

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

THE SOUTH CAROLINA STATE
CONFERENCE OF THE NAACP, *et al.*,

Plaintiffs,

v.

HENRY D. MCMASTER, *et al.*,

Defendants.

Case No. 3:21-cv-03302-JMC-TJH-RMG

SENATE DEFENDANTS’ ANSWER TO FIRST AMENDED COMPLAINT

Thomas C. Alexander, in his official capacity as President of the Senate, and Luke A. Rankin, in his official capacity as Chairman of the Senate Judiciary Committee, (collectively, the “Senate Defendants”) respectfully answer Plaintiffs’ First Amended Complaint for Injunctive And Declaratory Relief (ECF 84). Any allegation in the First Amended Complaint not explicitly responded to in this Answer is hereby denied.

INTRODUCTION

1. The Senate Defendants admit that Plaintiffs originally brought this action as a challenge to South Carolina’s House and U.S. Congressional Districts. The Senate Defendants deny the remaining allegations in Paragraph 1 and specifically deny that Plaintiffs have stated a claim upon which relief may be granted.

2. The Senate Defendants admit that the South Carolina General Assembly has enacted new state House districts and new state Senate districts that Governor McMaster has signed into law. The Senate Defendants further admit that Plaintiffs have not brought any challenge to the new state Senate districts. The Senate Defendants deny the remaining allegations

in Paragraph 2 and specifically deny that Plaintiffs have stated a claim upon which relief may be granted.

3. The Senate Defendants admit that South Carolina elected officials have made important progress with respect to voting rights over the past 50 years. The Senate Defendants deny the remaining allegations in Paragraph 3.

4. The Senate Defendants deny the allegations in Paragraph 4.

5. Paragraph 5 states legal conclusions that do not require a response. To the extent a response is required, the Senate Defendants deny the allegations in Paragraph 5.

6. The Senate Defendants deny the allegations in Paragraph 6.

7. The Senate Defendants deny the allegations in Paragraph 7.

8. The Senate Defendants deny the allegations in Paragraph 8.

9. The Senate Defendants deny the allegations in Paragraph 9.

10. The Senate Defendants deny the allegations in Paragraph 10.

11. The Senate Defendants deny the allegations in Paragraph 11.

12. The Senate Defendants deny the allegations in Paragraph 12.

13. The Senate Defendants deny the allegations in Paragraph 13.

PARTIES

14. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 14 and therefore deny them.

15. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 15 and therefore deny them.

16. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 16 and therefore deny them.

17. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 17 and therefore deny them.

18. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 18 and therefore deny them.

19. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 19 and therefore deny them.

20. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 20 and therefore deny them.

21. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 21 and therefore deny them.

22. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 22 and therefore deny them.

23. The Senate Defendants admit that Defendant McMaster is the Governor of South Carolina and that Plaintiffs purport to sue him in his official capacity. Paragraph 23 otherwise states legal conclusions to which no response is required; to the extent a response is required, the Senate Defendants deny these allegations.

24. The Senate Defendants admit that Defendant Alexander is the President of the South Carolina Senate and that Plaintiffs purport to sue him in his official capacity. Paragraph 24 otherwise states legal conclusions to which no response is required; to the extent a response is required, the Senate Defendants deny these allegations.

25. The Senate Defendants admit that Defendant Rankin is the Chairman of the Senate Judiciary Committee and that Plaintiffs purport to sue him in his official capacity. Paragraph 25

otherwise states legal conclusions to which no response is required; to the extent a response is required, the Senate Defendants deny these allegations.

26. The Senate Defendants admit that Defendant Lucas is the Speaker of the South Carolina House of Representatives and that Plaintiffs purport to sue him in his official capacity. Paragraph 26 otherwise states legal conclusions to which no response is required; to the extent a response is required, the Senate Defendants deny these allegations.

27. The Senate Defendants admit that Defendant Murphy is the Chairman of the Judiciary Committee of the House of Representatives and that Plaintiffs purport to sue him in his official capacity. Paragraph 27 otherwise states legal conclusions to which no response is required; to the extent a response is required, the Senate Defendants deny these allegations.

28. The Senate Defendants admit that Defendant Jordan is the Chairman of the Election Laws Subcommittee of the House of Representatives and that Plaintiffs purport to sue him in his official capacity. Paragraph 28 otherwise states legal conclusions to which no response is required; to the extent a response is required, the Senate Defendants deny these allegations.

29. The Senate Defendants admit that Defendant Knapp is the interim Executive Director of the South Carolina State Election Commission and that Plaintiffs purport to sue him in his official capacity. Paragraph 29 otherwise states legal conclusions to which no response is required; to the extent a response is required, the Senate Defendants deny these allegations.

30. The Senate Defendants admit that Defendants Wells, Day, Elder, McCall, and Moseley are members of the South Carolina State Election Commission and that Plaintiffs purport to sue them in their official capacity. Paragraph 30 otherwise states legal conclusions to which no response is required; to the extent a response is required, the Senate Defendants deny these allegations.

JURISDICTION AND VENUE

31. Paragraph 31 states legal conclusions that do not require a response. To the extent a response is required, the Senate Defendants deny the allegations in Paragraph 31.

32. Paragraph 32 states legal conclusions that do not require a response. To the extent a response is required, the Senate Defendants deny the allegations in Paragraph 32.

33. Paragraph 33 states legal conclusions that do not require a response. To the extent a response is required, the Senate Defendants deny the allegations in Paragraph 33.

34. Paragraph 34 states legal conclusions that do not require a response. To the extent a response is required, the Senate Defendants deny the allegations in Paragraph 34.

35. Paragraph 35 states legal conclusions that do not require a response. To the extent a response is required, the Senate Defendants deny the allegations in Paragraph 35.

STATEMENT OF FACTS

36. The Senate Defendants admit that Governor McMaster signed H. 4993 into law as Act 117 on December 10, 2021. The Senate Defendants further admit that H. 4993 redistricted the South Carolina House of Representatives and State Senate. The Senate Defendants deny any remaining allegations in Paragraph 36.

37. The Senate Defendants acknowledge that racial discrimination occurred in South Carolina during its history but deny that this history is relevant to H. 4993. The Senate Defendants therefore deny the allegations in Paragraph 37.

38. The Senate Defendants acknowledge that racial discrimination occurred in South Carolina during its history but deny that this history is relevant to H. 4993. The Senate Defendants therefore deny the allegations in Paragraph 38.

39. Paragraph 39 states legal conclusions that do not require a response. To the extent a response is required, the Senate Defendants deny the allegations in Paragraph 39.

40. The Department of Justice objections referenced in Paragraph 40 speak for themselves and do not require a response. To the extent a response is required, the Senate Defendants deny that those objections are relevant to H. 4993 and deny the allegations in Paragraph 40.

41. The Department of Justice objections and prior lawsuits referenced in Paragraph 41 speak for themselves and do not require a response. To the extent a response is required, the Senate Defendants deny that those objections and prior lawsuits are relevant to H. 4993 and deny the allegations in Paragraph 41.

42. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 42 and therefore deny them.

43. The prior lawsuits referenced in Paragraph 43 speak for themselves and do not require a response. To the extent a response is required, the Senate Defendants deny that those prior lawsuits are relevant to H. 4993 and deny the allegations in Paragraph 43.

44. The prior lawsuit referenced in Paragraph 44 speaks for itself and does not require a response. To the extent a response is required, the Senate Defendants deny that this prior lawsuit is relevant to H. 4993 and deny the allegations in Paragraph 44.

45. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 45 and therefore deny them.

46. The guidelines referenced in Paragraph 46 speak for themselves and do not require a response. To the extent a response is required, the Senate Defendants deny any allegations in Paragraph 46 inconsistent with those guidelines.

47. The guidelines referenced in Paragraph 47 speak for themselves and do not require a response. To the extent a response is required, the Senate Defendants deny any allegations in Paragraph 47 inconsistent with those guidelines.

48. The guidelines referenced in Paragraph 48 speak for themselves and do not require a response. To the extent a response is required, the Senate Defendants deny any allegations in Paragraph 48 inconsistent with those guidelines.

49. The guidelines referenced in Paragraph 49 speak for themselves and do not require a response. To the extent a response is required, the Senate Defendants deny any allegations in Paragraph 49 inconsistent with those guidelines.

50. The guidelines referenced in Paragraph 50 speak for themselves and do not require a response. To the extent a response is required, the Senate Defendants deny any allegations in Paragraph 50 inconsistent with those guidelines.

51. The guidelines referenced in Paragraph 51 speak for themselves and do not require a response. To the extent a response is required, the Senate Defendants deny any allegations in Paragraph 51 inconsistent with those guidelines.

52. The guidelines referenced in Paragraph 52 speak for themselves and do not require a response. To the extent a response is required, the Senate Defendants deny any allegations in Paragraph 52 inconsistent with those guidelines.

53. The guidelines referenced in Paragraph 53 speak for themselves and do not require a response. To the extent a response is required, the Senate Defendants deny any allegations in Paragraph 53 inconsistent with those guidelines.

54. The guidelines referenced in Paragraph 54 speak for themselves and do not require a response. To the extent a response is required, the Senate Defendants deny any allegations in Paragraph 54 inconsistent with those guidelines.

55. The guidelines referenced in Paragraph 55 speak for themselves and do not require a response. To the extent a response is required, the Senate Defendants deny any allegations in Paragraph 55 inconsistent with those guidelines.

56. The Senate Defendants admit that Plaintiff South Carolina NAACP sent a letter to the Senate Subcommittee on or around August 2, 2021. The letter speaks for itself and does not require a response. Paragraph 56 and footnote 8 also state legal conclusions that do not require a response. To the extent a response is required, the Senate Defendants deny the allegations in Paragraph 56.

57. The letter referenced in Paragraph 57 speaks for itself and does not require a response. To the extent a response is required, the Senate Defendants deny the allegations in Paragraph 57.

58. The Senate Defendants admit that the Senate Subcommittee adopted redistricting guidelines on or about September 17, 2021. The Senate Defendants deny the remaining allegations in Paragraph 58.

59. The Senate Defendants admit that Plaintiff South Carolina NAACP submitted proposed U.S. Congressional redistricting plans and a submission letter on or about October 8, 2021. The proposed redistricting plans and submission letter speak for themselves and do not require a response. To the extent a response is required, the Senate Defendants deny the allegations in Paragraph 59.

60. The Senate Defendants admit that the Senate Subcommittee actively solicited members of the public to submit proposed Congressional maps as part of the General Assembly's open, fair, and transparent redistricting process. The Senate Defendants deny any remaining allegations in Paragraph 60.

61. The Senate Defendant admit that the Senate Subcommittee received public testimony on proposed Congressional maps as part of the General Assembly's open, fair, and transparent redistricting process. That testimony speaks for itself and does not require a response. Paragraph 61 also states legal conclusions that do not require a response. To the extent a response is required, the Senate Defendants deny the allegations in Paragraph 61.

62. The testimony referenced in Paragraph 62 speaks for itself and does not require a response. To the extent a response is required, the Senate Defendants deny the allegations in Paragraph 62.

63. Any motion approved by the Senate Subcommittee is a matter of public record that speaks for itself, and no response is required. To the extent a response is required, the Senate Defendants deny any allegations in Paragraph 63 inconsistent with the Senate Subcommittee's approval of the motion.

64. The press statement referenced in paragraph 64 speaks for itself and does not require a response. To the extent a response is required, the Senate Defendants deny any allegations in Paragraph 64 inconsistent with the press statement.

65. The Senate Defendant admit that the Senate Subcommittee received public testimony on proposed Congressional maps as part of the General Assembly's open, fair, and transparent redistricting process. That testimony speaks for itself and does not require a response. The amendment and motion referenced in Paragraph 65 speak for themselves and do not require a

response. To the extent a response is required, the Senate Defendants deny any allegations in Paragraph 65 inconsistent with the testimony, amendment, and motion.

66. Defendant Rankin's public statement referenced in Paragraph 66 speaks for itself and does not require a response. To the extent a response is required, the Senate Defendants deny the allegations in Paragraph 66.

67. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 67 and therefore deny them.

68. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 68 and therefore deny them.

69. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 69 and therefore deny them.

70. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 70 and therefore deny them.

71. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 71 and therefore deny them.

72. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 72 and therefore deny them.

73. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 73 and therefore deny them.

74. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 74 and therefore deny them.

75. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 75 and therefore deny them.

76. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 76 and therefore deny them.

77. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 77 and therefore deny them.

78. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 78 and therefore deny them.

79. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 79 and therefore deny them.

80. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 80 and therefore deny them.

81. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 81 and therefore deny them.

82. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 82 and therefore deny them.

83. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 83 and therefore deny them.

84. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 84 and therefore deny them.

85. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 85 and therefore deny them.

86. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 86 and therefore deny them.

87. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 87 and therefore deny them.

88. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 88 and therefore deny them.

89. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 89 and therefore deny them.

90. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 90 and therefore deny them.

91. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 91 and therefore deny them.

92. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 92 and therefore deny them.

93. The Senate Defendants are without knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 93 and therefore deny them.

94. The legislative history of H. 4993 speaks for itself, and Paragraph 94 does not require a response. To the extent a response is required, the Senate Defendants admit that the House concurred in the Senate amendments to H. 4993 on December 9, 2021.

95. The Senate Defendants admit the allegations in Paragraph 95.

96. The Senate Defendants admit that the Legislature has not enacted a new U.S. Congressional redistricting map following the belated release of the results of the 2020 U.S. Census, but deny that Plaintiffs are entitled to any relief on that basis. The Senate Defendants admit that that Plaintiff South Carolina NAACP and other members of the public have submitted proposed U.S. Congressional redistricting plans. The Senate Defendants are without knowledge

or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 96 and therefore deny them.

97. The Senate Defendants admit that current South Carolina law sets the deadlines described in Paragraph 97 but deny that Plaintiffs are entitled to any relief on that basis.

98. The prior litigation referenced in Paragraph 98 speaks for itself and does not require a response. The Senate Defendants deny that the prior litigation is relevant to H. 4993 or this case and therefore deny the allegations in Paragraph 98.

99. The Senate Defendants deny the allegations in Paragraph 99.

100. The Senate Defendants deny the allegations in Paragraph 100.

101. The Senate Defendants deny the allegations in Paragraph 101.

102. The Senate Defendants deny the allegations in Paragraph 102.

103. The Senate Defendants deny the allegations in Paragraph 103.

104. The Senate Defendants deny the allegations in Paragraph 104.

105. The Senate Defendants deny the allegations in Paragraph 105.

106. The Senate Defendants admit that population growth and shifts in South Carolina required adopting a new House redistricting plan following the belated release of the results of the 2020 U.S. Census. The Senate Defendants deny any remaining allegations in Paragraph 106.

107. The legislative history of H. 4993 speaks for itself and does not require a response. To the extent a response is required, the Senate Defendants deny the allegations in Paragraph 107.

108. The Senate Defendants deny the allegations in Paragraph 108.

109. The Senate Defendants deny the allegations in Paragraph 109.

110. The Senate Defendants deny the allegations in Paragraph 110.

111. The Senate Defendants deny the allegations in Paragraph 111.

112. The Senate Defendants deny the allegations in Paragraph 112.
113. The Senate Defendants deny the allegations in Paragraph 113.
114. The Senate Defendants deny the allegations in Paragraph 114.
115. The Senate Defendants deny the allegations in Paragraph 115.
116. The Senate Defendants deny the allegations in Paragraph 116.
117. The Senate Defendants deny the allegations in Paragraph 117.
118. The Senate Defendants deny the allegations in Paragraph 118.
119. The Senate Defendants deny the allegations in Paragraph 119.
120. The Senate Defendants deny the allegations in Paragraph 120.
121. The Senate Defendants deny the allegations in Paragraph 121.
122. The Senate Defendants deny the allegations in Paragraph 122.
123. The Senate Defendants deny the allegations in Paragraph 123.
124. The Senate Defendants deny the allegations in Paragraph 124.
125. The Senate Defendants deny the allegations in Paragraph 125.
126. The Senate Defendants deny the allegations in Paragraph 126.
127. The Senate Defendants deny the allegations in Paragraph 127.
128. The Senate Defendants deny the allegations in Paragraph 128.
129. The Senate Defendants deny the allegations in Paragraph 129.
130. The Senate Defendants deny the allegations in Paragraph 130.
131. The Senate Defendants deny the allegations in Paragraph 131.
132. The Senate Defendants deny the allegations in Paragraph 132.
133. The Senate Defendants deny the allegations in Paragraph 133.
134. The Senate Defendants deny the allegations in Paragraph 134.

135. The Senate Defendants deny the allegations in Paragraph 135.
136. The Senate Defendants deny the allegations in Paragraph 136.
137. The Senate Defendants deny the allegations in Paragraph 137.
138. The Senate Defendants deny the allegations in Paragraph 138.
139. The Senate Defendants deny the allegations in Paragraph 139.
140. The Senate Defendants deny the allegations in Paragraph 140.
141. The Senate Defendants deny the allegations in Paragraph 141.
142. The Senate Defendants deny the allegations in Paragraph 142.
143. The Senate Defendants deny the allegations in Paragraph 143.
144. The Senate Defendants deny the allegations in Paragraph 144.
145. The Senate Defendants deny the allegations in Paragraph 145.
146. The Senate Defendants deny the allegations in Paragraph 146.
147. The Senate Defendants deny the allegations in Paragraph 147.
148. The Senate Defendants deny the allegations in Paragraph 148.
149. The Senate Defendants deny the allegations in Paragraph 149.
150. The Senate Defendants deny the allegations in Paragraph 150.
151. The Senate Defendants deny the allegations in Paragraph 151.
152. The Senate Defendants deny the allegations in Paragraph 152.
153. The Senate Defendants deny the allegations in Paragraph 153.
154. The Senate Defendants deny the allegations in Paragraph 154.
155. The Senate Defendants deny the allegations in Paragraph 155.
156. The Senate Defendants deny the allegations in Paragraph 156.
157. The Senate Defendants deny the allegations in Paragraph 157.

158. The Senate Defendants deny the allegations in Paragraph 158.

159. The Senate Defendants deny the allegations in Paragraph 159.

CAUSES OF ACTION

COUNT ONE

160. Answering Paragraph 160, the Senate Defendants incorporate their responses to the preceding paragraphs and the paragraphs below.

161. The Fourteenth Amendment of the U.S. Constitution speaks for itself, and Paragraph 161 does not require a response. To the extent a response is required, the Senate Defendants deny that Plaintiffs are entitled to any relief.

162. Paragraph 162 states legal conclusions that do not require a response. To the extent a response is required, the Senate Defendants deny the allegations in Paragraph 162.

163. The Senate Defendants deny the allegations in Paragraph 163.

164. The Senate Defendants deny the allegations in Paragraph 164.

165. The Senate Defendants deny the allegations in Paragraph 165.

166. The Senate Defendants deny the allegations in Paragraph 166.

167. The Senate Defendants deny the allegations in Paragraph 167 and deny that Plaintiffs are entitled to any relief.

COUNT TWO

168. Answering Paragraph 168, the Senate Defendants incorporate their responses to the preceding paragraphs and the paragraphs below.

169. Paragraph 169 states legal conclusions that do not require a response. To the extent a response is required, the Senate Defendants deny the allegations in Paragraph 169.

170. The Senate Defendants deny the allegations in Paragraph 170.

171. The Senate Defendants deny the allegations in Paragraph 171.

172. The Senate Defendants deny the allegations in Paragraph 172.

173. The Senate Defendants deny the allegations in Paragraph 173 and deny that Plaintiffs are entitled to any relief.

COUNT THREE

174. Paragraph 174 states legal conclusions that do not require a response. To the extent a response is required, the Senate Defendants deny the allegations in Paragraph 174.

175. The Senate Defendants deny the allegations in Paragraph 175.

176. The Senate Defendants deny the allegations in Paragraph 176.

177. The Senate Defendants deny the allegations in Paragraph 177.

178. The Senate Defendants deny the allegations in Paragraph 178 and deny that Plaintiffs are entitled to any relief.

RELIEF REQUESTED

The Senate Defendants deny that Plaintiffs are entitled to the relief requested.

i. The Senate Defendants deny the allegations in Paragraph i and deny that Plaintiffs are entitled to relief.

ii. The Senate Defendants deny the allegations in Paragraph ii and deny that Plaintiffs are entitled to relief.

iii. The Senate Defendants deny the allegations in Paragraph iii and deny that Plaintiffs are entitled to relief.

iv. The Senate Defendants deny the allegations in Paragraph iv and deny that Plaintiffs are entitled to relief.

v. The Senate Defendants deny the allegations in Paragraph v and deny that Plaintiffs are entitled to relief.

vi. The Senate Defendants deny the allegations in Paragraph vi and deny that Plaintiffs are entitled to relief.

vii. The Senate Defendants deny the allegations in Paragraph vii and deny that Plaintiffs are entitled to relief.

viii. The Senate Defendants deny the allegations in Paragraph viii and deny that Plaintiffs are entitled to relief.

ix. The Senate Defendants deny the allegations in Paragraph ix and deny that Plaintiffs are entitled to relief.

x. The Senate Defendants deny the allegations in Paragraph x and deny that Plaintiffs are entitled to relief.

AFFIRMATIVE AND OTHER DEFENSES

Without assuming the burden of proof, and while reserving the right to assert all applicable affirmative defenses supported in law and fact, the Senate Defendants assert the following affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

The Court lacks subject matter jurisdiction over Plaintiffs' claims.

SECOND AFFIRMATIVE DEFENSE

The First Amended Complaint fails to allege sufficient facts upon which a claim for relief may be granted.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs lack standing to assert their claims in the First Amended Complaint.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by the applicable statutes of limitations.

FIFTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by the equitable doctrines of laches, estoppel, unclean hands, and/or waiver.

SIXTH AFFIRMATIVE DEFENSE

Plaintiffs have failed to join indispensable parties to this action.

SEVENTH AFFIRMATIVE DEFENSE

The South Carolina General Assembly has primary jurisdiction to enact redistricting plans for the South Carolina House, South Carolina Senate, and South Carolina's delegation to the U.S. Congress. It is primarily the responsibility of the General Assembly, subject to the approval of the Governor, to redistrict or reapportion the Senate, House and Congressional districts. Redistricting primarily is a matter for legislative consideration and determination and judicial relief becomes appropriate only when a legislature fails to redistrict according to federal laws and constitutional requirements.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are not ripe for the Court's adjudication.

NINTH AFFIRMATIVE DEFENSE

The General Assembly did not improperly use race in drawing any district or in enacting any redistricting plan. The General Assembly must be aware of race in drawing districts and redistricting plans, but such awareness does not violate the Constitution or law. *See Miller v. Johnson*, 515 U.S. 900 (1995). Race did not predominate in the drawing of any district or in the enactment of any redistricting plan. Any use of race in the drawing of any district or in the enactment of any redistricting plan was constitutional and/or justified by a state interest.

TENTH AFFIRMATIVE DEFENSE

The General Assembly did not discriminate, intentionally or otherwise, against any voter or group of voters on any basis, including the basis of race, in drawing any district or enacting any redistricting plan.

ELEVENTH AFFIRMATIVE DEFENSE

The General Assembly drew every district and enacted every redistricting plan in accordance with the U.S. Constitution and federal and state law, including traditional districting principles and the criteria and guidelines adopted by the South Carolina House and South Carolina Senate.

CONCLUSION

The Senate Defendants respectfully request that the Court (1) dismiss Plaintiffs' claims with prejudice and enter judgment for Defendants; (2) deny Plaintiffs' prayer for relief; and (3) grant other such relief as the Court may deem proper.

January 6, 2022

Respectfully submitted,

/s/Robert E. Tyson Jr.

Robert E. Tyson, Jr. (7815)
Vordman Carlisle Traywick, III (12483)
La'Jessica Stringfellow (13006)
ROBINSON GRAY STEPP & LAFFITTE, LLC
1310 Gadsden Street
Post Office Box 11449 (29211)
Columbia, South Carolina 29201
(803) 929-1400
rtyson@robinsongray.com
ltraywick@robinsongray.com
lstringfellow@robinsongray.com

John M. Gore (admitted *pro hac vice*)
Stephen J. Kenny (admitted *pro hac vice*)
JONES DAY
51 Louisiana Avenue, N.W.

Washington, D.C. 20001

Phone: (202) 879-3939

Fax: (202) 626-1700

jmgore@jonesday.com

skenny@jonesday.com

Counsel for Senate Defendants

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