

**STATE OF MICHIGAN
IN THE SUPREME COURT**

DETROIT CAUCUS; ROMULUS CITY COUNCIL; INKSTER CITY COUNCIL; TENISHA YANCY, as a State Representative and individually; SHERRY GAY-DAGNOGO, as a Former State Representative and individually; TYRONE CARTER, as a State Representative and individually; BETTY JEAN ALEXANDER, as a State Senator and individually; Hon. STEPHEN CHISHOLM, as member of Inkster City Council and individually; TEOLA P. HUNTER, as a Former State Representative and individually; Hon. KEITH WILLIAMS, as Chair MDP Black Caucus and individually; DR. CAROL WEAVER, as 14th Congressional District Executive Board Member and individually; WENDELL BYRD, as a Former State Representative and individually; SHANELLE JACKSON, as a Former State Representative and individually; LAMAR LEMMONS, as a Former State Representative and individually; IRMA CLARK COLEMAN, as a Former Senator & Wayne County Commissioner and individually; LAVONIA PERRYMAN, as representative of the Shirley Chisholm Metro Congress of Black Women and individually; ALISHA BELL, as Chair of the Wayne County Commission and individually; NATALIE BIENAIME; OLIVER COLE; ANDREA THOMPSON; DARRYL WOODS; NORMA D. MCDANIEL; MELISSA D. MCDANIEL; CHITARA WARREN; JAMES RICHARDSON; ELENA HERRADA,

Plaintiffs,

v.

INDEPENDENT CITIZENS REDISTRICTING
COMMISSION,

Defendant.

MSC No. 163926

Original Jurisdiction

Const 1963, art. 4, §6(19).

**DEFENDANT INDEPENDENT CITIZENS REDISTRICTING COMMISSION'S
ANSWER TO PLAINTIFFS' FIRST AMENDED VERIFIED COMPLAINT**

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**DEFENDANT INDEPENDENT CITIZENS REDISTRICTING COMMISSION'S
ANSWER TO PLAINTIFFS' FIRST AMENDED VERIFIED COMPLAINT**

NOW COMES Defendant, Independent Citizens Redistricting Commission (the "Commission"), by and through its attorneys and for its answer to Plaintiffs' First Amended Verified Complaint hereby states as follows:

INTRODUCTION

1. On November 6, 2018, Michiganders voted to amend the Michigan Constitution of 1963 to create the Michigan Independent Citizens Redistricting Commission (hereinafter "Defendant" or "the Commission").

Admitted.

2. The amendment added, in pertinent part, the following language to Michigan's Constitution:

(13) The commission shall abide by the following criteria in proposing and adopting each plan, in order of priority:

(a) Districts shall be of equal population as mandated by the United States constitution, and shall comply with the voting rights act and other federal laws

...

(c) Districts shall reflect the state's diverse population and **communities of interest**. Communities of interest may include, but shall not be limited to, populations that share cultural or historical characteristics or economic interests. **Communities of interest do not include relationships with political parties, incumbents, or political candidates.**

Mich Const 1963, art 4, §6(13)(a) and (c) (emphasis added).

This allegation is a recitation of law to which no responsive pleading is required.

3. After being created, the Commission has maintained that its mission and vision are:

Mission: To lead Michigan's redistricting process to assure Michigan's Congressional, State Senate, and State House district lines are drawn fairly in a citizen-led, transparent process, meeting Constitutional mandates.

Vision: To chart a positive course for elections based on fair maps for Michigan today and for the future.

(See <https://www.michigan.gov/micrc/0,10083,7-418-92033---,00.html>, last visited January 3, 2022, emphasis in original.)

Admitted.

4. This Supreme Court has already ruled that the Commission failed in its self-stated mission of ‘transparency’ when on December 20, 2021, it ruled that the Commission had violated Michigan’s Open Meetings Act, and ordered the commission to make public the meetings they had been having in private.

Defendant admits only that, pursuant to Mich Const 1963, art 4, §6, the Supreme Court ordered the Commission to make one previously closed session open to the public. Defendant denies that it failed in its mission of transparency and denies that the Supreme Court ruled that the Commission violated the Open Meetings Act.

5. On December 28, 2021, the Commission officially approved its redistricting maps (or “Plans”) for the state of Michigan’s Congressional, State Senate, and State House voting districts.

Admitted.

6. It is clear from the Commission’s current proposed Plans that they will also be falling woefully short of their vision: “To chart a positive course for elections based on fair maps for Michigan today and for the future.”

Defendant denies the allegation because it is not true for the reasons explained in Defendant’s Brief.

7. Pursuant to the Michigan Constitution of 1963, Article IV, Section 6(19) these Black Plaintiffs now challenge the three discriminatory and unlawful Plans of the Michigan Independent Redistricting Commission.

Defendant denies the allegation that the plans adopted by the Commission are discriminatory or unlawful.

THE PARTIES

8. The Detroit Caucus is a group of Legislators from the Michigan House of Representatives that represent constituents within the City of Detroit.

Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8.

9. The Romulus City Council is a legislative body of elected officials in the city of Romulus, MI.

Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9.

10. The individual Plaintiffs are all, first and foremost, members of the Black community of Michigan and residents of Wayne County who stand to lose their ability to elect their chosen candidates into office:

- a. The Detroit Caucus;
- b. The Romulus City Counsel;
- c. The Inkster City Council
- d. State Representative and Detroit Caucus Chair, Tenisha Yancey
- e. Former State Representative & Detroit Caucus Chair Sherry Gay-Dagnogo, M.Ed., DPSCD Board Member, resident of Detroit, Michigan;
- f. State Representative Tyrone Carter
- g. Senator Betty Jean Alexander, Senate District 5, resident of Detroit, Michigan;
- h. Hon. Stephen Chisholm, Inkster City Council

- i. Former State Rep. Teola P. Hunter, First Female Speaker Pro Tem, resident of Detroit, Michigan;
- j. Hon. Keith Williams, Chair MDP Black Caucus, resident of Detroit, Michigan;
- k. Dr. Carol Weaver, 14th Congressional District Executive Board Member, resident of Detroit, Michigan;
- l. Former State Representative Wendell Byrd, resident of Detroit, Michigan;
- m. Former State Representative Shanelle Jackson, resident of Detroit, Michigan;
- n. Former State Representative Lamar Lemmons, resident of Detroit, Michigan;
- o. Former Senator and Wayne County Commissioner Irma Clark Coleman, resident of Detroit, Michigan;
- p. Lavonia Perryman, The Shirley Chisholm Metro Congress of Black Women, resident of Detroit, Michigan;
- q. Alisha Bell, Wayne County Commissioner and Chair, resident of Detroit, Michigan.
- r. Natalie Bienaime, Citizen the 13th District, resident of Detroit, Michigan;
- s. Oliver Cole, Resident of Wayne County;
- t. Andrea Thompson, Resident of Detroit;
- u. Darryl Woods, Resident of Wayne County.
- v. Darryl Woods, as a resident of Wayne County;
- w. Norma D. Mcdaniel, as a Resident of Inkster;
- x. Melissa D. Mcdaniel, as a resident of Canton,

- y. Chitara Warren, as a resident of Romulus;
- z. James Richardson, as a resident of Inkster,
- aa. Elena Herrada, as a resident of Detroit

Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegation that the individual Plaintiffs are “all, first and foremost, members of the Black community of Michigan and residents of Wayne County,” and denies the allegation that any of them “stand to lose their ability to elect their chosen candidates into office.”

11. Defendant Michigan Independent Citizens Redistricting Commission (“MI-CRC”) is a permanent commission in the legislative branch of government. Const 1963, art 4, §6(1).

Admitted.

JURISDICTION

12. The Court has original subject-matter jurisdiction over this action under Article IV, Section 6(19), of the Michigan Constitution of 1963.

Admitted.

13. The Court also has subject-matter jurisdiction under Section 217(3) of the Revised Judicature Act, MCL 600.217(3), and Michigan Court Rules 3.301(A)(1)(c) and (g) and Michigan Court Rule 3.305(A)(2).

Defendant denies this allegation as to MCL 600.217(3), MCR 3.301(A)(1)(c), and MCR 3.305(A)(2) because this is not an action seeking mandamus. Defendant denies as untrue that “MCR 3.301(A)(1)(g)” applies because it does not exist.

14. The Court has general personal jurisdiction over Plaintiffs under Section 701(3) of the Revised Judicature Act, MCL 600.701(3).

Admitted.

15. The Court has general personal jurisdiction over the Commission under Section 2051(4) of the Revised Judicature Act, MCL 600.2051(4).

Admitted.

FACTUAL BACKGROUND

1. Michigan Redistricting Commission was sold to the Michigan voter as a means of reducing gerrymandering in the redistricting of Michigan's voter districts following the 2021 census. However, the idea of an impartial, non-discriminatory, non-racist redistricting plan has been shattered by the revelation of the Michigan Redistricting Commissions Plans.

Defendant admits only that the Commission was established to ensure that Michigan maps are drawn fairly. Defendant denies the remaining allegations in this paragraph because they are not true for the reasons explained in Defendant's brief.

2. The new US Congressional Plans, with their new voting district maps, were backed by only eight out of thirteen of the randomly selected voters who serve on the commission.

Defendant denies the allegations in this paragraph because they are not true for the reasons explained in Defendant's brief.

3. Should the Plans for the US Congressional districts be adopted, it would completely eliminate the two majority-minority (Black) districts that currently run through the largest concentrated Black population in Michigan (Detroit). Instead, those districts would be apportioned into eight new districts comprised of eight small sections of the Black community in and around Detroit, each paired with a large section of a majority-non-Black suburb of Detroit (such as Birmingham and Bloomfield Hills).

Defendant admits that the congressional districts in the enacted plan do not include any majority-minority (Black) districts but, for the reasons explained in Defendant's brief,

denies the allegations in this paragraph to the extent they suggest that the voting power of the Black community is diminished or that non-Black voters do not support the same candidates as the Black community.

4. Each of the new districts would then become majority-non-Black.

Admitted.

5. As non-Black voters tend to vote for non-Black candidates, Defendant's proposed US Congressional district Plans would reduce the chances of the Blacks of Michigan from getting one to two of their preferred US Congress candidates on the general election ballot down to zero; effectively blocking representation at the federal level for Black's of Michigan.

Defendant denies the allegation because it is not true for the reasons explained in Defendant's Brief.

6. Similarly, Defendant's redistricting Plans would completely rob the Black minority of Michigan of its ability to elect their chosen representatives into the Michigan Senate, and halve the potential candidates they could elect to the Michigan House of Representatives.

Defendant denies the allegation because it is not true for the reasons explained in Defendant's Brief.

7. This practice of splintering a majority-minority voter district is termed "dilution," is banned by the Michigan Constitution at article 4, §6(13)(a) and (c), and has long been banned by federal law pursuant to the Voting Rights Act of 1965.

Defendant admits that various laws govern the drawing of voter districts in Michigan but denies that minority voters have been "splintered" or been subject to "dilution."

8. The Voting Rights Act of 1965 was the first federal legislation to outlaw intimidation and other barriers to voting of African Americans and other racial minorities. Since

that victory of the Civil Rights Movement, Black Americans have had the highest voting rate of any racial group in the nation.¹

Defendant admits the first sentence of Paragraph 8 but lacks knowledge or information sufficient to form a belief as to the truth of the allegation contained in the second sentence of Paragraph 8.

9. The Commission’s redistricting is a blatant and obvious “retrogression” of the national and Michigan Civil Rights Movement and sets-back the Black population of Michigan generations by undoing the hard-fought representation achieved by the Black community in Michigan over the last 70 years.

Defendant denies the allegation because it is not true for the reasons explained in Defendant’s Brief.

10. As the United States Supreme Court has stated:

The maintenance of existing district boundaries is advantageous to both voters and candidates. Changes, of course, must be made after every census to equalize the population of each district or to accommodate changes in the size of a State’s congressional delegation. Similarly, changes must be made in response to a finding that a districting plan violates § 2 or § 5 of the Voting Rights Act, [52 USC §§ 10301, 10304(b, d)]. But the interests in orderly campaigning and voting, as well as in maintaining communication between representatives and their constituents, underscore the importance of requiring that any decision to redraw district boundaries—**like any other state action that affects the electoral process—must, at the very least, serve some legitimate governmental purpose.** See, e.g., *Burdick v. Takushi*, 504 U.S. 428, 434, 440, 112 S.Ct. 2059, 119 L.Ed.2d 245 (1992); *id.*, at 448–450, 112 S.Ct. 2059 (KENNEDY, J., joined by Blackmun and STEVENS, JJ., dissenting).

League of United Latin Am Citizens v Perry, 548 US 399, 448; 126 S Ct 2594, 2626–27; 165 L Ed 2d 609 (2006) (emphasis added).

This allegation is a recitation of law to which no responsive pleading is required.

¹ https://www.census.gov/newsroom/blogs/random-samplings/2017/05/voting_in_america.html

11. Here, the destruction of Black voters' ability to elect their preferred representatives and/or minority candidates could serve no legitimate government purpose, and therefore, it violates Michigan Constitution, the United States Constitution, and the Voting Rights Act of 1965.

Defendant denies any allegation that the proposed plans destroy Black voters' ability to elect preferred representatives for the reasons explained in Defendant's Brief.

12. According to the U.S. Census Bureau, Blacks make up 15.21% of the population of the state of Michigan, Blacks living in Detroit accounted for 79.1% of the total population, or approximately 532,425 people as of 2017 estimates.²

Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12.

13. According to the 2000 U.S. Census, of all U.S. cities with 100,000 or more people, Detroit had the second-highest percentage of Black people.³

Admitted.

14. Biden won the city of Detroit with 94% of the vote while Trump received 5%, according to the city of Detroit's election results.⁴

Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14.

² <https://www.census.gov/quickfacts/fact/table/detroitcitymichigan/PST045221#PST045221>

³ Race and Ethnicity in the Tri-County Area: Selected Communities and School Districts; See also From a Child's Perspective: Detroit Metropolitan Census 2000 Fact Sheets Series. Wayne State University. June 2002. Volume 2, Issue 2. p. 1. Retrieved on November 10, 2013.

⁴ <https://www.freep.com/story/news/politics/elections/2020/11/06/joe-biden-detroit-michigan-vote-election-2020/6168971002/>

15. Yet statewide in Michigan, Biden defeated Trump by merely 50.6% to 47.9% (voter turnout was 71%).

Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15.

16. These numbers make undeniably clear that the Black population of Michigan is a community of interest which has its own preferred political candidates and which, when districts are mapped fairly, has the power to elect the representatives of their choice.

Defendant denies the remaining allegations in this paragraph because they are not true for the reasons explained in Defendant's brief.

17. Michigan voters supported establishing an Independent Citizens Redistricting Commission in 2018 on the premise it would eliminate "gerrymandering" in the creation of legislative and congressional districts in the State.

Admitted.

18. Initially, the Independent Redistricting Commission stated that they would work to develop fair, non-partisan leaning legislative and congressional districts. Secondly, and more strongly, the Commission indicated they would respect and protect communities of interest.

Defendant denies the allegation in the first sentence of Paragraph 18 as untrue. Defendant denies the allegation in the second sentence of Paragraph 18 that the Commission "more strongly" indicated it would respect and protect communities of interest.

19. From review of their draft plans, it is clear that the Commission has failed in both of these regards.

Defendant denies the allegation because it is not true for the reasons explained in Defendant's Brief.

20. The largest community of interest in Michigan is the Black population.

Defendant denies the allegation because it is not true for the reasons explained in Defendant's Brief.

21. Republicans are not a community of interest. Mich Const 1963, art 4, §6(13)(c).

Admitted.

22. Democrats are not a community of interest. Mich Const 1963, art 4, §6(13)(c).⁵

Defendant admits the allegation in Paragraph 22 but denies the allegations in the accompanying footnote.

23. Although the Commission indicated they planned to protect communities of interest, they produced a US Congressional Plan that divided Detroit into eight pieces.

Defendant admits that it planned to protect communities of interest. Defendant denies that it divided Detroit into eight pieces.

24. Of those eight pieces, not one district as a whole contained Michigan's largest Black populous, the City of Detroit, but instead, sections of Detroit's Black community are apportioned to other, majority-White polities including: Bloomfield Hills, Birmingham, Canton, Farmington, Madison Heights, New Baltimore, Sterling Heights, and Clinton Township.

Defendant admits that the City of Detroit is not contained as a whole in one congressional district in the enacted plan. Defendant denies that the City of Detroit is included with Bloomfield Hills.

⁵ It is highly important to note here that for purposes of voting district boundaries, compliance with the Michigan Constitution and federal law requires consideration of data from primary elections (which Defendant did not use), not general elections, as not every Democrat candidate is/was the Black community's preferred candidate in the primaries.

25. The redistricting plans of the Michigan Independent Redistricting Commission are bipartisan **racial** gerrymandering which, if implemented, would unlawfully reduce the voting power of minority racial groups to elect the candidate of their choosing.

Defendant denies the allegation because it is not true for the reasons explained in Defendant's Brief.

26. The reduction of majority-minority districts from the plans previously adopted in 2011 can be plainly seen by the results of the redistricting on the representation of Black voters and the citizens of City of Detroit.

Defendant denies the allegation because it is not true for the reasons explained in Defendant's Brief.

Examples of Dilution: 2011 to 2021⁶

27. *Congressional Map*

- 2011 Current Map contains 2 (two) majority Black districts
- 2021 Plans contain 0 (zero) majority Black districts

Defendant admits that the description of the difference between the 2021 Plans as compared to the 2011 Current Map is accurate but denies that this is an “example of dilution.”

28. *State Senate Map*

- 2011 Current map contain 4 (four) majority Black districts
- 2021 Plans contain 0 (zero) majority Black districts

Defendant admits that the description of the difference between the 2021 Plans as compared to the 2011 Current Map is accurate but denies that this is an “example of dilution.”

29. *State House Map*

⁶ Exhibit A, Michigan Department of Civil Rights December 9, 2021 Memorandum: Analysis of MICRC's Proposed Maps.

- 2011 Current map contains 12 (twelve majority) Black districts
- 2021 Plans contain 6 (six) majority Black districts

Defendant admits that the description of the difference between the 2021 Plans as compared to the 2011 Current Map is accurate but denies that this is an “example of dilution.”

30. Defendant’s current proposed plans have been denounced by an entire department of the government of Michigan, in that the Michigan Department of Civil Rights released a memorandum stating and showing that the proposed maps of Defendant unlawfully dilute the voting power of Blacks in the state of Michigan. See Exhibit A, Michigan Department of Civil Rights December 9, 2021 Memorandum: Analysis of MICRC’s Proposed Maps. **Defendant denies the allegation because it is not true for the reasons explained in Defendant’s Brief.**

31. An expert hired by Defendant also admits that they were lacking the proper data regarding Black voters in Michigan when they drew up the Plans: “Lisa Handley, one of the commission’s experts... noted a lack of data to discern how Black candidates may be affected by white voters in primaries, which decide many races.”⁷

Defendant denies the allegation because it is not true for the reasons explained in Defendant’s Brief.

32. That data was obtainable, and was absolutely necessary to the Commission in order for it to be able to comply with the Michigan Constitution and federal law, as even the law of the Voting Rights Act of 1965 requires the map-makers to consider certain datapoints that Defendant apparently did not have.

⁷ <https://www.usnews.com/news/best-states/michigan/articles/2022-01-03/black-law-makers-to-sue-to-blockmichigan-redistricting-maps>

Defendant denies the allegation because it is not true for the reasons explained in Defendant's Brief.

33. In fact, Defendant attempted to extend their deadline to submit their final Plans multiple times, and cited as one reason that they lacked the data required to properly fulfil their legislative purpose.⁸

Defendant denies the allegation because it is not true for the reasons explained in Defendant's Brief.

34. Defendant never published the guidelines, protocols, and procedures that it used in formulating its Plans and, it is clear from the claims of their own expert of the lack of required data, that they did not use the necessary guidelines, protocols, and procedures in creating their current Plans.

Defendant denies the allegation because it is not true for the reasons explained in Defendant's Brief.

35. The current proposed plans, which almost completely politically silence the Black community of interest, could be easily remedied in short order.

Defendant denies the allegation because it is not true for the reasons explained in Defendant's Brief.

36. Owing to the current Plans boundaries surrounding the largest concentration of Blacks in the state of Michigan (the Detroit area), each of the three Plans could have their district borders in and around Detroit tweaked just a relatively small amount in a way that would completely undue the Defendant's dilution of the Black vote in Michigan while leaving the rest of the Plans 100% intact.

⁸ <https://apnews.com/article/redistricting-census-2020-government-and-politics-health-michigan-47512ce8963ac0097a9139dca98fa2a3>

Defendant denies any “undue . . . dilution of the Black vote in Michigan,” and as to the balance of the paragraph lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 36.

37. Throughout the redistricting process, the Michigan Independent Redistricting Commission has been opaque with the public in regards to its compliance with the Voting Rights Act, in contravention of its mandate under the Michigan Constitution to perform its “duties in a manner that is impartial and reinforces public confidence in the integrity of the redistricting process. The commission shall conduct all of its business at open meetings.” Mich. Const. Art. 4, § 6(10).

Defendant denies the allegation because it is not true for the reasons explained in Defendant’s Brief.

38. In fact, this honorable Court recently ruled that a recording of MICRC’s October 27, 2021 meeting, during which two (2) memoranda were discussed involving the proposed maps compliance with the Voting Rights Act, must be disclosed to the public because the meeting involved the development of the redistricting map.⁹

Admitted.

39. This court further ruled that seven (7) additional memoranda out of 10 must be disclosed to the public as “supporting materials” under Const 1963, art 4, § 6(9).¹⁰

Admitted.

COUNT I

Violation of Mich Const 1963, art 4, §6(13)(a) and (c): Dilution of Minority Voting Power

40. Plaintiffs reallege the prior paragraphs as if restated fully hereunder.

⁹ Mich Sup. Ct. Docket No. 163823

¹⁰ *Id.*

No response required.

41. The Michigan Constitution of 1963 provides:
 (13) The commission shall abide by the following criteria in proposing and adopting each plan, in order of priority:
- (a) Districts shall be of equal population as mandated by the United States constitution, and shall comply with the **voting rights act [of 1965]** and other federal laws.

Mich Const 1963, art 4, §6(13)(a) (emphasis added).

This allegation is a recitation of law to which no responsive pleading is required.

42. The Voting Rights Act of 1965 holds, in pertinent part:
 No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color...
 52 USC § 10301.

This allegation is a recitation of law to which no responsive pleading is required.

43. In determining whether the Voting Rights Act statute has been violated, this Court follows “the guidance of the United States Supreme Court, [as] stated in *Thornburg v. Gingles*, 478 U.S. 30, 43–46, 106 S.Ct. 2752, 2762–2764, 92 L.Ed.2d 25 (1986)...” In re Apportionment of State Legislature-1992, 439 Mich 715, 735; 486 NW2d 639, 650 (1992).

This allegation is a recitation of law to which no responsive pleading is required.

44. In *Thornburg v. Gingles*, 478 U.S. 30, 43–46, 106 S.Ct. 2752, 2762–2764, 92 L.Ed.2d 25 (1986), Supreme Court of the United States has held that a successful Section 2 vote dilution claim has two components. First, a plaintiff must satisfy three preconditions by showing: (1) that the minority group is “sufficiently large and geographically compact to constitute a majority in a single-member district”: (2) that the minority group is “politically cohesive”: and (3) that bloc voting by other members of the electorate usually defeats the minority-preferred candidates. Satisfaction of these three preconditions is necessary but not sufficient to establish liability. Second, “[i]f these three preconditions are met, the district court must

then examine a variety of other factors to determine whether, under the totality of the circumstances, the challenged practice impairs the ability of the minority voters to participate equally in the political process and to elect a representative of their choice.” As stated in *Gingles*, 478 U.S. at 36-37, additional “objective factors” used in determining the “totality of circumstances” surrounding an alleged violation of Section 2 of the Voting Rights Act include (but are not limited to) the extent to which the members of the minority group bear the effects of discrimination in areas like education, employment, and health, which hinder effective participation, is one measure.

To the extent that this allegation is a recitation of law, no responsive pleading is required.

To the extent that this allegation is an inaccurate recitation of law, Defendant denies such recitation because it is not true for the reasons explained in Defendant’s Brief

45. (1) The Black citizens of the City of Detroit are a minority group that is “sufficiently large and geographically compact to constitute a majority in a single-member district” as its population is 77.7% Black as per the 2020 census [sic].

Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 45.

46. (2) The Black citizens of the City of Detroit are “politically cohesive” as is shown by their voting record where Detroit Black persons account for 79.1% of the total population of Detroit.¹¹ Biden won the city of Detroit with 94% of the vote while Trump received 5%.¹² Yet statewide in Michigan voter turnout was 71% and Biden defeated Trump by merely 50.6% to 47.9%, meaning that it was the Detroit Black community who, voting as a cohesive

¹¹ <https://www.census.gov/quickfacts/fact/table/detroitcitymichigan,mi/PST045217>

¹² <https://www.freep.com/story/news/politics/elections/2020/11/06/joe-biden-detroit-michigan-vote-election-2020/6168971002/>

group, won the Presidential election for President Joseph Biden in this State and, potentially, the Country.

Defendant denies that Black voters in the City of Detroit are politically cohesive for the reasons detailed in the accompanying brief. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 46.

47. (3) Bloc voting by other members of the electorate usually defeats the minority-preferred candidates: Until the 1954 election of Charles Diggs in the old 15th District (13th today) followed by the election of John Conyers 10 years later in 1964 in the old 1st District (14th today) Detroit's majority-minority community could not elect a Congressional candidate of their choice.

Defendant denies the implication that "bloc voting by other members of the electorate" would likely defeat minority-preferred candidates in the districts adopted by the Commission, and as to the balance of the paragraph Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 47 regarding voting patterns in 1954 and 1964.

48. The Black citizens of the City of Detroit bear the effects of discrimination in the area of education:

- a. In the city of Detroit the majority of the residents in the suburb area are predominantly White, while in the actual city majority of the residents are Black.¹³

¹³ Checkoway, Barry; Lipa, Todd; Vivyan, Erika; Zurvalec, Sue (2017). "Engaging Suburban Students in Dialogues on Diversity in a Segregated Metropolitan Area". *Education and Urban Society*. Sage Journals. 49 (4): 388–402.

- b. As of the mid-2000's, school funding per pupil in Wayne County (where Detroit is located) was approximately \$930.33, the lowest in the State. The second highest was \$1,239.47 per pupil, in Macomb County, almost 50% more than that of Wayne County and far below the average for Southeastern Michigan of \$1,807.17.¹⁴
- c. Detroit public schools have high illiteracy rates and low academic performance compared to cities across the United States, with Detroit “eighth graders scor[ing the] lowest in math and reading in the nation.”¹⁵
- d. According to the National Institute for Literacy, 47% (200,000) of adults in Detroit are functionally illiterate, and half of the 200,000 adults do not have a high school diploma or GED, showing that the lack of these skills learned in an academic setting is generationally embedded into different groups of society.

Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 48.

49. The Black citizens of the City of Detroit bear the effects of discrimination in the area of employment:

- a. Detroiters have a lower employment rate compared to others living in Wayne County and those in neighboring counties such as Macomb and

¹⁴ D., Rollandini, Mark. Michigan intermediate school districts: funding and resource allocation. p. 22.

¹⁵ Rosenbaum, Mark (2018-01-30), The Miseducation of America, Center for Political Studies (CPS).

Oakland. In July 2020, unemployment in Detroit reached nearly 40 percent.¹⁶ This is much higher than the national unemployment average of even The Great Depression nearly a century ago.¹⁷

- b. As of 2016, Detroit's poverty rate was 35.7%, with a median household income of just over \$28,000.¹⁸

Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 49.

50. The Black citizens of the City of Detroit bear the effects of discrimination in the area of health:

- a. Because of the legacies of underinvestment, redlining, jobs without benefits, poor or nonexistent and culturally incompetent health care, Black residents are less likely to be able to transcend the challenges presented by COVID-19 and are more likely to contract and die from the virus.¹⁹
- b. In Detroit, Black people represent a comparable over 75 percent of known COVID-19 diagnoses by race, yet account for a disproportionate nearly 90 percent of deaths.

Defendant lacks knowledge or information sufficient to form a belief as to the truth of the

¹⁶ Wileden, Lydia. 2020. "employment Dynamics in Detroit During the COVID-19 Pandemic." Detroit Metro Area Communities Study, University of Michigan. <https://detroiturvey.umich.edu/wp-content/uploads/2020/08/Unemployment-August-2020.pdf>.

¹⁷ Rashawn Ray, Jane Fran Morgan, Lydia Wileden, Samantha Elizondo, and Destiny Wiley-Yancy; Examining and Addressing COVID-19 Racial Disparities in Detroit; The Brookings Institution, p. 14.

¹⁸ Williams, Corey (14 September 2017). "Census Figures Show Drop in Detroit Poverty Rate". U.S. News.

¹⁹ Rashawn Ray, Jane Fran Morgan, Lydia Wileden, Samantha Elizondo, and Destiny Wiley-Yancy; Examining and Addressing COVID-19 Racial Disparities in Detroit; The Brookings Institution, p. 1.

allegations contained in Paragraph 50.

51. Therefore, according to the analysis handed down in *Thornburg v. Gingles*, 478 U.S. 30, 43–46, 106 S.Ct. 2752, 2762–2764, 92 L.Ed.2d 25 (1986), the redistricting Plans approved by Defendant violate the Voting Rights Act of 1965 (52 USC § 10301) by implementing impermissible dilution of the Black vote in Michigan. As the Plans violate the Voting Rights Act, they also violate the Michigan Constitution at article 4, §6(13)(a) and (c).

Defendant denies the allegation because it is not true for the reasons explained in Defendant’s Brief.

COUNT II**Declaratory Action**

52. Plaintiffs reallege the prior paragraphs as if restated fully hereunder.

No response required.

53. The Court has the power to enter declaratory judgments. MCR 2.605(A)(1).

This allegation is a recitation of law to which no responsive pleading is required.

54. A case of actual controversy exists between these parties as Plaintiffs will imminently have their rights under the Michigan Constitution, the United States Constitution, and federal law (the Voting Rights Act of 1965) violated and be effectively completely disenfranchised.

Defendant denies the allegation because it is not true for the reasons explained in Defendant’s Brief.

55. Guidance is needed by the Court to assist the parties in their conduct going forwards, so that Plaintiffs and the entire Black community of Michigan do not suffer the egregious and inexcusable injury of being racially discriminated against, disenfranchised, and having their legal, political, and civil rights eroded in one fell swoop.

Defendant denies the allegation because it is not true for the reasons explained in Defendant's Brief.

56. The case in controversy is within the jurisdiction of this Court as, were the rights at issue violated, this Court would have original jurisdiction to hear causes of action arising out of those violations pursuant to Mich Const 1963, art 4, §6(19).

Admitted.

57. Specifically, Plaintiff requests a declaration from this Court that Defendant's proposed Michigan's Congressional, State Senate, and State House district voter districts Plans are unconstitutional and unlawful as they do not comport with the requirements of the Voting Rights Act of 1965 and the Michigan Constitution of 1963, article 4, §6(13)(a)-(c).

Defendant denies that Plaintiff is entitled to any relief for the reasons explained in Defendant's Brief.

CONCLUSION

WHEREFORE, for the foregoing reasons, Plaintiffs' request for a declaratory judgment should be denied.

Dated: January 18, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 18, 2022, I electronically filed the foregoing paper with the Clerk of the court using the MiFILE system and I used the MiFILE system to serve a copy on counsel for Plaintiffs.

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