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Lea County
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STATE OF NEW MEXICO
COUNTY OF LEA
FIFTH JUDICIAL DISTRICT

REPUBLICAN PARTY OF NEW MEXICO,
DAVID GALLEGOS, TIMOTHY JENNINGS,
DINAH VARGAS, MANUEL GONZALES, JR.,
BOBBY AND DEE ANN KIMBRO, and
PEARL GARCIA,

Plaintiffs,

v.

Cause No.
D-506-CV-2022-00041

MAGGIE TOLOUSE OLIVER, in her official capacity
as New Mexico Secretary of State, MICHELLE LUJAN
GRISHAM, in her official capacity as Governor of New
Mexico, HOWIE MORALES, in his official capacity as
New Mexico Lieutenant Governor and President of the
New Mexico Senate, MIMI STEWART, in her official
capacity as President Pro Tempore of the New Mexico
Senate, and JAVIER MARTINEZ, in his official
capacity as Speaker of the New Mexico House of
Representatives,

Defendants.

**PLAINTIFFS' OPPOSITION TO LEGISLATIVE DEFENDANTS' MOTION TO DISMISS
PLAINTIFFS JENNINGS, VARGAS, AND GARCIA FOR LACK OF STANDING**

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INTRODUCTION

As Justice Kagan explained in her opinions in *Gill v. Whitford*, 138 S. Ct. 1916 (2018), and *Rucho v. Common Cause*, 139 S. Ct. 2484 (2019), there are two independent bases of standing for partisan-gerrymandering cases. First, under a district-specific, vote-dilution basis, partisan gerrymandering harms voters by devaluing their votes as compared to others, based on the voters' party affiliation, in the voters' district. Second, under the statewide associational-harms basis, partisan gerrymandering inflicts an associational harm on voters of a disfavored political party across the State by depriving them of their natural political strength, based on their choices to associate with like-minded (yet disfavored) voters and candidates. Here, several Plaintiffs have established their standing under the district-specific, vote-dilution standing basis, and all Plaintiffs have established standing under the statewide, associational-harms basis, providing two independent bases for standing here. Indeed, given that Legislative Defendants do not even question the standing of multiple Plaintiffs—and do not question *any* Plaintiffs' associational-harms standing—their Motion To Dismiss based on standing is a nonstarter.

STATEMENT

The Republican Party of New Mexico (“RPNM”) and a bipartisan group of New Mexico voters (collectively, “Plaintiffs”) filed a Verified Complaint alleging that Senate Bill 1 is a partisan gerrymander, in violation of Article II, Section 18 of the New Mexico Constitution. Verified Compl. ¶¶ 1–7. Plaintiffs' Verified Complaint, which each Plaintiff signed under penalty of perjury, *id.* at 29–36, explains that

Senate Bill 1 inflicts specific harms on each Plaintiff, as described immediately below, and as supplemented by multiple Plaintiffs' contemporaneously filed declarations.¹

Plaintiff David Gallegos, a registered voter residing in Eunice in Lea County, regularly votes for Republican candidates in local, state, and federal elections, and supports Republican candidates and policies. *Id.* ¶ 2; Decl. of David Gallegos ¶¶ 1, 3–4 (“Gallegos Decl.”). Plaintiff Gallegos is the elected State Senator in Senate District 41 and resides in the Second Congressional District, which includes southwest New Mexico and parts of southeastern New Mexico. Verified Compl. ¶ 2; Gallegos Decl. ¶¶ 5, 10. While Plaintiff Gallegos remains in District 2 under Senate Bill 1, the State Legislature fractured his old district, separating him from other Republican voters. Verified Compl. ¶ 2; Gallegos Decl. ¶¶ 8–10. Senate Bill 1 thus “cracked” Republican voters like Plaintiff Gallegos in southeastern New Mexico, thereby substantially diluting Plaintiff Gallegos’ vote. Verified Compl. ¶ 2; Gallegos Decl. ¶¶ 6–10. This partisan “cracking” also directly and independently harms Plaintiff Gallegos’ ability to affiliate with like-minded Republicans and to pursue Republican associational goals. Verified Compl. ¶ 2; *see id.* at 36; Gallegos Decl. ¶¶ 6, 8–11.

Plaintiff Timothy Jennings, a registered voter residing in Roswell in Chaves County, regularly votes for Democratic candidates in local, state, and federal elections, and engages in campaign activity for Democrats running for Congress and

¹ In support of their standing, Plaintiffs cite the sworn statements made in their Verified Complaint. *See Deer Mesa Corp. v. Los Tres Valles Special Zoning Dist. Comm’n*, 1985-NMCA-114, ¶ 5, 103 N.M. 675, 712 P.2d 21; *Rekart v. Safeway Stores, Inc.*, 1970-NMCA-020, ¶ 18, 81 N.M. 491, 468 P.2d 892. Plaintiffs have also supplemented the factual basis for the standing of Plaintiffs Kimbros, Gonzales, Jennings, Vargas, Gallegos, and RPNM with additional, signed declarations.

state legislative office. Verified Compl. ¶ 3; Decl. of Timothy Jennings ¶¶ 1, 3, 5 (“Jennings Decl.”). He represented Senate District 32 in the New Mexico State Senate from 1978–2012, serving as the Senate President Pro-Tempore from 2008–12. Verified Compl. ¶ 3; Jennings Decl. ¶ 4. He previously resided in the Second Congressional District, which included all of Chaves, Eddy, Lea, and Otero counties; but Senate Bill 1 “cracked” Republican voters in the region, resulting in the “cracking” of non-Republican voters in these counties and splitting Plaintiff Jennings’ home of Chaves County between all three of New Mexico’s congressional districts. Verified Compl. ¶ 3; Jennings Decl. ¶¶ 7, 12. Senate Bill 1 harms Plaintiff Jennings, who now resides in District 3, by impairing his ability to affiliate and associate with like-minded members of his community in Chaves County and the greater Roswell area. Verified Compl. ¶ 3; *see id.* at 35; Jennings Decl. ¶¶ 6–13.

Plaintiffs Dinah Vargas and Pearl Garcia, registered voters in Albuquerque, regularly vote for Republican candidates in local, state, and federal elections, and support Republican candidates and policies. Verified Compl. ¶¶ 4, 7; Decl. of Dinah Vargas ¶¶ 1, 3–4 (“Vargas Decl.”). Senate Bill 1 also cracked parts of Albuquerque, including shifting Plaintiff Vargas’ and Garcia’s homes from District 1 to District 2. Verified Compl. ¶¶ 4, 7; Vargas Decl. ¶¶ 6–9. Under Senate Bill 1, the congressperson representing Plaintiffs Vargas and Garcia in southwest Albuquerque will also represent constituents as far as the City of Lordsburg and the City of Hobbs. Verified Compl. ¶¶ 4, 7. As a result, Senate Bill 1 harms Plaintiffs Vargas’ and

Garcia's ability to affiliate with like-minded Republicans and to pursue Republican associational goals. *Id.*; *see id.* at 31, 34; Vargas Decl. ¶¶ 5–10.

Plaintiff Manuel Gonzales, Jr., a registered voter living in Alamogordo in Otero County, regularly votes for Republican candidates in local, state, and federal elections, and supports Republican candidates and policies. Verified Compl. ¶ 5; Decl. of Manuel Gonzales, Jr., ¶¶ 1, 3–4 (“Gonzales Decl.”). Plaintiff Gonzales is the former Chairman of the Republican Party of Otero County, former RPNM Vice Chairman for the Second Congressional District, and former First Vice Chairman of RPNM. Verified Compl. ¶ 3; Gonzales Decl. ¶ 5. While Plaintiff Gonzales remains in District 2 under Senate Bill 1, he is now separated from other Republican voters. Verified Compl. ¶ 3; Gonzales Decl. ¶¶ 8–10. Senate Bill 1’s “cracking” of Republican voters in southeastern New Mexico substantially dilutes Plaintiff Gonzales’ vote. Verified Compl. ¶ 3; Gonzales Decl. ¶¶ 6–10. This partisan “cracking” also directly harms his ability to affiliate with like-minded Republicans and to pursue Republican associational goals. Verified Compl. ¶ 3; *see id.* at 32; Gonzales Decl. ¶¶ 6, 8–11.

Plaintiffs Bobby and Dee Ann Kimbro, registered voters in Lovington in Lea County, regularly vote for Republican candidates in local, state, and federal elections, and support Republican candidates and policies. Verified Compl. ¶ 6; Decl. of Bobby Kimbro ¶¶ 1, 3–4 (“B. Kimbro Decl.”); Decl. of Dee Ann Kimbro ¶¶ 1, 3–4 (“D. Kimbro Decl.”). Historically, their home in Lovington, where they have lived for over 20 years, has been in District 2, but Senate Bill 1 moves them into District 3. Verified Compl. ¶ 6; B. Kimbro Decl. ¶¶ 1, 6–9; D. Kimbro Decl. ¶¶ 1, 6–9. As a result, Senate

Bill 1’s “cracking” of Republican voters in southeastern New Mexico substantially dilutes the Kimbros’ votes. Verified Compl. ¶ 6; B. Kimbro Decl. ¶¶ 5–9; D. Kimbro Decl. ¶¶ 5–9. This partisan “cracking” also directly harms their ability to affiliate with like-minded Republicans and to pursue Republican associational goals. Verified Compl. ¶ 6; *see id.* at 29–30; B. Kimbro Decl. ¶¶ 5, 8–10; D. Kimbro Decl. ¶¶ 5, 8–10.

RPNM is an unincorporated nonprofit association and a political party. Verified Compl. ¶ 1. Its members are Republican voters across the State, including Plaintiffs Gallegos, Vargas, Garcia, Gonzales, and Bobby and Dee Ann Kimbro. *Id.* ¶¶ 2, 4–7. RPNM’s goal is to support Republican candidates by banding together like-minded voters in New Mexico and translating that association of voters into electoral success. RPNM Decl. ¶¶ 4–5. Senate Bill 1’s “cracking” of Republican voters harms RPNM by making it more difficult for it to achieve its goal through engaging in fundraising efforts, registering and mobilizing like-minded voters, and promoting the Republican Party’s policy objectives throughout the State. *Id.* ¶¶ 7–12. Further, Senate Bill 1’s “cracking” of Republican voters substantially dilutes RPNM’s members’ votes. *Id.* ¶¶ 13–15. This partisan “cracking” also directly harms these members’ ability to affiliate with like-minded Republicans and to pursue Republican associational goals. Verified Compl. ¶ 1; *see id.* at 33; RPNM Decl. ¶ 16.

On July 5, 2023, the New Mexico Supreme Court held that Plaintiffs’ partisan-gerrymandering claim is justiciable under Article II, Section 18 of the New Mexico Constitution and “is subject to the three-part test articulated by Justice Kagan in her dissent in *Rucho v. Common Cause*.” Order 3, *Grisham v. Van Soelen*, No. S-1SC-

39481 (N.M. July 5, 2023) (hereinafter “Superintending Order”) (citing 139 S Ct. at 2516 (Kagan, J., dissenting)). The Court then remanded to this Court for further proceedings, on an expedited timeline, including by “conduct[ing] a standing analysis for all parties.” *Id.* Legislative Defendants have now moved to dismiss Plaintiffs Jennings, Vargas, and Garcia for lack of standing. *See* Mot. To Dismiss Pls. Jennings, Vargas, & Garcia For Lack Of Standing (Aug. 10, 2023) (“Mot.”).

ARGUMENT

I. Plaintiffs Have Standing To Bring This Lawsuit

A. Justice Kagan’s Two Partisan-Gerrymandering Bases

“New Mexico’s standing jurisprudence indicates that our state courts have long been guided by the traditional federal standing analysis.” *ACLU of N.M. v. City of Albuquerque*, 2008-NMSC-045, ¶ 10, 144 N.M. 471, 188 P.3d 1222. While standing in New Mexico courts “is not jurisdictional,” *id.* ¶ 9, New Mexico “adhere[s] to the federal three-pronged approach,” *Deutsche Bank Nat. Tr. Co. v. Johnston*, 2016-NMSC-013, ¶ 14, 369 P.3d 1046, which approach requires plaintiffs to “present an injury that is concrete, particularized, and actual or imminent; fairly traceable to the defendant’s challenged behavior; and likely to be redressed by a favorable ruling” in order to establish standing, *id.* ¶ 13 (quoting *Davis v. Fed. Election Comm’n*, 554 U.S. 724, 733 (2008)). For the injury-in-fact requirement, in particular, even a slight injury can establish an injury in fact sufficient to confer standing. *N.M. Right to Choose/NARAL v. Johnson*, 1999–NMSC–005, ¶ 12, 126 N.M. 788, 975 P.2d 841. Finally, New Mexico courts also follow the federal courts’ one-plaintiff rule for standing, which rule provides that “[i]f one party has standing in an action, a court

need not reach the issue of the standing of other parties when it makes no difference to the merits of the case.” *City of Artesia v. Pub. Emps. Ret. Ass’n of N.M.*, 2014-NMCA-009, ¶ 8, 316 P.3d 188 (citation omitted).

Justice Kagan’s opinions in *Rucho* and *Gill* identify two independent bases of standing for partisan-gerrymandering claims: (1) a district-specific, vote-dilution basis, and (2) a statewide, associational-harms basis. *Rucho*, 139 S. Ct. at 2513–14 (Kagan, J., dissenting); *see Gill*, 138 S. Ct. at 1935–40 (Kagan, J., concurring).

First, under the vote-dilution basis, partisan gerrymandering harms a voter living in a district by “devalu[ing]” that voter’s “vote as compared to others,” based on the voter’s party affiliation. *Rucho*, 139 S. Ct. at 2513–14 (Kagan, J., dissenting). The voter experiences this harm when “[a] mapmaker draws district lines to ‘pack’ and ‘crack’ voters likely to support the disfavored party,” thereby undermining the voter’s ability to elect the candidate of the voter’s choice in the voter’s district by “spreading [like-minded voters] so thin that their candidates will not be able to win.” *Id.* This vote-dilution injury is district-specific, meaning that it is experienced only by those voters who are actually “packed or cracked” into a district, based on their party affiliation. *Id.*; *Gill*, 138 S. Ct. at 1935–37 (Kagan, J., concurring).

Second, under the associational-harms basis, partisan gerrymandering inflicts “associational” harm on voters in a State who associate with the “certain voters” subjected to “disfavored treatment” in the redistricting map “because of their voting history and their expression of political views.” *Rucho*, 139 S. Ct. at 2514 (Kagan, J., dissenting) (citation omitted; alteration omitted). “Representative democracy is

unimaginable without the ability of citizens to band together in support of candidates who espouse their political views.” *Id.* (citation omitted; alteration omitted). So, “[b]y diluting the votes of certain citizens, the State frustrates their efforts to translate those affiliations into political effectiveness,” which then harms all “[m]embers of the disfavored party” in the State by “depriv[ing]” them of their “natural political strength”—such as by, for example, subjecting them to extra “difficulties fundraising, registering voters, and eventually accomplishing their policy objectives.” *Id.* (citation omitted; alteration omitted). This is a statewide harm, suffered by any member of the disfavored party in the State. *Id.*; *Gill*, 138 S. Ct. 1938–40 (Kagan, J., concurring).

In sum, for a plaintiff to have standing to assert a partisan-gerrymandering claim, that plaintiff must show that the plaintiff suffered an injury from the State’s redistricting map under either the vote-dilution basis in the plaintiff’s particular district or the associational-harms basis across the plaintiff’s State. *See Deutsche Bank*, 2016-NMSC-013, ¶ 13; *Rucho*, 139 S. Ct. at 2513–14 (Kagan, J., dissenting); *Gill*, 138 S. Ct. 1935–40 (Kagan, J., concurring).

B. Legislative Defendants Do Not Contest The Standing Of Multiple Plaintiffs Because Those Plaintiffs Obviously Have Standing Under Both Of Justice Kagan’s Bases

Legislative Defendants challenge the standing of only *some* Plaintiffs—Plaintiffs Jennings, Vargas, and Garcia, Mot.1—thus this case must proceed with Plaintiffs whose standing is unchallenged, even if the Court grants Legislative Defendants’ Motion. *City of Artesia*, 2014-NMCA-009, ¶ 8. That is, by only

challenging standing for some Plaintiffs, Legislative Defendants effectively concede the standing of Plaintiffs Gallegos, Gonzales, the Kimbros, and RPNM. Mot.8–10.²

Legislative Defendants’ decision not to challenge the standing of Plaintiffs Gallegos, Gonzales, and the Kimbros, along with RPNM, is understandable, as all of these parties have standing under *both* of Justice Kagan’s bases.

Plaintiffs Gallegos, Gonzales, and the Kimbros have standing to challenge Senate Bill 1 under the district-specific vote-dilution basis, because Senate Bill 1 “cracked” these Plaintiffs based on their affiliation with the Republican Party, thereby devaluing their votes as compared to Democratic voters in the State. *Rucho*, 139 S. Ct. at 2513–14 (Kagan, J., dissenting); *see also Gill*, 138 S. Ct. at 1935–37 (Kagan, J., concurring). Specifically, Plaintiff Gallegos, a registered Republican voter residing in Lea County, explains that Senate Bill 1 “crack[ed]” Republican voters in southeastern New Mexico, including in Lea County, moving other Republican voters out of Plaintiff Gallegos’ District 2 and thereby substantially diluting his vote. Verified Compl. ¶ 2; *id.* at 36; Gallegos Decl. ¶¶ 1, 3–4, 6–10. Similarly, Plaintiff Gonzales, a registered Republican voter residing in Otero County, asserts that Senate Bill 1’s “cracking” Republican voters in southeastern New Mexico, including in Otero County and Plaintiff Gonzales’ district of District 2, substantially diluted his vote. Verified Compl. ¶ 5; *id.* at 32; Gonzales Decl. ¶¶ 1, 3–4, 6–10. And for Plaintiffs the

² Although Legislative Defendants claim to reserve “their right to challenge any of the remaining Plaintiffs’ standing based on information developed in discovery or presented to the Court in the evidentiary record,” Mot.10, this Court ordered the parties to raise standing challenges by August 10, 2023, Scheduling Order 2 (July 24, 2023), and standing is not jurisdictional in New Mexico, *ACLU of N.M.*, 2008-NMSC-045, ¶ 9.

Kimbro, who are registered Republican voters living in Lea County, Senate Bill 1’s “cracking” of Republican voters in southeastern New Mexico, which moved the Kimbro from District 2 into District 3, substantially dilutes their votes. Verified Compl. ¶ 6; *id.* at 29–30; B. Kimbro Decl. ¶¶ 1, 3–9; D. Kimbro Decl. ¶¶ 1, 3–9.

Plaintiffs Gallegos, Gonzales, and the Kimbro also have standing under the associational-harms basis because Senate Bill 1 deprives the voters in the Republican Party of their “natural political strength” in the State. *Rucho*, 139 S. Ct. at 2513–14 (Kagan, J., dissenting) (citation omitted); *see also Gill*, 138 S. Ct. at 1938–40 (Kagan, J., concurring). Accordingly, Senate Bill 1’s “cracking” of Republican voters in southeastern New Mexico directly harms these voters’ ability to affiliate with like-minded Republicans and to pursue Republican associational goals across the State. Verified Compl. ¶¶ 2, 5–6; *id.* at 29–30, 32, 36; Gallegos Decl. ¶¶ 6, 8–11; Gonzales Decl. ¶¶ 6, 8–11; B. Kimbro Decl. ¶¶ 5, 7–10; D. Kimbro Decl. ¶¶ 5, 7–10.

Finally, RPNM, also satisfies both the vote-dilution and associational-harm bases. As a threshold matter, RPNM suffers its own independent injury under the associational-harm basis given its mission to support Republican candidates in New Mexico by banding together like-minded voters and translating that association of voters into ballot-box victories. RPNM Decl. ¶¶ 4–6; *see* Verified Compl. ¶ 1. By depriving Republicans of their “natural political strength” in the State, Senate Bill 1 imposes extra “difficulties” on RPNM in terms of “fundraising, registering voters, and eventually accomplishing [its] policy objectives.” *Rucho*, 139 S. Ct. at 2514 (Kagan, J., dissenting) (citation omitted; alteration omitted); RPNM Decl. ¶¶ 7–12.

RPNM also has third-party standing, under both standing bases here. A litigant has third-party standing if it can show that: (1) the litigant itself has “suffered an injury in fact, thus giving . . . [it] a sufficiently concrete interest in the outcome of the issue in dispute;” (2) the litigant has “a close relation to the third party;” and (3) there is “some hindrance to the third party’s ability to protect his or her own interests.” *N.M. Right to Choose*, 1999–NMSC–005, ¶ 13 (citation omitted); *see also Gunaji v. Macias*, 2001-NMSC-028, ¶ 20, 130 N.M. 734, 31 P.3d 1008 (finding state and local candidates had third-party standing on behalf of voters). RPNM has third-party standing under both bases because it is harmed by “the impairment of the rights of [Republican] voters,” *Gunaji*, 2001-NMSC-028, ¶ 20, and its members have suffered injuries under both bases, RPNM Decl. ¶¶ 13–16, including its members Plaintiffs Gallegos, Gonzales, and the Kimbros, *supra* pp.9–10. Further, “organiz[ing]” RPNM’s members “into a body of plaintiffs would not be as feasible or effective as allowing their interests” to be represented by RPNM itself, *Gunaji*, 2001-NMSC-028, ¶ 20.

Plaintiffs also satisfy the traceability and redressability elements. *Deutsche Bank*, 2016-NMSC-013, ¶ 13. On redressability, an injunction against use of the unconstitutional Senate Bill 1 in future elections would remedy Plaintiffs’ injuries here. Plaintiffs’ injuries, under both the vote-dilution and associational-harm bases, are premised on Senate Bill 1 treating them unfavorably based on their minority-party political affiliation vis-à-vis similarly situated voters affiliated with the majority party. *Rucho*, 139 S. Ct. at 2513–14 (Kagan, J., dissenting). Thus, enjoining

the use of Senate Bill 1—replacing it, instead, with a map that does not unconstitutionally gerrymander—would save Plaintiffs from those impermissible vote-dilution and associational-harms injuries. *Deutsche Bank*, 2016-NMSC-013, ¶ 13. And as to traceability, Plaintiffs’ harms from Senate Bill 1 are fairly traceable to multiple of the named Defendants here, sued in their official capacities only. *Id.*

C. Plaintiffs Jennings, Vargas, and Garcia Have Standing, At Minimum, Under Justice Kagan’s Associational-Harm Basis

1. Legislative Defendants challenge the standing of Plaintiffs Jennings, Vargas, and Garcia, Mot.1, but those Plaintiffs have standing, at the very minimum, under Justice Kagan’s associational-harms basis.

Plaintiffs Jennings, Vargas, and Garcia suffer substantial associational harms from Senate Bill 1 due to their party affiliations, harms stemming from Senate Bill 1’s disfavored treatment of Republican voters in New Mexico because of those voters’ voting history and expression of political views. For Plaintiffs Vargas and Garcia—both “registered Republican[s]” and “supporter[s] of Republican candidates and policies,” Verified Compl. ¶¶ 4, 7; *id.* at 31, 34; Vargas Decl. ¶¶ 3–4—Senate Bill 1’s specific (and ultimately successful) goal was to dilute Republican voters in District 2 to thwart that District’s ability to elect a Republican representative, Verified Compl. ¶¶ 78, 86–95(b). That is an associational harm inflicted on all Republican voters in New Mexico, including Plaintiffs Vargas and Garcia, because it deprives them of their “natural political strength”—namely, electing a Republican in District 2 who would “eventually [work to] accomplish[] their policy objectives.” *Rucho*, 139 S. Ct. at 2514 (Kagan, J., dissenting) (citation omitted); Vargas Decl. ¶¶ 5–10. As for Plaintiff

Jennings—“a registered Democrat . . . and a supporter of Democratic candidates and policies,” Verified Compl. ¶ 3; Jennings Decl. ¶¶ 3–5—he too suffers an associational harm, *Rucho*, 139 S. Ct. at 2514 (Kagan, J., dissenting), since Senate Bill 1 moved his residence in Chaves County from District 2 to District 3, thereby impairing his ability to associate and “affiliate with like-minded members of his community in Chaves County and the greater Roswell area,” which is now split among the State’s three redrawn districts. Verified Compl. ¶ 3; *id.* at 35; Jennings Decl. ¶¶ 6–13.

That said, Plaintiffs Jennings, Vargas, and Garcia may also satisfy the vote-dilution basis of standing in Justice Kagan’s *Rucho* dissent, which would provide an independently sufficient basis for their standing here. Senate Bill 1 moved Plaintiffs Vargas’ and Garcia’s residences into District 2, as part of the Democrat-controlled Legislature’s plan to crack the State’s most densely populated region of registered Republicans historically located in that district across the three redrawn districts, thereby diluting the votes of these Republican voters vis-à-vis Democratic voters. Verified Compl. ¶¶ 78, 86–95(b). So, Plaintiffs Vargas and Garcia may have themselves suffered the vote-dilution injury recognized in Justice Kagan’s *Rucho* dissent. *Rucho*, 139 S. Ct. at 2513–14 (Kagan, J., dissenting); Vargas Decl. ¶¶ 5–10. As for Plaintiff Jennings, Senate Bill 1 separates “his community in Chaves County and the greater Roswell area” across the State’s three redrawn districts, including by moving his own residence from District 2 to District 3, Verified Compl. ¶ 3; *id.* at 35; Jennings Decl. ¶¶ 6–13, thus he too has been cracked away from this like-minded

community, diluting the strength of his own vote, *Rucho*, 139 S. Ct. at 2513–14 (Kagan, J., dissenting).

Finally, Plaintiffs Jennings, Vargas, and Garcia also satisfy the traceability and redressability prongs of the standing analysis, for the exact same reasons as the other Plaintiffs, discussed above. *Supra* pp.11–12. Plaintiffs Jennings’, Vargas’, and Garcia’s harms, under both standing bases, rest on the Legislature’s impermissible consideration of partisanship in Senate Bill 1, so an order prohibiting use of that map and ensuring that congressional elections are run under a map that does not unconstitutionally gerrymander would remedy their harms. *Supra* pp.11–12. Further, these harms from Senate Bill 1 are fairly traceable to at least some of the named Defendants, who adopted and signed the map into law. *Supra* pp.11–12.

2. Legislative Defendants’ contrary arguments do not defeat Plaintiffs Jennings’, Vargas’, and Garcia’s standing.

As a threshold matter, Legislative Defendants fail to address (or even acknowledge) Justice Kagan’s associational-harms basis for standing, *see generally* Mot.8–10, which basis independently satisfies standing for the Plaintiffs whose standing Legislative Defendants have challenged. *See supra* pp.12–13.

Further, Legislative Defendants are at least arguably wrong to claim that these three Plaintiffs have not suffered the vote-dilution harm from Senate Bill 1. For Plaintiffs Vargas and Garcia, although Legislative Defendants correctly state that Senate Bill 1 moves their residences into the new District 2, which is slightly less Democratic-leaning, Mot.8, they ignore that Senate Bill 1 moved Plaintiffs

Vargas and Garcia as part of a specific plan to dilute the strength of Republican voters in District 2, *see supra* p.13; Vargas Decl. ¶¶ 5–10. For Plaintiff Jennings, Legislative Defendants ignore, Mot.9–10, that Senate Bill 1 dilutes his vote by cracking “his community in Chaves County and the greater Roswell area” where he lives across the State’s three redrawn districts, which established his vote-dilution harm, Verified Compl. ¶ 3; *id.* at 35; Jennings Decl. ¶¶ 6–13. And while Legislative Defendants criticize these three Plaintiffs for not stating explicitly in the Verified Complaint that Senate Bill 1 diluted their votes, Mot.8–10, that is a *legal conclusion* that need not be in a complaint, *see Schmidt v. Tavenner’s Towing & Recovery, LLC*, 2019-NMCA-050, ¶ 5, 448 P.3d 605.

Finally, Legislative Defendants’ argument that Plaintiffs’ requested relief “would not remedy the alleged harm that these Plaintiffs claim to have suffered” is plainly wrong. Mot.8–10. Plaintiffs’ injuries stem from their disparate treatment under Senate Bill 1 based on their political affiliation. *Supra* pp.11–12, 14. So, while Plaintiffs do not know specifically what redistricting map will replace the unconstitutional Senate Bill 1, *compare* Mot.8–10, they do know that that remedial map will not disfavor them based on their partisan affiliation, in violation of the New Mexico Constitution. In this way, that remedial map—whatever its particular boundaries—will save Plaintiffs from their asserted injuries under both the vote-dilution and associational-harm bases in Justice Kagan’s *Rucho* and *Gill* opinions.

CONCLUSION

This Court should deny Legislative Defendants’ Motion To Dismiss Plaintiffs Jennings, Vargas, and Garcia For Lack Of Standing.

Dated: August 16, 2023

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing will be served on all counsel via the e-filing system.

Dated: August 16, 2023

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STATE OF NEW MEXICO
COUNTY OF LEA
FIFTH JUDICIAL DISTRICT

REPUBLICAN PARTY OF NEW MEXICO,
DAVID GALLEGOS, TIMOTHY JENNINGS,
DINAH VARGAS, MANUEL GONZALES, JR.,
BOBBY AND DEE ANN KIMBRO, and
PEARL GARCIA,

Plaintiffs,

v.

Cause No.
D-506-CV-2022-00041

MAGGIE TOLOUSE OLIVER, in her official capacity as New Mexico Secretary of State, MICHELLE LUJAN GRISHAM, in her official capacity as Governor of New Mexico, HOWIE MORALES, in his official capacity as New Mexico Lieutenant Governor and President of the New Mexico Senate, MIMI STEWART, in her official capacity as President Pro Tempore of the New Mexico Senate, and JAVIER MARTINEZ, in his official capacity as Speaker of the New Mexico House of Representatives,

Defendants.

DECLARATION OF TIMOTHY JENNINGS

TIMOTHY JENNINGS declares under penalty of perjury, as follows:

1. I am a Plaintiff in the above-titled action and a citizen of the State of New Mexico, residing at 2716 North Pennsylvania Avenue, Roswell, New Mexico 88201, in Chaves County
2. I make this affidavit based on my personal knowledge and, if called upon to testify, I could and would testify to the following facts.
3. I am registered to vote in the State of New Mexico.
4. I served in the New Mexico State Senate for 34 years from 1978–2012, representing Senate District 32. I also served as the Senate President Pro-Tempore from 2008–12.

5. I regularly vote for Democratic candidates in local, state, and federal elections, and engage in campaign activity for Democrats running for Congress and state legislative office.

6. The Legislature's partisan gerrymander in Senate Bill 1 has harmed me, as explained below.

7. The Legislature's partisan gerrymander in Senate Bill 1 cracked the most geographically concentrated block of Republican voters in the State—specifically, all or part of Chaves, Eddy, Lea, and Otero Counties, in southeastern New Mexico—across the State's three redrawn districts.

8. Additionally, in furtherance of the Legislature's partisan goal with Senate Bill 1, the Legislature cracked two critical, longstanding communities of interests in this same southeastern region of the State, comprising the vital agricultural industry and the vital oil and gas industry in southeastern New Mexico.

9. Prior to Senate Bill 1, these vital industries in southeastern New Mexico were all located in the Second Congressional District, meaning that they were represented by a single member of Congress. Now, after Senate Bill 1, these vital industries are split among the State's three redrawn districts.

10. This cracking of these vital industries across New Mexico's three districts, as part of the Legislature's partisan aims with Senate Bill 1, significantly harms these industries by diluting their influence in Congress among three separate Representatives, such that they may no longer unite their influence behind a single Representative.

11. This diffusion of these industries' influence in Congress harms these industries' ability to achieve their federal policy objectives. As just one example, the southeastern region of New Mexico contains significant federal lands, and activities on these federal lands can substantially affect the agricultural industry and the oil and gas industry. Yet, the agricultural industry and the oil and gas industry now have a diminished ability to influence those activities on federal lands, given the diffusion of their representation in Congress after Senate Bill 1.

12. Further, as part of the Legislature's cracking of Republican voters, Senate Bill 1 moved my residence in Chaves County from the Second Congressional District—where it had historically been—into the Third Congressional District.

13. So, by gerrymandering the State in this manner, the Legislature's Senate Bill 1 has impaired my ability to affiliate and associate with like-minded members of my community in Chaves County and the greater Roswell area who espouse my political views and pursue my associational goals, by cracking this area among the State's three redrawn Districts.

14. This geographically concentrated block of Chaves, Eddy, Lea, and Otero counties also disproportionately accounts for New Mexico's oil and gas production and contains a significant portion of New Mexico's agro-business. These industries, and the citizens who make up the businesses, were also cracked as a result of Senate Bill 1's partisan gerrymandering.

I declare under penalty of perjury under the laws of the State of New Mexico that the foregoing is true and correct. N.M. R. Civ. P. Dist. Ct.1-011(B).

Dated: August 16, 2023

/s/ Timothy Jennings
Timothy Jennings



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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing will be served on all counsel via the e-filing system.

Dated: August 16, 2023

/s/Carter B. Harrison, IV
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STATE OF NEW MEXICO
COUNTY OF LEA
FIFTH JUDICIAL DISTRICT

REPUBLICAN PARTY OF NEW MEXICO,
DAVID GALLEGOS, TIMOTHY JENNINGS,
DINAH VARGAS, MANUEL GONZALES, JR.,
BOBBY AND DEE ANN KIMBRO, and
PEARL GARCIA,

Plaintiffs,

v.

Cause No.
D-506-CV-2022-00041

MAGGIE TOLOUSE OLIVER, in her official capacity
as New Mexico Secretary of State, MICHELLE LUJAN
GRISHAM, in her official capacity as Governor of New
Mexico, HOWIE MORALES, in his official capacity as
New Mexico Lieutenant Governor and President of the
New Mexico Senate, MIMI STEWART, in her official
capacity as President Pro Tempore of the New Mexico
Senate, and JAVIER MARTINEZ, in his official
capacity as Speaker of the New Mexico House of
Representatives,

Defendants.

DECLARATION OF DINAH VARGAS

DINAH VARGAS declares under penalty of perjury, as follows:

1. I am a Plaintiff in the above-titled action and a citizen of the State of New Mexico, residing at 4707 Coors Boulevard SW, Albuquerque, New Mexico 87121, in Bernalillo County.
2. I make this affidavit based on my personal knowledge and, if called upon to testify, I could and would testify to the following facts.
3. I am registered to vote in the State of New Mexico.

4. I regularly vote for Republican candidates in local, state, and federal elections, and I engage in campaign activity for Republicans running for Congress and state legislative office.

5. The Legislature's partisan gerrymander in Senate Bill 1 has harmed me, as explained below.

6. The Legislature's partisan gerrymander in Senate Bill 1 dilutes the power of my vote based on my political beliefs and diminishes the effect of my political action efforts by cracking the most geographically concentrated block of Republican voters in the State—specifically, all or part of Chaves, Eddy, Lea, and Otero Counties, in southeastern New Mexico—across the State's three redrawn districts.

7. As a result of the partisan gerrymander in Senate Bill 1, the Legislature eliminated the only Republican member of Congress from New Mexico—Republican Representative Yvette Herrell, from the previous Second Congressional District—by systematically and purposefully moving registered Republican voters out of the Second Congressional District and registered Democratic voters into the Second Congressional District, for partisan gain.

8. So, as a result of the partisan gerrymander in Senate Bill 1, the redrawn Second Congressional District is now far more likely to elect a Democratic Representative to Congress—and, indeed, did elect a Democratic Representative to Congress in the very first election under Senate Bill 1, even in a national political environment favorable to Republicans—which was precisely the Legislature's intent.

9. As a result of the partisan gerrymander in Senate Bill 1, the Legislature moved my residence from the First Congressional District into the redrawn Second Congressional District.

10. Senate Bill 1 thus undermines efforts throughout New Mexico to elect Republican candidates to Congress from the State. I desire to affiliate and associate with like-minded Republicans and Republican candidates who espouse my political views—including Republican candidates from the Second Congressional District, where I now reside after Senate Bill 1—yet Senate Bill 1 impairs my ability to affiliate and associate with like-minded Republicans and Republican candidates who espouse my political views and pursue Republican associational goals.

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I declare under penalty of perjury under the laws of the State of New Mexico that the foregoing is true and correct. N.M. R. Civ. P. Dist. Ct.1-011(B).

Dated: August 16, 2023

/s/ Dinah Vargas
Dinah Vargas

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing will be served on all counsel via the e-filing system.

Dated: August 16, 2023

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**STATE OF NEW MEXICO
COUNTY OF LEA
FIFTH JUDICIAL DISTRICT**

**REPUBLICAN PARTY OF NEW MEXICO,
DAVID GALLEGOS, TIMOTHY JENNINGS,
DINAH VARGAS, MANUEL GONZALES, JR.,
BOBBY AND DEE ANN KIMBRO, and
PEARL GARCIA,**

Plaintiffs,

v.

**Cause No.
D-506-CV-2022-00041**

**MAGGIE TOLOUSE OLIVER, in her official capacity
as New Mexico Secretary of State, MICHELLE LUJAN
GRISHAM, in her official capacity as Governor of New
Mexico, HOWIE MORALES, in his official capacity as
New Mexico Lieutenant Governor and President of the
New Mexico Senate, MIMI STEWART, in her official
capacity as President Pro Tempore of the New Mexico
Senate, and JAVIER MARTINEZ, in his official
capacity as Speaker of the New Mexico House of
Representatives,**

Defendants.

DECLARATION OF DEE ANN KIMBRO

DEE ANN KIMBRO, declares under penalty of perjury, as follows:

1. I am a Plaintiff in the above-titled action and a citizen of the State of New Mexico, residing at 3908 West Payne Road, Lovington, New Mexico 88260, in Lea County.
2. I make this affidavit based on my personal knowledge, and if called upon to testify, I could and would testify to the following facts.
3. I am registered to vote in the State of New Mexico.

4. I regularly vote for Republican candidates in local, state, and federal elections, and engage in campaign activity for Republicans running for Congress and state legislative office.

5. The Legislature's partisan gerrymander in Senate Bill 1 has harmed me, as explained below.

6. The Legislature's partisan gerrymander in Senate Bill 1 dilutes the power of my vote based on my political beliefs and diminishes the effect of my political action efforts by cracking the most geographically concentrated block of Republican voters in the State—specifically, all or part of Chaves, Eddy, Lea, and Otero Counties, in southeastern New Mexico—across the State's three redrawn districts.

7. As a result of the partisan gerrymander in Senate Bill 1, the Legislature eliminated the only Republican member of Congress from New Mexico—Republican Representative Yvette Herrell, from the previous Second Congressional District—by systematically and purposefully moving registered Republican voters out of the Second Congressional District and registered Democratic voters into the Second Congressional District, for partisan gain.

8. So, as a result of the partisan gerrymander in Senate Bill 1, the redrawn Second Congressional District is now far more likely to elect a Democratic Representative to Congress—and, indeed, did elect a Democratic Representative to Congress in the very first election under Senate Bill 1, even in a national political environment favorable to Republicans—which was precisely the Legislature's intent.

9. Before Senate Bill 1, my residence was in the Second Congressional District. After Senate Bill 1, my residence is in the Third Congressional District. Thus, with Senate Bill 1, I was part of the Legislature's cracking of registered Republican historically located in the Second Congressional District across the State's three redrawn districts, for partisan gain.

10. Senate Bill 1 thus undermines efforts throughout New Mexico to elect Republican candidates to Congress from the State. I desire to affiliate and associate with like-minded Republicans and Republican candidates who espouse my political views—including Republican candidates from the Second Congressional District, where I reside after Senate Bill 1—yet Senate Bill 1 impairs my ability to affiliate and associate with like-minded Republicans and Republican candidates who espouse my political views and pursue Republican associational goals.

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I declare under penalty of perjury under the laws of the State of New Mexico that the foregoing is true and correct. N.M. R. Civ. P. Dist. Ct.1-011(B).

Dated: August 16, 2023

/s/Dee Ann Kimbro
Dee Ann Kimbro

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing will be served on all counsel via the e-filing system.

Dated: August 16, 2023

/s/ Carter B. Harrison, IV
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**STATE OF NEW MEXICO
COUNTY OF LEA
FIFTH JUDICIAL DISTRICT**

**REPUBLICAN PARTY OF NEW MEXICO,
DAVID GALLEGOS, TIMOTHY JENNINGS,
DINAH VARGAS, MANUEL GONZALES, JR.,
BOBBY AND DEE ANN KIMBRO, and
PEARL GARCIA,**

Plaintiffs,

v.

**Cause No.
D-506-CV-2022-00041**

**MAGGIE TOLOUSE OLIVER, in her official capacity
as New Mexico Secretary of State, MICHELLE LUJAN
GRISHAM, in her official capacity as Governor of New
Mexico, HOWIE MORALES, in his official capacity as
New Mexico Lieutenant Governor and President of the
New Mexico Senate, MIMI STEWART, in her official
capacity as President Pro Tempore of the New Mexico
Senate, and JAVIER MARTINEZ, in his official
capacity as Speaker of the New Mexico House of
Representatives,**

Defendants.

DECLARATION OF BOBBY KIMBRO

BOBBY KIMBRO, declares under penalty of perjury, as follows:

1. I am a Plaintiff in the above-titled action and a citizen of the State of New Mexico, residing at 3908 West Payne Road, Lovington, New Mexico 88260, in Lea County.
2. I make this affidavit based on my personal knowledge, and if called upon to testify, I could and would testify to the following facts.
3. I am registered to vote in the State of New Mexico.

4. I regularly vote for Republican candidates in local, state, and federal elections, and engage in campaign activity for Republicans running for Congress and state legislative office.

5. The Legislature's partisan gerrymander in Senate Bill 1 has harmed me, as explained below.

6. The Legislature's partisan gerrymander in Senate Bill 1 dilutes the power of my vote based on my political beliefs and diminishes the effect of my political action efforts by cracking the most geographically concentrated block of Republican voters in the State—specifically, all or part of Chaves, Eddy, Lea, and Otero Counties, in southeastern New Mexico—across the State's three redrawn districts.

7. As a result of the partisan gerrymander in Senate Bill 1, the Legislature eliminated the only Republican member of Congress from New Mexico—Republican Representative Yvette Herrell, from the previous Second Congressional District—by systematically and purposefully moving registered Republican voters out of the Second Congressional District and registered Democratic voters into the Second Congressional District, for partisan gain.

8. So, as a result of the partisan gerrymander in Senate Bill 1, the redrawn Second Congressional District is now far more likely to elect a Democratic Representative to Congress—and, indeed, did elect a Democratic Representative to Congress in the very first election under Senate Bill 1, even in a national political environment favorable to Republicans—which was precisely the Legislature's intent.

9. Before Senate Bill 1, my residence was in the Second Congressional District. After Senate Bill 1, my residence is in the Third Congressional District. Thus, with Senate Bill 1, I was part of the Legislature's cracking of registered Republican historically located in the Second Congressional District across the State's three redrawn districts, for partisan gain.

10. Senate Bill 1 thus undermines efforts throughout New Mexico to elect Republican candidates to Congress from the State. I desire to affiliate and associate with like-minded Republicans and Republican candidates who espouse my political views—including Republican candidates from the Second Congressional District, where I resided prior to Senate Bill 1—yet Senate Bill 1 impairs my ability to affiliate and associate with like-minded Republicans and Republican candidates who espouse my political views and pursue Republican associational goals.

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I declare under penalty of perjury under the laws of the State of New Mexico that the foregoing is true and correct. N.M. R. Civ. P. Dist. Ct.1-011(B).

Dated: August 16, 2023

/s/Bobby Kimbro
Bobby Kimbro

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing will be served on all counsel via the e-filing system.

Dated: August 16, 2023

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STATE OF NEW MEXICO
COUNTY OF LEA
FIFTH JUDICIAL DISTRICT

REPUBLICAN PARTY OF NEW MEXICO,
DAVID GALLEGOS, TIMOTHY JENNINGS,
DINAH VARGAS, MANUEL GONZALES, JR.,
BOBBY AND DEE ANN KIMBRO, and
PEARL GARCIA,

Plaintiffs,

v.

Cause No.
D-506-CV-2022-00041

MAGGIE TOLOUSE OLIVER, in her official capacity as New Mexico Secretary of State, MICHELLE LUJAN GRISHAM, in her official capacity as Governor of New Mexico, HOWIE MORALES, in his official capacity as New Mexico Lieutenant Governor and President of the New Mexico Senate, MIMI STEWART, in her official capacity as President Pro Tempore of the New Mexico Senate, and JAVIER MARTINEZ, in his official capacity as Speaker of the New Mexico House of Representatives,

Defendants.

DECLARATION OF DAVID GALLEGOS

DAVID GALLEGOS, declares under penalty of perjury, as follows:

1. I am a Plaintiff in the above-titled action and a citizen of the State of New Mexico, residing at 907 20th Street, Eunice, New Mexico 88231, in Lea County.
2. I make this affidavit based on my personal knowledge, and if called upon to testify, I could and would testify to the following facts.
3. I am registered to vote in the State of New Mexico.
4. I regularly vote for Republican candidates in local, state, and federal elections, and engage in campaign activity for Republicans running for Congress and state legislative office.

5. I am an elected State Senator from Senate District 41

6. The Legislature's partisan gerrymander in Senate Bill 1 has harmed me, as explained below.

7. The Legislature's partisan gerrymander in Senate Bill 1 dilutes the power of my vote based on my political beliefs and diminishes the effect of my political action efforts by cracking the most geographically concentrated block of Republican voters in the State—specifically, all or part of Chaves, Eddy, Lea, and Otero Counties, in southeastern New Mexico—across the State's three redrawn districts.

8. As a result of the partisan gerrymander in Senate Bill 1, the Legislature eliminated the only Republican member of Congress from New Mexico—Republican Representative Yvette Herrell, from the previous Second Congressional District—by systematically and purposefully moving registered Republican voters out of the Second Congressional District and registered Democratic voters into the Second Congressional District, for partisan gain.

9. So, as a result of the partisan gerrymander in Senate Bill 1, the redrawn Second Congressional District is now far more likely to elect a Democratic Representative to Congress—and, indeed, did elect a Democratic Representative to Congress in the very first election under Senate Bill 1, even in a national political environment favorable to Republicans—which was precisely the Legislature's intent.

10. Both before and after Senate Bill 1, my residence is in the Second Congressional District. Thus, with Senate Bill 1, I was part of the Legislature's

cracking of registered Republican historically located in the Second Congressional District across the State's three redrawn districts, for partisan gain.

11. Senate Bill 1 thus undermines efforts throughout New Mexico to elect Republican candidates to Congress from the State. I desire to affiliate and associate with like-minded Republicans and Republican candidates who espouse my political views—including Republican candidates from the Second Congressional District, where I reside after Senate Bill 1—yet Senate Bill 1 impairs my ability to affiliate and associate with like-minded Republicans and Republican candidates who espouse my political views and pursue Republican associational goals.

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I declare under penalty of perjury under the laws of the State of New Mexico that the foregoing is true and correct. N.M. R. Civ. P. Dist. Ct.1-011(B).

Dated: August 16, 2023

/s/ 
David Gallegos

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing will be served on all counsel via the e-filing system.

Dated: August 16, 2023

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STATE OF NEW MEXICO
COUNTY OF LEA
FIFTH JUDICIAL DISTRICT

REPUBLICAN PARTY OF NEW MEXICO,
DAVID GALLEGOS, TIMOTHY JENNINGS,
DINAH VARGAS, MANUEL GONZALES, JR.,
BOBBY AND DEE ANN KIMBRO, and
PEARL GARCIA,

Plaintiffs,

v.

Cause No.
D-506-CV-2022-00041

MAGGIE TOLOUSE OLIVER, in her official capacity
as New Mexico Secretary of State, MICHELLE LUJAN
GRISHAM, in her official capacity as Governor of New
Mexico, HOWIE MORALES, in his official capacity as
New Mexico Lieutenant Governor and President of the
New Mexico Senate, MIMI STEWART, in her official
capacity as President Pro Tempore of the New Mexico
Senate, and JAVIER MARTINEZ, in his official
capacity as Speaker of the New Mexico House of
Representatives,

Defendants.

DECLARATION OF MANUEL GONZALES, JR.

MANUEL GONZALES, JR., declares under penalty of perjury, as follows:

1. I am a Plaintiff in the above-titled action and a citizen of the State of New Mexico, residing at 5 Briarwood Court, Alamogordo, New Mexico 88310, in Otero County
2. I make this affidavit based on my personal knowledge, and if called upon to testify, I could and would testify to the following facts.
3. I am registered to vote in the State of New Mexico.

4. I regularly vote for Republican candidates in local, state, and federal elections, and engage in campaign activity for Republicans running for Congress and state legislative office.

5. I am the former Chairman of the Republican Party of Otero County, the former Republican Party of New Mexico Vice Chairman — CD 2, and the former First Vice Chairman of the Republican Party of New Mexico

6. The Legislature's partisan gerrymander in Senate Bill 1 has harmed me, as explained below.

7. The Legislature's partisan gerrymander in Senate Bill 1 dilutes the power of my vote based on my political beliefs and diminishes the effect of my political action efforts by cracking the most geographically concentrated block of Republican voters in the State—specifically, all or part of Chaves, Eddy, Lea, and Otero Counties, in southeastern New Mexico—across the State's three redrawn districts.

8. As a result of the partisan gerrymander in Senate Bill 1, the Legislature eliminated the only Republican member of Congress from New Mexico—Republican Representative Yvette Herrell, from the previous Second Congressional District—by systematically and purposefully moving registered Republican voters out of the Second Congressional District and registered Democratic voters into the Second Congressional District, for partisan gain.

9. So, as a result of the partisan gerrymander in Senate Bill 1, the redrawn Second Congressional District is now far more likely to elect a Democratic Representative to Congress—and, indeed, did elect a Democratic Representative to

Congress in the very first election under Senate Bill 1, even in a national political environment favorable to Republicans—which was precisely the Legislature’s intent.

10. Both before and after Senate Bill 1, my residence is in the Second Congressional District. Thus, with Senate Bill 1, I was part of the Legislature’s cracking of registered Republican historically located in the Second Congressional District across the State’s three redrawn districts, for partisan gain.

11. Senate Bill 1 thus undermines efforts throughout New Mexico to elect Republican candidates to Congress from the State. I desire to affiliate and associate with like-minded Republicans and Republican candidates who espouse my political views—including Republican candidates from the Second Congressional District, where I reside after Senate Bill 1—yet Senate Bill 1 impairs my ability to affiliate and associate with like-minded Republicans and Republican candidates who espouse my political views and pursue Republican associational goals.

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I declare under penalty of perjury under the laws of the State of New Mexico that the foregoing is true and correct. N.M. R. Civ. P. Dist. Ct.1-011(B).

Dated: August 15, 2023

/s/Manuel Gonzales, Jr.
Manuel Gonzales, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing will be served on all counsel via the e-filing system.

Dated: August 16, 2023

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STATE OF NEW MEXICO
COUNTY OF LEA
FIFTH JUDICIAL DISTRICT

REPUBLICAN PARTY OF NEW MEXICO,
DAVID GALLEGOS, TIMOTHY JENNINGS,
DINAH VARGAS, MANUEL GONZALES, JR.,
BOBBY AND DEE ANN KIMBRO, and
PEARL GARCIA,

Plaintiffs,

v.

Cause No.
D-506-CV-2022-00041

MAGGIE TOLOUSE OLIVER, in her official capacity
as New Mexico Secretary of State, MICHELLE LUJAN
GRISHAM, in her official capacity as Governor of New
Mexico, HOWIE MORALES, in his official capacity as
New Mexico Lieutenant Governor and President of the
New Mexico Senate, MIMI STEWART, in her official
capacity as President Pro Tempore of the New Mexico
Senate, and JAVIER MARTINEZ, in his official
capacity as Speaker of the New Mexico House of
Representatives,

Defendants.

**DECLARATION OF STEVE PEARCE ON BEHALF OF
THE REPUBLICAN PARTY OF NEW MEXICO**

STEVE PEARCE, declares under penalty of perjury, as follows:

1. I am the Chairman of the Republican Party of New Mexico ("RPNM"), a Plaintiff in this action.
2. I make this affidavit based on my personal knowledge and, if called upon to testify, I could and would testify to the following facts.
3. Plaintiff RPNM is an unincorporated nonprofit association and a political party in the State of New Mexico.

4. Plaintiff RPNM supports Republican candidates in local, state, and federal elections in New Mexico, including by engaging in campaign activity for Republicans running for Congress and state legislative office.

5. With this support and these campaign activities for Republican candidates, Plaintiff RPNM attempts to band together like-minded voters in New Mexico and translate that association of voters into success for Republican candidates on Election Day.

6. Among its various campaign activities and support for Republican candidates, Plaintiff RPNM engages in fundraising efforts for Republican candidates; attempts to register voters likely to vote for these Republican candidates; mobilizes and encourages Republican voters to vote in each election in New Mexico; and generally promotes the Republican Party's policy objectives throughout the State, which policy objectives the Republican candidates whom Plaintiff RPNM supports attempt to achieve if elected into office.

7. The Legislature's partisan gerrymander in Senate Bill 1 has harmed Plaintiff RPNM directly, as explained below.

8. Senate Bill 1 cracks the most geographically concentrated block of Republican voters in the State—specifically, all or part of Chaves, Eddy, Lea, and Otero Counties, in southeastern New Mexico—across the State's three redrawn districts.

9. As a result of the partisan gerrymander in Senate Bill 1, the Legislature eliminated the only Republican member of Congress from New Mexico—Republican

Representative Yvette Herrell, from the previous Second Congressional District—by systematically and purposefully moving registered Republican voters out of the Second Congressional District and registered Democratic voters into the Second Congressional District, for partisan gain.

10. So, because of the partisan gerrymander in Senate Bill 1, the redrawn Second Congressional District is now far more likely to elect a Democratic Representative to Congress—and, indeed, did elect a Democratic Representative to Congress in the very first election under Senate Bill 1, even in a national political environment favorable to Republicans—which was precisely the Legislature’s intent.

11. The Legislature’s partisan gerrymander in Senate Bill 1 harms Plaintiff RPNM’s ability to band together like-minded voters in New Mexico and translate that association of voters into success for Republican candidates on Election Day—particularly with respect to electing a Republican candidate to Congress from the Second Congressional District

12. That is, because of Senate Bill 1’s partisan gerrymander, it is more difficult for Plaintiff RPNM successfully to engages in fundraising efforts for Republican candidates; to register voters likely to vote for these Republican candidates; to mobilize and encourage Republican voters to vote in each election in New Mexico; and to promote the Republican Party’s policy objectives throughout the State and see those policy objectives carried out by Republican candidates elected into office—especially with respect to the Second Congressional District.

13. Further, and independent of the above-described harm, the Legislature's partisan gerrymander in Senate Bill 1 also harms Plaintiff RPMN by harming its members, as explained below.

14. Plaintiff RPNM's members are registered Republican voters across the State of New Mexico—including Plaintiffs Gallegos, Vargas, Garcia, Gonzales, and Bobby and Dee Ann Kimbro—and these members regularly vote for Republican candidates in local, state, and federal elections, and engage in campaign activity for Republicans running for Congress and state legislative office. Further, these members desire to affiliate and associate with like-minded Republicans and Republican candidates who espouse their political views.

15. The Legislature's partisan gerrymander in Senate Bill 1 dilutes the power of Plaintiff RPNM's members' votes based on their political beliefs by (as noted above) cracking the most geographically concentrated block of Republican voters in the State—specifically, all or part of Chaves, Eddy, Lea, and Otero Counties, in southeastern New Mexico—across the State's three redrawn districts.

16. Additionally, Senate Bill 1 impairs Plaintiff RPNM's members' ability to affiliate and associate with like-minded Republicans and Republican candidates who espouse their political views and pursue Republican associational goals—including Republican candidates from the Second Congressional District.

I declare under penalty of perjury under the laws of the State of New Mexico that the foregoing is true and correct. N.M. R. Civ. P. Dist. Ct.1-011(B).

Dated: August 16, 2023

/s/ Steve Pearce
Steve Pearce

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing will be served on all counsel via the e-filing system.

Dated: August 16, 2023

/s/ Carter B. Harrison, IV
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