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 Berni, 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

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.

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.

29. It is in the interest of voters, candidates, and Louisiana's entire electoral apparatus 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

shown." *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.

41. Given the delay in publication of the 2020 Census data and the likelihood of 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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