

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

LULAC, et. al.,)(
)(
<i>Plaintiffs</i>)(
)(
Eddie Bernice Johnson, Sheila Jackson-Lee)(
Alexander Green and Jasmine)(
Crockett)(
)(
<i>Plaintiff-Intervenors</i>))	
)(
v.)(Case No.: EP-21-CV-00259-DCG-
)(JES-JVB [Lead Case]
GREG ABBOTT, in his official capacity)(
As Governor of Texas, et. al,)(
)(
<i>Defendants</i>)(

MOTION TO INTERVENE BY EDDIE BERNICE JOHNSON, SHEILA JACKSON-LEE, ALEXANDER GREEN, AND JASMINE CROCKETT AS PLAINTIFF-INTERVENORS

1. Plaintiff LULAC and other lead Plaintiffs are organizations dedicated to protecting the interests and preserving the civil rights of Latinos in the United States and Texas. The case before the court challenges the redistricting of the United States House of Representatives' Texas Delegation, Texas State House of Representatives, Texas State Senate, and Texas State Board of Education of Texas.

2. Eddie Bernice Johnson, Sheila Jackson-Lee and Alexander Green, Members of the United States Congress and individually (hereinafter African-American Congressional Intervenors), and Jasmine Crockett a voter who resides in Congressional District 30 in Dallas County (hereinafter Crockett Intervenor) seek intervention to protect their interests and that of all African-American voters in Texas and particularly in counties directly connected with their districts which include Dallas, Tarrant, Harris, Fort Bend, Galveston and Brazoria, and to ensure that the Texas redistricting process is fair and consistent with the Constitutional and statutory protections applying to African-American voters of Texas particularly in the aforementioned counties.

3. The Congressional Intervenors and Crockett Intervenor request for intervention meets all the prerequisites for intervention as a matter of right: the request for intervention is timely; the rights at stake are directly implicated

by claims of the Plaintiffs; and, unless it is part of this action the African-American Congressional Intervenor cannot effectively protect their fundamental right to ensure a fair and unbiased redistricting process and outcome for African-American voters of Texas. Importantly, the applicant intervenors had counsel in attendance of the December 6, 2021 hearing and their interest in the litigation was noted in open court by counsel for the State of Texas. Applicants have no interest in filing for preliminary injunctive relief.

FACTUAL BACKGROUND

4. Congresswoman Eddie Bernice Johnson is an African-American who resides in Dallas Texas and represents CD30. She has served in Congress since 1993. Congresswoman Johnson was the first African-American female Chairperson of a Congressional Subcommittee. She is a former Chair of the Congressional Black Caucus and currently a member of the House Transportation and Infrastructure Committee, the Aviation, Highways and Transit, and Water Resources and Environment Subcommittees. Congresswoman Johnson has worked zealously to represent her district where she ably represents African-American voters and a coalition of African-American and Latino voters. See Exhibit A, letter from Congressperson Johnson to Legislators, which is attached hereto and incorporated herein as if fully set forth.

5. Congresswoman Sheila Jackson-Lee is in her fourteenth term in the United States Congress. She is a Member of the Judiciary and Homeland Security Committees and is the founder and co-chair of the Congressional Children's Caucus. She has been a true advocate for immigration reform during her tenure in Congress and has worked zealously to represent her district, CD 18, where she ably represents African-American voters and a coalition of African-American and Latino voters. See Exhibit B, joint letter from Congresspersons Jackson-Lee and Green to Legislators which is incorporated herein as if fully set forth.

6. Congressman Alexander Green is in his ninth term in Congress. He is a member of the Financial Services and Homeland Security Committees. He is the Chair of the Financial Services Sub-Committee on Oversight and Investigations as well as the Chair of the Texas Democratic Congressional Delegation. As a former elected judge of a Harris County small claims justice court as well as a former president of the Houston Branch NAACP, he judiciously and zealously represents African American voters as well as a coalition of African American, Latino, and Asian American voters in CD 9. See Exhibit B, joint letter from Congresspersons Jackson-Lee and Green to Legislators which is incorporated herein as if fully set forth.

7. Representative Crockett is a voter who resides in Congressional District 30 in both the current plan and the adopted plan. She is a freshman member of the Texas House of Representatives who lives in Dallas and who tendered proposed changes to CD30 that would have permitted it to continue as a 50 percent African-American Citizen Voting Age population district but this was voted down by the Texas House of Representatives. See Exhibit C, map proposed by Senator Crockett in CD2139 with accompanying citizenship data, which is attached hereto and incorporated for all purposes as if fully set forth herein. She is a constituent of Congresswoman Johnson.

8. Each of these Congresspersons, represents an African-American opportunity district where each receives overwhelming support from African-American and Latino voters. African-American and Latino groups that have broad community support generally provide exceptionally high marks to each of these Congresspersons on issues of the utmost importance to these communities. The voters' needs in CD 30, 18 and 9 are reflected in the work, efforts, and votes of the African-American Congressional Intervenors.

9. All three Congresspersons were part of the last round of redistricting and were prevailing parties. The State of Texas is a political subdivision covered under the provisions of the Voting Rights Act, 42 U.S.C. §§ 1973–1973aa-6, and responsible for the actions of its officials with regard to state-wide redistricting.

10. Defendant, Greg Abbott is the duly elected and acting Governor of the State of Texas. Under Article IV, Section 1, of the Texas Constitution, he is the chief executive officer of the Defendant State of Texas. He is sued in his official capacity.

11. Defendant, Dan Patrick is the duly elected and acting Lieutenant Governor of Texas. Under Article IV, Section 16, of the Texas Constitution, he is the President of the Texas Senate. He is sued in his official capacity.

12. Defendant, Dade Phelan is the duly elected and acting Speaker of the Texas House of Representatives and is the presiding officer over the Texas House of Representatives. He is sued in his official capacity.

13. Defendant, John B. Scott Hope is the duly appointed and acting Secretary of State of Texas. He is sued in his official capacity.

Procedural Posture

14. This case has only recently been consolidated and just last week a case filed by the United States was consolidated. The original was filed by Plaintiff LULAC in October and joined with other cases that were filed later

in October or in November. The Court has asked for the parties to consult on a proposed scheduling order and report back to the court by the 15th of December.

15. Courts have regularly found over time that redistricting plans in Texas have discriminated against African-American voters. See *White v. Register*, 412 U.S. 755, 766-67 (1973) (affirming findings by the district court that African-American voters in Dallas County had been “effectively excluded from participation in the Democratic primary selection process”) (quoting *Graves v. Barnes*, 343 F. Supp. 704, 726 (W.D. Tex., 1972)); *Rollins v. Fort Bend Indep. Sch. Dist.*, 89 F.3d 1205, 1214 (5th Cir. 1996) (“The parties cannot and do not dispute that FBISD’s history is blemished by past racial discrimination.”). Though Texas has had a sufficient African-American population for many years, it was not until the 1970’s that it had a member who represented an African-American community that was able to affect its choice through voting in the 18th Congressional District. African-Americans were able to gain representation in Congressional District 30 after litigation against a Democratic-controlled state and in Congressional District 9 in the Delay round of redistricting when the government was controlled by Republicans. It was necessary for litigation to take place for African-Americans to achieve representation in Congress, and it is clear that all of the representation has taken place since the passage of the Voting Rights Act in 1965. Importantly, history has shown that the redistricting process can be key to maintaining African-American representation. If permitted to intervene, the African-American Congresspersons will demonstrate that the current redistricting plans for the United States Congress are not fair and in fact will dilute and diminish the impact of African-American voters on election outcomes. CD 30, 18, and 9 are all drawn in a manner as to be unfair to the African-American community such that the impact of African-American voters has been diminished as well as those ineffective and protected coalitions with the African-American community. Each of the Congresspersons who represents their district and Intervenor Crockett are all in unique positions and in an effective position to provide unique and persuasive information to the decision-making panel and their input is essential to ensure a fair and unbiased redistricting for the voters in the affected counties and CDs 9, 18, and 30.

ARGUMENT

I. Intervention Is Proper as a Matter of Right

16. The African-American Congressional Intervenors and the Crockett Intervenor who file this Motion to Intervene request intervention as a matter of right under Federal Rules of Civil Procedure 24(a). Intervention as of right should be granted when the following four requirements are met:

(1) the motion to intervene is timely; (2) the potential intervenor asserts an interest that is related to the property or transaction that forms the basis of the controversy in the case into which she seeks to intervene; (3) the disposition of that case may impair or impede the potential intervenor's ability to protect her interest; and (4) the existing parties do not adequately represent the potential intervenor's interest. *Doe #1 v. Glickman*, 256 F.3d 371, 375 (5th Cir. 2001) (citations omitted); and see also *LULAC v. City of Boerne*, 659 F.3d 421 (5th Cir. 2011) (holding that a voter had a right to intervene in a redistricting settlement proceeding).

17. Intervention should be liberally granted as “[f]ederal courts should allow intervention where no one would be hurt and the greater justice could be attained.” *Id.* at 375 (quoting *Sierra Club v. Espy*, 18 F.3d 1202, 1205 (5th Cir. 1994)). Thus, “intervention of right must be measured by a practical rather than technical yardstick.” *Edwards v. City of Houston*, 78 F.3d 983, 999 (5th Cir. 1996).

A. The Intervention is Timely

18. African-American Congressional Intervenors and Intervenor Crockett acted swiftly and with all practicable speed upon learning that the actions were consolidated. Also, on information and belief no substantive hearings have been held and discovery has not commenced.

19. Timeliness is a flexible requirement that differs from case to case. See *McDonald v. E.J. Lavino Co.*, 430 F.2d 1065, 1074 (5th Cir. 1970). In addition, the Fifth Circuit has determined four factors that address the timeliness of a motion to intervene:

(1) how long the potential intervenor knew or reasonably should have known of her stake in the case into which she seeks to intervene; (2) the prejudice, if any, the existing parties may suffer because the potential intervenor failed to intervene when she knew or reasonably should have known of her stake in that case; (3) the prejudice, if any, the potential intervenor may suffer if the court does not let her intervene; and (4) any unusual circumstances that weigh in favor of or against a finding of timeliness. *Doe #1*, 256 F.3d at 376.

20. As this motion to intervene has been filed only a short time after the consolidation the court should grant the motion to intervene. As noted in yesterday's hearing, there has been no discovery as yet and the preliminary injunction hearing that has been set is only for the Senate map which is not impacted by this desired intervention.

1. The African-American Congressional Intervenors Prepared and Filed Its Intervention Motion Well Before Any Substantive Consideration by the Court or Significant Discovery has Been Undertaken.

21. Upon receiving notice of the action, the African-American Congressional Intervenor initiated steps to review the pleadings and confer with the attorneys for some of the Plaintiff groups. Under these facts and the facts of the case, the African-American Congressional Intervenor's motion to intervene is timely.

2. Intervention Will Not Prejudice the Plaintiffs

22. Plaintiffs will not suffer any prejudice as a result of the African-American Congressional Intervenor's request for intervention. The lawsuit has only been recently filed. No discovery has been initiated, and no substantive hearings have been held, though the prisoner suit has been dismissed. The case remains near its inception.

3. The African-American Congressional Intervenor and Their Constituents and Intervenor Crockett Will

Each Suffer Significant Prejudice if Intervention is Denied

23. The African-American Congressional Intervenor and many of their constituents will suffer substantial and significant harm if intervention is not granted. The allegations in Plaintiff's complaint directly implicate the rights of African-American voters. If the present redistricting plan put forth by the Texas Legislature is implemented, the voting power of African-Americans in Texas could be significantly diluted. Also, the African-American and other minority voters in CD30, 18 and 9, and in the Harris County and DFW Area counties, would see retrogression of their voting strength. The impact of the redistricting plan is vast. Although the African-American Congressional Intervenor acknowledges the good faith of Plaintiffs, the African-American Congressional Intervenor represents a largely different and distinct group of voters with some issues unique to those groups and areas. Many of the interests of many of the constituents of the African-American Congressional Intervenor and many of their constituents are at risk of loss of their interests. This has a particularly harmful impact on the African-American voters in those districts and other protected minorities in those areas who are joined in a coalition with them.

4. No Unusual Circumstances Exist That Would Militate Against Intervention. In fact, the African-American Congressional Intervenor is unaware of any circumstances that would operate against their intervention.

24. Neither the African-American Congresspersons or Intervenor Crockett are unaware of any circumstances that would operate against their intervention.

B. The African-American Congressional Intervenor and Representative Crockett Have Substantial and Legally Protected Interests in the Case That It Cannot Protect Without Intervention and Is Inadequately Protected by the Named Plaintiffs.

25. The African-American Congressional Intervenor are African-American elected officials and voters who have a significant and legally protected interests that are implicated in the present action. The Voting Right Act was passed primarily to prohibit discrimination against African-Americans in voting. 42 U.S.C. §§ 1973 et seq. Courts have historically recognized, and continue to recognize, that redistricting schemes have time and time again been drawn so as to inhibit and dilute the voting strength of African Americans. See *White v. Register*, 412 U.S. 755 (1973); *LULAC v. N. E. Indep. Sch. Dist.*, 903 F. Supp. 1071 (W.D. Tex. 1995). The history of litigation surrounding redistricting plans in Texas have shown that the State of Texas has violated Section 2 of the Federal Voting Rights Act and the Fourteenth Amendment to the US Constitution. See e.g., *LULAC v. Perry*, 548 U.S. 399 (2006); *White v. Register*, 412 U.S. 755 (1973); *Nixon v. Herndon*, 273 U.S. 536 (1927). The Voting Rights Act seeks to ensure realistic possibilities of the voices of African-American voters being heard, and those protected groups working in their areas in coalition with them, and each of the African-American Congressional Intervenor has effectively represented each of those communities and acted to ensure that their voices were heard. Their rights and those of some of their constituents can only be effectively protected if the African-American Congressional Intervenor are granted intervention.

26. Although the African-American Congressional Intervenor acknowledge the good faith of Plaintiffs, the African-American Congressional Intervenor represent a largely different and distinct group of voters with some issues unique to those groups and areas. Many of the interests of many of the constituents of the African-American Congressional Intervenor and many of their constituents are at risk of loss of their interests. This has a particularly harmful impact on the African-American voters in those districts and other protected minorities in those areas who are joined in a coalition with them. Intervention is essential to protect the interests of the African-American Congressional Intervenor, many of their constituents and those protected groups working in coalition with them. The current Congressional Map was drawn in a manner to deny the creation of new Latino or minority coalition districts in the Harris County/Fort Bend and Dallas/Fort Worth Metroplex areas, which are the areas of the state where the African-American Congresspersons districts are located. To implement its plan of vote dilution and racial gerrymandering, the adopted map strategically places minority voters into protected districts where they are not needed or into districts where white voters will dominate or control. Several parties seek the creation of new

opportunity districts and the African-American Congresspersons and Representative Crockett agree that such districts should be created but are cognizant of the fact that you can do so and respect the status and character of their districts and other minority opportunity districts in those areas. They further believe that there must be relief to the racial gerrymander. This is just one area of clarity where the unique status of these applicant intervenors cannot be effectively argued or represented by others. A true and correct copy of a proposed Complaint is attached as Exhibit D.

II. Alternatively, Texas African-American Congressional Intervenors and Intervenor Crockett Should Be Allowed to Intervene Permissively Pursuant to Fed. R. Civ. P. 24(b).

27. Permissive intervention is a matter of discretion for the court and is appropriate when the intervention is timely, the intervenor's "claim or defense and the main action have a question of law or fact in common" and granting the intervention will not unduly delay or prejudice the original parties in the case. Fed. R. Civ. P. 24(b)(2). As previously discussed, the Texas African-American Congressional Intervenors' motion for intervention is timely. There are common questions of law and fact between the claims of Plaintiffs and Texas African-American Congressional Intervenors and Intervenor Crockett. These include whether the redistricting plan passed by the Texas Legislature violates Section 2 of the Voting Rights Act or the United States Constitution as to Congressional Districts 9, 18, and 30 and the areas of the map in which they are part of, and also overall in that it fails to provide for fair and effective representation of minority voters and those protected groups acting in coalition with them. The current plan will undermine the African-American/Latino coalition in many areas around the State and it puts in jeopardy the continued and proper representation of the African-American community. The effectiveness of the minority community's representation is minimized or diminished by the proposed Congressional Plan which seeks to optimize white voter influence. The proposed plan enhances the rights of white voters in both parties while minimizing or diminishing the rights of minority voters. Thus, as an alternative ground, allowing the Texas African-American Congressional Intervenors and Intervenor Crockett to intervene permissively is appropriate.

CONCLUSION

28. Based on the aforementioned reasons, intervention should be granted as a matter of right, or, in the alternative, on a permissive basis.

Respectfully Submitted,

The Bledsoe Law Firm P.L.L.C.

By: /s/ Gary Bledsoe
Gary L. Bledsoe
State Bar No.: 02476500
6633 Highway 290 East, Suite 208
Austin, Texas 78723-1157
Telephone: (512) 322-9992
Facsimile: (512) 322-0840

Attorney for the Plaintiff-Intervenors

CERTIFICATE OF SERVICE

I certify that on December 14th, 2021, a true and correct copy of Plaintiff-Intervenors Motion to Intervene was delivered via email to lead Plaintiffs' counsel and to other counsel of Defendants and Plaintiffs via the Federal Court ECF system.

/s/ Gary Bledsoe
Gary L. Bledsoe

CERTIFICATE OF CONFERENCE

I hereby certify that the conference required by Local Rule, for the Western District of Texas, was held between December 5 and December 11, and no counsel for plaintiffs nor the United States opposes the intervention, but the State of Texas does oppose the intervention but have informed the undersigned counsel that any separately filed suit would be the subject of a consolidation motion. indicated that it is opposed.

/s/ Gary Bledsoe
Gary L. Bledsoe

The exhibits identified below as referenced in Plaintiff's Response are true and correct copies of documents produced in discovery in this case. The exhibits I am authenticating are:

Ex.A The Honorable Todd Hunter Chairman, House Committee on Redistricting

Ex.B joint letter from Congresspersons Jackson-Lee and Green to Legislators which is incorporated herein as if fully set forth.

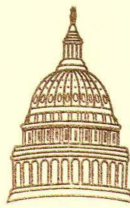
Ex.C map proposed by Senator Crockett in CD2139 with accompanying citizenship data, which is attached hereto and incorporated for all purposes as if fully set forth herein.

Ex.D A true and correct copy of a proposed Complaint

My name is Gary Bledsoe, I declare under penalty of perjury that the foregoing is true and correct. Executed in Travis County, State of Texas, on December day of the 15, 2021.

/s/ Gary Bledsoe

GARY BLEDSOE



Eddie Bernice Johnson
Member of Congress
Thirtieth District, Texas

October 13, 2021

The Honorable Todd Hunter
Chairman, House Committee on Redistricting
Texas House of Representatives
P.O. Box 2910
Austin, TX 78768

Re: Texas 30th Congressional District

Dear Honorable Hunter:

I am a member of the United States Congress, representing Texas' 30th Congressional District. My district is about 16,000 above the mean number for Congressional Districts in Texas. I want to keep it largely intact. There is no reason to change the district under current circumstances, and any change should be one that comes from those with understanding of the constituents and the needs that must be met and that includes me as the Congressperson for the 30th Congressional District. Last time my district was drawn without my input, and it was cracked and packed in such a way to where courts in Texas and the District of Columbia comprised mostly of Republicans said it was illegal vote dilution.

Please include me in making any decisions about the 30th Congressional District. The courts have continually recognized it as a protected African-American opportunity seat and I would like to keep it that way.

I helped establish CD30 from its infancy and though it has been reconfigured many times in the past, in many different lines, I have worked to nourish and develop it through the years, making me uniquely qualified to understand it.

It goes without saying that I know the communities of interest, local political system, the district's economic engines, racial and ethnic groups, diverse businesses, and how they all fit together in ways to uniquely advance the interests of the 30th Congressional District. It is my intention to provide you with a map in the not too distant future, though I would appreciate you letting me know of any existing time obligations to provide my recommendations to you.

I know incumbent protection and maintaining cores of districts together are two accepted redistricting principles in Texas and hoping they are applied to my district consistent with the requirements of the Voting Rights Act.

Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Eddie Bernice Johnson". The signature is fluid and cursive, with the first name "Eddie" being more prominent.

Eddie Bernice Johnson
Member of Congress

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September 29, 2021

The Honorable Joan Huffman
Chair
Senate Special Committee on Redistricting
P.O. Box 12068
Capitol Station
Austin, Texas 78711

The Honorable Todd Hunter
Chairman
House Committee on Redistricting
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768

RE: Texas 9th and 18th Congressional Districts

Honorable Joan Huffman and Honorable Todd Hunter:

As long-serving members of Congress from the 9th and 18th Districts of Texas, we strongly object to the initial congressional map (C2101) released by the Texas Senate Committee on Redistricting on September 27, 2021.

We base our objection on the following facts:

- Both districts in their present configuration have afforded African American voters the opportunity to elect candidates of their choice for 50 years in the case of the 18th District and 30 years for the 9th District (being an African-American opportunity district for nearly twenty years).
- Both districts have more than sufficient populations to maintain existing boundaries. The 9th District is slightly over the 2020 mean (+3,811) for Texas and the 18th District is less than three percent (+29,921) over the average. Very minor adjustments can bring each to the required 766,987 population.
- That being the case, the proposed Senate map unnecessarily removes more than 200,000 residents from these districts, while adding a slightly smaller number of new constituents with no history of being included in a protected district under the 1965 Voting Rights Act as amended in 1975.
- Both existing districts have strong economic engines providing expanding job opportunities for local residents. Notable among these are the Downtown Business District (DBD) and Bush International Airport in the 18th District and the Texas Medical Center in the 9th District.
- The proposed map moves the aforementioned Downtown Business District from the 18th District to an adjacent proposed district with fewer than 12 percent Black residents. Other important assets in the 18th District, such as the campuses of Texas Southern University and the University of Houston, are moved by C2101.
- The proposed map radically alters the local congressional map by moving the historic Third Ward and MacGregor areas from the 18th District to the 9th. That shift that includes the residence and main district offices of Congresswoman Sheila Jackson Lee. No other member of the large Texas delegation is so severely impacted by the proposed map.

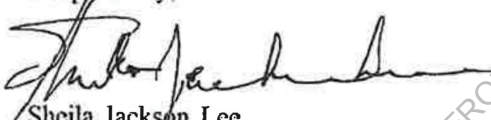
- We also note that for the first time since Barbara Jordan took the 18th District seat in January, 1973, the iconic Fifth Ward and Third Ward constituencies have been placed in separate districts with no input from these communities.
- The changes to the Ninth District remove some of the most diverse and fastest growing communities in Fort Bend County, communities with a proven record of supporting the candidates of choice of Black voters. The proposed plan would add a number of new precincts from the City of Pearland in Brazoria County – a community with a history of opposing candidates supported by Black voters.

Currently, Congressional District 9 is almost the optimum size, being a little under 5,000 above the target number. Congressional District 18 is presently slightly above the optimum number for Congressional Districts by a little over 30,000. Last decade, after the State declined to include us in the process, Courts overturned the drawing of both districts as they both were victims of unnecessary surgery. It is essential that we keep the core of our districts together, including its economic engines and communities of interest.

In sum, the C2101 map makes radical and unneeded changes to the two local congressional districts that include the majority of Black voters in Harris and Fort Bend Counties. These changes have been made with no input from the sitting members, nor their constituent populations.

We should note that the 3 Judge Panel that heard the Section 5 challenge to the proposed Congressional Plan adopted by the Texas Legislature in 2011 made it very clear that the 9th and 18th are both protected African-American opportunity seats, and that they are protected from unnecessary surgery and surgery that takes out important economic engines from these districts as is being done in the current proposed plan. The paring of the two occupants of these districts seems and the unnecessary surgery done on their districts is clearly an act of racial discrimination. We strongly urge the Texas Senate members to reconsider C2101 and restore the performing 9th and 18th districts that have well served voters of color for decades.

Respectfully,


Sheila Jackson Lee,
Member of Congress
Texas 18th Congressional District

Respectfully,


Alexander Green,
Member of Congress
Texas 9th Congressional District

Cc: Senator Royce West, Member, Senate Committee on Redistricting
Senator Borris Miles, Member, Texas Legislative Black Caucus
Vice-Chairwoman Toni Rose, Texas House Redistricting Committee
Representative Nicole Collier, Chair, Texas Legislative Black Caucus
Representative Ron Reynolds, 1st Vice Chair, Texas Legislative Black Caucus
Representative Rafael Anchia, Member, Texas House Redistricting Committee
Representative Craig Goldman, Member, Texas House Redistricting Committee
Representative Ryan Guillen, Member, Texas House Redistricting Committee
Representative Jacey Jetton, Member, Texas House Redistricting Committee

Representative Brooks Landgraf, Member, Texas House Redistricting Committee
Representative Ina Minjarez, Member, Texas House Redistricting Committee
Representative Joe Moody, Member, Texas House Redistricting Committee
Representative Geanie Morrison, Member, Texas House Redistricting Committee
Representative Andrew Murr, Member, Texas House Redistricting Committee
Representative Mike Schofield, Member, Texas House Redistricting Committee
Representative Senfornia Thompson, Member, Texas House Redistricting Committee
Representative Chris Turner, Member, Texas House Redistricting Committee
Representative James White, Member, Texas House Redistricting Committee
Colleen Garcia, Committee Clerk, Texas House Redistricting Committee
Senator Royce West, Member, Senate Special Committee on Redistricting
Mr. Marc Hoskins, Executive Director, Texas Legislative Black Caucus
Vice-Chair Juan Hinojosa, Senate Special Committee on Redistricting
Senator Carol Alvarado, Member, Senate Special Committee on Redistricting
Senator Paul Bettencourt, Member, Senate Special Committee on Redistricting
Senator Brian Birdwell, Member, Senate Special Committee on Redistricting
Senator Donna Campbell, Member, Senate Special Committee on Redistricting
Senator Kelly Hancock, Member, Senate Special Committee on Redistricting
Senator Bryan Hughes, Member, Senate Special Committee on Redistricting
Senator Eddie Lucio, Jr., Member, Senate Special Committee on Redistricting
Senator Robert Nichols, Member, Senate Special Committee on Redistricting
Senator Angela Paxton, Member, Senate Special Committee on Redistricting
Senator Charles Perry, Member, Senate Special Committee on Redistricting
Senator Royce West, Member, Senate Special Committee on Redistricting
Senator John Whitmire, Member, Senate Special Committee on Redistricting
Senator Judith Zaffirini, Member, Senate Special Committee on Redistricting

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Data: 2015-2019 ACS; 2020 Census
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American Community Survey Special Tabulation
Using Census and American Community Survey Data
CONGRESSIONAL DISTRICTS - PLANC2139

Texas Legislative Council
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2020 Census			Special Tabulation of Citizen Voting Age Population (CVAP) from the 2015-2019 American Community Survey with Margins of Error											
			CVAP	Hispanic CVAP % Hispanic	Not Hispanic or Latino Citizen Voting Age Population (CVAP)									
					% Black Alone	% Black + White	% Black + American Indian	% White Alone	% American Indian Alone	% Asian Alone	% Native Hawaiian Alone	% American Indian + White	% Asian + White	% Remainder 2 or More Other
District	Total	VAP	CVAP	% Hispanic	% Black Alone	% Black + White	% Black + American Indian	% White Alone	% American Indian Alone	% Asian Alone	% Native Hawaiian Alone	% American Indian + White	% Asian + White	% Remainder 2 or More Other
5	766,777	569,978	470,560 (±6,121)	16.7 (±0.6)	15.3 (±0.6)	0.4 (±0.1)	0.1 (±0.1)	62.6 (±0.6)	0.5 (±0.1)	3.5 (±0.3)	0.0 (±0.1)	0.5 (±0.1)	0.2 (±0.1)	0.2 (±0.1)
6	767,103	569,507	474,015 (±6,117)	19.0 (±0.7)	17.6 (±0.7)	0.4 (±0.1)	0.1 (±0.1)	58.3 (±0.5)	0.4 (±0.1)	3.1 (±0.3)	0.1 (±0.1)	0.5 (±0.1)	0.3 (±0.1)	0.2 (±0.1)
24	766,629	579,452	496,030 (±5,931)	13.5 (±0.6)	7.1 (±0.5)	0.3 (±0.1)	0.1 (±0.1)	69.9 (±0.4)	0.4 (±0.1)	7.0 (±0.4)	0.2 (±0.1)	0.6 (±0.1)	0.5 (±0.1)	0.3 (±0.1)
25	767,217	582,952	528,025 (±6,224)	14.2 (±0.5)	12.5 (±0.6)	0.4 (±0.1)	0.1 (±0.1)	69.3 (±0.5)	0.3 (±0.1)	2.1 (±0.2)	0.1 (±0.1)	0.5 (±0.1)	0.2 (±0.1)	0.2 (±0.1)
30	766,905	574,390	464,235 (±6,559)	21.7 (±0.7)	51.8 (±0.9)	0.4 (±0.1)	0.2 (±0.1)	22.9 (±0.5)	0.2 (±0.1)	2.1 (±0.2)	0.0 (±0.1)	0.2 (±0.1)	0.2 (±0.1)	0.2 (±0.1)
32	767,245	605,562	475,840 (±5,651)	16.2 (±0.6)	16.0 (±0.6)	0.4 (±0.1)	0.3 (±0.1)	58.2 (±0.4)	0.3 (±0.1)	7.1 (±0.4)	0.1 (±0.1)	0.7 (±0.1)	0.5 (±0.1)	0.3 (±0.1)
33	767,033	559,071	372,515 (±5,445)	44.3 (±0.9)	23.5 (±0.7)	0.3 (±0.1)	0.1 (±0.1)	27.4 (±0.5)	0.3 (±0.1)	3.2 (±0.3)	0.1 (±0.1)	0.3 (±0.1)	0.2 (±0.1)	0.2 (±0.1)

The American Community Survey provided estimated citizen voting age population (CVAP) data at the block group level in a Special Tabulation. Because the MOE can only be calculated using whole block groups, all block groups with more than 50% of the population in a district are included in the analysis. The Red-118 report provides a summary of the block groups used in the analysis. The percent for each CVAP population category is that group's CVAP divided by the CVAP total. Numbers in parentheses are margins of error at 90% confidence level.

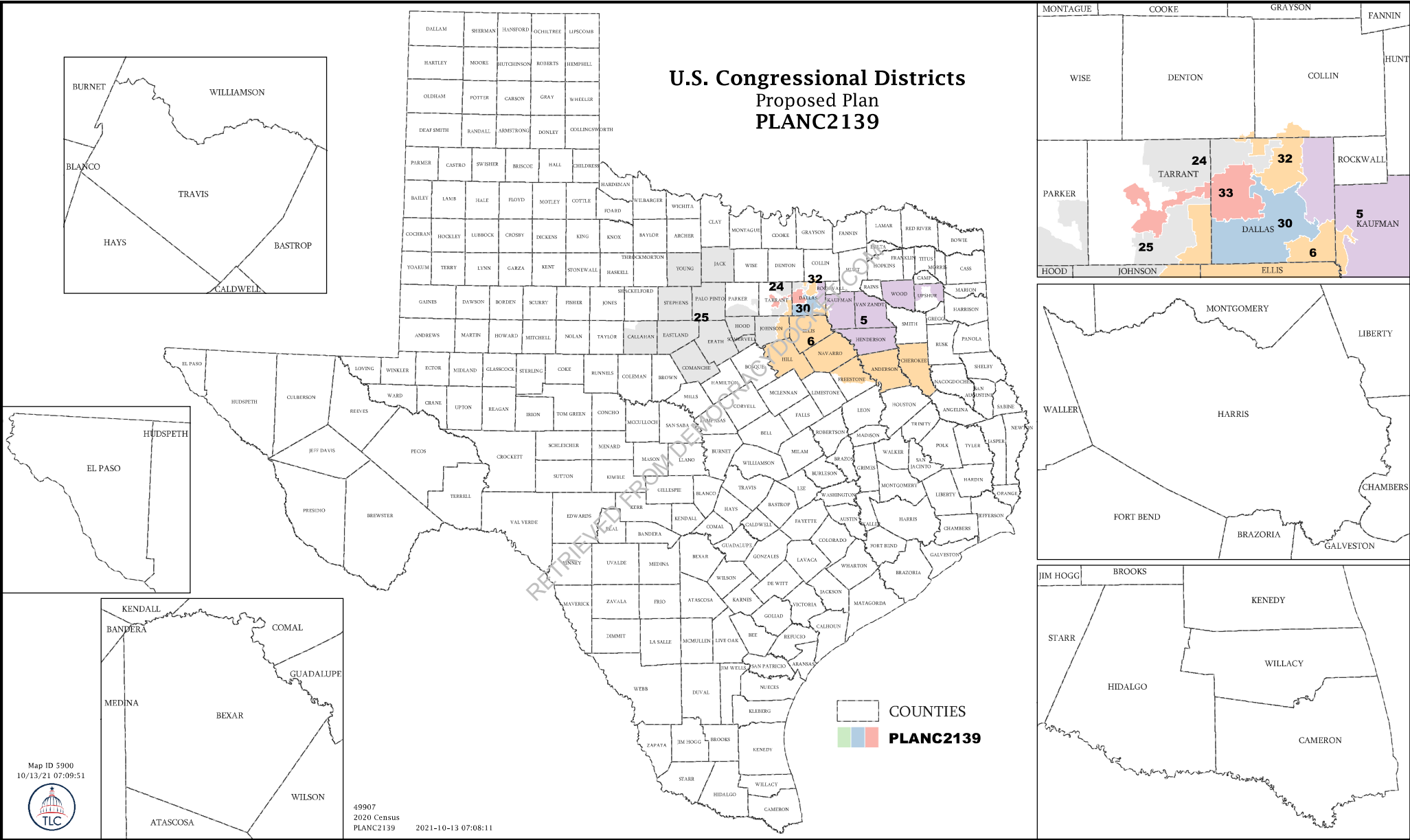
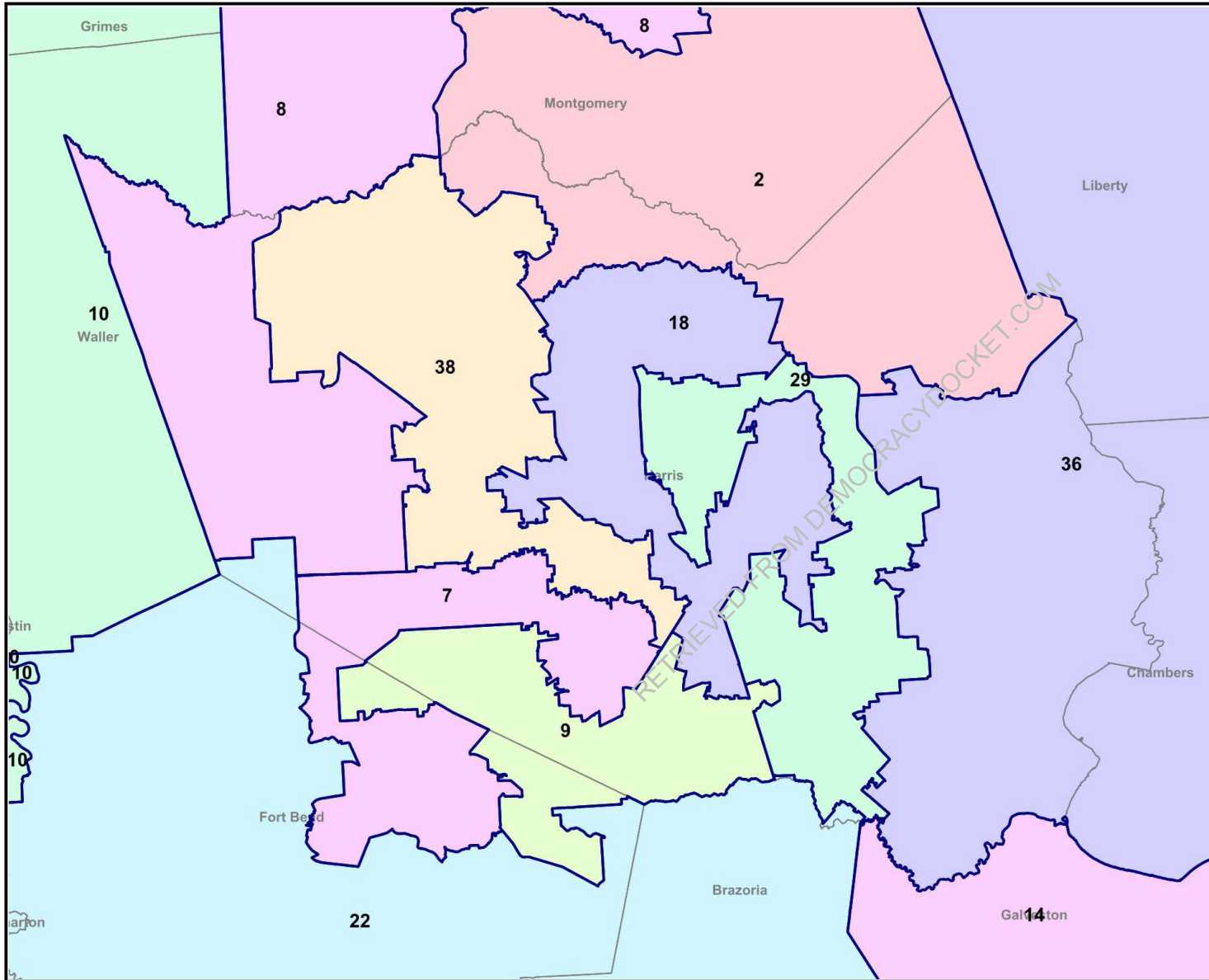


EXHIBIT D



Harris County
U.S. Congressional Districts
SEN. MILES STATEWIDE AMEND PLANC2116 (CSSB6)
PLANC2131

County
District

RedAppl: 5000
10/7/2021 3:38:26 PM



2020 Census
PLANC2131 10/7/2021 9:00:18 AM

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

LULAC, et. al.,)	
)	
<i>Plaintiffs</i>)	
)	
Eddie Bernice Johnson, Sheila Jackson-Lee)	
Alexander Green, and Jasmine)	
Crockett)	
)	
<i>Plaintiff-Intervenors</i>)	
)	
v.)	Case No.: EP-21-CV-00259-DCG-
)	JES-JVB [Lead Case]
GREG ABBOTT, in his official capacity)	
As Governor of Texas, et. al.)	
)	
<i>Defendants</i>)	

**COMPLAINT OF PLAINTIFF-INTERVENORS EDDIE BERNICE JOHNSON,
SHEILA JACKSON-LEE, ALEXANDER GREEN, AND JASMINE CROCKETT**

Background

1. This is an action to enforce Plaintiff-Intervenors rights under the Fourteenth and Fifteenth Amendments to the United States Constitution and under Section 2 of the Voting Rights Act, 42 U.S.C. § 1973 et seq. Plaintiff-Intervenors Johnson, Jackson-Lee and Green are current members of the United States Congress and Crockett is a voter who resides in Texas 30th Congressional District now represented by Congresswoman Johnson. All of the applicant intervenors are not only voters but regularly vote and intend to vote in the 2022 Congressional elections and thereafter. Plaintiff-Intervenors bring this action requesting declaratory and permanent injunctive relief against the State of Texas to challenge the 2021

Congressional Plan C2193 adopted by the Texas State Legislature. The adopted Plan is retrogressive, dilutes the voting strength of African American and Latino voters because, and, under the totality of circumstances, African-American and Latino voters do not have an equal opportunity to elect candidates of their choice to the United States Congress. This is so both in the Harris County-Fort Bend Region and in the Dallas-Fort Worth Metroplex Area.

2. The plan is also heavily infected with an intent to discriminate, on the basis of race and ethnicity, against African American and Latino voters, in violation of both the Voting Rights Act and the Fourteenth and Fifteenth Amendments to the United States Constitution. The 9th, 18th, and 30th Congressional Districts were all close to the optimal size of 766,000 persons for districts after the 2020 census. The 9th District in particular was only 3,611 persons above the optimum number of persons for a Texas Congressional District. The drastic changes made by the Texas Legislature removed 266,000 voters from this optimum-sized district, then added 263,000 new voters to the district. These actions were taken in order to ensure that white voters would be able to control a majority of the voting districts in the area.

3. Of the 10 Congressional Districts in the Houston area, white voters were drawn control of 7 of them, even though whites are only 33.6 percent of the area population. Instead of being drawn a new Congressional District that they could control, Latino voters were packed into existing African-American and Latino opportunity districts, or cracked into white- or Anglo-dominated districts. Latinos and African-Americans were sliced and diced to make the map of the region achieve its discriminatory purpose and objective. Congressional District 9, though in need of essentially no surgery, received 12 new precincts from Fort Bend County; 13 new precincts from Brazoria County; 10 new precincts from the 18th

Congressional District in Harris County; and lost 11 precincts in Fort Bend County. Precincts in the Hobby Airport area were removed from Congressional District 29 and moved into Congressional District 9. As a result, the already optimal-sized district became a completely new district. Performance figures show that the African-American voter percentages and the related performance of the 18th decreased. Thus, beyond losing historical precincts that had been in the historic precinct since the time of Barbara Jordan (during the 1970s) it retrogressed in terms of effectiveness.

4. The 30th Congressional district lost voters to the 6th Congressional District. The minority voters who were lost from that district were placed into the 6th in order to provide population to the 6th Congressional District under circumstances where the voters who were cracked out of the 30th would have no ability to elect the candidate of their choice. Further, the 30th was reduced from an above 50 percent Black Citizen Voting Age Majority District to a below 50 percent Black Citizen Voting Age Majority District. Besides being drawn to ensure that white voters would continue and dominate the majority of area districts in the Harris and Fort Bend Area as well as the Dallas Fort Worth Metroplex Area, the districts were designed to prevent the creation of either a new Latino opportunity district or a new Minority Coalition District with a plurality of Latino population from being drawn in either area.

5. In the 6th Congressional District, a naturally occurring minority district was taking shape and growing. To stymie that rise in minority voters, the map drawers cut out voters from the 6th and placed them in the 30th Congressional District, thereby requiring displacement of existing voters in the nearly optimum sized district.

6. A ruling by this Court is necessary to protect the voters of the 9th, 18th and 30th Congressional Districts. A ruling by this Court is also necessary to protect the voters in the Harris County and Fort Bend Area as well as the Dallas Fort Worth area. Furthermore, absent corrective action from this Court, this new redistricting plan will continue to dilute the voting strength of Texas' African American and Latino citizens and deny them fair representation in the United States Congress. Plaintiff Intervenor Johnson, Jackson-Lee, Green and Crockett seek the implementation of a redistricting plans that will not dilute the voting strength of African-American voters in Texas, the areas of the State in which they are placed or that will be retrogressive.

I. JURISDICTION

7 Plaintiff-Intervenor's complaint arises under the United States Constitution and federal statutes. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331, 1343(a)(3) and (4), and 42 U.S.C. § 1988.

8. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b).

9. Plaintiff-Intervenor seek declaratory and injunctive relief pursuant to 28 U.S.C. § 2201 and 2202.

II. PARTIES

10. Plaintiff Congresswoman Eddie Bernice Johnson is an African-American who resides in Dallas Texas and represents Congressional District 30. She has served in Congress since 1993. Congresswoman Johnson was the first African-American female Chairperson of a Congressional Subcommittee. She is a former Chair of the Congressional Black Caucus and currently a member of the House Transportation and Infrastructure Committee, the Aviation,

Highways and Transit, and Water Resources and Environment Subcommittees. Congresswoman Johnson has worked zealously to represent her district where she ably represents African-American voters and a coalition of African-American and Latino voters. She is also a registered voter.

11. Congresswoman Sheila Jackson-Lee is in her fourteenth term in the United States Congress, representing the historic 18th Congressional District held previously by the late Barbara Jordan and Mickey Leland. She is a Member of the Judiciary and Homeland Security Committees and is the founder and co-chair of the Congressional Children's Caucus. She has been a true advocate for immigration reform during her tenure in Congress and has worked zealously to represent her district, Congressional District 18, where she ably represents African-American voters and a coalition of African-American and Latino voters. She is also a registered voter.

12. Congressman Alexander Green is in his ninth term in Congress. He is a member of the Financial Services and Homeland Security Committees. He is the Chair of the Financial Services Sub-Committee on Oversight and Investigations as well as the Chair of the Texas Democratic Congressional Delegation. As a former elected judge of a Harris County small claims justice court as well as a former president of the Houston Branch NAACP, he judiciously and zealously represents African American voters as well as a coalition of African American, Latino, and Asian American voters in Congressional District 9. He is also a registered voter.

13. Jasmine Crockett is a voter who resides both in the current Congressional District 30 and in the newly adopted version of Congressional District 30. She is involved in civic and

political affairs throughout the Congressional District. As a Representative in the Texas Legislature she took the lead in attempting to prevent retrogression and vote dilution of the voters in the 30th Congressional District. She lives in Dallas and as a State Representative she tendered proposed changes to Congressional District 30 that would have permitted it to continue as a 50 percent African-American Citizen Voting Age population district, the amendment, however, failed to pass. She is a constituent of Congresswoman Johnson and is a registered voter who intends to vote in future Congressional elections.

14. Defendant the State of Texas is a political subdivision covered under the provisions of the Voting Rights Act and responsible for the actions of its officials with regard to state-wide redistricting.

15. Defendant Greg Abbott is the duly elected and acting Governor of the State of Texas. Under Article IV, Section 1, of the Texas Constitution, he is the chief executive officer of the Defendant State of Texas. He is sued in his official capacity.

16. Defendant Daniel Patrick is duly elected and acting Lieutenant Governor of Texas. Under Article IV, Section 16, of the Texas Constitution he is the President of the Texas Senate. He is sued in his official capacity.

17. Defendant Dade Phelan is the duly elected and acting Speaker of the Texas House of Representatives and is the presiding officer over the Texas House of Representatives. He is sued in his official capacity.

18. Defendant John B. Scott Hope is the duly appointed and acting Secretary State of the State of Texas. He is sued in his official capacity.

III. FACTS

19. The individual Congresspersons are all elected with substantial support from the African-American and Latino voters in the districts which they represent. The individual Congresspersons are concerned about the welfare of the individual districts that they represent and took an active role in attempting to ensure that appropriate districts were drawn that were not retrogressive districts as part of larger vote dilution schemes to improperly empower white voters. Crockett has been an important member of Congressional District 30, being actively engaged in the affairs of the district and attempting to uplift the population even before being elected to office. She was one of the primary legislators seeking to prevent retrogression in the 30th Congressional District. She is and intends to remain an active voter, including in the 2022 and later elections to fill the position of Congressperson for the 30th Congressional District.

20. Section 2 of the Voting Rights Act of 1965, 42 U.S.C. 1973, applies nationwide and prohibits voting practices and procedures that result in the denial or abridgement of the right of any citizen to vote on account of race, color, or membership in a language minority group. Section 2 is a permanent provision of the federal Voting Rights Act.

21. After the last decennial census, the Texas Congressional apportionment increased from 36 representatives to 38 representatives, due to an overall population increase of approximately 4 million persons. Non-whites accounted for approximately 95 percent of the growth. This is after the last decade when Texas' Congressional Representation increased from 32 seats to 36 seats on the basis of growth in Texas of which approximately 79 percent was attributable to African-Americans and Latinos alone.

22. Proportionally, voters of color in Texas are underrepresented in the U.S. House of Representatives in the new map, with white voters being able to control at least 24 of the 38 seats, but more than likely, at least 26 seats. The drafting scheme involved: (a) packing minority voters into districts that were already minority opportunity districts, and therefore, needed no additional minority voters; (b) moving minority voters into districts where they would be /outvoted by white voters; and (c) a new third feature that involves placing minority voters in districts where they would be outvoted by progressive white voters.

23. During the 2021 redistricting process, Senator Borris Miles and Representative Senfronia Thompson attempted to present plans for the 9th and 18th Congressional Districts that did not involve the unnecessary surgery on the districts that occurred in the map similar to what had occurred in 2011. Intervenor Crockett unsuccessfully submitted an amendment, C2139, to the proposed State Congressional plan that would have prevented retrogression of the 30th Congressional District. Senator Miles was not able to formally file the proposal that would provide a proper remedy to what the Senate had proposed. The Senate, thereafter, adopted a map that was even more retrogressive as to the 9th and 18th than is the current proposed map. One plan he put forth unsuccessfully to try and address the retrogression and unnecessary surgery to the 9th and 18th Congressional Districts was C2131. In the hastily called House Committee hearing on redistricting, surprisingly called 48 hours before the scheduled hearing on the same day the hearing on the State House Map was to take place. Representative Thompson attempted to introduce an amendment tendering the same remedial map as Senator Miles attempted to present in the hastily called House Committee hearing to consider the Senate adopted map.

24. The House used this adopted House Map even after House Chairman Hunter assured Congresswoman Jackson-Lee, Congressman Green, and Texas Black Caucus Vice-Chair Ron Reynolds that they would not use the Senate map as a basis for creating the Congressional Plan to be voted on by the House. See Letter to Legislators from Congresspersons Jackson-Lee and Green which are attached hereto and incorporated for all purposes as if fully set forth herein. As were many of the members of the Legislative Black Caucus, Congresspersons Jackson-Lee and Green were surprised by the short notice of a hearing which came on the morning the House was scheduled to debate the new proposed State House Map. The African-American Vice-Chair of the Redistricting Committee was also unaware that the hearing notice was to be sent out. The hearing on the Senate Map was not only a surprise because of these representations but also because the hearing was set just 48 hours after the House was to debate its map. Chairwoman Senfronia Thompson, the Dean of the House, made a proposal which essentially took the limited territory from the 3 minority opportunity districts in Harris and Fort Bend Counties (now including Brazoria) and reconfigured them to lessen the retrogression and dilution as to those district. This was done specifically because a full fix that would have involved impacting 7 as opposed to 4 districts would not be permitted.

25. A full remedy was not supported by the Texas Legislative Leadership necessary for it to be considered. A small exchange of voters was also made between the 7th and 18th Congressional Districts. Chairman Hunter supported this change. A full remedy as provided for in C2131 or other maps available to the Legislature was not supported by the Texas Legislative Leadership and this was necessary for it to be favorably considered.

26. Congressional District 30 was unnecessarily reduced below a Citizen Voting Age population of 50 percent and voters were cracked out of the district to be placed in areas where their votes will essentially not count. Voters from the 6th Congressional district were added to the 30th Congressional District to prevent a naturally occurring minority coalition district and ensure continued dominance of white voters in the 6th. Movement of these voters required displacement of other voters already with Congressional District 30, so a number of African-American voters were cracked out of the district to make way for the new voters. Congressional District 30 was near the optimal size so such surgery was unnecessary. Intervenor Crockett introduced an amendment the retrogression but was not successful in achieving passage. The population increases in both the Harris County and Fort Bend Area as well as the Dallas Fort Worth Metroplex Area each justified the creation of a new Congressional minority opportunity districts in each region. The 2021 plan did not create any additional minority opportunity or other Congressional districts in the Dallas Fort Worth Metroplex region, but it did create a new seat in the Harris County/Ford Bend County area. The new Harris County/For Bend seat will be dominated by white voters.

27. As drawn in the congressional plan passed by the Texas Legislature, congressional districts in Harris, Fort Bend, Brazoria, Galveston and other area counties as well as in Dallas, Tarrant, Johnson and neighboring counties dilute the voting strength of African-American and Latino voters.

28. In the congressional plan passed by the Texas Legislature in 2021, Congressional Districts 9, 18 and 30 were drawn in a way that causes retrogression of the minority voter strength and further undermines the ability of African-Americans and Latinos to effectively

participate in the political process in those areas, elect the candidates of their choice, and intentionally discriminates against voters in those districts. Clearly, map drawers diluted African-American and Latino voters voting strength. Communities of interest or neighborhoods were cracked or split and minorities were placed in districts for the purposes of enhancing white voter power. In the Houston area there was an area racial gerrymander where black voters were moved between different Congressional Districts so that white voters would dominate. Black and Brown voters that who represented political problems in Congressional Districts such as 7, 14, 22 and 36 were moved from those districts so that white voters would dominate.

29. Black and Brown voters and voters who voted with them were moved into Congressional District 7 to strengthen that district on behalf of the white incumbent. Congressional District 7 was near the optimum size for districts in the 2021 round of redistricting, but the map drawers moved nearly a quarter of a million voters from the African-American Opportunity District in Congressional District 9 in order to strengthen Congressional District 7. This major transfer of voters then required the map drawers to crack out 10 precincts from allied communities of interest that had worked together in the 18th Congressional District and place them in the 9th. The Latino opportunity District CD29 was negatively impacted as well, losing an important community of interest that was placed in the 9th Congressional District

30. Congressional Districts 18 and 30 are retrogressed in the adopted plan and they are retrogressed so that area vote dilution and/or a racial gerrymander of each area likely would take place. Both took on unnecessary new voters. Congressional Districts 9, 18 and 30 are all

minority opportunity districts. The new plan reduced the Black Citizen Voting Age population of the 30th from 51 percent to 48 percent, and the Texas Legislature declined to adopt an amendment that would have cured this retrogression. African-American voters were moved from Congressional District to Congressional District to ensure white voter dominance in the Metroplex. Black and Brown voters were moved from the 6th to the 30th and from the 30th to the 32nd and from the 5th and 24th to the 32nd in order to accommodate this scheme. Congressional District 24 had become a majority non-white district but minority residents and voters were purged from the district so that it is now safely a predominately white district. With the infusion of many additional white voters into the seats in the metroplex held by white Congresspersons who were voted in by white voters, the 32nd Congressional District saw an incredible rise in its minority and Black and Hispanic population and voter percentages. Its overall non-white population increased from 53.1 percent to 67.8. At the same time one-third of the Blacks and Hispanics were removed from Congressional District 24. The Legislature also rejected and/or spurned attempts to cure the retrogression in Congressional District 18. The Legislature was locked in on discrimination in both the 30th and the 18th, as well as the 9th, because their configuration in the proposed map was part of a greater area scheme to dilute minority voting strength and/or racially gerrymander the area to enhance white voter strength.

31. The dilution included cracking and dispersing Black and Brown voters, failing to draw new Latino Districts, packing of minority voters, and destructing or failing to draw naturally occurring districts, which would provide greater influence to minority voters. Furthermore, the Legislature failed to draw minority coalition districts between Black and Brown voters, who vote cohesively in areas where they are likely to constitute a majority of the citizen voting age

population, but where white voters have voted as a block statewide (such as in the Dallas/Fort Worth Metroplex and in the Harris/Fort Bend County Area). That is another way of denying Black and Brown voters an election in which they decided the candidates they prefer and choose. When they do get to choose, Black and Brown voters have voted cohesively in recent national, state and presidential elections, among others. Black and Brown voters have voted cohesively in recent United States Senate race in 2018, the Lieutenant Governor's race in 2018 and the 2016 and 2020 Presidential campaigns among many others. The African-American Congresspersons all have strong African-American and Latino support with Congresswoman Jackson Lee even prevailing recently in Latino precincts when opposed by opponents with Spanish surnames.

32. The 2021 Congressional plans unnecessarily split communities of interest from the 9th, 18th and 30th Congressional Districts, removed important economic engines from the 9th and 18th, packed Latino voters unnecessarily into the 18th and 9th Congressional Districts, and were purposefully designed to undermine or frustrate effective and long-term voter coalitions in the area as well as effective minority voter participation. The new Congressional District in the Houston area will be dominated by white voters, even though Latinos were the group most responsible for the state's population increase. It's worth noting that Latino voters have not been hostile to candidates supported by white conservatives.

33. Elections in Texas continue to be racially polarized. Statewide officials in Texas have become more anti-Black and anti-Brown in their public statements and overt actions particularly in 2021. Massive election revisions were adopted by the 2021 Legislature, many of which are intentionally discriminatory against and target African-Americans or Latinos.

Consider that the State adopted many other discriminatory laws such, as laws banning the utilization of critical race theory in public schools. It's worth noting that critical race theory has never been taught or studied in Texas public schools so that now is being used to erase or diminish the teaching of legitimate history and facts regarding African Americans and their history and culture in Texas and the U.S. Even the rhetoric was racially-charged: When Black, Brown and some white legislators left the State, some white public officials indicated that they should be arrested and "quartered" until the voting takes place. Such language represents vestiges of Texas' Jim Crow past, and its return to the present. The irregularities during the session were overtly racial, and they include, but are not limited to:

- i. The refusal to permit participation by the Chairperson of the Legislative Black Caucus, Nicole Collier, in Election Committee Hearings;
- ii. the refusal of the Senate to put an African-American lawmaker on any election or redistricting conference committee;
- iii. the refusal of the Senate to put a Latino lawmaker on the Congressional redistricting bill conference committee;
- iv. the refusal of the Senate to hear virtual testimony on the redistricting bill even though the minority community in Texas was hugely impacted by the coronavirus pandemic;
- v. instead of drafting its own Congressional map, the House decided to use the Senate adopted map as a base map for its work, even though House leadership was aware of the discrimination that existed in the Senate plan;
- vi. instituting a rule that required before you could present an amendment to the proposed map for consideration in the Senate Committee, you must receive the consent of all Congresspersons who would be impacted;
- vii. the refusal to receive any map for consideration in the Senate Redistricting Committee unless it was plugged into the proposed statewide map drawn by the white Congresspersons;

viii. the refusal for transparency and appropriate notification. For example, on the day that the House Redistricting Map for the Texas House of Representatives was to be considered, the Chairman of the House Redistricting Committee made a surprise announcement that the House would have a hearing on a Congressional Plan in 48 hours and that the Senate Map would provide the base map for this process;

ix. the implementation of gate-keeping rules to prevent Black and Brown lawmakers from amending discriminatory or racial gerrymandering tactics, One example is that lawyers were brought in for the House debate on the Congressional bill, so that any amendments could no longer simply be authorized by the Redistricting Chair or the Speaker. This group of lawyers for the conservative white leadership were required to approve potential amendments before they were accepted for consideration on the floor; and

x. During the House debate on the Congressional Map Intervenor Applicant Crockett and others were required to deliver proposed Amendments to designated Representatives who would take them to a room in which they could not enter for the proposed Amendment to be reviewed by white lawyers before it could be offered.

34. African-Americans in Texas generally vote as a group and are politically cohesive.

35. Latinos in Texas vote as a group and are politically cohesive.

36. Latinos and African-Americans in Texas vote as a group and are politically cohesive.

Latinos and African-Americans in Congressional District 30, Congressional District 9 and Congressional District 18 vote as a group and are politically cohesive in ensuring the continued character of the districts. Latinos and African-Americans in Dallas and Tarrant Counties vote as a group and are politically cohesive. Latinos and African-Americans in Harris, Fort Bend, Galveston and Brazoria counties vote as a group and are politically cohesive.

37. Anglos in Texas and in the counties included in the Houston/Fort Bend gerrymander and those in the Dallas/Fort Worth Metroplex gerrymander generally vote as a group, are politically cohesive and vote sufficiently as a block to defeat the preferred candidate of Latino and African-American voters absent fair and equitable majority-minority single member

districts. This has been documented by federal and state courts, the United States Commission on Civil Rights and by the United States Congress.

38. The Senate Committee on Redistricting refused to accept any amendment for consideration that was not agreed to by any and every Congressperson affected by the change, and further any proposed change had to use the proposed map as a basis or beginning from which to draft them. Empowering these white Congresspersons to have the authority to veto any changes to African-American opportunity districts was in effect a policy of granting them overseer status over minority opportunity districts such as Congressional Districts 9, 18 and 30. The Congressional map has been drawn up primarily by conservative white Congresspersons who have generally voted against the interests of the African-American community. One conservative white Congressman informed Congresswoman Jackson Lee that he was the principal draft person. Despite attempts by Senator Borris Miles, Senator Royce West and Senator Carol Alvarado to stop the retrogression and vote dilution of the districts and the Harris Fort Bend and Dallas Fort Worth Metroplex areas, the Senate adopted an excessively discriminatory plan that changed the 18th from an African-American opportunity district to a democratic district.

39. The State adopted a retrogressive version of Congressional Districts 9 and 30 as well. The House through the efforts of Representative Thompson cured some, but not all, of the retrogression and dilution in Congressional Districts 9 and 18. Through the efforts of Intervenor Crockett some of the retrogression and dilution in Congressional District 30 was modified. The Congressional Plan was modified in the House but was passed in the House by an overwhelming vote from white members even though minority members overwhelmingly

opposed the map. Because the House version was different than the Senate's, a Conference Committee with no Black or Latino senators from the Senate was appointed and it agreed to many of the House changes. Thereafter the Conference Committee version was signed into law by the Governor and will become effective in 2022.

40. Public opposition to this map was overwhelming in both the Senate and the House, but particularly from members of Texas' minority community. Minority legislators and their allies spoke with great depth and clarity so it was clear that the legislature was aware of the discriminatory impact the bill would have. The public registered overwhelming opposition to this plan and the public provided in-depth information regarding the plan and its discriminatory impact. Whites in Congress drew up the bill for their advantage and were required to approve any changes to what they originally drew up. The Legislature embraced and adopted this approach. By so empowering white Congresspersons to become the overseers of minority opportunity districts.

41. Further, the actions of the Legislature in reference to limiting testimony in the Senate, giving short notice for the House Committee hearing, not permitting amendments to be considered in the Committee, and the failure of the Senate to put a minority on the Conference Committee at a critical point when the bill was considered in the special-called session, (and the many other irregularities), all support the clear fact that the Legislature's action in adopting this map was infused with discrimination. Many minority legislators and non-minority legislators who supported the interests of minority voters all voiced strong, lengthy and well-reasoned opposition to the proposed map. Nevertheless, the white lawmakers adopted the discriminatory plan to benefit conservative white votes and maintain and sustain white majority

rule and power, even as the state's population has reached a point in which the majority of its citizens are minority.

42. It is revealing is how the white majority used population data in the treatment of Black and Latino voters. This is indicative of discriminatory intent. In the case of African Americans, majority party leaders used voting age population data to justify actions in reference to Black districts. By contrast, they used different data that included citizenship to justify actions in reference to Latino voters. In each instance they chose to justify the plan as to these two minority groups in specific ways that would empower and prefer white voters and disadvantage minority voters.

43. During the 2021 legislative process, the Texas Legislature had before it or was aware of plans for the Congressional districts that did not dilute the voting strength of African-American and Latino voters. Despite that, the Legislature rejected those plans for plans that did not afford minority voters an equal opportunity to elect candidates of their choice. It also utilized rules and procedures to prevent the receipt of other plans that limited minority vote dilution.

44. Numerous plaintiff groups filed suit in October and November of 2021 challenging the 2021 adopted Congressional plans as violating the Equal Protection Clause of the 14th Amendment and Section 2 of the Voting Rights Act.

45. Because Texas was no longer a covered jurisdiction under Section 5 of the Voting Rights Act of 1965 as a result of the *Shelby County v. Holder* decision of the United States Supreme Court, it was not required to obtain federal preclearance before implementing its enacted redistricting plans. With regards to the Congressional plan in 2011 when Texas was covered and when similar actions were taken as were taken this time, the D.C. Court noted that

the Department of Justice and Intervenors (many of whom are Plaintiffs in the instant action) presented more evidence of intentional discrimination than the court had room to discuss. *Texas v. United States*, 887 F. Supp. 2d 133, 162 n. 32 (D.D.C. 2012). Specifically, the Court found that the way in which the State had carved apart the Congressional districts being represented by African-American members of Congress could be explained only by an intent to discriminate against minority voters in the districts. *Id.* at 160-61.

46. While the House this year adopted a plan that did make improvements on the Senate map, it did not come close to eliminating the retrogression, vote dilution, racial gerrymandering nor the unconstitutional intentional discrimination harm to African-Americans and Latinos.

47. As urged by these Congresspersons throughout this process the minority population growth in the Dallas-Fort Worth Metroplex and the Harris County-Fort Bend-Brazoria Areas was more than sufficient to support an additional, reasonably-compact district in which minority voters, especially Latino voters, would have an opportunity to elect the candidate of their choice.

48. There is sufficient Latino population in the Dallas-Fort Worth metroplex to construct a reasonably-compact district in which Latino voters or Latino voters in cooperation with Black voters have an opportunity to elect their candidate of choice. This district can be drawn while still maintaining the ability of black voters to elect their candidates of choice in Congressional Districts 30, 32 and 33.

49. There is sufficient Latino population in the Harris County-Fort Bend Area to construct a reasonably-compact district in which Latino voters have an opportunity to elect their candidate

of choice. This district can be drawn while still maintaining the ability of black voters to elect their candidates of choice in Congressional Districts 9 and 18.

50. During the special session, advocacy groups and elected officials representing minority communities pointed out the statutory and constitutional flaws still present in the Court's interim plan and urged that these flaws be corrected. The failure to create anew Latino opportunity district in the Dallas-Fort Worth region and/or the Harris County-Fort Bend County region is a remnant and perpetuation of the state's intent to discriminate against and dilute the voting strength of African-American and Latino voters. That resulted in the creation of 60 percent or greater of Texas Congressional districts that are white dominated and/or likely to elect white candidates.

51. The failure to remedy the intentional cracking of a cohesive community of color in the congressional plan in Congressional Districts 9, 18, and 30 are remnants of and perpetuation of the state's intent to discriminate against voters of color.

52. The failure to remedy the retrogression of Congressional Districts 9, 18 and 30, the removal of economic engines from the 9th and 18th and unnecessary surgery, including cracking of minority communities in each of the districts, is a remnant and perpetuation of the state's intent to discriminate against voters of color that persists in the 2021 adopted Congressional plan. Those factors are compounded by the dilution of minority voting strength, including the unnecessary packing of Latino voters within the 9th, 18th and 30th Congressional Districts and in the Harris County/Fort Bend Area and the Dallas/Fort Worth Metroplex Area.

CAUSES OF ACTION

Count I

53. The allegations contained in paragraphs 1-52 are alleged as if fully set forth herein.

54. The 2021 Congressional redistricting plan violates Section 2 of the Voting Rights Act, as amended, 42 U.S. § 1973. The plan results in a denial or abridgement of the right to vote of individual plaintiffs and voters in the 9th, 18th and 30th Congressional Districts on account of their race, color, or ethnicity, by having the effect of canceling out or minimizing their voices individually and officially. The plaintiff intervenors were not afforded an equal opportunity to participate in the political process as citizens or elected officials nor to elect representatives of their choice, and deny individual plaintiffs the right to vote in elections without discrimination of race, color, or previous condition of servitude in violation of 42 U.S.C. § 1973.

Count II

54. The allegations contained in paragraphs 1-52 are alleged as if fully set forth herein.

55. The 2021 Congressional redistricting plan C293 violates Section 2 of the Voting Rights Act, as amended, 42 U.S. § 1973. These plans result in a denial or abridgement of the right to vote of individual plaintiffs on account of their race, color, or ethnicity, by having the effect of canceling out or minimizing their individual voting strength as minorities in Texas. The redistricting plans passed by the Texas Legislature do not afford individual plaintiffs or voters in the 9th, 18th and 30th Congressional Districts an equal opportunity to participate in the political process and to elect representatives of their choice, and deny individual plaintiffs the right to vote in elections without discrimination of race, color, or previous condition of servitude in violation of 42 U.S.C. § 1973.

Count III

56. The allegations contained in paragraphs 1-52 are alleged as if fully set forth herein.

57. The 2011 redistricting plans adopted by the Texas Legislature were developed with the intent to disadvantage African-American and other minority voters including those in the 9th, 18th and 30th Congressional Districts. That intentional discrimination is in violation of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, the Fifteenth Amendment of the United States Constitution, and 42 U.S.C. § 1983.

Count IV

58. The allegations contained in paragraphs 1-52 are alleged as if fully set forth herein.

59. The 2021 redistricting plans adopted by the Texas Legislature were developed in such a way and with the intent to not provide any new opportunity districts to minority voters and to ensure that districts dominated by or electing white representatives would continue to elect the candidate of choice of white voters. Further, the plan was drawn to maximize the voting power of white voters in the Harris County-Fort Bend County and Surrounding Area, and the Dallas-Fort Worth Metroplex to disadvantage African-American and other minority voters including those in the 9th, 18th and 30th Congressional Districts. This redistricting plan contains clear elements of drafting which show the Legislature was undeniably motivated by unconstitutional desires to minimize and exclude the political voice of voters of color in the state and in the 9th, 18th and 30th Congressional Districts. This intentional discrimination is in violation of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, the Fifteenth Amendment of the United States Constitution, and 42 U.S.C. §

1983. The 9th, 18th and 30th were drawn as part of a racial vote dilution or racially scheme that was designed and intended to prefer and empower white voters above minority voters.

Count V

60. The allegations contained in paragraphs 1-52 are alleged as if fully set forth herein.

61. The 2021 Congressional redistricting plan adopted by the Texas Legislature is so rife with an intent to discriminate against minority voters including those in the 9th, 18th and 30th Congressional Districts that Plaintiffs and all minority voters in Texas or those in the 9th, 18th and 30th Congressional Districts are entitled to equitable relief under Section 3(c) of the Voting Rights Act, 42 U.S.C. § 1973.

Count VI

62. The allegations contained in paragraphs 1-52 are alleged as if fully set forth herein.

63. Race was the predominant factor in the drawing of the Congressional Districts both in the Dallas/Fort Worth Metroplex and the Harris County/Fort Bend Area. In the Dallas/Fort Worth Metroplex Area, the Congressional Districts impacted were white voter dominated Congressional Districts 6, 12, 24 and 25 whose drawing caused the encompassing of minority voter dominated Congressional Districts 30, 32 and 33. In the Houston/Fort Bend County Area, the Congressional Districts impacted were conservative white voter dominated Congressional Districts 2, 14, 18 and 22, white voter controlled Congressional District 7 and minority voter controlled districts 9, 18 and 29 which were impacted by the racial gerrymander to enhance Congressional Districts 2, 7, 14, 18 and 22.

64. Racial considerations were the legislature's dominant motivation of the legislature in adopting the Dallas/Fort Worth Metroplex Area Districts and the Harris County/Fort Bend

County Area Districts. Latinos were responsible for approximately 52 percent of the State's growth and were responsible for 65 percent of the State's growth according to the 2010 Census but the Legislature chose to engage in this racial gerrymander to ensure that Latino voters would not be drawn a seat which they could control. That goes against population figures that show Latino growth was so substantial in each of these areas that such seats were naturally occurring and could have easily been drawn by the Legislature. Minority opportunity districts which were close to the optimum size became the subject of cracking and dispersion in order to further this aim. Latino voters and those who might align with them were placed in other districts when they could and should have been included in either a new Latino opportunity district in Harris/Fort Bend and also Dallas/Fort Worth Metroplex. Minority voters were joined to the 30th, 32nd and 33rd that could have been used to create a new Latino opportunity district, and minority voters were moved from Congressional District 6 and 5 into Congressional Districts 30 and 32 in order to ensure continued white voter control of those districts.

65. Traditional redistricting principles were thereby ignored and major surgery took place in the 9th, 18th and 30th Congressional Districts. White voters of both parties were given stronger districts and each a new district. Some of the districts were irregular in shape. The Senate delegation on the Conference Committee on C2193 had no African-Americans or Latinos and the House Conference Committee had no Latinos. The Legislature adopted this map with a discriminatory intent and bad faith towards the African-American and/or Latino communities including those in the benchmark plan in Congressional Districts 9, 18 and 30 and as to those voters in the new map who are now included in Congressional Districts 9, 18 and 30.

66. Because racial considerations predominated in the map drawing, Defendants' justifications for the maps are subject to strict scrutiny.

67. By engaging in the acts and omissions alleged herein, Defendant acted and continue to act under color of law to deny the Plaintiff rights guaranteed to them by the Fourteenth and Fifteenth Amendments to the U.S. Constitution and will continue to violate those rights absent relief granted by this Court.

BASIS FOR EQUITABLE RELIEF

68. Plaintiff-Intervenors have no plain, adequate or complete remedy at law to redress the wrongs alleged herein and this suit for declaratory judgment and injunctive relief is their only means of securing adequate redress from all of the Defendants' unlawful practices.

69. Plaintiff-Intervenors will continue to suffer irreparable injury from all of the Defendants' intentional acts, policies, and practices set forth herein unless enjoined by this Court.

ATTORNEYS' FEES

70. In accordance with 42 U.S.C. Section 1973-1(e) and 1988, Plaintiffs are entitled to recover reasonable attorney's fees, expenses and costs.

PRAYER

Plaintiff-Intervenors respectfully pray that this Court enter Judgment granting:

A. A declaratory judgment that State Defendants' actions violate the rights of Plaintiffs as protected by Section 2 of the Voting Rights Act, 42 U.S.C. § 1973 et seq., and the Fourteenth Amendment to the United States Constitution, 42 U.S.C. § 1983; and

B. Preliminary and permanent injunctive relief requiring State Defendants, their successors in office, agents, employees, attorneys, and those persons acting in concert with them and/or at their discretion – to develop redistricting plans that do not dilute African American and minority voting strength or racially gerrymander in the 9th, 18th and 30th Congressional Districts nor in the Harris-Fort Bend Area of the Dallas-Fort Worth Metroplex Area for the Texas United States House of Representatives, and enjoining and forbidding the use of the newly-enacted congressional plan after trial on the merits; and

C. An order requiring the State of Texas to submit to this Court for preclearance, under Section 3(c) of the Voting Rights Act, any change to any voting practice or procedure, including but not limited to any new redistricting plan, for a period not less than 10 years; and

D. If need be, adopt an interim electoral plan for the 2024 elections for United States Congress and Texas House of Representatives that remedy these statutory and constitutional flaws; and

E. An order of this Court retaining jurisdiction over this matter until all Defendants have complied with all orders and mandates of this Court; and

F. An order requiring Defendants to pay all costs including reasonable attorneys' fees, and

G. Such other and further relief as the Court may deem just and proper.

Dated: December 14, 2021.

Respectfully Submitted,

/s/ Gary Bledsoe

The Bledsoe Law Firm PLLC

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TO INTERVENE BY EDDIE BERNIC
ALEXANDER GREEN AND JASMIN
PLAINTIFF-INTERVENORS

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TO INTERVENE BY EDDIE BERNIC
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and Alexander Green's Motion to Intervene and Congresspersons Eddie Bernice

JUDGE DAVID GUADERRAMA
UNITED STATES DISTRICT JUDGE