IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

PHILLIP CALLAIS, et al.,	)	
	)	Case No. 3:24-cv-00122-DCJ-CES-RRS
Plaintiffs,	)	
	)	
v.	)	District Judge David C. Joseph
	)	Circuit Judge Carl E. Stewart
NANCY LANDRY, IN HER OFFICIAL CAPACITY AS LOUISIANA SECRETARY OF STATE, et al.,	)	District Judge Robert R. Summerhays
	)	Magistrate Judge Kayla D. McClusky
Defendants.	)	

PLAINTIFFS' OPPOSITION TO THE MOTION TO STAY

I. Plaintiffs Have a Right to a Remedy and Should Receive One Without Waiting Another Election Cycle.

For over two years now Plaintiffs, and all other Louisiana voters, have faced the irreparable harm of unconstitutional segregation under a racially gerrymandered map. For over two years now, Plaintiffs have sought to remedy that injury. This Court determined that Plaintiffs had suffered such an injury and expeditiously moved to remedy this harm. Doc. 198, at 59-60. But two years later, Plaintiffs are still without a remedy. Even worse, the State and Intervenors worked together to force Plaintiffs to vote under that racially gerrymandered map in the 2024 congressional election. A remedy cannot wait another day—much less another election cycle. Any inconvenience identified by the Intervenors (who are not even election administrators themselves) comes nowhere close to the irreparable harm facing Plaintiffs and all other Louisiana voters.

To begin, both this Court and the U.S. Supreme Court have already held that Plaintiffs have suffered an irreparable injury due to the State's unconstitutional racial gerrymander. *See Louisiana v. Callais*, 608 U.S. ___ (2026); Doc. 198, at 32, 59 (noting that Plaintiffs "must establish by a preponderance of the evidence" that they were "likely to suffer irreparable harm in the absence of

injunctive relief" to secure such relief and holding that Plaintiffs made this showing (quotation omitted)). As a result, this Court entered an injunction, which the Supreme Court affirmed, that broadly declared: "The State of Louisiana is prohibited from using SB8's map of congressional districts for any election." Doc. 168, at 59. Two years later, this remedy is finally in effect once again. To stay this remedy would be to completely undo it and irreparably harm Plaintiffs once again. Plaintiffs have already suffered this fate once. They should not suffer it again.

Given the nature of the irreparable injury to Plaintiffs, this Court and the U.S. Supreme Court have rightly moved expeditiously to enable Plaintiffs to secure a new map in advance of the 2026 election.

When this Court first enjoined any usage of SB8 over two years ago, it also scheduled a status conference *in the very same order* to begin the remedial phase of the trial mere days later. Doc. 198, at 59-60. And then when the Supreme Court issued its opinion in *Louisiana v. Callais*, 608 U.S. ___ (2026), the very next day this Court entered an order affirming that its injunction was once more in effect and scheduling briefing for the remedial phase of the case to begin as quickly as possible. Doc. 261. This Court has rightly recognized the need for speed at every turn.

In fact, that need to quickly proceed persisted through the entire liability phase of the case in the spring of 2024. Given the blatant racial gerrymander before it, this Court quickly scheduled a trial to take place weeks later. Doc. 63. This Court allowed the Robinson Intervenors to permissively intervene in the case based on their representation that they would not cause delay or prejudice. Doc. 112-1, at 9 ("Plaintiffs raise the unfounded specter of intervention delaying or prejudicing the adjudication of the action. Pls. Opp. at 9-10. The facts demonstrate otherwise."); Doc. 114 (granting their intervention permissively based on those representations). And this Court refused to admit the Galmon Intervenors into the liability phase of the case because their presence

would be unduly duplicative. *Id.*; Doc. 79, at 7-8. This Court reaffirmed Intervenors' limited role and the need for a new map by the 2024 election in denying the Robinson Intervenors' Motion to Continue the Trial:

> But the map of the plaintiffs' challenge is not the Robinson intervenors' map. It's the State's map, duly enacted into law by the Legislature and signed by the Governor through the democratic process. It's primarily the State's duty to defend the map. And both the plaintiffs and the State defendants initially requested an abbreviated time frame in order to ensure that there was certainty in the election map in sufficient time to have the election this fall. There is also substantial public interest of the citizens of Louisiana in ensuring certainty in the election map in sufficient time so that the candidates can decide to run and the voters can do due diligence on their preferred candidates.

Doc. 184, at 8:1-14. And yet now these two sets of Intervenors, who have no interest as state officials in the administration of the election, seek to cause undue delay once again to advance their own political interests for the 2026 election. *Callais v. Louisiana*, No. 25A1197 (24-109 and 24-110), 608 U.S. at ___, slip op. at 2 (2026) (Alito, J., concurring) (suggesting that it would be "politically advantageous" for Intervenors "to have the election occur under the unconstitutional map"). This Court did not permit them to cause undue delay two years ago, and it certainly should not permit them to do so now.

The U.S. Supreme Court has also empowered Plaintiffs to expeditiously seek a remedial map. Specifically, the day the Court's opinion came down, Plaintiffs filed an Application to Issue Judgment Forthwith to this Court under Supreme Court Rule 45.3. On May 4, 2026, the Supreme Court granted that request "for the Clerk to issue the judgment forthwith so that 'in the event of a judicial remedy,' the District Court may 'oversee an orderly process.'" *Callais*, No. 25A1197 (24-109 and 24-110), 608 U.S. at ___, slip op. at 1 (quoting Application at 3). Justice Alito, in a concurrence joined by Justices Thomas and Gorsuch, responded to the dissent's attempts to

"require that the 2026 congressional elections in Louisiana be held under a map that has held to be unconstitutional"—just as Intervenors attempt to do here. *Id.* (Alito, J., concurring). But Justice Alito pointed out that such a result was improper. Rather, he stated, "the need for prompt action by this Court is clear" in advance of the 2026 election. *Id.*, slip op. at 2 (Alito, J., concurring). He noted that "[t]he congressional districting map enacted by the legislature has been held to be unconstitutional, and the general election will be held in just six months"—demonstrating that a new map was urgent. *Id.* (Alito, J., concurring). Any delay "by running out the clock[] on behalf of those who may find it politically advantageous to have the election occur under the unconstitutional map"—*i.e.*, the Intervenors—was not justifiable. *Id.* (Alito, J., concurring).

The Supreme Court has taken similar steps in contemporaneous cases to enable states to use constitutional congressional maps in the 2026 election. For example, just a few days ago, in *Allen v. Caster*, 608 U.S. ___ (2026), the Supreme Court granted the State of Alabama's motions to expedite and petitions for writ of certiorari, vacated the district court judgment that imposed a "remedial" map and enjoined Alabama's duly enacted 2023 congressional map, remanded the case in light of *Louisiana v. Callais*, 608 U.S. ___ (2026), and issued the judgment immediately to the lower court under the exception to Supreme Court Rule 45.3. Similarly, in *Malliotakis v. Kosinski*, 607 U.S. ___ (2026), the Supreme Court granted a motion to stay "a state-court order that blatantly discriminates on the basis of race" by ordering "the New York Independent Redistricting Commission to draw a new congressional district for the express purpose of ensuring that 'minority voters' are able to elect the candidate of their choice." *Id.*, slip op. at 12 (Alito, J., concurring) (citation omitted). Justice Alito noted that by issuing the stay, the Court refused to allow events to transpire that "would likely run out the clock" and thereby unlawfully permit "the use of an unconstitutional district in the November election and the election of a Member of the House of

Representatives whose entitlement to the office would be tainted." *Id*., slip op. at 4 (Alito, J., concurring). As Justice Alito definitively concluded, "[t]hat is a prospect this Court should not countenance." *Id*. (Alito, J., concurring). That very "prospect" is the one Intervenors seek now and one this Court "should not countenance." *Id*. (Alito, J., concurring).

II. Election Administration Will Suffer, Not Benefit, from a Stay.

Moreover, a stay makes no sense whatsoever from an election administration standpoint. Again, the State is under this Court's injunction which bars the State "from using SB8's map of congressional districts for any election." Doc. 168, at 59. The State rightly recognized that it had to act quickly to ensure compliance with this Court-ordered injunction, affirmed by the Supreme Court, given the impending early voting and other primary election deadlines. So before early voting began, the Governor issued an Executive Order on April 30, 2026, to ensure compliance with this Court's order. Exhibit A. In that Executive Order, the Governor suspended the party primary elections "for the duration of the May 16, 2026 and June 27, 2026 election cycles and until July 15, 2026 or until such time as determined by the Legislature." *Id*. at 2; *see also* Exhibit B (news release of the same). And the Secretary of State issued a news release the same day confirming that the congressional election was suspended. Exhibit C. Since then, the Secretary of State's website with official voter information has been updated to reflect this change for the congressional election. Exhibit D. Voters were well aware going into the early voting period, which began on May 2, 2026, that votes for congressional candidates under the outdated ballots would not be counted. As a result, many voters would have relied on that promise and left the outdated congressional sections of their ballots blank.

Moreover, the State Legislature has since answered the Governor's call and enacted a new congressional election schedule. Specifically, it passed HB842, which revises the Louisiana

Election Code to cancel the May 16, 2026, or June 27, 2026, congressional party primary election; say that any votes case in that election "shall be void and not counted"; schedule the congressional "open primary election to be held on Nov. 3, 2026, and the open general election to be held on Dec. 12, 2026"; modify the qualifying dates and other dates for candidates; and require the Secretary of State to remit candidate qualifying fees to candidates and cancel nominating petitions for the May 16, 2026, or June 27, 2026, congressional party primary election. Exhibit E at 38-39; Exhibit F at 1, 3, 14-15; *see also* Doc. 283 (State reporting this same development). So now, not only is the election schedule suspended, it is fully *canceled and statutorily superseded*. At this point, to effectuate the relief Intervenors seek, not only would this Court have to stay its own injunction, it would have to repeal this Act of the Legislature. That it cannot do.

In other words, the congressional election under SB8 has been dead for weeks now, and with the Legislature's latest blow to this long dead horse, it certainly cannot be revived. Even if the State or this Court could validate the "votes" on these outdated ballots (they cannot), they could only do so by cancelling the votes of the far greater number of Louisianans who rightly relied on the State's cancellation and promise of a future constitutionally compliant election and did not vote for any congressional candidate. If this Court proceeds to a remedy, all Louisiana voters will have their chance to vote for congressional candidates under a constitutionally compliant map. If the Court grants a stay, (1) not all Louisianans will have a chance to vote in the congressional election, and (2) no one will vote under a constitutionally compliant map.

III. There Is Just Sufficient Time to Implement a Real Remedy.

The State Legislature has begun the process of enacting a new map for the 2026 congressional election. However, for at least two independent reasons, a Court-imposed remedy may well be necessary. Plaintiffs respectfully propose a simple plan to navigate this decision.

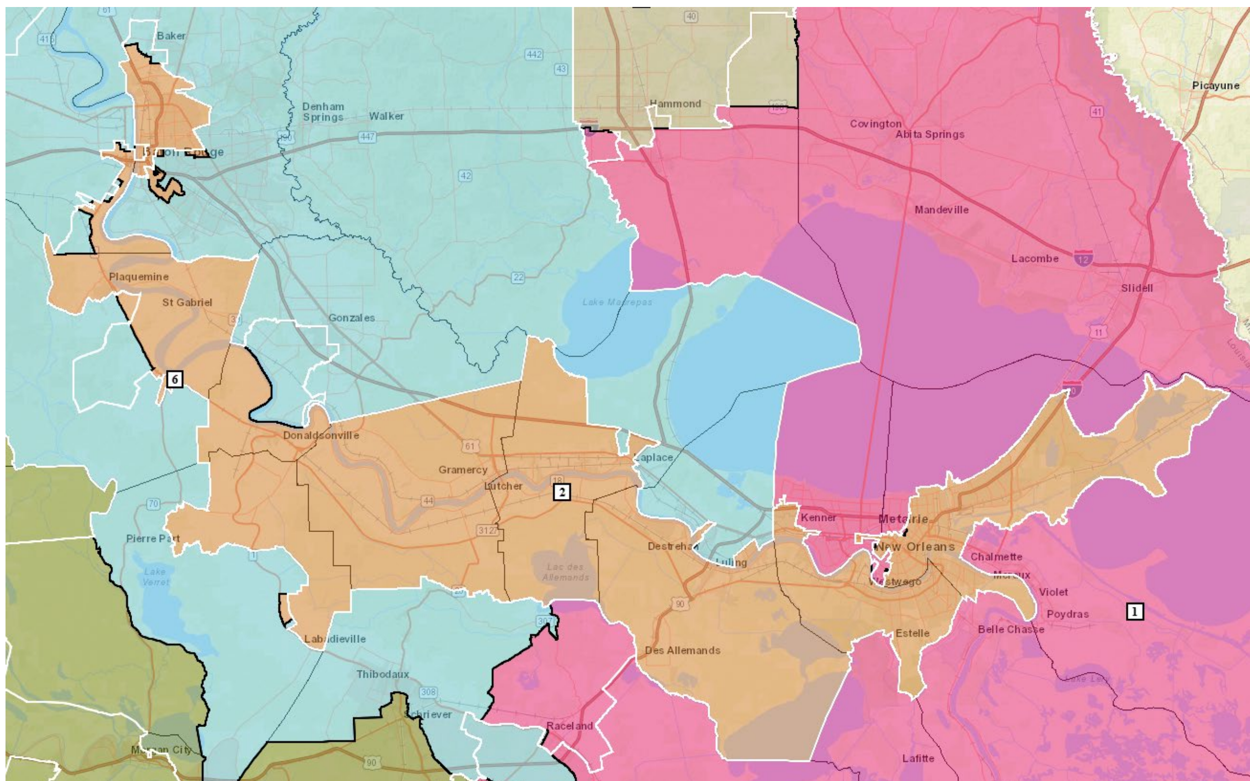
A. For Two Reasons, a Court-Imposed Remedy May Be Necessary.

Timing is the first reason to doubt the efficacy of a legislative remedy. Even under the State's own clock, it's almost midnight. Two years ago, the State successfully interrupted and stayed this Court's soon-to-be completed remedial proceedings based on its surprise assertion—untested by adversary proceedings but credited by the U.S. Supreme Court—that it needed a new map by May 15, 2024, in order to hold the November 2024 jungle primary under that map. *See* Doc. 217, at 3-4 (chart of 2024 deadlines working backwards to May 15, 2024). As explained in Section II, the November jungle primary has returned for 2026. Today is May 15. Yet the State Legislature's efforts to date inspire little confidence. Of several redistricting bills, some of which began to be considered back in March 2026, SB121 only yesterday passed the State Senate. Exhibit G. It has now gone to the House of Representatives, but it must advance through committee and an eventual floor vote. No one can predict whether the House will approve SB121 or will instead pass its own map. A conference committee will consume still more time. Although the State boldly claimed last week that it had "immediately sprung into action" after the U.S. Supreme Court's April 29, 2026, decision (Doc. 271, at 2), and that maps had passed "in as little as seven days" (*id*. at 3), it is now 16 days and counting (and this comes months after the maps were originally filed and studied). No certain resolution is in sight.

The State's recent filings provide little clarity. Its May 15, 2026, update (Doc. 283) promises that "the Secretary of State has confirmed her ability to enter a new map in the coming weeks" for a November 2026, primary, but precisely how long does the Court have? The history of this case is a painful demonstration that the exact date matters. In 2024, the difference between the Court's schedule and the Secretary's position was only about two weeks, but this slight gap was fatal for Plaintiffs. And the State's positions have shifted from cycle to cycle, making it hard

for litigants and courts to predict the true deadline. The Secretary of State should provide specific detail, perhaps through live testimony subject to cross examination from Plaintiffs and questions from the Court.

The State might respond that none of this is necessary, as SB121 will fly through the House by the end of next week. But—turning to Plaintiffs' second concern—the House may well conclude that SB121 is constitutionally suspect on its face. Even a quick look demonstrates that this map narrowly carves Black voters into District 2 and excludes other voters from that District. Exhibit H. Nearly identical to 2022's HB1, District 2 has never been tested in racial gerrymandering litigation and has already been viewed with suspicion by the Supreme Court. *See Louisiana*, 608 U.S. ___, slip op. at 12 (taking note of HB1's "bat-shaped District 2 that includes much of New Orleans"). The following map, which traces SB121's lines in black and HB1's lines in white, shows the stark similarities between the two districts.



HB1 was based on the Department of Justice pre-cleared 2011 map and intentionally fashioned District 2 to be a racially predominant, majority-Black district based on a pre-*Callais* interpretation of the Voting Rights Act ("VRA"). In fact, District 2 traces its roots all the way back to *Major v. Treen*, 574 F. Supp. 325 (E.D. La. 1983), which required the State to adopt a majority-Black district around New Orleans. *Cf. Jacksonville Branch of NAACP v. City of Jacksonville*, 635 F. Supp. 3d 1229, 1289 (M.D. Fla. 2022) ("[B]y invoking core retention and incumbency protection as the predominant motive behind the shape of the Challenged Districts, the City makes the historical foundation for these districts particularly relevant.").

But *Callais* requires that before deliberately adopting a majority-minority district as a remedy, a jurisdiction must prove continuing intentional discrimination and race-driven voting in the area of that majority-minority district. *See Louisiana*, 608 U.S. ___, slip op. at 26 (holding "§2 imposes liability only when the evidence supports a strong inference that the State intentionally drew its districts to afford minority voters less opportunity because of their race" and thus parties only have a compelling interest to satisfy strict scrutiny in these circumstances). If SB121 becomes the State's proposed remedy, there is reason to doubt that it will cure Plaintiffs' irreparable injuries.

B. Plaintiffs' Proposal Will Be Fair to All and Easy to Implement.

Given that the State's clock will shortly strike midnight and SB121 appears constitutionally suspect, what is the Court to do? Plaintiffs make the following proposal.

1. The Court should give the State until next Friday, May 22, 2026, to present a legislative remedy. If the State is bound by the May 15 deadline of 2024, then the State is already too late for the 2026 congressional election. But if the State is estopped by its claim that the Secretary has told someone that there are "weeks" after today to receive a new map, then May 22

provides a bare minimum of time for the Plaintiffs and Court to review the legislative remedy and either approve it or impose an interim remedy.

2. The Court should allow the Parties to submit back-up remedial maps in the coming week to ensure the 2026 congressional election operates under a constitutionally compliant map. *See, e.g.*, *North Carolina v. Covington*, 585 U.S. 969 (2018) (per curiam); *Hays v. Louisiana*, 936 F. Supp. 360, 372 (W.D. La. 1996). Courts, including this one in the *Hays* litigation, have done this to ensure that a State's racially gerrymandered "remedy" does not continue in perpetuity. During the week starting May 25, the Court can then examine anything the State has enacted by May 22, 2026, and it will have at the ready other proposed remedies.

3. If the Court doubts this schedule is possible, there is an easy answer: it can simply impose the remedial map[1] already proposed by Plaintiffs in the first part of trial. *See* Exhibit I; Doc. 182-16. Alternatively, a careful examination of the Secretary could reveal a specific map-ready deadline that is later than suggested here. With that luxury, Plaintiffs would submit an alternative like Exhibit J. Like Plaintiffs' first illustrative map, this map was drawn without reference to race, is compact, and meets all other traditional criteria. But importantly, it faithfully applies the U.S. Supreme Court's recent guidance in *Callais* and remedies Plaintiffs' injuries.

CONCLUSION

Plaintiffs respectfully ask the Court to deny the Motion for Stay; set a briefing and hearing schedule to determine a constitutional districting plan for the 2026 congressional election; and retain jurisdiction over the case until a constitutionally compliant map is in effect.

[1] A court-imposed map is necessarily interim and likely only for the 2026 cycle, as the Legislature remains free at any time to pass a new constitutionally compliant map.

Dated this 15th day of May, 2026

PAUL LOY HURD, APLC
/s/ Paul Loy Hurd
Paul Loy Hurd
Louisiana Bar No. 13909
1896 Hudson Circle, Suite 5
Monroe, Louisiana 71201
Tel.: (318) 323-3838
paul@paulhurdlawoffice.com
Attorney for Plaintiffs

Respectfully submitted,

GRAVES GARRETT GREIM LLC
/s/ Edward D. Greim
Edward D. Greim,* Mo. Bar No. 54034
Matthew Mueller,* Mo. Bar No. 70263
Katherine E. Mitra,* Mo. Bar No. 74671
Sarah R. Pineau,* Mo. Bar No. 74483
**Admitted Pro Hac Vice*
1100 Main Street, Suite 2700
Kansas City, Missouri 64105
Tel.: (816) 256-3181
Fax: (816) 256-5958
edgreim@gravesgarrett.com
mmueller@gravesgarrett.com
kmitra@gravesgarrett.com
spineau@gravesgarrett.com
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I do hereby certify that, on this 15th day of May, 2026, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which gives notice of filing to all counsel of record.

/s/ Edward D. Greim
Edward D. Greim
Attorney for Plaintiffs