1		The Honorable Robert S. Lasnik
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8	UNITED STATES D	DISTRICT COURT
9	WESTERN DISTRICT OF WASHINGTON AT SEATTLE	
10	SUSAN SOTO PALMER, et al.,	NO. 3:22-cv-5035-RSL
11	Plaintiffs,	STATEMENT OF DEFENDANT
12	V.	STATE OF WASHINGTON RE: PLAINTIFFS' MOTION TO
13	STEVEN HOBBS, in his official capacity	BIFURCATE, AND TRANSFER AND/OR DISMISS
14	as Secretary of State of Washington, and the STATE OF WASHINGTON,	INTERVENORS' CROSSCLAIM
15	Defendants,	
16	and	
17	JOSE TREVINO, ISMAEL G. CAMPOS,	
18	and State Representative ALEX YBARRA,	
19	Intervenor-Defendants.	
20	The State of Washington agrees with	Intervenor-Defendants that combining the two
21	challenges to the Legislature's most recent redistricting plan will be more efficient for all parties	
22	involved. As it currently stands, this Court is scheduled to hold a trial on the merits of the	
23	Legislature's plan in May 2023, and then, a mo	onth later, with a three-judge panel, hold largely
24	the same trial with most of the same parties and t	the same evidence. And the State and Intervenor-

25 Defendants, for their part, will be required to put on all of their evidence, including significant

expert evidence, just to do it again a month later. This is plainly inefficient.

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These inefficiencies can be fixed if the two challenges are resolved via a single trial. The parties in *Soto Palmer* and *Garcia* are already coordinating discovery, so permitting Intervenor-Defendants to add their crossclaim, but then bifurcating that crossclaim for trial, as Intervenor-Defendants suggest may be appropriate (Dkt. # 109 at 4), would leave the parties in the same position they are in right now. Rather, as Intervenor-Defendants suggest elsewhere in their brief, the more prudent and sensible course would be for "the three-judge panel"—on which this Court sits—to "hear the case as a whole, as both claims will largely consist of the same evidence, and then [issue] separate opinions . . . for the statutory and constitutional claims[.]" *Id.* at 3 n.3.

Plaintiffs argue strenuously that the three-judge panel *might* not have jurisdiction to rule on Intervenor-Defendants' proposed crossclaim, *see* Dkt. # 105 at 3–6; *but see League of United Latin Am. Citizens v. Abbott*, No. 21-CV-00259-DCG-JES-JVB, 2021 WL 5417402 at *2 (W.D. Tex., Nov. 19, 2021), and therefore consolidation is inappropriate. But even if Plaintiffs are right, their jurisdictional concern is beside the point. This Court could render a separate opinion on the *Soto Palmer* Plaintiffs' claim following a trial before a three-judge panel on all parties' claims. This would avoid any potential jurisdictional issues. *See Cooper v. Reynolds*, 77 U.S. 308, 316 (1870) ("[J]urisdiction . [refers] to the power of the court over the parties, over the subject-matter, . . . and to the authority of the court to render the judgment or decree which it assumes to make."). And it would increase efficiency.¹

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¹ Scheduling-wise, the easiest way to accomplish this would seem to be for both claims to be heard when the three-judge panel is already scheduled to convene for *Garcia* in June 2023. This would involve an additional month of delay for the *Soto Palmer* Plaintiffs, but this brief delay would not prejudice Plaintiffs and would be more than made up for by the prejudice it would resolve to the State and Intervenor-Defendants.

1	DATED this 21st day of November, 2022, at Seattle, Washington.
2	ROBERT W. FERGUSON Attorney General
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1	DECLARATION OF SERVICE
2	I hereby declare that on this day I caused the foregoing document to be electronically
3	filed with the Clerk of the Court using the Court's CM/ECF System which will serve a copy of
4	this document upon all counsel of record.
5	DATED this 21st day of November 2022, at Seattle, Washington.
6	
7	<u>s/ Andrew R.W. Hughes</u> ANDREW R.W. HUGHES, WSBA No. 49515
8	Assistant Attorney General
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