon information and belief, admit this is Dr. Chen's calculation.

35. With respect to Senate Districts, Dr. Chen calculated that the ideal population of each of the 59 Senate Districts is 217,161.2, which again is based on the total Illinois population of 12,812,508.<sup>35</sup>

**RESPONSE:** Upon information and belief, admit this is Dr. Chen's calculation.

36. Dr. Chen calculated that the lowest-populated district is Senate District 42, whose population is 7.94% below the ideal population, and the highest-populated district is House District 3, whose population is 12.31% above the ideal population. Therefore, the maximum population deviation of the Senate Districts in the Plan is **20.25%**, the sum of the percentage deviations exhibited by Senate Districts 3 and 42.<sup>36</sup>

**RESPONSE:** Upon information and belief, admit this is Dr. Chen's calculation.

Dated: September 10, 2021

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Respectfully submitted,  
/s/ Adam R. Vaught

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<sup>34</sup> Chen Aff. ¶ 16.

<sup>35</sup> Chen Aff. ¶ 17.

<sup>36</sup> Chen Aff. ¶ 18.

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**CERTIFICATE OF SERVICE**

I, Adam R. Vaught, an attorney certifies that on the 10 of September, 2021, he served a copy of Defendants, Emanuel Christopher Welch, in his official capacity as Speaker of the Illinois House of Representatives, Don Harmon, in his official capacity as President of the Illinois Senate Responses to Statement of Facts, to the named parties on the attached Service List via electronic mail before 5:00 p.m.

By: */s/Adam R. Vaught*

**SERVICE LIST**

**1:21-cv-03139**

**Contreras et al v. Illinois State Board of Elections et al**

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