

1 factors to justify a stay, so their request should be denied on that basis alone. *See generally*
2 Dkt. # 232 (ignoring irreparable harm). They cannot satisfy any of the factors in any event. They
3 can show no likelihood of success on appeal (much less a strong showing), they cannot show
4 they will suffer irreparable injury, and their purported concerns about “judicial comity and
5 efficiency,” Dkt. # 232 at p. 3, cannot outweigh the interests of Plaintiffs and voters in LD 15 in
6 a map that complies with the Voting Rights Act. The Court should deny the stay and continue
7 its remedial process.

8 II. LEGAL STANDARD

9 A stay pending appeal is “an exercise of judicial discretion,” not a “matter of right.”
10 *Nken v. Holder*, 556 U.S. 418, 433 (2009) (quoting *Virginia Ry. Co. v. United States*, 272 U.S.
11 658, 672 (1926)). “The party requesting a stay bears the burden of showing that the
12 circumstances justify an exercise of that discretion.” *Id.* at 433–34. In order to carry this burden
13 here, Intervenor–Defendants must (1) make “a strong showing” that they are likely to succeed
14 on the merits and (2) demonstrate that they will be irreparably injured absent a stay. *See id.* at
15 434 (quoting *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)). Intervenor–Defendants must also
16 show that (3) a stay will not “substantially injure . . . other parties interested in the proceeding[s]”
17 and (4) the public interest favors a stay. *See id.* (quoting *Hilton*, 481 U.S. at 776).

18 Intervenor–Defendants also base their stay request on the appellate proceedings in
19 *Garcia v. Hobbs*. The framework for evaluating a request for a stay because of another pending
20 case must look at (1) the possible damage from granting a stay, (2) the hardship a party may
21 suffer in being required to go forward, and (3) “the orderly course of justice measured in terms
22 of the simplifying or complicating of issues, proof, and questions of law which could be expected
23 to result from . . . stay.” *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005). “Only in
24 rare circumstances will a litigant in one cause be compelled to stand aside while a litigant in
25 another settles the rule of law that will define the rights of both.” *Landis v. North Am. Co.*,
26 299 U.S. 248, 255 (1936).

1 **III. ARGUMENT**

2 Intervenor–Defendants fail to demonstrate any of the factors needed to justify a stay. The
3 State defers to Plaintiffs to address Intervenor–Defendants’ likelihood of success on appeal and
4 the harms to Plaintiffs, and makes three arguments regarding Intervenor–Defendants’ motion:

5 First, irreparable harm stands as the “bedrock requirement” of a stay pending appeal.
6 *Leiva-Perez v. Holder*, 640 F.3d 962, 965 (9th Cir. 2011) (per curiam). Intervenor–Defendants’
7 interests in judicial economy do not rise to the irreparable harm threshold. Intervenor–
8 Defendants raise the possibility that any future remedial map would “require[] more racial
9 sorting,” Dkt. # 232 at p. 11. But this line of argument has already been rejected by the Supreme
10 Court. *See Allen v. Milligan*, 599 U.S. 1, 32–33 (2023) (“The contention that mapmakers must
11 be entirely ‘blind’ to race has no footing in our § 2 case law.”).

12 Second, a stay of the remedial process will harm the public interest. A stay will force
13 LD 15 voters to vote in a legislative district this Court has determined violates federal law. No
14 subsequent relief could redress that harm.

15 Third, while § 2 claims are “fact- and resource-intensive inquiries,” Dkt. # 232 at p. 11,
16 the bulk of those resources have already been expended—culminating in a trial with 15 live
17 witnesses and 18 more via deposition, with multiple experts, and over 500 admitted exhibits.
18 Having the parties participate in a deliberate, informed evaluation of remedial map proposals to
19 comport with the VRA does not impose harm.

IV. CONCLUSION

The State respectfully requests the Court deny Intervenor–Defendants’ Motion to Stay.

DATED this 20th day November 2023.

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I certify that this memorandum contains 782 words, in compliance with the Local Civil Rules.

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DECLARATION OF SERVICE

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court’s CM/ECF System, which will serve a copy of this document upon all counsel of record.

DATED this 20th day of November 2023, at Seattle, Washington.

/s/ Andrew R.W. Hughes
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