

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

SUSAN SOTO PALMER, et al.

Plaintiffs,

v.

Secretary of State STEVEN HOBBS, in his
official capacity as Secretary of State of
Washington; et al.

Defendants.

Case No. 3:22-cv-05035-RSL

PLAINTIFFS' REPLY TO
DEFENDANTS' RESPONSES TO
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION

The Honorable Robert S. Lasnik

NOTE ON MOTION CALENDAR:
March 25, 2022

INTRODUCTION

Plaintiffs have demonstrated that they are entitled to preliminary relief. Plaintiffs are substantially likely to succeed on their claim that Legislative District 15 ("LD 15") in the Enacted Plan has the result of diluting the strength of Latino voters in the Yakima Valley region in violation of Section 2 of the Voting Rights Act ("VRA"). Furthermore, the balance of the equities weighs in Plaintiffs' favor because Defendants agree that the state can implement Plaintiffs' requested relief if a remedial plan is in place by March 28, 2022, *see* Hobbs Resp. at 10, thus relieving any irreparable harm to Plaintiffs. Plaintiffs here provide such a plan, which makes limited changes to the Enacted Plan, complies with traditional redistricting criteria and the federal Voting Rights Act ("VRA"), and provides Latino voters an equal opportunity to elect candidates of their choice in LD 14 in the Yakima Valley. Accordingly, Plaintiffs respectfully request that this Court grant Plaintiffs' motion for preliminary relief, enjoin Defendants' use of the Enacted Plan, and order the implementation of Plaintiffs' Proposed Plan starting with the 2022 elections.

ARGUMENT

I. Plaintiffs Are Substantially Likely to Succeed in their Claim that LD 15 Dilutes the Voting Strength of Latino Voters and Will Suffer Irreparable Harm.

A. There is No Dispute That Plaintiffs Have Established the *Gingles* Preconditions and Totality of the Circumstances for Latino Voters in the Yakima Valley.

Plaintiffs have satisfied the *Gingles* preconditions and demonstrated that, under the totality of the circumstances, Latino voters in the Yakima Valley have less opportunity to participate in the electoral process and elect candidates of choice to the Washington legislature in LD 15 of the Enacted Plan. *See* Compl., ECF 1; Mot. for Preliminary Inj., ECF 38. Defendants do not contest this yet they intent to continue enforcing the Enacted Plan. *See* Defendant Hobbs Resp. at 1; Jinkins & Billig Resp. at 3.

First, it is undisputed that Latino voters in the Yakima Valley region are sufficiently large and geographically compact to form the majority in a state legislative district. *See* ECF 38 at 3-4, 8; *Bartlett v. Strickland*, 556 U.S. 1, 19-20 (2009). Defendants concede that there has been population growth in the region, *see* ECF 49 at 19, and LD 15 in the Enacted Plan itself contains a majority-Hispanic Citizen Voting Age Population (“HCVAP”).¹ Further, *five separate maps* with a majority-HCVAP district in the Yakima Valley that balance traditional redistricting criteria were drawn by Commissioners or presented to the Commission during the map-drawing process. ECF 38 at 8; ECF Nos. 38-9, 38-10 (Sims and Walkinshaw maps); ECF 38-26 (Barreto Dec.) at 52-53; ECF 38-22 (Email chain re: coalition demonstrative). Plaintiffs have also drawn another demonstrative map, Plaintiffs’ Proposed Plan, which integrates a majority-HCVAP district (LD 14) into the Enacted Plan. Ex. 1 (Plaintiffs’ Proposed Plan); Ex. 2 (Second Collingwood Dec.) ¶ 13 (concluding Plaintiffs’ Proposed Plan contains 52.41% HCVAP). Plaintiffs’ Proposed LD 14 provides Latino voters with an equal opportunity to elect a candidate of choice while complying

¹ Plaintiffs uploaded the shapefile provided by the Commission for the Final Enacted Legislative Plan to Dave’s Redistricting, a widely-used mapping platform, to view LD 15’s demographics. This map is available at <https://davesredistricting.org/maps#viewmap::45bd8e19-f2b2-4063-8418-498a44509e06>.

1 with traditional redistricting criteria and having only a limited impact on the Enacted Plan. *See*
 2 *infra* Part II; Ex. 2 (Second Collingwood Dec.) ¶¶ 13-19. Considering this evidence, there can be
 3 no dispute that the first *Gingles* prong has been met here.

4 Turning to the second *Gingles* precondition, the record indisputably shows that “a
 5 significant number of [Latino voters] usually vote for the same candidates” and are politically
 6 cohesive. *Thornburg v. Gingles*, 478 U.S. 30, 56 (1986). Plaintiffs’ expert Dr. Loren Collingwood
 7 conducted a statistical analysis of election results to determine the level of cohesion among Latino
 8 voters. *See, e.g.*, ECF 38-25 (Collingwood Dec.) ¶¶ 9-14. In analyzing twelve elections in the
 9 Yakima Valley area, Dr. Collingwood found that “the results clearly show the presence of racially
 10 polarized voting, with Latinos consistently voting at rates often as high as two to one in support of
 11 one set of candidates, and non-Hispanic whites supporting a different set of candidates at rates
 12 higher than two to one.” *Id.* ¶¶ 12-13. This stark pattern is repeated in endogenous elections (those
 13 elections held in LD 15) involving at least one Latino candidate, including all four LD 15 elections
 14 Dr. Collingwood analyzed. *Id.* ¶ 14.² (concluding that “Latino candidates won a majority of the
 15 vote in heavily Latino precincts across the 15th Legislative District but received extremely little
 16 support in majority-white precincts”). Dr. Matt Barreto also presented an analysis to the
 17 Commission of 12 statewide elections from 2012-2020. He found a “clear pattern of racially
 18 polarized voting” in the region. ECF 38-26 ¶¶ 4-10 (“there is a strong finding of racially polarized
 19 voting in the 5-County region that comprises the Yakima Valley. Latino voters are cohesive and
 20 provide strong support for their candidates of choice”); *id.* at 29-47 (presenting detailed findings
 21 showing large gaps between Latino and white voters in twelve elections); ECF 38-8 at 9-16.

22 Other federal courts have recently made similar findings. *See, e.g., Montes v. City of*
 23 *Yakima*, 40 F. Supp. 3d 1377 (E.D. Wash. 2014) (“Plaintiffs have made a strong showing that
 24 Latino voters in Yakima have ‘clear political preferences that are distinct from those of the
 25

26 ² Dr. Collingwood analyzed all the elections in LD15 over the past decade that involved at least one Latino candidate.

majority.”); *Glatt v. City of Pasco*, No. 4:16-CV-05108-LRS, (E.D. Wash. Jan. 27, 2017); *Aguilar et al. v. Yakima County et al.*, No. 20-2-0018019 (Kittitas Cty. Sup. Ct. July 13, 2020) (approving a settlement finding that the conditions for a violation of the Washington Voting Rights Act, including a showing of racially polarized voting, had been met for Yakima County).

Plaintiffs have also demonstrated that white voters in the region vote sufficiently as a bloc usually to defeat Latino voters’ candidates of choice, satisfying *Gingles* prong 3. *See Montes*, 40 F. Supp. 3d at 1405. Despite numerous candidates running for state legislative seats in the Yakima Valley region, no Latino candidate has *ever* been elected, which is “powerful evidence” of white bloc voting. *Id.* at 1405. Dr. Collingwood examined the levels of white bloc voting in twelve elections (eight statewide elections and four state legislative elections in LD 15 involving Latino candidates). ECF 38-25 ¶ 13-16. He found that white voters bloc voted against the Latino-preferred candidate in 11 of the 12 elections, or an astounding 91.6% of the time. *Id.* ¶¶ 14-16. Dr. Barreto reached a similar conclusion in his analysis of elections in the region. ECF No. 28-26 ¶ 10 (finding that “Non-Hispanic white voters bloc-vote against Latino candidates of choice at high rates which has the effect of controlling electoral outcomes”).

Despite this overwhelming evidence, the state failed to draw a legislative district that provides Latino voters an equal opportunity to vote. Plaintiffs have shown that although the enacted LD 15 contains a bare majority HCVAP, it was not drawn to perform (nor does it perform) for Latino voters, given local election conditions. Indeed, Dr. Collingwood conducted a performance analysis of eight recent past statewide elections to examine how Latino-preferred candidates would fare in the enacted LD 15 and found that high levels of bloc voting in LD 15 makes it extremely difficult for Latino voters to elect a preferred candidate. ECF 38-25 (Collingwood Dec.) ¶¶ 16-18. Dr. Collingwood’s analysis unambiguously shows that LD 15 does not allow Latino voters an opportunity to elect candidates of choice, as the Latino-preferred candidate *loses in seven of eight elections* under the enacted LD 15. *Id.* ¶ 13. Defendants do not

1 contest this finding, and it stands in stark contrast to LD 14 in Plaintiffs Proposed Plan, which
 2 provides Latino voters a real opportunity to elect candidates of choice. *See infra* Part II.

3 Furthermore, it is undisputed that state legislative elections in odd-numbered districts are
 4 held in non-presidential election years in Washington, Wash. Const. Art. II, § 6, and that Latino
 5 voter turnout is lower in non-presidential election years. Indeed, Dr. Barreto found that “the Latino
 6 voter turnout rate . . . is significantly higher in presidential election years than turnout in non-
 7 presidential election years. Specifically, over the past decade, a clear pattern emerged where Latino
 8 turnout was higher in 2012, 2016, and 2020, while Latino turnout was considerably lower in 2014
 9 and 2018.” ECF 38-26 ¶ 12. Thus, the assignment of an odd number to LD 15, instead of an even
 10 number, increased the difficulty for Latino voters in electing candidates of choice.

11 Lastly, Plaintiffs presented uncontested evidence demonstrating that the totality of the
 12 circumstances analysis confirm the VRA violation. Although the Supreme Court identified nine
 13 Senate Factors relevant to the analysis, “there is no requirement that any particular number of
 14 factors be proved, or that a majority of them point one way or another.” *Gingles*, 478 U.S. at 45.
 15 Here, Plaintiffs have shown that seven relevant factors point decidedly toward a violation, ECF 38
 16 at 12-20, and Defendants do not challenge this evidence. Plaintiffs have proven that there is a
 17 history of official voting-related discrimination against Latinos in the Yakima Valley (Factor 1)
 18 and high levels of racially polarized voting (Factor 2). *Id.* at 12-13. Their evidence shows that that
 19 assigning LD 15 an odd number resulting in elections in non-presidential years depresses Latino
 20 turnout, enhancing the dilutive effects of the district and making it harder for Latinos to elect
 21 candidates of choice (Factor 4).³ *See* ECF 38-26 (Barreto Dec.) ¶ 12. Plaintiffs also presented data
 22 indicating clear and significant socioeconomic disparities that bear on the ability of Latinos in the
 23 Yakima Valley to participate effectively in the political process (Factor 5), ECF 38 at 14-15, as
 24 well as several public and sworn statements proving the existence of overt and subtle racial appeals
 25

26 ³ Whether the Court prefers to consider this evidence in Factor 4, or another Senate Factor (as Defendants suggest) does not change that this evidence weighs in Plaintiffs’ favor.

1 in campaigns (Factor 6), ECF 38 at 17-19. Plaintiffs further showed that very few Latinos are ever
 2 elected to legislative or countywide office in the region (Factor 7), and that the Enacted Plan is not
 3 proportional to the share of Latino voters in the region. *Id.* at 18-19.

4 In short, the uncontested evidence in the record shows that “based on the totality of the
 5 circumstances . . . the political processes leading to nomination or election in the State or political
 6 subdivision are not equally open to participation by [Latino voters] in that [Latino voters] have
 7 less opportunity than other members of the electorate to participate in the political process and
 8 elect representatives of their choice.” 52 U.S.C. §10301(b). Plaintiffs are likely to succeed on their
 9 claim that LD 15 dilutes Latino voting power in violation of the VRA.

10 **B. There is No Dispute That Plaintiffs Will Suffer Irreparable Harm Absent Relief.**

11 Defendants do not deny that Plaintiffs, Latino voters in the Yakima Valley, will suffer
 12 irreparable harm if they are denied the ability to elect candidates of their choice for the 2022 state
 13 House and Senate elections. Absent preliminary relief, Plaintiffs cannot obtain relief until the 2024
 14 (House) or 2026 (Senate) elections. *See, e.g., United States v. City of Cambridge*, 799 F.2d 137,
 15 140 (4th Cir. 1986) (holding that discriminatory voting procedures “constitute the kind of serious
 16 violation of the Constitution and the Voting Rights Act for which courts have granted immediate
 17 relief”). The legacy of vote dilution in the Yakima Valley region exacerbates potential harm to
 18 Plaintiffs. *See, e.g., Garza v. Cty. of Los Angeles*, 918 F.2d 763, 772 (9th Cir. 1990) (finding that
 19 Latinos in Los Angeles County suffered an injury of vote dilution that “has been getting
 20 progressively worse, because each election has deprived Hispanics of more and more of the power
 21 accumulated through increased population”). Indeed, Defendants concede that “[i]f [Plaintiffs’]
 22 allegations are true, the situation is entirely unacceptable.” *Jenkins & Billig Resp.* at 1-2. The
 23 dilution of Plaintiffs’ votes is irreparable and must be swiftly remedied.

C. Plaintiffs Have Sued the Proper Defendants to Redress their Harm.

In lieu of disputing Plaintiffs’ entitlement to relief, Defendants Jenkins’s and Billig’s response brief predominately restates arguments from their motion to dismiss. Plaintiffs previously filed a response to that motion, and do not repeat all their arguments here. *See* ECF 44. It is simply not accurate that “the current structure of this case . . . will not lead to a full and fair adjudication on the merits.” Jenkins & Billig Resp. at 2. Both Secretary Hobbs and Defendants Jenkins and Billig are proper parties to this case and in their official roles represent the relevant state authorities necessary for this Court to grant relief. ECF 44. While Defendants Jenkins and Billig claim that they were not “involved in the drawing of Legislative District 15, or in the debate and discussion that led to its drawing,” *id.* at 14, the public record is clear that at least Senator Billig was aware of the issues with Legislative District 15 when voting to approve it.⁴ Defendants Jenkins and Billig are appropriate Defendants as the leaders of the Washington Legislature. RCW 44.05.120. The Washington Redistricting Commission *explicitly declined* to intervene in this case.⁵

Even if this Court were to dismiss Defendants Jenkins and Billig from the case, there is no dispute that Defendant Secretary Hobbs is a proper party. Defendant Hobbs is the “chief election officer” in Washington. RCW 19A.04.20. By his own admission, he oversees and administers elections in the State in accordance with the state’s redistricting plan, keeps records of elections, and coordinates and monitors county precinct mapping, among other relevant duties. Hobbs Resp. at 4, *see also* RCW 29A.76.040. Defendant Hobbs also states that “[i]f this Court is satisfied that Plaintiffs have made a clear showing of an entitlement to relief and promptly issues an order, the

⁴ Ethan Rice, *Washington enacts new legislative districts*, Ballotpedia (Feb. 11, 2022) (quoting Senator Billig: “I continue to have significant concern that the Yakima Valley legislative district may not be compliant with the federal Voting Rights Act.”).

⁵ Washington State Redistricting Commission, March 7th Special Business Meeting, at 15:58 (Mar. 7, 2022), <https://tvw.org/video/washington-state-redistricting-commission-2022031203/?eventID=2022031203>; *see also* Joanna Markell, *WA Redistricting Commission Won’t Intervene In Voting Rights Lawsuit; Chair Resigns*, Yakima Herald Republic (Mar. 7, 2022), https://www.yakimaherald.com/news/local/wa-redistricting-commission-wont-intervene-in-voting-rights-lawsuit-chair-resigns/article_20827ca1-24cc-539b-9015-395796869a9a.html

Secretary is committed to working with its county partners to implement a court order.” Hobbs Resp. at 10. This demonstrates that the necessary defendants to effectuate relief are already parties to this matter. Simply put, Defendants’ *choice* not to defend the enacted LD 15 does not change their status as proper parties, nor does it put a burden on Plaintiffs to search for other Defendants.

Indeed, the Secretary does not deny he intends to enforce the Enacted Plan but nevertheless argues the Court cannot grant relief because the Secretary will not defend the plan. This is wrong. The Secretary has not demonstrated any other state actor with authority to enforce the plan, and the Commissioners lacks any present authority over the plan. At least two circuits have ruled that Plaintiffs are prohibited from suing any state actor that does not actually enforce the plan. *See Jacobson v. Fla. Sec. of State*, 974 F.3d 1236 (11th Cir. 2020) (“A plaintiff’s injury must be fairly traceable to the challenged action of the defendant, and not the result of the independent action of some third party not before the court.”); *Tx. All. for Retired Americans v. Scott*, ___ F.4d ___, 2022 WL 795862 (5th Cir. Mar. 16, 2022). The Secretary’s refusal to defend an indefensible plan does not limit the court’s ability to order necessary relief in this case. It is the Secretary’s admitted intent to continue enforcing the unlawful plan that is the harm these Plaintiffs seek to enjoin.⁶

II. The Balance of the Equities Favors Plaintiffs, As This Court Can Order Relief and Allow the State Ample Time to Administer the 2022 Elections.

Defendants agree that it is possible to implement relief in time for the 2022 elections. Indeed, Defendants Jinkins and Billig invite this Court to order “an appropriate remedy” if it finds Plaintiffs’ claim meritorious, Jinkins & Billig Resp. at 19, and Secretary Hobbs concedes that it is possible to implement relief if the Court orders a new legislative district plan on or before March 28, 2022. Hobbs Resp. at 10, 16. Although that date is soon, the Court can and should order the use of a remedial plan by March 28 because Plaintiffs’ claim merits relief, irreparable harm would

⁶ If it were true that a state official may simply take the position that they will not defend alleged actions but continue to implement unlawful actions, then all federally unlawful acts by state actors could continue as long as the state actor at issue makes representations to the court that they will not defend the state action while continuing to implement such action. This position is untenable.

otherwise occur, *see supra*, and they propose a lawful remedial plan. Even if the Court were to order use of Plaintiffs' Proposed Plan shortly after March 28, the state has ample time to administer the 2022 elections according to current deadlines. *See Wisconsin Legislature v. Wisconsin Elections Comm'n*, 522 U.S. ____ (2022) (per curiam) (holding enough time for the Wisconsin Supreme Court to select an entirely new legislative map for a primary election on August 9).

A. Plaintiffs' Remedy Map Does Not Impose Implementation Burdens

The legislative map that Plaintiffs respectfully request this Court order the Secretary of State to administer in the upcoming elections is attached as Exhibit 1. Plaintiffs have provided the shapefile for this map to Secretary Hobbs. Plaintiffs' Proposed Plan remedies the harm to Latino voters in the Yakima Valley while respecting traditional redistricting criteria codified in state law. *See Ex. 2 (Second Collingwood Dec.)* ¶¶ 12-19. RCW 44.05.080 requires legislative districts to be as nearly equal in population as practicable, and to have boundaries that: are contiguous and compact; minimize splitting precincts, counties, and cities between more than one district; and respect areas recognized as communities of interest.

As summarized in the table below, Plaintiffs' Proposed Plan has the same low population deviation as the Enacted Plan and is contiguous. *Id.* ¶ 16. The changes to LD 14 and neighboring districts in Plaintiffs' Proposed Plan have virtually no impact on the overall compactness scores, as reflected in the plans' Reock and Polsby-Popper scores, commonly used metrics for measuring compactness. *Id.* ¶ 17. The Plan also splits fewer precincts than the Enacted Plan, *id.* ¶ 19, and minimizes changes to surrounding non-remedial districts and counties, impacting only five districts (9, 13, 14, 15, and 16) and removing county splits in Yakima, Grant, and Adams counties. The Plan thus minimizes the burden on the Secretary to implement the new map.

Plaintiffs' Proposed Plan also respects communities of interest. The Proposed LD 14 ensures that majority-Latino communities in the cities of Wapato, Toppenish, and Granger in the Yakima Valley are no longer cut off from other politically active majority-Latino communities like East Yakima, Sunnyside, Grandview, and Pasco in the same region. As explained above, these

communities share a common history of struggle against past and present-day discrimination, socioeconomic disparities, and racial tension.⁷ *See supra* I.A. The Proposed LD 14 also keeps the nearby reservation lands of the Yakama Nation whole. *See* Ex. 1.

	Enacted Plan	Plaintiffs' Proposed Plan
Population Deviation	0.25%	0.25%
Contiguous (Y/N)	Y	Y
Plan Compactness - Reock	0.39	0.39
Plan Compactness - Pilsby-Popper	0.32	0.31
Precinct Splits	287	280
County Splits	18 counties split, 59 times	20 counties split, 58 times
HCVAP %	50.02% (LD 15)	52.41% (LD 14)

LD 14 in Plaintiffs' Proposed Plan provides Latino voters with an equal opportunity to elect candidates of their choice to the state legislature in the Yakima Valley. Plaintiffs' expert Dr. Loren Collingwood conducted a performance analysis of Plaintiffs' Proposed LD 14. Analyzing the same eight elections as he did for the Enacted Plan, he found that Latino-preferred candidates would win in all eight elections in Plaintiffs' Proposed LD 14 (as compared to losing seven of eight elections in the Enacted LD 15). Ex. 2 ¶ 13; ECF 38-25 ¶ 15. In addition, the Proposed Plan rennumbers the Latino opportunity district in the region to LD 14, thus allowing elections to take place in presidential election years, where Latino voter turnout tends to be higher. ECF 38-26 (Barreto Dec). Together, this evidence demonstrates that Plaintiffs' Proposed LD 14 provides Latino voters with an equal opportunity to elect candidates of choice. Plaintiffs have provided the Court with a map that remedies the VRA violation, complies with all the state's neutral redistricting criteria, and can be implemented by Defendant Hobbs in time for the 2022 elections.

⁷ These communities also share a growing ability to exercise their political strength, as evidenced by the election of Latino local officials in these cities. *See, e.g.*, City of Granger, Mayor & City Council, <https://www.grangerwashington.org/mayor-city-council/>; City of Wapato, City Council, <https://wapato-city.org/city-council/>; City of Toppenish, City Council, <http://cityoftoppenish.us/council/>

B. Even if the Court Orders a Remedy After March 28, the State Will Have Ample Time to Administer the 2022 Elections Under Plaintiffs' Proposed Plan.

Should the Court order preliminary relief shortly after the Secretary's asserted deadline of March 28, it is still possible for the state to prepare for and administer elections under Plaintiffs' Proposed Plan. Although the Secretary thoroughly describes a series of tasks to be completed to administer the August 2 primary, he concedes that if the *first* of those tasks—precinct revision—can be completed by the statutory deadline of May 2, then the 2022 primary and general elections can feasibly be conducted under new remedial legislative maps. His March 28 deadline is wholly premised on an assumption that five weeks are needed to revise precincts to conform with a new legislative district plan: three weeks for counties to do the technical process of redrawing precinct boundaries, and 1-2 weeks for county legislative approval of those boundaries. *Id.* at 11. These assumptions are speculative, and the Secretary's own proffered evidence suggests that precinct revisions can be done in less time, especially if the Court were to adopt Plaintiffs' Proposed Plan.

The Secretary's assumption that it will take the affected counties three weeks to revise precinct boundaries is unfounded. That estimate applies, by the Secretary's admission, only to "some counties" and is based on a statement by a single election official noting that she *alone* spent three weeks reviewing Yakima County's precincts "one-by-one" after the Enacted Plan became final on February 8. *See id.* at 11; ECF 51. The Secretary provides no evidence showing why such time is necessary to identify the relatively few precincts that would require amendment should the Court order Plaintiffs' Proposed Plan. The Plan splits far fewer precincts than the Enacted Plan.⁸ In all, the Plan only requires review of precincts within six affected counties: Yakima, Klickitat, Kittitas, Benton, Franklin, and Walla Walla.⁹ Walla Walla has yet to finalize

⁸ Plaintiffs' Plan splits only four precincts in Yakima County, many fewer than the near dozen in the Enacted Plan. The Plan also splits three fewer precincts in Franklin County than the Enacted Plan. The Plan splits 8 precincts in Klickitat County to account for the boundary of the Yakama Nation Reservation, 3 more precincts than the Enacted Plan in Benton County, a single precinct in Kittitas County, and no precincts in Walla Walla County.

⁹ Plaintiffs' Plan would not require any precinct boundary changes in Grant or Adams County because the Plan simply removes county splits in these places. In other words, the Counties would need only reassign those precincts to a new district without moving their boundaries. *See* Ex. 1.

1 any district or precinct maps.¹⁰ In counties that have adopted precinct maps, the process to amend
 2 them is likely less intensive than the process required to initially adopt them. For example, Kittitas
 3 County may alter their adopted map by resolution with no requirement for a public hearing.¹¹

4 Moreover, none of these counties need undertake this routine technical task alone: the
 5 Secretary's declarant Stuart Holmes, Acting Director of Elections, notes that his office can provide
 6 "technical assistance" to these counties "as needed" by offering staff with necessary subject matter
 7 expertise in Geographic Information Systems (GIS) software to complete necessary precinct
 8 revisions. ECF 52 ¶ 15. Mr. Holmes cites no timing, budgetary, or staffing limits on this support.
 9 Indeed, with his office's support and technical expertise, a handful of affected counties could
 10 certainly identify necessary changes to precinct lines, if any, in less than 3 weeks.

11 Nothing in the record establishes March 28 as a firm deadline. The Secretary's evidence
 12 instead indicates that his office already has the necessary resources to ensure speedy precinct
 13 revisions by the May 2 statutory deadline whether the Court orders a remedial map and other
 14 appropriate relief on March 28 or shortly thereafter.

15 CONCLUSION

16 Plaintiffs have established that they are entitled to preliminary relief and have provided a
 17 legislative map that would remedy Plaintiffs' vote dilution in the Yakima Valley region that can
 18 be implemented in time for the primary election deadlines. Accordingly, Plaintiffs respectfully
 19 request that this Court grant their motion for preliminary relief, enjoin Defendants from utilizing
 20 the Enacted Plan in any elections, and order the implementation of Plaintiffs' Proposed Plan for
 21 use starting with the 2022 elections.

24 ¹⁰ Emry Dinman, *Walla Walla County redistricting draws unexpected attention, calls for public input*, Union-
 25 Bulletin (Mar. 21, 2022). In Walla Walla, the redistricting process is very much still ongoing as the County
 Commission, on March, 14, 2022, just formed a nonpartisan committee to advise the Commission on its maps. *Id.*

26 ¹¹ See Kittitas County Commissioners' Minutes at 2, Feb. 15, 2022, available at
<https://www.co.kittitas.wa.us/uploads/bocc/minutes/2022/2022-02-15-minutes-2pm-public-hearing.pdf>.

Dated: March 25, 2022

By: /s/Edwardo Morfin

Chad W. Dunn*
 Sonni Waknin*
 UCLA Voting Rights Project
 3250 Public Affairs Building
 Los Angeles, CA 90095
 Telephone: 310-400-6019
 Chad@uclavrp.org
 Sonni@uclavrp.org

Edwardo Morfin
 WSBA No. 47831
 Morfin Law Firm, PLLC
 2602 N. Proctor Street, Suite 205
 Tacoma, WA 98407
 Telephone: 509-380-9999

Mark P. Gaber*
 Simone Leeper*
 Aseem Mulji*
 Campaign Legal Center
 1101 14th St. NW, Ste. 400
 Washington, DC 20005
 mgaber@campaignlegal.org
 sleeper@campaignlegal.org
 amulji@campaignlegal.org

Annabelle Harless*
 Campaign Legal Center
 55 W. Monroe St., Ste. 1925
 Chicago, IL 60603
 aharless@campaignlegal.org

Thomas A. Saenz**
 Ernest Herrera*
 Leticia M. Saucedo*
 Deylin Thrift-Viveros*
 Mexican American Legal Defense and
 Educational Fund
 643 S. Spring St., 11th Fl.
 Los Angeles, CA 90014
 Telephone: (213) 629-2512
 tsaenz@maldef.org
 eherrera@maldef.org
 lsaucedo@maldef.org
 dthrift-viveros@maldef.org

*Admitted pro hac vice

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I certify that all counsel of record were served a copy of the foregoing this 25th day of March, 2022 via the Court's CM/ECF system.

/s/ Ernest Herrera
643 S. Spring St., 11th Fl.
Los Angeles, CA 90014
Telephone: (213) 629-2512

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

SUSAN SOTO PALMER, et al.,

Plaintiffs,

v.

Secretary of State STEVEN HOBBS, in
his official capacity as Secretary of State
of Washington, et al.,

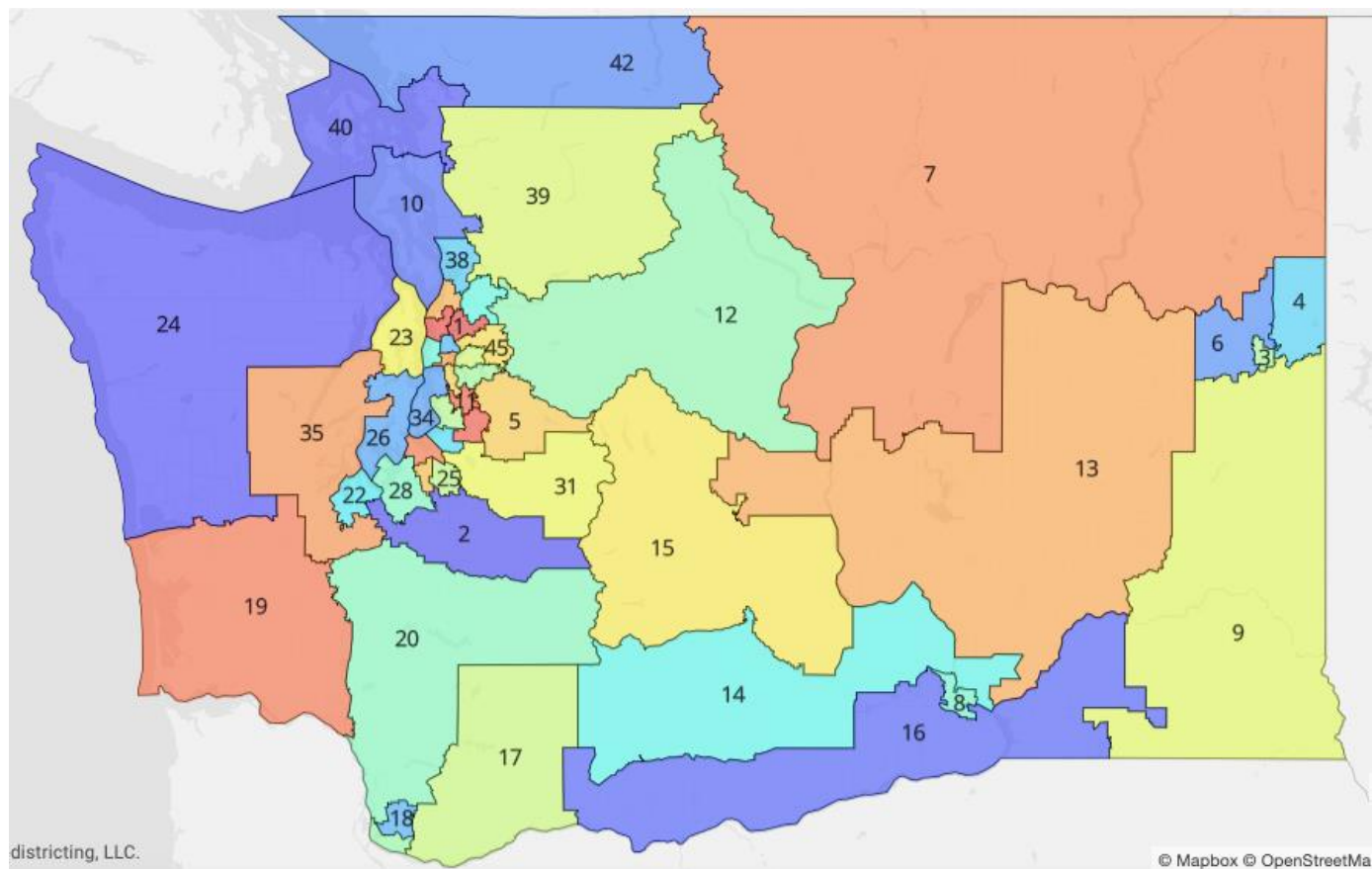
Defendants.

Case No. 3:22-cv-5035-RSL

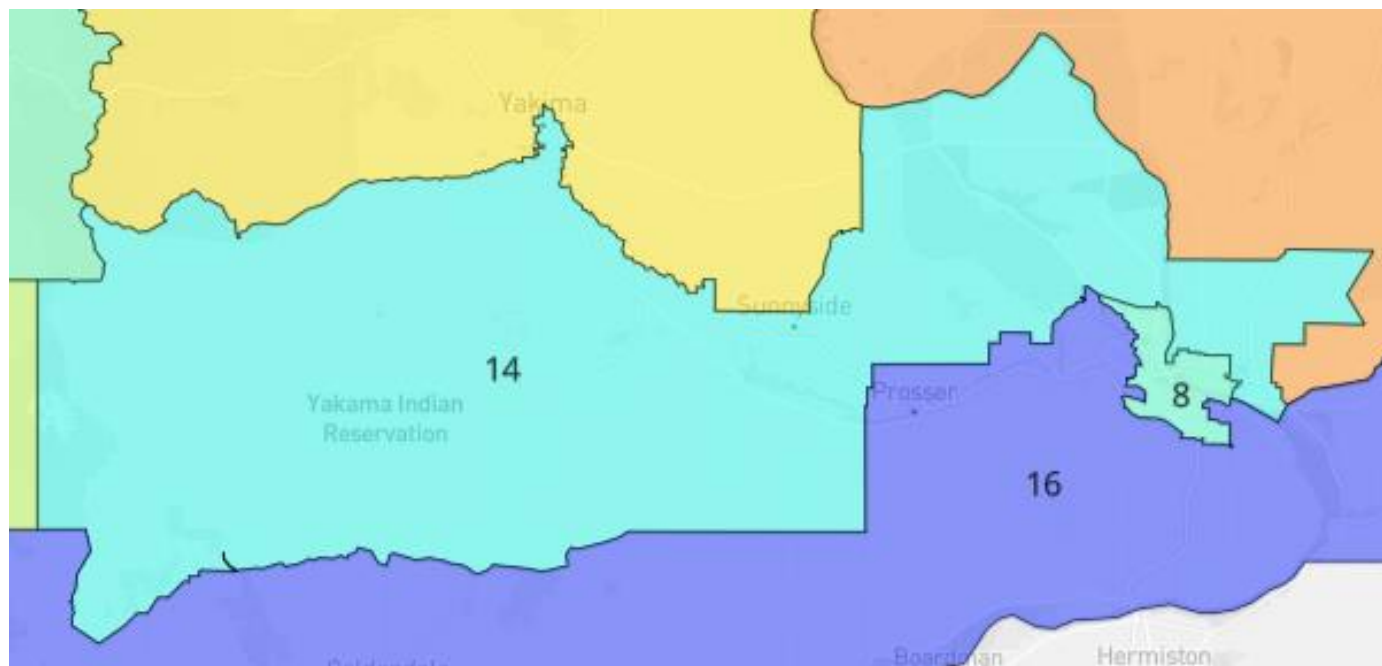
EXHIBIT 1: PLAINTIFFS'
PROPOSED PLAN

Judge: Robert S. Lasnik

Plaintiffs' Proposed Plan



Plaintiffs' Proposed Plan – Zoom of LD14



**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

SUSAN SOTO PALMER, et al.,

Plaintiffs,

v.

Secretary of State STEVEN HOBBS, in
his official capacity as Secretary of State
of Washington, et al.,

Defendants.

Case No. 3:22-cv-5035-RSL

EXHIBIT 2: SECOND
DECLARATION OF DR. LOREN
COLLINGWOOD

Judge: Robert S. Lasnik

Declaration of Dr. Loren Collingwood

Pursuant to 28 U.S.C. §1746, I, Loren Collingwood, state as follows:

1. I am an associate professor of political science at the University of New Mexico in Albuquerque, New Mexico, and have researched and/or taught in this area since 2003.
2. I received a Ph.D. in political science from the University of Washington in 2012, with a focus on race, ethnicity, and political/statistical methodology. I received a B.A. in psychology from California State University, Chico in 2002.
3. I was an associate professor of political science and co-director of civic engagement at the Center for Social Innovation at the University of California, Riverside. I have published two books with Oxford University Press, 39 peer-reviewed journal articles, and nearly a dozen book chapters.
4. In between my B.A. and Ph.D., I spent 4 years working in private consulting for the survey research firm Greenberg Quinlan Rosner Research in Washington, D.C. I also founded the research firm, Collingwood Research, which focuses primarily on the statistical and demographic analysis of political data for a wide array of clients, and lead redistricting and map-drawing and demographic analysis for the Inland Empire Funding Alliance in Southern California. I was the redistricting consultant for the West Contra Costa Unified School District, CA, independent redistricting commission in which I drew court-ordered single member districts.
5. I am under contract with the Roswell, New Mexico Independent School District to draw school districts maps.
6. I have written at least five peer-reviewed papers using ecological inference methods to estimate vote choice.
7. I served as a testifying expert for the plaintiff in the Voting Rights Act Section 2 case *NAACP v. East Ramapo Central School District, No. 17 Civ. 8943 (S.D.N.Y.)*, on which I worked from 2018 to 2020. In that case, I used statistical software to identify the racial/ethnic demographics of voters (a procedure known as Bayesian Improved Surname Geocoding -- BISG) and estimate candidate preference by race using ecological data.
8. I am the quantitative expert in *LULAC vs. Pate (Iowa), 2021*, and have filed an expert report in that case. In that report, I used BISG to estimate individual-level race using surname and address.
9. I was the racially polarized voting expert for plaintiff in *East St. Louis Branch NAACP, et al. vs. Illinois State Board of Elections, et al.*, having filed two reports in that case. I am the racially polarized voting expert for plaintiff in *Johnson, et al., v. WEC, et al., No. 2021AP1450-OA*, having filed three reports in that case. I am the Senate Factors expert for plaintiff in *Pendergrass v. Raffensperger (N.D. Ga. 2021)*, having filed a report in that case.
10. Plaintiffs have retained me as an expert in this matter, and have asked me to analyze whether there is racially polarized voting in the Yakima Valley region, to analyze

demographic data, to examine map plan statistics, and to conduct electoral performance analyses.

11. In a declaration dated February 25, 2022, I presented my findings with respect to racially polarized voting and concluded that racially polarized voting is present in the region, that the recently passed Legislative District 15 will not enable Latinos the ability to elect candidates of choice, but that an alternative district could clearly enable Latinos the ability to elect their preferred candidate.¹
12. In this declaration, I analyze plaintiffs' proposed plan, which includes their proposed remedial District 14. I conduct an electoral performance analysis of remedial District 14 and evaluate the plan's conformance with traditional redistricting criteria.
13. I have conducted an electoral performance analysis of the eight statewide contests in the plaintiff's remedial District 14. Figure 1 presents the results. Electoral performance analysis takes precincts that fall into the new legislative district then reallocates candidate votes from previous elections to determine how the candidates performed in that particular district configuration. I use statewide results in this case because old legislative seats do not completely overlap the new district. Figure 1 shows the performance analysis results for plaintiff's proposed Legislative District 14. The proposed remedial district is both majority Hispanic CVAP (52.4%) and performs to enable Hispanic voters to elect their candidate of choice. In this district, the Hispanic-preferred candidate wins eight of eight contests.
14. The plaintiff map (Legislative District 14) -- as shown in Figure 2 -- will clearly enable Latinos the ability to elect their preferred candidate. In every single election I examined, the Latino-preferred candidate wins, for a rate of 100%. The average margin of victory is 18.1%.
15. The plaintiff's proposed Washington Legislative District map fits with traditional redistricting principles. Plaintiff's proposed map is composed of compact, contiguous districts; within the population deviation; and to the extent possible limits splitting precincts.
16. In the plaintiff plan, each district is very similar in terms of total population. The minimum (0.125%, i.e., 0.00125) and maximum (0.1211%, i.e., 0.001211) deviations below and above the ideal population size are significantly lower than 1%.
17. Reock and Polsby-Popper scores are measures used to assess a district and plan's overall compactness. Compactness scores range from 0-1, with 1 being perfect compactness, like a circle. The plaintiff plan's overall mean Reock compactness score is 0.39; the mean Polsby-Popper score is 0.31. Both measures fall within accepted

¹ I use the term Hispanic and Latino interchangeably to refer to the Census definition of the ethnic category Hispanic.

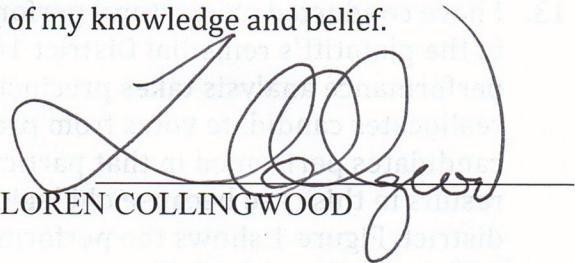
compactness scores.² These scores are similar to the state's enacted plan: Reock at 0.39, and Polsby-Popper at 0.32.

18. In the plaintiff's proposed plan, 20 of Washington's 39 counties are split into multiple districts. This splitting occurs 58 times. The enacted Washington legislative map contains 18 county splits, with splits occurring 59 times.
19. The plaintiff plan includes 280 precinct (voting district) splits between districts. This compares favorably against the enacted Washington legislative map, which contains 287 precinct splits.
20. As additional data becomes available and relevant, I will continue to examine and reserve the right to supplement this declaration.
21. I swear this statement is accurate to the best of my knowledge and belief.

DATE

3/25/22

LOREN COLLINGWOOD



² See Bullock, Charless III, "Redistricting: The Most Political Activity in America (second edition). Rowman & Littlefield, 2021.

Figure 1. Performance analysis of eight statewide contests subset to the plaintiff's District 14 plan.

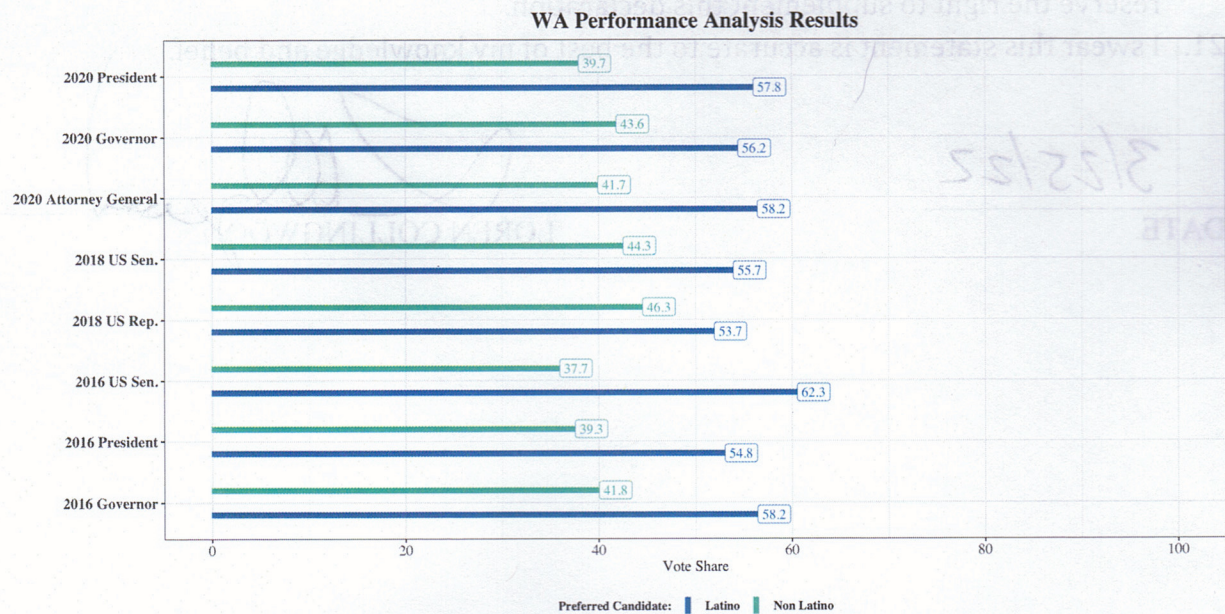
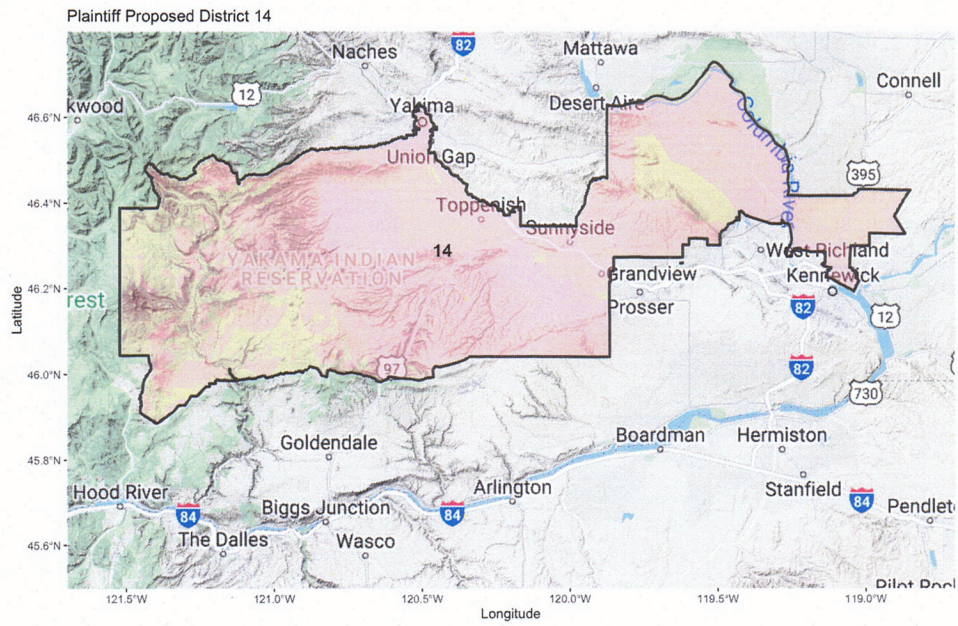


Figure 2. Plaintiff map, Legislative District 14.



**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

SUSAN SOTO PALMER, et al.

Plaintiffs,

v.

Secretary of State STEVEN HOBBS, in his
official capacity as Secretary of State of
Washington, et. al.,
Defendants.

Case No. 3:22-cv-5035-RSL

**PROPOSED ORDER GRANTING
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

The Honorable Robert S. Lasnik

**NOTE ON MOTION CALENDAR:
March 25, 2022**

Before the Court is Plaintiffs' Motion for Preliminary Injunction, filed on February 25, 2022. Plaintiffs request that the Court issue injunctive relief enjoining Defendants from using the Enacted Plan and instead ordering the implementation of Plaintiffs' Proposed Plan, which complies with Section 2 of the Voting Rights Act ("VRA") and provides Latino voters an equal opportunity to elect candidates of choice in the Yakima Valley region (LD 14 in Plaintiffs' Proposed Plan).

A party moving for a preliminary injunction must show: (1) that the movant has a substantial likelihood of success on the merits; (2) that the movant will suffer a substantial threat of irreparable harm if the injunction is not granted; (3) that the threatened injury to the movant outweighs any harm that may results from the injunction to the non-movant; and (4) that the injunction will not undermine the public interest. Additionally, the Ninth Circuit has "adopted and applied a version of the sliding scale approach under which a preliminary injunction could issue where the likelihood of success is such that 'serious questions going to the merits were raised and

1 the balance of hardships tips sharply in [plaintiff's] favor.” *All. for the Wild Rockies v. Cottrell*,
2 632 F.3d 1127, 1131 (9th Cir. 2011).

3 This Court concludes that Plaintiffs are likely to succeed on the merits of their claim that
4 LD 15 of the Enacted Plan violates the VRA by diluting the voting strength of Latino voters.
5 Plaintiffs have shown a strong likelihood that they will be able to establish all three *Gingles*
6 preconditions and will be able to prove that the totality of the circumstances favors a finding of a
7 Section 2 violation. Further, this Court finds that the Plaintiffs, here the movants, will suffer a
8 substantial threat of irreparable harm to their voting rights if the injunction is not granted and such
9 harm outweighs the burden on Defendants. Having considered Plaintiffs’ and Defendants’
10 briefing, the applicable law cited therein, the evidence presented, and the pleadings on file in this
11 case, the Court is of the opinion that Plaintiffs’ Motion for Preliminary Injunction should be
12 GRANTED.
13

14 It is hereby ORDERED that Defendants and all their respective officers, agents, employees,
15 servants, attorneys, and persons acting in concert of participation with them are enjoined from
16 holding the 2022 Washington legislative elections under the Enacted Plan.
17

18 It is also hereby ORDERED that Defendants and all their respective officers, agents,
19 employees, servants, attorneys, and persons acting in concert of participation with them hold the
20 2022 Washington Legislative elections under Plaintiffs’ Proposed Plan. *See* Pls.’ Reply to Defs.’
21 Resp. to Mot. for Prelim. Inj., Ex. 1.
22

23 IT IS SO ORDERED.

24 _____
25 The Honorable Robert S. Lasnik
26 U.S. District Judge

Dated: March 25, 2022

By: /s/Edwardo Morfin

Chad W. Dunn*
 Sonni Waknin*
 UCLA Voting Rights Project
 3250 Public Affairs Building
 Los Angeles, CA 90095
 Telephone: 310-400-6019
 Chad@uclavrp.org
 Sonni@uclavrp.org

Edwardo Morfin
 WSBA No. 47831
 Morfin Law Firm, PLLC
 2602 N. Proctor Street, Suite 205
 Tacoma, WA 98407
 Telephone: 509-380-9999

Mark P. Gaber*
 Simone Leeper*
 Aseem Mulji*
 Campaign Legal Center
 1101 14th St. NW, Ste. 400
 Washington, DC 20005
 mgaber@campaignlegal.org
 sleeper@campaignlegal.org
 amulji@campaignlegal.org

Annabelle Harless*
 Campaign Legal Center
 55 W. Monroe St., Ste. 1925
 Chicago, IL 60603
 aharless@campaignlegal.org

Thomas A. Saenz**
 Ernest Herrera*
 Leticia M. Saucedo*
 Deylin Thrift-Viveros*
 Mexican American Legal Defense and
 Educational Fund
 643 S. Spring St., 11th Fl.
 Los Angeles, CA 90014
 Telephone: (213) 629-2512
 tsaez@maldef.org
 eherrera@maldef.org
 lsaucedo@maldef.org
 dthrift-viveros@maldef.org

*Admitted pro hac vice

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I certify that all counsel of record were served a copy of the foregoing this 25th day of March, 2022 via the Court's CM/ECF system.

/s/ Ernest Herrera
643 S. Spring St., 11th Fl.
Los Angeles, CA 90014
Telephone: (213) 629-2512