

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

MICHAEL BANERIAN, *et al.*,

Plaintiffs,

v.

JOCELYN BENSON, in her official capacity as  
the Secretary of State of Michigan, *et al.*,

Defendants.

**Case No. 1:22-CV-00054-PLM-SJB**

**Three-Judge Panel  
28 U.S.C. § 2284(a)**

**PLAINTIFFS' REPLY IN SUPPORT OF THEIR  
MOTION FOR PRELIMINARY INJUNCTION**

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**TABLE OF AUTHORITIES**

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## **INTRODUCTION**

Plaintiffs submit this reply in response to Secretary Jocelyn Benson’s Brief in Opposition to Preliminary Injunction, ECF No. 47, and in support of Plaintiffs’ Motion for Preliminary Injunction, ECF No. 9. For the reasons detailed in the Motion and further elucidated below, the Court should grant Plaintiffs’ Motion and extend relevant state filing deadlines to enable the Secretary to implement any revised congressional map.

## **ARGUMENT**

The Secretary does not take a position on the merits of Plaintiffs’ claims or the constitutionality of the enacted map, *see* Def. Br. in Opp. at 23 (ECF No. 47, PageID.1001), although she does argue that the Court should “weigh the impact of any injunction on the Secretary’s duty to implement the adopted plans” when considering the balance of equities and public interest preliminary injunction factors. Def. Br. in Opp. at 24 (ECF No. 47, PageID.1002). The Secretary’s only request is that “if this Court is . . . persuaded to grant Plaintiffs’ relief, this Court should order the Commission to adopt a new plan on an expedited basis and also order additional relief related to the statutory deadlines for candidates seeking these offices.” Def. Br. in Opp. at 11 (ECF No. 47, PageID.989).

Plaintiffs are entitled to an injunction because there are six months remaining before the primary election and nine months until the general election. Hence, the Supreme Court’s *Purcell* principle is attenuated because there remains adequate time to complete necessary tasks related to the implementation of a revised map. If there is insufficient time under the present calendar, this Court has the authority to extend petition circulation deadlines to carry out Plaintiffs’ requested remedy. For the reasons detailed in Plaintiffs’ Motion, in the absence of an injunction Plaintiffs’ voting rights will be irreparably harmed for the 2022 elections.

Currently, “[t]he deadline to collect signatures and file nominating petitions for accessing the primary ballot is April 19, 2022,” two months from now. Def. Br. in Opp. at 20 (ECF No. 47, PageID.998). According to the Secretary, updates must be made to Michigan’s qualified voter file to assign all the state’s voters to the correct districts between the time a final map is adopted and the candidate petition filing deadline. Def. Br. in Opp. at 19 (ECF No. 47, PageID.997). In the previous redistricting cycle, this process “took approximately six months,” and the Secretary contends that the grant of an injunction here would re-start the process, “depending on how different the maps turn out to be.” Def. Br. in Opp. at 20, 27 (ECF No. 47, PageID.998, 1005).

The deadlines for filing nominating petitions and paying filing fees have previously been extended by both state and federal courts due to extenuating circumstances that make it difficult to meet the prescribed deadline. *See, e.g., Esshaki v. Whitmer*, 455 F. Supp. 3d 367, 383-84 (E.D. Mich. 2020) (extending nominating petition filing deadline due to COVID-19 pandemic); *In re Apportionment of State Legislature – 1972*, 197 N.W.2d 249, 256 (1972). If the Court determines that such an extension is necessary or appropriate here to grant Plaintiffs’ requested injunction, then it should order one. Plaintiffs do not oppose the Secretary’s requested extension of relevant deadlines, and respectfully request that the Court order any such extensions that it determines are necessary to enable the Secretary to satisfy her statutory duties.

Dated: February 23, 2022

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**CERTIFICATE OF COMPLIANCE**

I HEREBY CERTIFY that:

1. This Brief complies with the word-count limitation of W.D. Mich. LCivR 7.2(b)(i) because this Brief contains 551 words (including headings, footnotes, citations, and quotations but not the case caption, cover sheets, table of contents, table of authorities, signature block, attachments, exhibits, or affidavits).

2. The word processing software used to create this Brief and generate the above word count is Microsoft Word 2016.

Dated: February 23, 2022

/s/ Charles R. Spies  
Charles R. Spies

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served to all counsel of record through the Court's CM/ECF system on February 23, 2022.

Dated: February 23, 2022

/s/ Charles R. Spies  
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