IN THE SUPREME COURT OF KANSAS

SCOTT SCHWAB, Kansas Secretary of State, in his official capacity,	)	
and	)	
MICHAEL ABBOTT, Wyandotte County Election Commissioner, in his official capacity,	)	
Petitioners,	)	
v.	)	**Original Action No. _____**
THE HONORABLE BILL KLAPPER, in his official capacity as a District Court Judge, Twenty-Ninth Judicial District,	)	
Respondent.	)	
----------	)	
FAITH RIVERA, DIOSSELYN TOT-VELASQUEZ, KIMBERLY WEAVER, PARIS RAITE, DONNAVAN DILLON, and LOUD LIGHT,	)	
Plaintiffs in Wyandotte County District Court Case 2022-CV-89 and Respondents under Kansas Supreme Court Rule 9.01(a)(1),	)	
and	)	
TOM ALONZO, SHARON AL-UQDAH, AMY CARTER, CONNIE BROWN COLLINS, SHEYVETTE DINKENS, MELINDA LAVON, ANA MARCELA MALDONADO MORALES, LIZ MEITL, RICHARD NOBLES, ROSE SCHWAB, and ANNA WHITE,	)	

Plaintiffs in Wyandotte County District Court Case 2022-CV-90 and Respondents under Kansas Supreme Court Rule 9.01(a)(1).	)

PETITION IN MANDAMUS AND QUO WARRANTO

COME NOW Petitioners, Kansas Secretary of State Scott Schwab and Wyandotte County Election Commissioner Michael Abbott, and respectfully bring this action in mandamus and quo warranto seeking an order requiring the dismissal of two lawsuits currently pending before the Respondent, District Court Judge Bill Klapper, that seek to challenge the constitutionality of the recently passed redistricting legislation for federal congressional districts. Never before in Kansas history have congressional maps been challenged in state courts, and for good reason: Kansas state courts lack jurisdiction to pass on the constitutionality of congressional maps. At the very least, the legal theories asserted by Plaintiffs in the pending district court proceedings are not valid as a matter of Kansas law.

This case is of great urgency and significant public concern. The congressional maps being challenged apply to the primary election to be held on August 2, 2022, and the candidate filing deadline for that election is June 1, 2022, *see* K.S.A. 25-205, just over three months away. It is vital that this dispute be resolved quickly. Accordingly, Petitioners are contemporaneously filing a motion to expedite this proceeding, as well as a motion to stay the district court proceedings until this case is resolved.

In support of the Petition, Petitioners allege and state as follows:

I. JURISDICTION AND PARTIES

1. This is an original action in mandamus and quo warranto pursuant to K.S.A. 60-801 *et seq*., K.S.A. 60-1201, *et seq*., and the Kansas Constitution. This Court has original jurisdiction by virtue of Article 3, § 3, of the Kansas Constitution, K.S.A. 60-801 *et seq*., K.S.A. 60-1201, *et seq*., and Kansas Supreme Court Rule 9.01.

2. In accordance with Kansas Supreme Court Rule 9.01(a), Petitioners are filing a Memorandum in Support of this Petition, together with documentary evidence supporting the facts alleged.

3. For reasons further described in the Memorandum in Support of this Petition, the Court should exercise its original jurisdiction over this matter because the case presents purely legal issues of significant public concern, and there is a compelling need for an expeditious and authoritative ruling on the important legal issues presented. *See* Kansas Supreme Court Rule 9.01(b).

4. Petitioner Scott Schwab is the Secretary of State of Kansas and is the State's chief election official. He is a named defendant in two recently filed district court cases that seek to challenge the constitutionality of the new congressional map, *Rivera v. Schwab*, 2022-CV-89 (Wyandotte County D. Ct.) and *Alonzo v. Schwab*, 2022-CV-90 (Wyandotte County D. Ct.).

5. Petitioner Michael Abbott is the Election Commissioner for Wyandotte County. He is also a defendant in the *Rivera* and *Alonzo* cases.

6. Respondent Bill Klapper is a District Court Judge in the Twenty-Ninth

Judicial District (Wyandotte County) and is currently assigned to *Rivera v. Schwab*, 2022-CV-89 and *Alonzo v. Schwab*, 2022-CV-90.

7. Judge Klapper may be served as specified in K.S.A. 60-205, *see* Kansas Supreme Court Rule 1.11(a), and is being served as shown by the attached Certificate of Service.

8. Faith Rivera, Diosselyn Tot-Velasquez, Kimberly Weaver, Paris Raite, Donnavan Dillon, and Loud Light are Plaintiffs in *Rivera* and are Respondents in this action by virtue of Kansas Supreme Court Rule 9.01(a)(1). They are being served as specified in K.S.A. 60-205, *see* Kansas Supreme Court Rule 1.11(a), as shown by the attached Certificate of Service.

9. Tom Alonzo, Sharon Al-Uqdah, Amy Carter, Connie Brown Collins, Sheyvette Dinkens, Melinda Lavon, Ana Marcela Maldonado Morales, Liz Meitl, Richard Nobles, Rose Schwab, and Anna White are Plaintiffs in *Alonzo* and are Respondents in this action by virtue of Kansas Supreme Court Rule 9.01(a)(1). They are being served as specified in K.S.A. 60-205, *see* Kansas Supreme Court Rule 1.11(a), as shown by the attached Certificate of Service.

II. STATEMENT OF FACTS

10. The Kansas Legislature is responsible for redrawing the boundaries of Kansas's congressional districts every ten years based on the most recent decennial census. *See Essex v. Kobach*, 874 F. Supp. 2d 1069, 1073 (D. Kan. 2012).

11. Earlier this year, based on the results of the 2020 Census, the Kansas Legislature passed Substitute for Senate Bill 355 (SB 355), which adopted the "Ad

Astra 2" congressional map. Governor Laura Kelly vetoed the bill, but the Legislature overrode her veto by the required two-thirds majorities in each house, with a 27-11 vote in the Senate on February 8, 2022, and an 85-37 vote in the House of Representatives on February 9, 2022. SB 355 took effect with its publication in the Kansas Register on February 10, 2022. A copy of SB 355 is included as Exhibit A.

12. The Ad Astra 2 map adopted by SB 355 is included as Exhibit B and is also available on the Kansas Legislative Research Department's website at: http://www.kslegresearch.org/KLRD-web/Publications/Redistricting/2022-Plans/M3_AdAstra_2-packet.pdf.

13. On February 14, 2022, Faith Rivera, Diosselyn Tot-Velasquez, Kimberly Weaver, Paris Raite, Donnavan Dillon, and Loud Light filed a lawsuit in Wyandotte County District Court against Petitioners Secretary of State Scott Schwab and Wyandotte County Election Commissioner Michael Abbott alleging that SB 355 violates the Kansas Constitution and seeking declaratory and injunctive relief. *See Rivera v. Schwab*, 2022-CV-89 (Wyandotte County D. Ct.). The Petition is attached as Exhibit C.

14. The same day, Tom Alonzo, Sharon Al-Uqdah, Amy Carter, Connie Brown Collins, Sheyvette Dinkens, Melinda Lavon, Ana Marcela Maldonado Morales, Liz Meitl, Richard Nobles, Rose Schwab, and Anna White filed a similar lawsuit also in Wyandotte County District Court seeking declaratory, injunctive, and mandamus relief against SB 355 based on alleged violations of the Kansas

Constitution. *See Alonzo v. Schwab*, 2022-CV-90 (Wyandotte County D. Ct.). The Petition in that case is attached as Exhibit D.

III. GROUNDS FOR RELIEF

15. Kansas courts lack authority to consider constitutional challenges to congressional maps. The Elections Clause in Article I, Section 4, of the U.S. Constitution provides that "[t]he Times, Places and Manner of holding Elections for Senators and Representatives shall be prescribed in each State by the *Legislature* thereof." U.S. Const. art. I, § 4 (emphasis added). Neither that provision nor Kansas law gives courts any role in the lawmaking process by which congressional maps are drawn. As such, a state court's insertion of itself into that process would violate the Elections Clause.

16. The Kansas Constitution gives this Court a limited role in the enactment of *state legislative* districts. *See* Kan. Const. art X, § 1. But no similar provision exists under Kansas law for *federal congressional* districts. Like the U.S. Constitution, the Kansas Constitution does not permit state courts to determine the validity of congressional redistricting plans.

17. Even if state courts could determine the validity of congressional redistricting plans, no cause of action exists under the Kansas Constitution for partisan gerrymandering under any of the theories advanced by Plaintiffs in *Rivera v. Schwab* and *Alonzo v. Schwab*. Rather, this Court should hold that partisan gerrymandering claims are not justiciable under the Kansas Constitution, as the U.S. Supreme Court has held with respect to the U.S. Constitution, *see Rucho v.*

Common Cause, 139 S. Ct. 2484 (2019), and as multiple other states have held with respect to their own constitutions, *see, e.g.*, *Johnson v. Wisconsin Elections Comm'n*, 399 Wis. 2d 623, 657, 967 N.W.2d 469 (2021); *Pearson v. Koster*, 359 S.W.3d 35, 42 (Mo. 2012).

18. If Kansas courts can entertain state constitutional claims against federal congressional maps based on alleged racial vote dilution, this Court should adopt the federal equal protection standard and require *purposeful* discrimination. *See Shaw v. Reno*, 509 U.S. 630, 649 (1993). Because the petitions in *Rivera v. Schwab* and *Alonzo v. Schwab* do not plausibly plead purposeful discrimination, the racial vote dilution claims should be dismissed.

IV. RELIEF SOUGHT

WHEREFORE, for the reasons stated herein and in the Memorandum in Support of the Petition, Motion to Expedite, and Motion to Stay District Court Proceedings, Petitioners seek the following relief:

a. An order requiring Respondent District Judge Klapper to dismiss *Rivera v. Schwab*, 2022-CV-89 (Wyandotte County D. Ct.) and *Alonzo v. Schwab*, 2022-CV-90 (Wyandotte County D. Ct.).

b. An order granting Petitioners' motion to expedite this proceeding and providing for an expedited briefing schedule and oral argument setting;

c. An order staying district court proceedings in *Rivera v. Schwab*,

2022-CV-89 (Wyandotte County D. Ct.) and *Alonzo v. Schwab*, 2022-CV-90 (Wyandotte County D. Ct.); and

d. Such other and further relief as this Court deems just and proper.

Respectfully submitted,

OFFICE OF ATTORNEY GENERAL
DEREK SCHMIDT

By: /s/ Brant M. Laue
Derek Schmidt, #17781
Attorney General of Kansas
Jeffrey A. Chanay, #12056
Chief Deputy Attorney General
Brant M. Laue, #16857
Solicitor General of Kansas
Dwight R. Carswell, #25111
Deputy Solicitor General
Shannon Grammel, #29105
Deputy Solicitor General
Kurtis K. Wiard, #26373
Assistant Solicitor General

Memorial Bldg., 2nd Floor
120 SW 10th Avenue
Topeka, Kansas 66612-1597
Tel: (785) 296-2215
Fax: (785) 291-3767
Email: jeff.chanay@ag.ks.gov
brant.laue@ag.ks.gov
dwight.carswell@ag.ks.gov
shannon.grammel@ag.ks.gov
kurtis.wiard@ag.ks.gov

Attorneys for Petitioners Scott Schwab and Michael Abbott

CERTIFICATE OF SERVICE

The undersigned certifies that on February 18, 2022, a true and correct copy of the above and foregoing was served as per Kan. Sup. Ct. R. 1.11(a) and K.S.A. 60-205(b)(2)(C) by depositing a copy in the U.S. mail to the following mailing addresses, and electronic copies were also sent to the following email addresses:

Judge Bill Klapper
Wyandotte County Courthouse
710 N. 7th St.
Kansas City, KS 66101
kcoulter@wycokck.org (administrative aide)

Respondent

Sharon Brett
Josh Pierson
Kayla DeLoach
American Civil Liberties Union Foundation of Kansas
6701 W. 64th St. Suite 201
Overland Park, KS 66202
sbrett@aclukansas.org
jpierson@aclukansas.org
kdeloach@aclukansas.org

Mark P. Gaber
Kevin Hancock
Sam Horan
Christopher Lamar
Orion de Nevers
Campaign Legal Center
1101 14th St. NW, Suite 400
Washington, DC 20005
mgaber@campaignlegalcenter.org
khancock@campaignlegalcenter.org
shoran@campaignlegalcenter.org
clamar@campaignlegalcenter.org
odenevers@campaignlegalcenter.org

Elisabeth S. Theodore
R. Stanton Jones
John A. Freedman
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW

Washington, DC 20001
elisabeth.theodore@arnoldporter.com
stanton.jones@arnoldporter.com
john.freedman@arnoldporter.com

Rick Rehorn
Tomasic & Rehorn
P.O. Box 171855
Kansas City, KS 66117-0855
rick@tomasicrehorn.com

Attorneys for Plaintiffs in
Alonzo v. Schwab, 2022-CV-90 (Wyandotte County D. Ct.)

Barry Grissom
Jake Miller
Grissom Miller Law Firm LLC
1600 Genessee St., Suite 460
Kansas City, MO 64102
barry@grissommiller.com
jake@grissommiller.com

Abha Khanna
Elias Law Group LLP
1700 Seventh Ave., Suite 2100
Seattle WA 98101
akhanna@elias.law

Lalitha D. Madduri
Henry J. Brewster
Spencer Klein
Elias Law Group LLP
10 G. Street NE, Suite 600
Washington, DC 20002
lmadduri@elias.law
hbrewster@elias.law
sklein@elias.law

Attorneys for Plaintiffs in
Rivera v. Schwab, 2022-CV-89 (Wyandotte County D. Ct.)

/s/ Brant M. Laue
Brant M. Laue

Exhibit A
Substitute for Senate Bill 355

Substitute for SENATE BILL No. 355

AN ACT concerning reapportionment; relating to congressional districts; providing for the reapportionment thereof; repealing K.S.A. 2021 Supp. 4-137 and 4-143.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) As used in sections 1 through 7, and amendments thereto, "voting district," "tract," "block group" or "block" means, respectively, a voting district (VTD), tract, block group or block identified on the official United States 2020 decennial census maps.

(b) Voting districts, tracts, block groups and blocks are referred to in sections 1 through 7, and amendments thereto, by the alphanumeric code by which they are identified on the official United States 2020 decennial census maps and data lists.

(c) The boundaries of counties, voting districts, tracts, block groups and blocks referred to in sections 1 through 7, and amendments thereto, are those boundaries as they exist and are identified on the official United States 2020 decennial census maps.

Sec. 2. (a) If a county, voting district, tract, block group or block is not included within a congressional district established by this act, such county, voting district, tract, block group or block shall be attached to the congressional district to which such county, voting district, tract, block group or block is contiguous and, if contiguous to more than one congressional district, such county, voting district, tract, block group or block shall be attached to the contiguous congressional district that has the least total population.

(b) If a county, voting district, tract, block group or block is included in two or more congressional districts established by this act, such county, voting district, tract, block group or block shall be attached to and become a part of the congressional district that has the least total population.

Sec. 3. The provisions of this act shall not affect the term of any representative to congress elected to represent a district at the general election of 2020 or the term of any successor to such representative serving for an unexpired term. All such representatives shall continue to serve the districts from which elected until the representatives elected from the congressional districts established by this act commence their terms of office in January of 2023.

Sec. 4. Congressional district 1 shall consist of all of Barton county; and all of Cheyenne county; and all of Clark county; and all of Clay county; and all of Cloud county; and all of Decatur county; and all of Dickinson county; and the following voting districts in Douglas county: (00007A), (000080), (000090), (00010A), (000110), (00012A), (000130), (000140), (000150), (000160), (000170), (000180), (000190), (000200), (000210), (000220), (000230), (000240), (000250), (000260), (000270), (000280), (000290), (000300), (000310), (000320), (000330), (000340), (000350), (000370), (000380), (000400), (000450), (000460), (000470), (00048B), (00048D), (00050A), (00050C), (00052A), (000560), (00067B), (120020); and the following blocks in voting district (120030), tract 0001.00, block group 3, in Douglas county: block 003; and the following blocks in voting district (120030), tract 0002.01, block group 1, in Douglas county: block 000, block 004, block 020; and the following voting districts in Douglas county: (120040), (120050), (120060); and the following blocks in voting district (120080), tract 0006.03, block group 3, in Douglas county: block 002, block 025, block 026, block 027; and the following blocks in voting district (120080), tract 0015.00, block group 1, in Douglas county: block 079; and the following voting districts in Douglas county: (120090), (120100), (120110), (120120), (120130), (120140), (120150), (120170), (120210), (120220), (120230), (120240), (120250), (120260), (120270), (120280), (120300); and the following blocks in voting district (120320), tract 0015.00, block group 1, in Douglas county: block 002, block 004, block 011, block 062, block 063, block 064, block 065; and the following voting districts in Douglas

county: (120350), (120360); and the following blocks in voting district (160750), tract 0014.00, block group 2, in Douglas county: block 030, block 033, block 034; and the following voting districts in Douglas county: (160760); and the following blocks in voting district (160770), tract 0002.01, block group 2, in Douglas county: block 000, block 001, block 002, block 003, block 004, block 005, block 006, block 007, block 008, block 009, block 010, block 012, block 013, block 014, block 016, block 017, block 018, block 019, block 020, block 021, block 022, block 024; and the following blocks in voting district (160770), tract 0002.02, block group 4, in Douglas county: block 004, block 005, block 006, block 007; and the following blocks in voting district (160770), tract 0010.02, block group 2, in Douglas county: block 005; and the following blocks in voting district (160770), tract 0010.02, block group 3, in Douglas county: block 000; and the following voting districts in Douglas county: (160780), (18064A), (18066A), (18066B); and the following blocks in voting district (190050), tract 0006.03, block group 3, in Douglas county: block 043, block 048, block 049, block 050; and the following voting districts in Douglas county: (190060), (190070), (190080); and the following blocks in voting district (190090), tract 0009.02, block group 3, in Douglas county: block 018; and the following voting districts in Douglas county: (190100); and the following blocks in voting district (190110), tract 0014.00, block group 2, in Douglas county: block 109, block 110; and the following voting districts in Douglas county: (400030), (400040), (400080), (900040), (900050), (900060), (900070), (900080), (900090), (900100), (900120), (900130), (900140), (900170); and all of Ellis county; and all of Ellsworth county; and all of Finney county; and all of Ford county; and all of Gove county; and all of Graham county; and all of Grant county; and all of Gray county; and all of Greeley county; and all of Hamilton county; and all of Haskell county; and all of Hodgeman county; and the following voting districts in Jackson county: (000010), (000020), (000030), (000040), (000050), (000060), (000070), (00008A), (00008B), (000090), (00010A), (00010B), (000110); and the following blocks in voting district (000120), tract 0826.00, block group 4, in Jackson county: block 080, block 088, block 089, block 090, block 091, block 092, block 093, block 094, block 098, block 099, block 100, block 101, block 102, block 103, block 104, block 105, block 106, block 107, block 108, block 109, block 110, block 111, block 112, block 113, block 114, block 115, block 116, block 117, block 118, block 119, block 120, block 121, block 122, block 123, block 124, block 125, block 126, block 127, block 128, block 129, block 130, block 133, block 134, block 135, block 136, block 137, block 139; and the following blocks in voting district (000120), tract 0827.00, block group 1, in Jackson county: block 000, block 001, block 002, block 003, block 004, block 005, block 006, block 007, block 008, block 016, block 017, block 018, block 019, block 020, block 021; and the following blocks in voting district (000120), tract 0828.00, block group 1, in Jackson county: block 126, block 127, block 128, block 179, block 180; and the following voting districts in Jackson county: (000130), (000150); and the following blocks in voting district (000160), tract 0826.00, block group 3, in Jackson county: block 065, block 066, block 067, block 071, block 077, block 078, block 082, block 083, block 084, block 085, block 086, block 087, block 088, block 089, block 090, block 091, block 092, block 093, block 094, block 095, block 096, block 097, block 098, block 099, block 100, block 101, block 102, block 103, block 104, block 105, block 106, block 107, block 108, block 109, block 110, block 111, block 112, block 116, block 118; and the following blocks in voting district

(000160), tract 0826.00, block group 4, in Jackson county: block 131, block 132; and the following voting districts in Jackson county: (000170); and all of Jefferson county; and all of Jewell county; and all of Kearny county; and all of Lane county; and all of Lincoln county; and all of Logan county; and all of McPherson county; and all of Marshall county; and all of Meade county; and all of Mitchell county; and all of Morton county; and all of Ness county; and all of Norton county; and all of Osborne county; and all of Ottawa county; and the following voting districts in Pawnee county: (000010), (000030); and the following blocks in voting district (000070), tract 9702.00, block group 1, in Pawnee county: block 003, block 004, block 005, block 006, block 007, block 008, block 015, block 017, block 022, block 023, block 024, block 048, block 105; and the following blocks in voting district (000070), tract 9702.00, block group 5, in Pawnee county: block 015; and the following blocks in voting district (000070), tract 9703.00, block group 2, in Pawnee county: block 095, block 101, block 102, block 103, block 104, block 105, block 106, block 107, block 108, block 109, block 110, block 111, block 150, block 151, block 152, block 153, block 419, block 420; and the following blocks in voting district (000080), tract 9702.00, block group 1, in Pawnee county: block 025, block 026, block 036, block 037, block 038, block 039, block 040, block 041, block 042, block 043, block 044, block 045, block 051, block 052, block 053, block 054, block 055, block 056, block 057, block 058, block 059, block 060, block 061, block 062, block 063, block 064, block 065, block 066, block 068, block 069, block 070, block 071, block 072, block 073; and the following blocks in voting district (000080), tract 9702.00, block group 2, in Pawnee county: block 000, block 001, block 002, block 003, block 004, block 005, block 006, block 007, block 008, block 011, block 012, block 013, block 014, block 015, block 016, block 017, block 018, block 019, block 020, block 021, block 022, block 023, block 024, block 025, block 026, block 027, block 028, block 029, block 030, block 031, block 032, block 033, block 034, block 035, block 036, block 037, block 038, block 039, block 040, block 049, block 050, block 051, block 052, block 053, block 075; and the following blocks in voting district (000090), tract 9702.00, block group 1, in Pawnee county: block 016, block 018, block 019, block 020, block 021, block 074, block 075, block 076, block 077, block 078, block 079, block 080, block 081, block 082, block 083, block 084, block 085, block 102, block 103, block 104; and the following blocks in voting district (000090), tract 9702.00, block group 2, in Pawnee county: block 009, block 010, block 041, block 042, block 043, block 044, block 045, block 046, block 047, block 048, block 080, block 081, block 082, block 097, block 098, block 099, block 100, block 101, block 102, block 104, block 105; and the following blocks in voting district (000090), tract 9702.00, block group 5, in Pawnee county: block 000, block 001, block 002, block 003, block 004, block 005, block 006, block 007, block 008, block 009, block 010, block 011, block 012, block 013, block 014, block 016, block 017, block 018, block 019, block 020, block 021, block 022, block 023, block 024, block 025, block 026, block 027, block 094; and the following blocks in voting district (000110), tract 9702.00, block group 2, in Pawnee county: block 074; and the following voting districts in Pawnee county: (000120), (000140), (000160), (000230), (000250), (120020), (120030), (120040), (120050); and all of Phillips county; and all of Pottawatomie county; and all of Rawlins county; and all of Reno county; and all of Republic county; and all of Rice county; and all of Riley county; and all of Rooks county; and all of Rush county; and all of Russell county; and all of Saline county; and all of Scott county; and

all of Seward county; and all of Sheridan county; and all of Sherman county; and all of Smith county; and all of Stanton county; and all of Stevens county; and all of Thomas county; and all of Trego county; and all of Wallace county; and all of Washington county; and all of Wichita county.

Sec. 5. Congressional district 2 shall consist of all of Allen county; and all of Atchison county; and all of Bourbon county; and all of Brown county; and all of Chase county; and all of Cherokee county; and all of Coffey county; and all of Crawford county; and all of Doniphan county; and the following voting districts in Douglas county: (000010), (000020), (000030), (00003A), (000600), (000620), (000630), (000640), (000660); and the following blocks in voting district (120030), tract 0002.01, block group 1, in Douglas county: block 005; and the following blocks in voting district (120030), tract 0002.01, block group 2, in Douglas county: block 011; and the following blocks in voting district (120030), tract 0012.01, block group 1, in Douglas county: block 004, block 005, block 006, block 010, block 022, block 028; and the following voting districts in Douglas county: (120070); and the following blocks in voting district (120080), tract 0006.03, block group 3, in Douglas county: block 001, block 028, block 042, block 051; and the following blocks in voting district (120080), tract 0014.00, block group 2, in Douglas county: block 002; and the following blocks in voting district (120080), tract 0015.00, block group 1, in Douglas county: block 075, block 078, block 080; and the following voting districts in Douglas county: (120290), (120310); and the following blocks in voting district (120320), tract 0015.00, block group 1, in Douglas county: block 003, block 005, block 006, block 007, block 008, block 009, block 010, block 066, block 067, block 068, block 069, block 070, block 071, block 072, block 073, block 074; and the following blocks in voting district (120320), tract 0015.00, block group 2, in Douglas county: block 010, block 011, block 012, block 013, block 014, block 015, block 016, block 017, block 018, block 019, block 044, block 045, block 046, block 047, block 048, block 049, block 051, block 056, block 057, block 058, block 059, block 060, block 061, block 062, block 063, block 064, block 067; and the following voting districts in Douglas county: (120330), (120340), (120370), (120380), (120390), (120400), (120410), (120420), (120430), (120440), (120450), (120460); and the following blocks in voting district (160750), tract 0014.00, block group 2, in Douglas county: block 035, block 036; and the following blocks in voting district (160770), tract 0012.01, block group 1, in Douglas county: block 011, block 021; and the following voting districts in Douglas county: (18046B), (180520), (18052A), (18052B), (18052C), (180530), (180540), (180560), (18062A), (190040); and the following blocks in voting district (190050), tract 0006.02, block group 3, in Douglas county: block 017; and the following blocks in voting district (190090), tract 0009.02, block group 3, in Douglas county: block 019; and the following blocks in voting district (190110), tract 0014.00, block group 2, in Douglas county: block 111; and the following voting districts in Douglas county: (200010), (200020), (400050), (400090), (400110), (900010), (900020); and all of Geary county; and the following blocks in voting district (000120), tract 0826.00, block group 4, in Jackson county: block 081; and the following voting districts in Jackson county: (000140); and the following blocks in voting district (000160), tract 0826.00, block group 3, in Jackson county: block 059, block 060, block 061, block 062, block 063, block 064, block 068, block 069, block 070, block 072, block 073, block 074, block 075, block 076, block 079, block 080, block 081; and the following voting districts in Jackson county: (000180); and all of Labette county; and all

of Leavenworth county; and all of Linn county; and all of Lyon county; and all of Marion county; and all of Montgomery county; and all of Morris county; and all of Nemaha county; and all of Neosho county; and all of Osage county; and all of Shawnee county; and all of Wabaunsee county; and all of Wilson county; and all of Woodson county; and the following blocks in voting district (140030), tract 0447.02, block group 1, in Wyandotte county: block 000, block 001, block 002, block 008, block 015; and the following voting districts in Wyandotte county: (140090), (600090), (600100), (600110), (600120), (600130), (600140), (600150), (600160), (600170), (600180), (600190), (600200), (600210), (600220), (600230), (600240), (600250), (600260), (600270), (600280), (600290), (600300), (600310), (600450), (600460), (600470), (600480), (600490), (600500); and the following blocks in voting district (600510), tract 0439.05, block group 1, in Wyandotte county: block 004, block 010, block 013; and the following blocks in voting district (600520), tract 0440.01, block group 2, in Wyandotte county: block 000, block 003; and the following blocks in voting district (600520), tract 0441.01, block group 1, in Wyandotte county: block 006, block 007, block 008, block 009, block 010, block 011, block 012, block 013, block 014, block 015; and the following voting districts in Wyandotte county: (600530); and the following blocks in voting district (600540), tract 0440.01, block group 1, in Wyandotte county: block 000, block 003, block 004, block 005; and the following blocks in voting district (600540), tract 0441.02, block group 1, in Wyandotte county: block 000, block 001, block 002, block 003, block 004, block 005, block 006, block 007, block 008, block 009, block 010, block 012; and the following voting districts in Wyandotte county: (600550), (600590), (600600), (600610), (600620), (600630), (600640), (600650), (600660), (600670), (600680), (600690), (600700), (600710), (600720), (600730), (600740), (600750); and the following blocks in voting district (600760), tract 0447.02, block group 1, in Wyandotte county: block 003, block 004; and the following blocks in voting district (600760), tract 0447.03, block group 1, in Wyandotte county: block 000, block 001, block 002, block 003, block 004, block 005, block 006, block 007, block 008, block 009, block 010, block 011, block 012, block 013, block 014, block 015, block 016, block 017, block 018, block 019, block 020, block 021, block 022, block 023, block 024, block 025, block 026, block 027, block 028, block 029, block 030, block 031, block 032, block 033, block 034, block 035, block 036, block 037, block 038, block 039, block 040, block 041, block 042; and the following blocks in voting district (600760), tract 0447.03, block group 3, in Wyandotte county: block 000, block 001, block 002, block 003, block 004, block 005, block 006, block 007, block 008, block 009; and the following blocks in voting district (600760), tract 0448.03, block group 4, in Wyandotte county: block 000, block 001, block 002, block 003, block 004, block 005, block 006, block 007, block 008, block 009, block 010, block 011, block 012, block 013, block 014, block 015, block 016, block 017, block 018, block 019, block 020, block 021, block 022, block 023, block 024, block 025, block 026, block 027, block 028, block 030, block 032, block 033, block 034, block 035, block 036, block 037, block 038, block 039; and the following voting districts in Wyandotte county: (600870), (600880), (600890), (600900), (600910), (600920), (600930), (600940), (600950), (600960), (600970), (600980), (600990), (601000), (601010), (601020), (601030), (601040), (601050), (601060), (601070), (601080), (601090), (601100), (601120).

Sec. 6. Congressional district 3 shall consist of all of Anderson

county; and all of Franklin county; and all of Johnson county; and all of Miami county; and the following voting districts in Wyandotte county: (120100), (140020); and the following blocks in voting district (140030), tract 0447.02, block group 1, in Wyandotte county: block 006, block 007, block 009, block 010, block 016, block 025, block 026, block 027, block 028, block 029, block 030, block 031, block 032, block 033, block 034, block 041, block 042, block 043, block 044, block 045, block 046; and the following blocks in voting district (140030), tract 0447.02, block group 2, in Wyandotte county: block 018, block 019; and the following blocks in voting district (140030), tract 0447.02, block group 3, in Wyandotte county: block 000, block 001, block 002, block 003, block 004, block 005, block 006, block 007, block 008, block 009, block 010, block 011, block 012, block 013, block 014, block 015, block 016, block 017, block 018; and the following voting districts in Wyandotte county: (600010), (600020), (600030), (600040), (600060), (600320), (600330), (600340), (600350), (600360), (600370), (600380), (600390), (600400), (600410), (600420), (600430), (600440); and the following blocks in voting district (600510), tract 0439.05, block group 1, in Wyandotte county: block 011, block 012; and the following blocks in voting district (600510), tract 0440.01, block group 3, in Wyandotte county: block 000, block 001, block 002, block 003, block 004, block 005, block 006, block 007, block 008, block 009, block 010; and the following blocks in voting district (600510), tract 0440.02, block group 2, in Wyandotte county: block 000, block 001, block 002; and the following blocks in voting district (600510), tract 0440.02, block group 4, in Wyandotte county: block 000, block 001, block 002, block 003, block 004, block 005, block 006, block 007, block 008, block 009, block 010, block 011, block 012, block 013, block 014, block 015, block 016, block 017, block 018; and the following blocks in voting district (600520), tract 0440.01, block group 2, in Wyandotte county: block 001, block 002; and the following blocks in voting district (600540), tract 0440.01, block group 1, in Wyandotte county: block 006, block 007, block 012, block 019, block 020; and the following voting districts in Wyandotte county: (600560), (600570), (600580); and the following blocks in voting district (600760), tract 0447.02, block group 1, in Wyandotte county: block 005, block 011; and the following blocks in voting district (600760), tract 0447.03, block group 3, in Wyandotte county: block 010, block 011, block 012; and the following blocks in voting district (600760), tract 0448.03, block group 4, in Wyandotte county: block 029, block 031; and the following voting districts in Wyandotte county: (600770), (600780), (600790), (600800), (600810), (600820), (600830), (600840), (600850), (600860), (601110).

Sec. 7. Congressional district 4 shall consist of all of Barber county; and all of Butler county; and all of Chautauqua county; and all of Comanche county; and all of Cowley county; and all of Edwards county; and all of Elk county; and all of Greenwood county; and all of Harper county; and all of Harvey county; and all of Kingman county; and all of Kiowa county; and the following voting districts in Pawnee county: (000040), (000060); and the following blocks in voting district (000070), tract 9702.00, block group 1, in Pawnee county: block 001, block 002, block 027, block 030, block 031, block 032, block 033, block 034, block 035, block 067; and the following blocks in voting district (000070), tract 9702.00, block group 5, in Pawnee county: block 061, block 064; and the following blocks in voting district (000070), tract 9703.00, block group 2, in Pawnee county: block 149; and the following blocks in voting district (000080), tract 9702.00, block group 1, in Pawnee county: block 046, block 047; and the

following blocks in voting district (000080), tract 9702.00, block group 2, in Pawnee county: block 054, block 055, block 056, block 057, block 058, block 059, block 060, block 061, block 062, block 068; and the following blocks in voting district (000090), tract 9702.00, block group 2, in Pawnee county: block 079, block 095, block 096; and the following voting districts in Pawnee county: (000100); and the following blocks in voting district (000110), tract 9702.00, block group 1, in Pawnee county: block 049, block 050, block 106; and the following blocks in voting district (000110), tract 9702.00, block group 2, in Pawnee county: block 063, block 064, block 065, block 066, block 067, block 069, block 070, block 071, block 072, block 073, block 076, block 077, block 078, block 083, block 084, block 085, block 086, block 087, block 088, block 089, block 090, block 091, block 092, block 093, block 094, block 103; and the following blocks in voting district (000110), tract 9702.00, block group 3, in Pawnee county: block 000, block 001, block 002, block 003, block 004, block 005, block 006, block 007, block 008, block 009, block 010, block 011, block 012, block 013, block 014, block 015, block 016, block 017, block 018, block 019, block 020, block 021, block 022, block 023, block 024, block 025, block 026, block 032, block 033, block 034, block 035, block 036, block 037, block 038, block 040, block 041, block 048, block 049, block 050, block 051, block 052, block 053, block 054, block 055, block 056, block 057, block 058, block 059, block 060, block 061, block 062, block 065, block 066, block 067, block 068, block 077, block 078, block 079, block 080, block 081, block 082, block 083, block 084, block 085, block 086, block 087, block 088, block 089, block 094, block 095, block 096, block 099, block 100, block 101; and the following voting districts in Pawnee county: (000130), (000150), (00017A), (00017B), (000180), (000190), (000200), (000210), (000220), (000240); and all of Pratt county; and all of Sedgwick county; and all of Stafford county; and all of Sumner county.

Sec. 8. K.S.A. 2021 Supp. 4-137 and 4-143 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body

_____

_____

President of the Senate.

_____

Secretary of the Senate.

Passed the HOUSE _____

_____

Speaker of the House.

_____

Chief Clerk of the House.

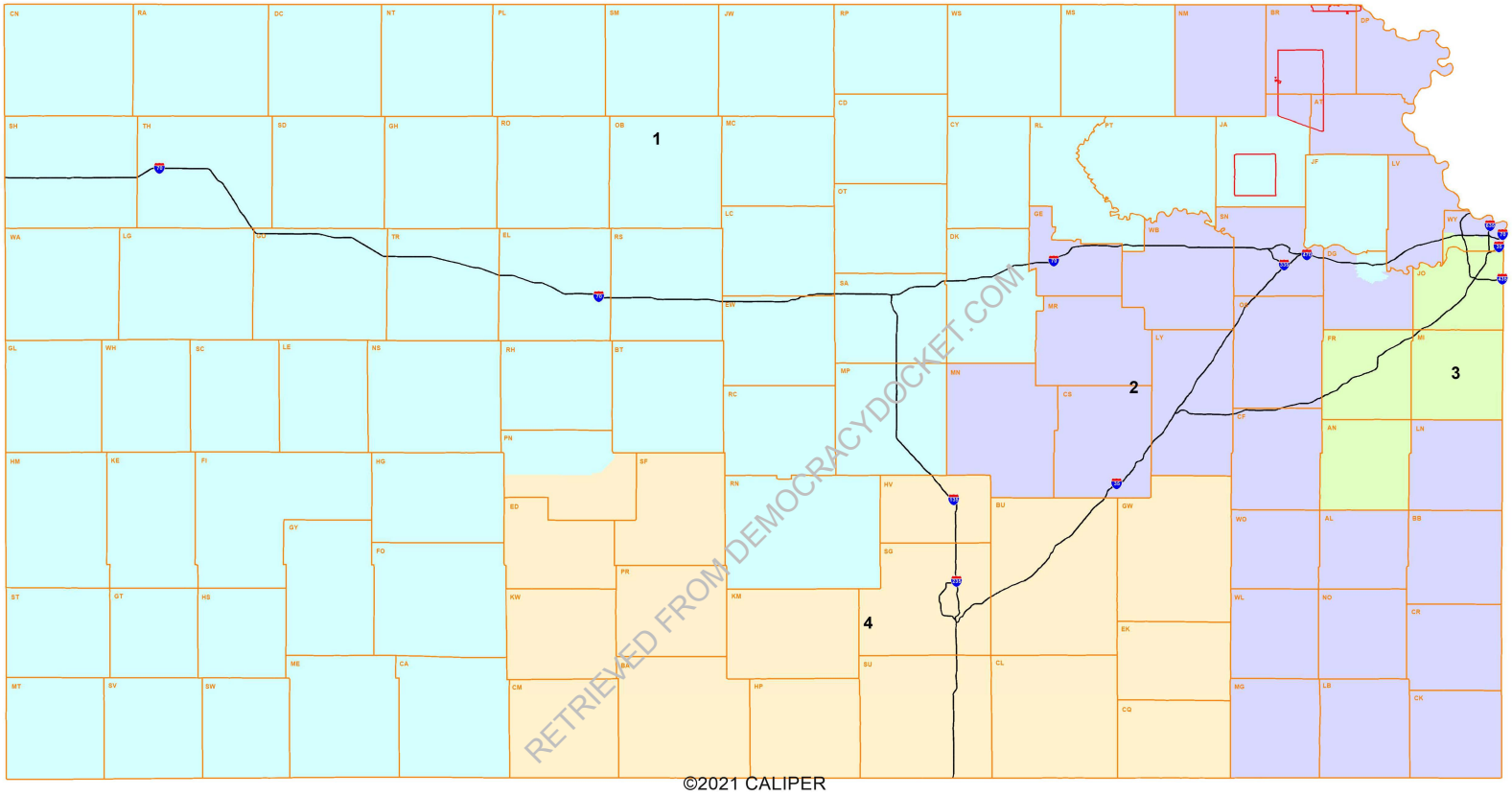
APPROVED _____

_____

Governor.

Exhibit B
Ad Astra 2 Map

M3_AdAstra_2 for KLRD TR



District	Population	Deviation	% Deviation
1	734,470	0	0%
2	734,470	0	0%
3	734,470	0	0%
4	734,470	0	0%

Plan: M3_AdAstra_2 for KLRD TR

Map layers

- County
- Indian Reservation
- Interstate Highways

District

- 1
- 2
- 3
- 4

0 30 60 90

Miles

Kansas Legislative Research Dept. 1/20/2022

Exhibit C

Petition in *Rivera v. Schwab,* 2022-CV-89 (Wyandotte County D. Ct.)

ELECTRONICALLY FILED
2022 Feb 14 AM 7:08
CLERK OF THE WYANDOTTE COUNTY DISTRICT COURT
CASE NUMBER: 2022-CV-000089

IN THE DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS
CIVIL COURT DEPARTMENT

FAITH RIVERA, DIOSSELYN TOT-VELASQUEZ, KIMBERLY WEAVER, PARIS RAITE, DONNAVAN DILLON, and LOUD LIGHT, Plaintiffs, v. SCOTT SCHWAB, in his official capacity as Kansas Secretary of State, and MICAHAEL ABBOTT, in his official capacity as Election Commissioner of Wyandotte County, Kansas, Defendants.	Case No.: Division: Pursuant to K.S.A. Ch. 60

PETITION FOR DECLARATORY AND INJUNCTIVE RELIEF

COMES NOW, Plaintiffs Faith Rivera, Diosselyn Tot-Velasquez, Kimberley Weaver, Paris Raite, Donnavan Dillon, and Loud Light, pursuant to K.S.A. Chapter 60, by and through their undersigned counsel, hereby submit this Petition for Declaratory and Injunctive relief against Defendants Scott Schwab, in his official capacity as Kansas Secretary of State and Michael Abbott, in his official capacity as Election Commissioner of Wyandotte County, Kansas, and state, aver, and allege the following:

INTRODUCTION

1. This case is about politicians choosing their voters by manipulating district lines to secure their preferred electoral outcomes—despite the will of Kansas voters and at the expense of the political power of minority communities. Partisan gerrymandering, where partisan mapmakers manipulate district boundaries to maximize their own party's advantage and determine the

outcome of elections before anyone casts a ballot, is incompatible with the democratic guarantees enshrined in Kansas's constitution: the right to vote, the right to equal protection under the law, the right to free speech, and the right to assembly. Racial vote dilution is equally offensive to our democracy and violative of the equal protection guarantee of the Kansas Bill of Rights.

2. From the outset, the Republican caucus's intention for Kansas's congressional plan was plain. In the fall of 2020, then-Kansas Senate President, Republican Senator Susan Wagle, promised during a closed-door speech to Republican donors that the legislature would deliver "a Republican bill that gives us four Republican congressmen, that takes out Sharice Davids in the Third." She went on: "We can do that. I guarantee you. We can draw four Republican congressional [districts]."

3. Following a legislative blitz wrought with backroom partisan deals, the Republican supermajorities in the Kansas legislature delivered on Senator Wagle's promise. They overrode Governor Laura Kelly's veto and enacted a congressional plan along party lines and over sharp objection from Kansans all over the state, including many of the leading lights of Kansas's minority communities. The enacted plan elevates partisan gain over Kansans' constitutional rights at the expense of Democrats, racial minorities, and the state's young voters.

4. The enacted plan, SB 355, dubbed Ad Astra 2, unnecessarily shuffles hundreds of thousands of Kansans between districts, creates non-compact and oddly shaped districts, and splits the two largest Democratic and heavily minority counties in the state: Wyandotte and Douglas. Most egregiously, with total disregard for their own redistricting guidelines and traditional redistricting principles, Republican legislators sliced Wyandotte County, Kansas's most Democratic and populous majority-minority county, in half, splitting the Kansas side of the Kansas

City metro area[1] into two districts, and submerging the city's minority, Democratic, and urban voters in an expansive white, Republican, and rural district.

5. Since at least 1923, Wyandotte has been kept whole within a single congressional district. A three-judge panel of Kansas federal judges ended the brief exception in the 1970s finding that "splitting the large minority population of Wyandotte County between two districts" was "undesirable," and that the county should be unified so that minority voters could "maintain block voting strength in areas where they live closely together." *O'Sullivan v. Brier*, 540 F. Supp. 1200, 1204 (D. Kan. 1982). Echoing the *O'Sullivan* court, just ten years ago another federal three-judge panel found that "Wyandotte County should be placed in a single district so that the voting power of its large minority population may not be diluted." *Essex v. Kobach*, 874 F. Supp. 2d 1069, 1086 (D. Kan. 2012).

6. The halving of Wyandotte also breaks up the core of the Kansas City metro area, which encompasses all of Wyandotte and the northern part of Johnson County. Though Wyandotte and Johnson have also been unified in the same district for most of the last century, because of population growth, they no longer fit within a single congressional district. Instead of preserving the integrity the Kansas City metro area, however, Ad Astra 2 divides the metro area through the middle of Kansas City and Wyandotte, in favor of keeping Johnson whole. But Johnson County has far more disparate geography and encompasses distinct communities of interest, unlike entirely urban Wyandotte. Additionally, the northern sections of Johnson encompass the Democratic and diverse semi-urban and suburban bedroom communities of Kansas City, which have far more in common with Wyandotte than the remainder of Johnson. The southern parts of Johnson County

[1] The terms "Kansas City" and "Kansas City metro area" is used throughout the petition to refer to only the Kansas sections of the city and its surrounding areas.

are rural and pair naturally with similar counties to the south. It is these sparsely populated rural sections of southern Johnson County, not the northern portions of Wyandotte, which should most logically have been removed from the urban Third District to achieve population equality.

7. Ad Astra 2 also dilutes Democratic and minority votes in other parts of the state. District 1 scoops urban Lawrence and part of Douglas County out of District 2, placing the University of Kansas in the sprawling and very rural First District. District 1 similarly grabs the nearly 25,000 students of Kansas State University in Manhattan and submerges them in the same enormous rural district. Ad Astra 2 also splits Fort Riley and Manhattan from Junction City, where many soldiers from Kansas's famed First Infantry Division and their families reside, and further divides Kansas's significant military population by separating Fort Leavenworth and Fort Riley. Without any justification, Ad Astra 2 also divides up the state's Native American reservations, which were formerly unified in a single district.

8. The egregious and systematic dilution of Democratic and minority votes comes on the heels of both groups' growing political power. Once a deeply red state, Kansas has shifted towards the center of the political spectrum over the past two decades. For example, in the last two congressional elections, the Third District elected a Native American Democrat, Sharice Davids. And in 2018, the state elected a Democratic governor by a margin of five percentage points.

9. Despite promising to deliver four Republican districts, even some Republicans voiced concern over party's tactics. During legislative debate, Representative Randy Garber (R) declared, "I think our party is being bully-ish about this and not considering everybody else."

10. Other Republicans—including one of the chief proponents of the map—openly admitted the true motives of the Legislature: "Gerrymandering, partisan politics, all those different things that are being discussed and talked about right now, are just things that happen,"

Representative Steve Huebert (R) said during the full chambers' debate. "They always have and they always will [draw maps for partisan advantage]," he concluded, referencing the enacted plan.

11. Ad Astra 2 is a partisan gerrymander and dilutes the votes of minority Kansans in violation of the state's constitution. Ad Astra 2 thus interferes with and impairs the free exercise of suffrage by Democratic and minority voters in Kansas, including Plaintiffs, by diluting their votes, predetermining election outcomes, and undermining their ability to elect their preferred candidates. Accordingly, this Court should enjoin the enacted plan, SB 355, Ad Astra 2.

JURISDICTION AND VENUE

12. This is an action for declaratory and injunctive relief authorized by K.S.A. 60-1701, 60-1703 (declaratory relief) and K.S.A. 60-901, 60-902 (injunctive relief). This court has jurisdiction pursuant to K.S.A. 20-301.

13. This Court has personal jurisdiction over Defendants, who are sued in their official capacities only. Defendant Michael Abbott, the Election Commissioner of Wyandotte County, Kansas, resides in Wyandotte County. Defendant, the Secretary of State of Kansas, has sufficient personal and business contacts with Wyandotte County, one of the state's most populous counties, for this Court to have personal jurisdiction over him in his official capacity.

14. Venue is proper before this Court under K.S.A. 60-602(2) because this action seeks an injunction regarding "act[s] done or threatened to be done" by Defendants in this district. Venue is further proper because Plaintiffs Faith Rivera, Diosselyn Tot-Velasquez, and Kimberly Weaver reside in—and the locus of their cognizable injury caused by Ad Astra 2 is within—Wyandotte County.

15. Kansas state court is the appropriate forum for this matter. The claims advanced herein arise exclusively under the Kansas state constitution. Plaintiffs do not seek relief from this court under the United States constitution or any federal statute.

PARTIES

16. Plaintiff Faith Rivera is a lifelong, second-generation Hispanic resident of Wyandotte County, and resides slightly south of I-70. She is a 2011 graduate of Kansas City, Kansas Community College, located in Wyandotte County. Under Ad Astra 2, Ms. Rivera's home falls within the Third District, but her neighbors less than a mile away to the north of the highway are now in the Second District. Ms. Rivera's vote is diluted by Ad Astra 2. Having long been a community activist, particularly on the issue of voting rights, Ms. Rivera has run for public office. For two years, Ms. Rivera served as a Democratic precinct leader for the Rosedale neighborhood. In that capacity, Ms. Rivera would go canvassing door-to-door informing her neighbors about upcoming elections, candidates, issues on the ballot, and helped register some neighbors to vote for the first time. Ms. Rivera is a registered Democrat, and currently a candidate in the Democratic primary for Kansas House District 37, representing the Argentine and Turner neighborhoods of Kanas City. House District 37 is split by the Ad Astra 2 Map. Ms. Rivera is also a member of Dotte Votes, a non-partisan group that teaches people across Wyandotte County about the importance of voting. In her work with Dotte Votes, Ms. Rivera regularly engages with communities and individuals that will now be split between the Second and Third Districts under Ad Astra 2. Ms. Rivera intends to vote in, and organize around, the upcoming primary and general congressional elections.

17. Plaintiff Diosselyn Elizabeth Tot-Velasquez, age 28, has resided in Wyandotte since she was six years old, when she immigrated from Guatemala with her family. Ms. Tot-Velasquez is Hispanic and lives in District 2 under Ad Astra 2. Since middle school, Ms. Tot-Velasquez has been very engaged in her community, joining and even forming various groups focused on improving the lives of other recent immigrants to the area. For three years following her 2017 graduation from the University of Kansas in Lawrence, Ms. Tot-Velasquez served as the

lead community organizer for El Centro, a non-profit welcoming center for community members, particularly those from Spanish speaking countries. In 2008, Ms. Tot-Velasquez and her family began the process of applying for a U Visa. In 2009, she was accepted into the U Visa program and progressed from visa holder for four years, to resident for another five, and finally, in 2021, to becoming a full citizen. Within a month of becoming a U.S. citizen, Ms. Tot-Velasquez registered to vote as a Democrat at her home address in Wyandotte County, located just north of the I-70 Interstate Highway. Under Ad Astra 2, Ms. Tot-Velasquez resides in the Second District, separated from her neighbors and fellow Hispanic community members in the southern half of Wyandotte County. Ms. Tot-Velasquez will now cross from the Second District to the Third District simply by driving to her grocery store. Ad Astra 2 dilutes the power of her vote by placing her in a district with large swaths of rural, white, Republican Kansas communities. Ms. Tot-Velasquez intends to vote in the upcoming primary and general congressional elections and organize others to do the same.

18. Plaintiff Kimberly Weaver is a lifelong resident of Wyandotte County and graduate of Sumner Academy of Arts and Science. Ms. Weaver, age 45, is a Black woman and co-founder of WyCo Mutual Aid, a community organization focused on making Wyandotte County a better version of itself. In that role, Ms. Weaver has organized citizens to lobby their representatives to vote to sustain Governor Kelly's veto of Ad Astra 2. Ms. Weaver is registered to vote in Wyandotte County and intends to vote in the upcoming primary and general congressional elections, as she does all elections. Ms. Weaver, lives in the Second District under Ad Astra 2.

19. Plaintiff Paris Raite, 20, is a junior at the University of Kansas in Lawrence, Kansas. She was located in the Second District under the 2012 Plan and is now in the Big First under Ad Astra 2. Ms. Raite's vote is diluted by Ad Astra 2. Ms. Raite started at KU after having

lived in Manhattan, Kansas with her family since 2015. When she started college, she was not very civically or political engaged. That changed at the beginning of her freshman year when she learned of an organization called Loud Light, which is separately a plaintiff to this lawsuit. After being accepted as a Loud Light fellow, Raite became engrossed in the political activism within her community and across the state of Kansas. A registered Democrat, Raite has engaged with and registered other KU students to vote. She has also published Op-Eds in the *Lawrence Times* about significant bills being debated by the Kansas Legislature and engaged other young voters in these issues. A proud Hispanic woman herself, Raite also worked for social justice causes for Kansas's growing Hispanic community in southwestern Kansas. Under Ad Astra 2, Raite's vote will be unreasonably joined with, and diluted by, those of Kansans hundreds of miles away on the state's western border with Colorado. Raite intends to vote in upcoming primary and general congressional elections and organize others to do the same.

20. Plaintiff Donnavan Dillon has lived in Lawrence, Kansas for all of his life, save for a few-year stint in Leavenworth. Mr. Dillon identifies as Black. Mr. Dillon was in the Second District under the 2012 Plan and is in the First District under Ad Astra 2. Mr. Dillon graduated from Lawrence High School last June and is now a freshman at the University of Kansas in his hometown of Lawrence. Mr. Dillon registered to vote in Lawrence when he turned 18 in 2020 and has voted in every election since. Majoring in political science and sociology, Mr. Dillon is passionate about defending the right to vote and ensuring every person receives fair representation in Topeka and Washington, DC. Given his deep roots in Lawrence, Mr. Dillon is deeply connected to his community, including surrounding Douglas County. In his first semester at the University of Kansas, Mr. Dillon, like Ms. Raite, became a fellow of Loud Light, which is separately a plaintiff to this lawsuit. Mr. Dillon's vote will be diluted by Ad Astra 2 because he'll have to vote

in a sprawling, highly rural district that shares little in common with the burgeoning progressive college town he lives in. Mr. Dillon, a registered Democrat, intends to vote in the upcoming primary and general congressional elections in Kansas.

21. Plaintiff Loud Light is a nonpartisan, nonprofit organization, formed under sections 501(c)(3) and 501(c)(4) of the Internal Revenue Code, operating in Kansas. Loud Light's mission is to engage, educate, and empower individuals from underrepresented populations, and in particular, young voters, to become active in the political process. Loud Light achieves these goals by hosting events on social media, direct person-to-person contact with potential voters, and presentations in classrooms on college campuses and online, and by sending educational mailers to voters. Loud Light proceeds from the fundamental belief that lower voter turnout means fewer needs are met within the community. As a result, the organization focuses on strategies to increase turnout among Kansas's young voters, who have traditionally suffered lower turnout rates, particularly when placed into politically lopsided districts where their preferred candidates have little chance of winning. To achieve its goals, Loud Light also runs young voter registration drives, creates informative videos and other multi-media content about how to participate in elections, builds coalitions within the community to advocate for positive policy changes for youth, and educates Kansans about how to engage the government. Loud Light brings this suit on its own behalf and on behalf of its constituents across Kansas, many of whom have been placed in districts that are gerrymandered on the basis of party and/or race under Ad Astra 2. Without at least the potential to elect their candidates of choice, Loud Light's fellows, interns, and other constituents are harmed by Ad Astra 2.

22. Defendant Scott Schwab is the Secretary of State of Kansas (the "Secretary"). The Secretary is the chief election official of the state and is responsible for carrying out the state's

election laws. Kan. Stat. Ann. § 25-204 (1935). He has a mandatory duty to train and provide instruction "for complying with federal and state laws and regulations" to county election officers. Kan. Stat. Ann. § 25-124 (2004). He is also charged with designing and accepting nomination petitions for congressional candidates and furnishing ballot forms to county election officials for congressional elections. Kan. Stat. Ann. §§ 25-205 (1968), 25-610 (1973)

23. Defendant Michael Abbott is the Appointed Election Commissioner for Wyandotte County and is sued in his official capacity only. In 2021, Defendant Schwab appointed Abbott to his position for a period of four years. In his role as Election Commissioner, Abbott manages and conducts elections in Wyandotte County and the City of Kansas City, Kansas, City of Bonner Springs, City of Edwardsville, and City of Lake Quivier. Commissioner Abbot "is responsible for executing free, fair, transparent, and secure elections for the voters of Wyandotte County." Abbott will administer the upcoming primary and general congressional elections in Wyandotte County, which is in both Districts 2 and 3 under Ad Astra 2.

STATEMENT OF FACTS

I. Kansas has become more diverse and urban in recent years.

24. Between the 2010 and 2020 Census, Kansas added 84,762 individuals amounting to about three percent overall growth. The 2020 census data revealed two major themes: racial diversification and urbanization of the Kansas population.

25. Racial Diversification: All of Kansas's growth over the last ten years has been driven by minorities. Indeed, the white population of Kansas *declined* in the last 10 years, ending the decade down 168,582 individuals, a decrease of 7.1 percent. In contrast, the minority population grew by nearly 30 percent. Kansas's Hispanic population grew by 27.5 percent, from 300,042 to 382,603. Hispanic Kansans now comprise 13 percent of the state's total population, up from 10.5 percent in 2010. The same is true for Kansas's Black population, which now numbers

223,275, up from 202,149 in 2010, an increase of 10.5 percent. A significant portion of minority communities' growth in Kansas occurred in Wyandotte and Douglas Counties, two predominantly Democratic counties in the state.

26. While Wyandotte County as a whole grew nearly 7.5 percent, the percentage of the county identifying as white alone fell by 14.3 percent since 2010, while the minority population grew by 10.5 percent. Indeed, the Hispanic community in Wyandotte County grew by 34.1 percent.

27. The minority population in Douglas County also grew. In 2010, the county was comprised of 20,294 minority residents. As of 2020, that number ballooned to 28,504, constituting nearly one in four Douglas County residents. At the same time, the white population declined. As of the 2020 Census, Douglas County is seven percent Black, seven percent Hispanic, 5.5 percent American Indian, and five percent Asian American Pacific Islander.

28. Kansas elections are heavily racially polarized. For example, in the 2020 election a New York Times exit poll found that white voters in Kansas preferred President Trump by a margin of 59 to 38 percent, while nonwhite voters preferred President Biden by a margin of 62 to 35 percent. *Kansas Voter Surveys, How Different Groups Voted*, N.Y. Times (Nov. 2020), https://www.nytimes.com/interactive/2020/11/03/us/elections/ap-polls-kansas.html.

29. Despite racial diversification, few Black or Hispanic Kansans have been elected to public office. Aside from the election of Representative Sharice Davids, a Native American, from the Third Congressional District, the remainder of Kansas's congressional delegation—both its Senators and the three remaining Representatives—is all white. All five of the current statewide office holders, including the governor, attorney general, and secretary of state, are all white. And the First, Second, and Fourth Districts have never been represented by a person of color.

30. Urbanization: Of the state's 105 counties, 80—more than three quarters of all of

the state's counties—lost population over the last decade. Population declines were predominantly concentrated in Kansas's most rural counties in the western part of the state.

31. Meanwhile, Kansas's urban metro areas grew rapidly, including the Kansas City metro area. Wyandotte and Johnson Counties grew by 7.45 percent and 12.07 percent, respectively.

32. As a result of these changes, the rural, western First District (often called the "Big First") is now underpopulated, with 33,697 fewer residents than the target population. At the same time, the more urban Third District to the east is overpopulated, with a population 57,816 above the target population.

33. These population shifts require changes to congressional district lines: the Big First must pick up sufficient population, and the Third District needs to shed population. One notable consequence is that while either Johnson or Wyandotte County can be kept whole within a district, both counties cannot be drawn into a single district.

II. Kansas has shifted towards the political center over the last decade.

34. Kansas was once known to be a ruby red Republican stronghold. As Kansas's population has grown and changed, the state has shifted closer to the middle of the political spectrum over the last two decades.

35. For example, Kansans elected Democratic Governor Laura Kelly in 2018. 2018 brought not only a decisive victory for Governor Kelly, but it also saw healthy competition between the two main political parties in two of the state's four congressional districts.

36. Sharice Davids, an openly LGBTQ Native American, and Democratic candidate, won the Third District by nearly ten percentage points, beating incumbent congressman Kevin Yoder, who had represented the district since 2011. Not only was Representative Davids one of only a handful of openly-LGBTQ members of congress, she was also one of the first two Native

American women ever elected to Congress. Today, Representative Davids, who is a member of the Ho-Chunk (Winnebago) people, is one of only a small handful of Native Americans in Congress.

37. And in a hotly contested race in the Second District in 2018, Democratic nominee Paul Davis came within just over 2,000 votes—less than a single percentage point—of defeating Republican Steve Watkins.

38. Thus, in certain electoral environments, the 2012 Plan had one Democratic and one competitive congressional districts, the Third and the Second District, respectively, reflecting Kansas's actual political composition.

39. By way of further example of Kansas's shifting political composition, in the 2010 gubernatorial election, Republican Sam Brownback won with 63.3 percent of the vote to his Democratic challenger's 32.2 percent. By 2014, Governor Brownback's margin narrowed to less than 4 percent, around 32,000 votes. And in 2018, Democratic nominee Laura Kelly won, besting her Republican opponent by five percentage points.

40. Overall, in 2018, statewide, 43.9 percent of the votes cast for Congress were for Democratic candidates. Republican candidates garnered 54.0 percent.

41. Additionally, some of Kansas's localities, in particular Wyandotte County, Lawrence, and Manhattan, have been trending ever bluer, becoming Democratic strongholds in the state. For example, since the 1997 unification of the governments of Kansas City and Wyandotte County under the Wyandotte Unified Government, the city has elected five progressive mayors. Lawrence has three Democratic County Commissioners and a Democratic Mayor. The last time a Republican was elected mayor of Lawrence, Ronald Reagan was President. While the five city commissioners for Manhattan, Kansas are selected on a non-partisan basis, the city has

enacted numerous progressive policies and the city has been represented in the Kansas Statehouse by Democratic Representative Sydney Carlin since 2003 and Democratic Senator Tom Hawk since 2013.

III. The U.S. District Court for the District of Kansas drew the 2012 Congressional Plan.

42. Following the 2010 census, the Kansas Legislature was unable to reach a consensus on the congressional or state legislative maps.

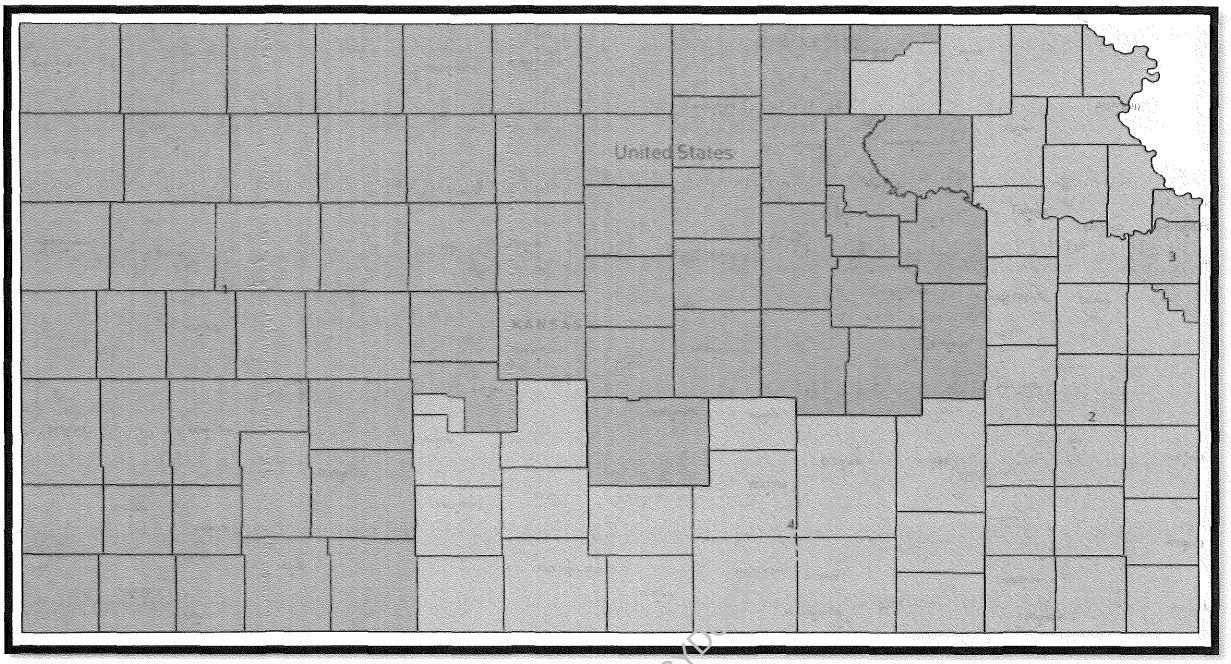
43. As a result of legislative impasse, the task of drawing the congressional and state legislative maps fell to a federal three-judge panel. The court undertook a thorough and non-partisan examination of the changing demographics of Kansas. *See Essex*, 874 F. Supp. 2d at 1069.

44. After hearing a broad array of testimony, examining a voluminous record, and enlisting the help of a cartographer from the Kansas Legislative Research Department, the *Essex* court engaged in "the painstaking task of drawing its own plans." *Essex*, 874 F. Supp. 2d at 1079.

45. That court-drawn plan (the "2012 Plan"), which was not the subject of any further legal challenge, has been the map used in every Kansas congressional race since the 2012 elections.

46. The 2012 Plan has several notable features. The 2012 Plan preserves the whole of the Kansas City metro area in the Third District. Surrounding that core, the Second District is comprised of a tall, slender column running the state's full length from south to north, that breaks almost exclusively along existing county lines. The Second District includes all of Douglas County, including the whole of Lawrence, as well as all four of Kansas's Native American reservations. The Fourth Congressional District is a boxy cluster centered on Wichita and Sedgwick County. The remainder of the state is covered by the sprawling Big First that encompasses rural western Kansas. The 2012 Plan is depicted in Figure 1.

Figure 1: 2012 Plan



47. The 2012 Plan keeps Wyandotte and Johnson Counties whole in the Third District, along with the northeastern corner of Miami County. This was a deliberate choice by the *Essex* court: "the entirety of Johnson and Wyandotte Counties should be included in the Third District. Those counties have formed the core of the Third District for decades, and . . . they should be placed in the same district because they represent the Kansas portion of greater Kansas City, a major socio-economic unit, and the counties' economic, political and cultural ties are significantly greater than their differences." *Essex*, 874 F. Supp. 2d at 1086 (internal quotation omitted); *see also O'Sullivan*, 540 F. Supp. at 1204.

48. In keeping Wyandotte itself whole, the *Essex* court explained the importance of doing so in order to protect minority voting rights. Specifically, the court found that "Wyandotte County should be placed in a single district so that the voting power of its large minority population may not be diluted." *Essex*, 874 F. Supp. 2d at 1086. Indeed, Wyandotte has not been divided for

90 of the last 100 years. A federal court ended the brief split in the 1970s finding that "splitting the large minority population of Wyandotte County between two districts" was "undesirable," and that the county should be unified so that minority voters could "maintain block voting strength in areas where they live closely together," which would "help[] them make their voices felt." *O'Sullivan* 540 F. Supp. at 1204 (same).

49. In Douglas County, the *Essex* court rejected a proposed split of Lawrence and Douglas. The *Essex* court held that "Douglas County and the City of Lawrence should not be split between the First and Second Districts . . . [because] they are more appropriately placed entirely within the Second District." *See Essex*, 874 F. Supp. 2d at 1087.

IV. The Republican caucus passed a partisan gerrymander at the expense of minority voters.

50. After guaranteeing Republican donors a map gerrymandered in their favor, Republican legislators carried out a rushed, opaque process making good on their promise. In all, only slightly more than a week passed between the introduction of Ad Astra 2—the title given to the enacted map under the Committee's naming convention—before it arrived at the Governor's desk. Republican legislators tightly controlled debate and designed the process to severely limit public participation. Following Governor Kelly's veto, the Republican supermajority resorted to brazen political brinksmanship in the final push to make Ad Astra 2 law.

51. In the fall of 2020, Kansas Senate President Republican Senator Susan Wagle said during a private speech at a Republican fundraiser that the legislature could deliver "a Republican bill that gives us four Republican congressmen, that takes out Sharice Davids in the Third." She went on: "We can do that. I guarantee you. We can draw four Republican congressional districts." The video of this speech, discovered and published by Plaintiff Loud Light's President, Davis

Hammet, is publicly available on Twitter where it has been viewed more than 1.1 million times.[2]

52. Republican legislators began work on their plan in the summer of 2021. Throughout the process that followed, Republican legislators did everything within their power to limit public participation and public insight into the mapping process.

53. During debate of the enacted plan, Republicans often touted the 14 listening sessions held throughout the state the previous summer. But the reality of the listening tour is anything but a model of transparency. The public meetings were frequently announced with less than a day's notice. Meetings were often held during the middle of the business day, making attendance difficult for working individuals. Those who managed to attend despite last-minute announcements had their testimony rushed.

54. Still, the message delivered by members of the public during the listening sessions was clear: keep the Kansas City metro area—Wyandotte and the northern portions of Johnson—whole in the Third District. For example, David Norlin, a Kansan from Salina, testified that: "The Kansas City Metro is currently whole within Kansas' Third congressional district and should remain in a single district as residents have shared interests in representation."

55. Plaintiff Rivera also submitted written testimony during the Redistricting Committee's listening tour. Speaking of the importance of keeping the Kansas metro area unified in the Third District, Rivera explained that "[Johnson County], [Kansas City, Missouri], and [Kansas City, Kansas] have a bond that you can try and break up but we will unite and speak up." She cautioned that "Your agenda to unravel our community relationship [is] unjust and unwanted. Keep us D3 strong."

[2] Davis Hammet (@Davis_Hammet), Twitter, (Oct. 9, 2020, 10:02 AM), https://twitter.com/i/status/1314566887230054402 (last visited Feb. 13, 2022).

56. While the Redistricting Committees adopted specific criteria to govern the drawing of the congressional plan, they ultimately did not adhere to them, as described in detail below. In addition to population equality between districts, the Adopted Guidelines require that (1) the plan "will have neither the purpose nor the effect of diluting minority voting strength"; (2) "Districts should be as compact as possible and contiguous"; (3) "There should be recognition of communities of interest"; (4) "The core of existing congressional districts should be preserved when considering the communities of interest to the extent possible"; (5) "Whole counties should be in the same congressional district to the extent possible" because, among other things, "[c]ounty lines are meaningful in Kansas and Kansas counties historically have been significant political units."[3]

57. To limit map submissions from the public, legislators laid out onerous guidelines for map submissions. The Committee restricted submissions to whole maps only, preventing any regional recommendations, and required all maps to go through a full technical review by the Kansas Legislative Research Department ("KLRD"), limiting submissions to those who had the resources and expertise to utilize mapping technology. And all maps had to be introduced and sponsored by a sitting committee member.

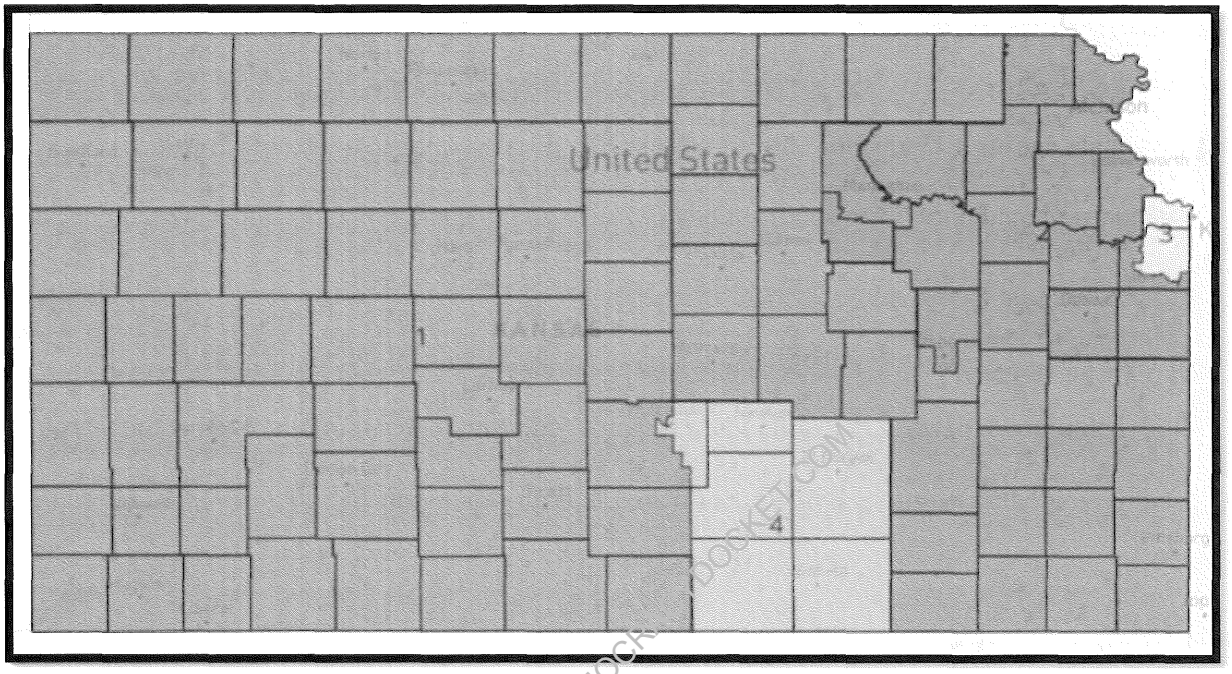
58. Nor did legislative Republicans engage meaningfully with any of the maps that were introduced from the community and other legislators.

59. The widely respected Kansas League of Women Voters submitted one such compliant map. Dubbed the "Bluestem Plan" under the Committee's naming convention, the map was introduced in both the house and senate redistricting committees, but it never received more

[3] Kansas Office of Revisor of Statutes, Proposed Guidelines and Criteria for 2022 Kansas Congressional and State Legislative Redistricting (May 20, 2021), https://redistricting.lls.edu/wp-content/uploads/KS-Proposed-redistricting-guidelines.pdf.

than a passing reference in the debate of either chamber. Figure 2 is the Bluestem Plan.

Figure 2: Bluestem Plan



60. After Ad Astra 2 was introduced, Republican legislators again limited public input. They announced that public hearings would take place just 48 hours later, and both the house and senate redistricting committee hearings would be held simultaneously. As Representative Stephanie Clayton (D-Johnson) remarked, "I've found the transparency in this process to be about as fake as my eyelashes." Advocates who wanted to be heard had to rush between hearing rooms and cope with a restrictive five-minute limit on testimony. Still, concerned Kansans scrambled between the two rooms, and opponents of Ad Astra 2 who testified live outnumbered proponents ten to one.

61. For example, Dr. Mildred Edwards, Chief of Staff to the Wyandotte County Mayor, implored the Senate committee not to split Wyandotte County. Dr. Edwards reminded both committees that Wyandotte County has a unified government which administers the government

functions across the entire county and all of its cities. Splitting the county between two different congressional districts, as Ad Astra 2 does, means dividing that single political subdivision and governmental entity, responsible for all municipal services for the people of Wyandotte County, and a community that had overwhelmingly voted to unify its government.

62. Davis Hammet, President of Loud Light, testified in opposition before the House Committee, and Melissa Stiehler, Loud Light's Advocacy Director, testified in opposition in the Senate's simultaneous proceedings. Both highlighted how Ad Astra 2 submerged Kansas's two largest research universities and the youth vote in the Big First. Ad Astra 2 also separates those universities from their peers at Washburn University in Topeka and Emporia State University in Emporia.

63. Republican legislators also refused to identify who drew Ad Astra 2, instead referring to "we" and "us" as its designers.

64. During the debate on the floor of the Kansas House, even Republicans voiced concern about their party's rushed push to pass Ad Astra 2. Representative Randy Garber, a Republican from Sabetha, declared, "I think our party is being bully-ish about this and not considering everybody else."

65. And Republican Representative Steve Huebert, one of the main proponents of Ad Astra 2, ultimately admitted the true motives of the Legislature: "Gerrymandering, partisan politics, all those different things that are being discussed and talked about right now, are just things that happen," he recounted during the full chambers' debate, referencing the drawing of the enacted plan. "They always have and they always will," he concluded. *Kansas Republican defends gerrymandering and partisan politics as "just things that happen,"* Kansas Reflector (Jan. 25, 2022), https://kansasreflector.com/2022/01/25/kansas-republican-defends-gerrymandering-and-

partisan-politics-as-just-things-that-happen/.

66. Nonetheless, on January 21, the Senate passed Ad Astra 2 by a 26-9 margin. The House passed Ad Astra 2 by a 79-37 vote five days later. No Democrats voted in favor of the bill. One Senate Republican also voted against Ad Astra 2. According to the Kansas City Star, "He criticized party leadership for politicizing the process and failing to draw fair lines. 'It ought to make every one of us uncomfortable that if we can't get together and come up with a map with 21 votes we're going to end up with problems.'" Katie Bernard and Lucy Peterson, *Kansas Senate approves redistricting plan splitting Wyandotte County along 1-70*, The Kansas City Star (Jan. 23, 2022), https://www.kansascity.com/news/politics-government/article257586723.html.

67. On February 3, Governor Kelly vetoed Ad Astra 2, Senate Bill 355. In her veto statement, Governor Kelly highlighted the damage Ad Astra 2 did to Wyandotte's minority communities. "Wyandotte County is carved into two separate congressional districts. Without explanation, this map shifts 46% of the Black population and 33% of the Hispanic population out of the third congressional district by dividing the Hispanic neighborhoods of Quindaro Bluffs, Bethel-Welborn, Strawberry Hill, Armourdale and others from Argentine, Turner and the rest of Kansas City, Kansas south of I-70." Press Release, Kansas Office of the Governor, Governor Laura Kelly Vetoes Congressional Redistricting Map, Senate Bill 355 (Feb. 3, 2022), https://governor.kansas.gov/governor-laura-kelly-vetoes-congressional-redistricting-map-senate-bill-355/. Kelly continued: "Ad Astra 2 also separates the city of Lawrence from Douglas County and inserts urban precincts of Lawrence into the largely rural Big First Congressional District, reducing the strength of communities of interest in Western Kansas and unnecessarily dividing communities of interest in Eastern Kansas." *Id.*

68. At the end of her statement, Governor Kelly offered a bipartisan olive branch: "I

am ready to work with the Legislature in a bipartisan fashion to pass a new congressional map that addresses the constitutional issues in Senate Bill 355. Together, we can come to a consensus and pass a compromise that empowers all people of Kansas." *Id.*

69. Instead of taking the Governor up on her offer, the legislature voted along party lines to override her veto. Importantly, Ad Astra 2 did not receive sufficient votes in either house to override a veto on its initial pass through the legislature. As a result, Republican leadership needed to use all of the tools at its disposal to muster sufficient votes to override the governor's veto. For example, Michael Houser of Columbus (R), to attended session with an oxygen tank even though he had been absent from the legislature for weeks because of illness. On the Senate side, after initially voting no on the veto, Senator Mark Steffen of Hutchinson had a change of heart and voted to override the veto after a bill on two of his pet projects—off-label prescriptions of ivermectin to treat COVID-19 and philosophical exemptions for *all* childhood vaccines—suddenly advanced in the legislative process.

70. Senator Steffen (R) also openly admitted his motives, noting his concern with the map was based on the partisan makeup of the districts. He complained that the map was "dumping Lawrence liberals" into the First District, which he characterized as "insidious redistricting [that] will kill off the true conservative character of the Big First," but later admitted to Kansas City radio host Pete Mundo that "I [voted for the map] to make some progress on some other fronts." Jason Tidd and Andrew Bahl, *Kansas Senate Republicans override redistricting map veto after Mark Steffen, Alicia Straub flip*, Topeka Capital Journal (Feb. 9, 2022), https://www.cjonline.com/story/news/politics/2022/02/08/redistricting-map-kansas-senate-republicans-override-laura-kelly-veto/6708028001/; Opinion, Leavenworth Times, (Feb. 12, 2022), https://www.leavenworthtimes.com/2022/02/12/republicans-went-too-far-to-get-their-

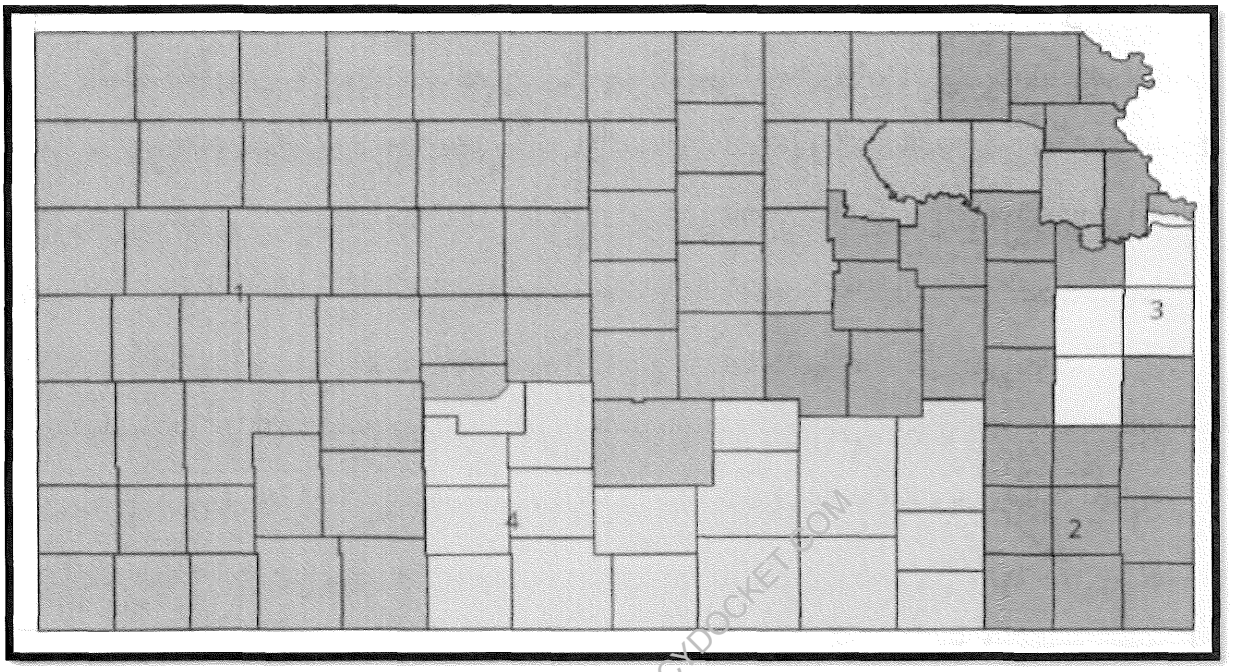
maps/.

71. As a result, the Republican supermajority—using unknown map drawers—enacted three rock-solid Republican districts and one Republican-leaning competitive district, which would be difficult for a Democratic candidate to win.

V. Ad Astra 2 is a careful and deliberate partisan gerrymander that dilutes minority voting power.

72. Ad Astra 2 has several telltale signs of a partisan gerrymander. It unnecessarily and inexplicably shifts large numbers of Kansans out of their prior districts, with no population-based need or other legitimate justification, violating the state's own redistricting criteria. In doing so, it targets the minority party's most significant strongholds in Wyandotte and Douglas. It cracks longstanding Democratic communities of interest across the state, including the Kansas City metro area, Wyandotte County, and the minority communities living there. It also splits most of the university city of Lawrence from the rest of Douglas County and separates Manhattan and Fort Riley from Junction City, despite close geographical and community ties between the two. This is a textbook case of "cracking:" the deliberate dispersal of voters of a disfavored party across multiple districts in order to minimize the potency of their votes, all at the expense of minority Kansans. It additionally splits the state's four Native American reservations among two districts. As a result of chopping up longstanding communities of interest, Ad Astra 2 is full of meandering, noncompact districts. Thus, Ad Astra 2 does not adhere to the redistricting guidelines the legislature adopted to govern the drawing of the congressional plan.

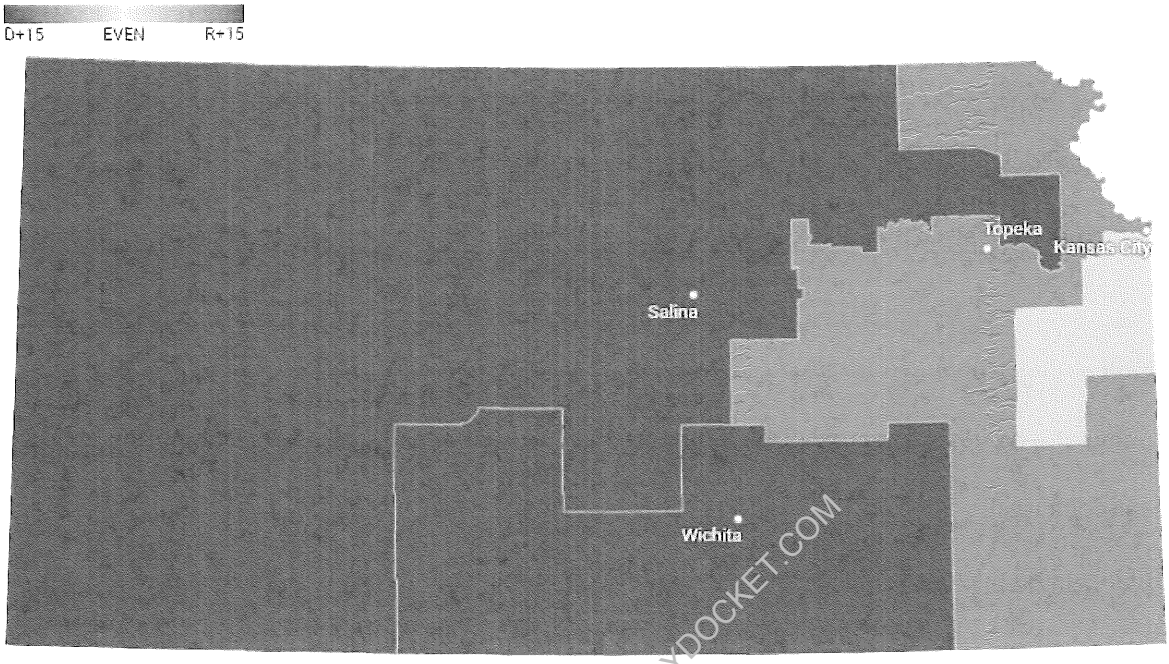
Figure 3: Ad Astra 2



73. Ignoring their own guidelines, Republican legislators achieved their stated goals: Ad Astra 2 creates three very safe Republican districts and one Republican-leaning competitive district. Under many electoral environments, including the 2016 Presidential or Senatorial election results, Davids *loses* the Ad Astra 2 District 3.

74. In its analysis of Ad Astra 2, the Cook Political Report concluded that every district in the map was more favorable to Republicans than not according to Cook Political Report's partisan index. Wasserman, *New Maps and 2022 Ratings: Connecticut, Kansas, and Washington*, Cook Political Report (Feb. 10, 2022), https://www.cookpolitical.com/analysis/house/redistricting/new-maps-and-2022-ratings-connecticut-kansas-washington. A map produced by Cook Political Report showing the likely partisan leanings of each district is reproduced below. According to Cook Political Report's analysis, Districts 1, 2, and 4 are all "Solid Republican" while District 3 is a "Toss up" with a rating of "R+2."

Figure 4: Partisan Lean of Ad Astra 2 (Cook Political Report)



75. Under Ad Astra 2, Democrats perform worse in every reasonably likely electoral environment in District 3 than under the predecessor district. Under a composite index for all statewide elections from 2016-2020, for example, District 3 is a virtual tie under Ad Astra 2, while the 2012 Plan would have a Democratic candidate winning by over six points. Under the 2018 race for Attorney General, the Democratic candidate would lose District 3 by a percentage point under Ad Astra 2, while winning by over five points under the 2012 Plan. This is consistent with the actual election results for the district: under the 2012 Plan, Representative Davids won re-election in District 3 by almost 10 percentage points in 2020.

76. The likely electoral outcomes of Ad Astra 2 are entirely inconsistent with the statewide preferences of Kansas voters. Between 2016 and 2020 Democrats received, on average, 40 percent of the votes to Republicans' 55 percent (5 percent of voters voted for other candidates). Ad Astra 2 would result in, *at best*, Democrats winning 25 percent of the seats, and creates a high

likelihood that Democrats will receive no seats at all, meaning two out of every five Kansans would have their votes negated by unlawful district lines.

A. Ad Astra 2 cracks the Kansas City metro area, dividing its minority communities and diluting their votes.

77. Wyandotte County is undeniably the core of the Kansas City metro area. As mentioned above, Wyandotte County has a single unified government structure across almost the entire county. All but two small municipalities within Wyandotte County—Bonner Springs and Edwardsville—fall under the same governmental structure. The citizens of Wyandotte voted overwhelmingly in favor of this structure 25 years ago. Ad Astra 2 cleaves this unified structure in two, pairing each half with much more rural areas outside the Kansas City metro area.

78. The redistricting guidelines' explanation for why counties should be kept whole is especially true for Wyandotte and its unified government. Wyandotte and its unified government are "historically" a "significant political unit[]," and its "officials are elected on a countywide basis." As federal courts have found, Wyandotte is an "economic, social, and cultural unit" and together with the northern portion of Johnson, "part[] of a larger socioeconomic unit." Despite the guidelines' command that "these communities of interest should be considered during the creation of congressional districts," and "whole counties should be in the same congressional district to the extent possible," Ad Astra 2 dices up Wyandotte and the greater Kansas City metro area.

79. Andrew Davis, the District 8 commissioner for the Unified Government, explained some of the harms of splitting Wyandotte: "Splitting [Wyandotte County] and saying that our ballots are going to be different means that we can't consolidate our voting power, which means that we're unable to advocate for our interests." Under the 2012 Plan, Davis continued, Wyandotte Unified Government had to lobby only a single member of Congress for their needs. Under Ad Astra 2, the Wyandotte Unified Government would need "to figure out what interests we can align

with the [highly rural] second district" when lobbying their members of Congress.

80. Wyandotte is among the most diverse counties in Kansas. It has a total population of 169,245 people. In Wyandotte County, 32.39 percent of the population is Hispanic, and 22.56 percent is Black. Wyandotte County is one of the few counties in the state that has a majority-minority population.

81. Again, despite the redistricting guidelines' requirement that the plan shall "have neither the purpose nor effect of diluting minority voting strength," Ad Astra 2 divides the minority communities of Wyandotte County in half, submerging most of them in sprawling and heavily white and Republican District 2. Of the 55,814 Hispanic residents of Wyandotte County, 39,091 (70.04 percent) are placed in District 2, while 16,723 (29.96 percent) are in District 3. Similarly, Ad Astra 2 places 82.87 percent of the Black population in Wyandotte in District 2 (32,216 Kansans) and 17.13% precent in District 3 (6,661 Kansans). The smaller, but significant, residual chunk of urban Hispanic and Black voters in Wyandotte are in District 3 and paired with Johnson County, which is a mix of urban, suburban, and rural areas, and heavily rural Miami, Franklin, and Anderson counties. In doing so, Ad Astra 2 ignores multiple courts' findings, including the *Essex* court, which explained just ten years ago that "Wyandotte County should be placed in a single district so that the voting power of its large minority population may not be diluted." *Essex*, 874 F. Supp. 2d at 1086; *see O'Sullivan*, 540 F. Supp. at 1204.

82. Ad Astra 2 also divides minority neighborhoods within Wyandotte nearly along Interstate 70. The Stony Point neighborhood, a quiet semi-urban neighborhood south of I-70 and east of the Kansas speedway, is split right down the middle of some of its residential streets. Robert Medina, a resident of Stony Point, told the Kansas City Star, "I wouldn't think they would go down the middle of the Street" speaking of Ad Astra 2 map drawers. "I don't know why they would do

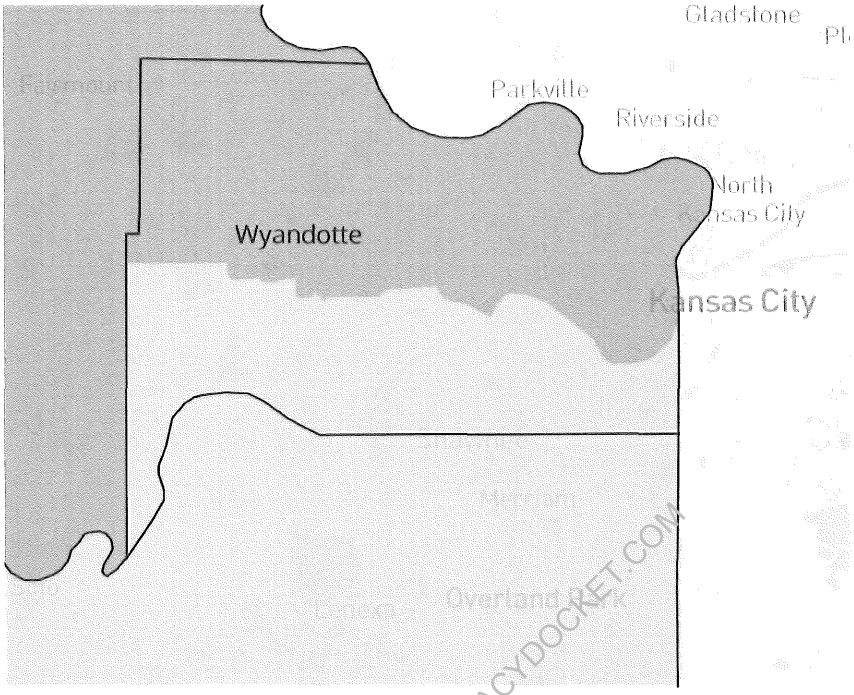
that, why they wouldn't just include the whole neighborhood," Medina continued.

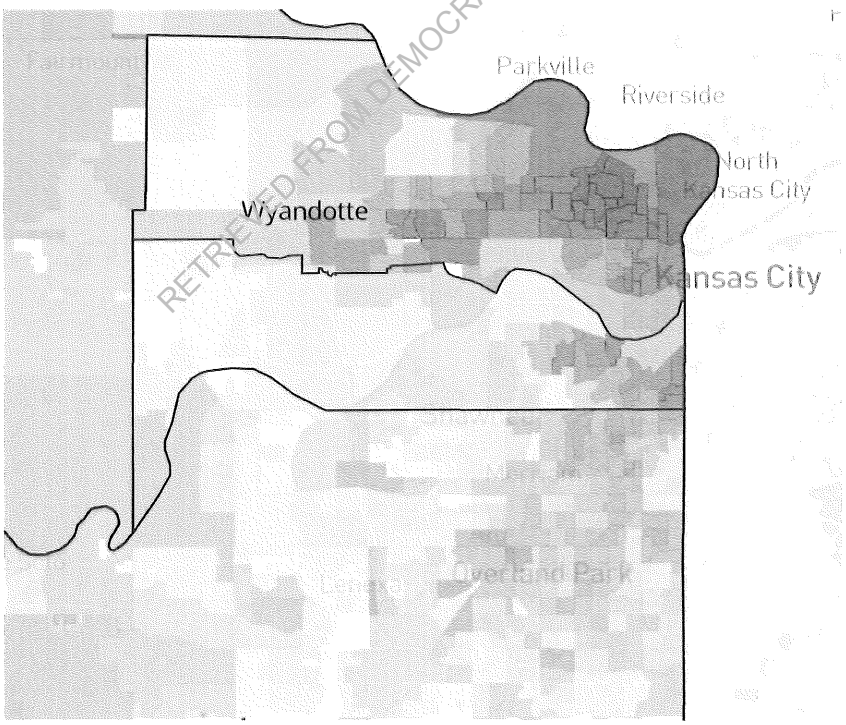
83. Additionally, by using the I-70 interstate as a dividing line, Ad Astra 2 followed a division that already had racial implications for the communities of Wyandotte County. Initially built in the 1950s as part of the Kansas Interstate, U.S. Route 24, the portion of I-70 traversing Wyandotte County, divided up minority communities decades ago. Now the county is again divided along the same line, reinforcing those racial scars.

84. Wyandotte is the most Democratic and least Republican county in Kansas. As of January 2022, Wyandotte County had 89,702 registered voters. Of those, 48 percent (42,965) are Democrats, 33 percent (29,218) are unaffiliated, and just 19 percent (29,218) are Republicans. Though Johnson is more mixed, the northern part of the county is heavily Democratic.

85. The first map, Figure 5, below shows Ad Astra 2's division of Wyandotte county, with different districts as different colors. District 2 is green and District 3 is blue. The lines on the map are county lines. On the second map below, Figure 6, both district and county lines can be seen (district lines are black, county lines are blue), and the district colors are replaced by each precincts' election results according to a composite of statewide elections from 2016 to 2020. Blue precincts lean Democratic, and the darker the shade of blue for each precinct, the more Democratic the precinct. The same is true of Republican precincts, represented in red.

Figures 5 and 6: Ad Astra 2's Split of Wyandotte County





Source: *Kansas, 2022 US House Districts, Ad Astra 2,* Dave's Redistricting, https://davesredistricting.org/maps#viewmap::b4bc74fe-43ca-47d7-9358-b5ece7ccc839 (last visited Feb. 13, 2022)

86. Though Wyandotte and Johnson have been unified in a single congressional district for 90 of the last 100 years, because of population growth, their combined population is now too large for them to be in a single congressional district. But instead of preserving the integrity of the Kansas City metro area, which includes all of Wyandotte and the northern parts of Johnson, Ad Astra 2 divides the metro area through the middle of Kansas City and Wyandotte. While Johnson County is kept whole under this configuration, it has far more disparate geography and encompasses distinct communities of interest, unlike the entirely urban Wyandotte.

87. Additionally, the northern sections of Johnson encompass the Democratic and diverse semi-urban and suburban bedroom communities of Kansas City. If a Johnson County voter were to drive farther south, away from Kansas City, she will find herself in increasingly Republican and rural portions of Johnson County. It is these sparsely populated rural sections of southern Johnson County—not the northern portions of Wyandotte—that should most logically be excluded from the urban Third District to achieve population equality. Instead, Ad Astra 2 pairs the other half of Wyandotte's urban, diverse, and heavily Democratic voters, as well as similar voters in the northern portions of Johnson County, with rural, white, and heavily Republican parts of Johnson and other similarly rural counties to the south and west.

88. The numbers confirm the illogical and unnecessary population shifts between districts. Despite being overpopulated by just 57,816 people, Ad Astra 2 unnecessarily shifts 112,661 people out of District 3 and into District 2 (all from Wyandotte). And Ad Astra 2 adds 54,845 people to District 3 from District 2 (Franklin County, Anderson County and the rest of Miami County). In all, 109,690 additional people were moved beyond what was required for adjusting for population changes, contravening the redistricting guidelines' command to preserve the cores of former districts. As Governor Kelly explained in her veto statement, those shifted out

of District 3 are primarily minority communities: 46 percent of the Black population and 33 percent of the Hispanic population were moved out of the Third District by dividing minority neighborhoods.

89. The division of Wyandotte and the Kansas City metro area thus results in the dilution of Democratic, Black, and Hispanic votes in violation of the redistricting guidelines. Under any reasonable arrangement of the Kansas City metro area, Wyandotte would be kept whole in a district with urban and suburban portions of Johnson County. This district would preserve the voting strength of Democratic voters and Black and Hispanic voters.

B. Ad Astra 2 splits Douglas County and the greater Fort Riley community.

90. Ad Astra 2 similarly dilutes minority and Democratic voting strength in Douglas County. Under the 2012 Plan, Douglas County is wholly within the formerly competitive Second District. Ad Astra 2 inexplicably grabs most of the city of Lawrence, the county seat of Douglas, home to the University of Kansas, and long a Democratic stronghold, and throws it into the Big First—a vast rural, Republican expanse that stretches from Lawrence to the Colorado border.

91. After Wyandotte, Douglas is the second most Democratic and second least Republican county in Kansas. As of January 2022, Douglas County had 79,110 registered voters. Of those, 45 percent (20,539) are Democrats, 28 percent (22,334) are unaffiliated, and just 26 percent (20,539) are Republicans. Douglas is also one of the more diverse counties in Kansas, with around one in four residents identifying as a member of a minority community.

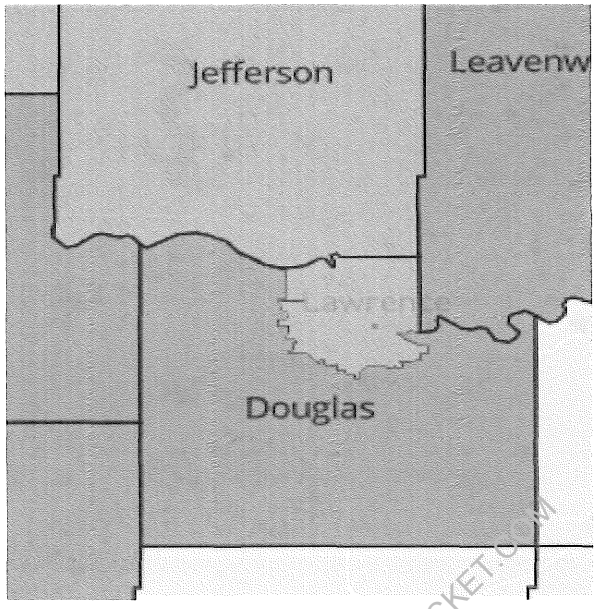
92. Lawrence has historically been a pawn in the state's redistricting game. From the 1970s until 2002, the city flipped between the Second and Third Districts every 10 years. But as the *Essex* court explained in 2012, in joining Lawrence with the rest of Douglas County, "Douglas County and the City of Lawrence should not be split between the First and Second Districts . . . . [T]hey are more appropriately placed entirely within the Second District." *Essex*, 874 F. Supp. 2d

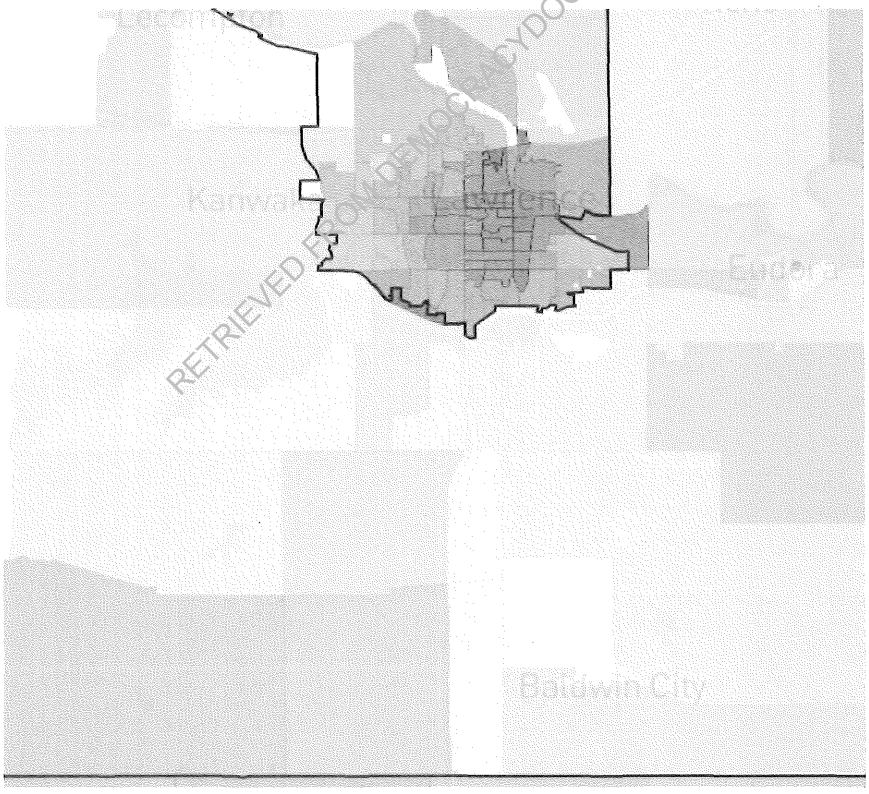
at 1087.

93. Instead of keeping urban Lawrence and Douglas in the Second District, Ad Astra 2's First District sprawls eastward from the Colorado border through Jackson and Jefferson to scoop up most of heavily Democratic Lawrence, along with most of its 95,000 residents. The Big First is now even bigger, spanning about 400 miles.

94. The odd result is a bowl-shaped line running through the southern part of Lawrence. Figures 7 and 8 show how Ad Astra 2 excised Lawrence from the rest of Douglas County, diluting the voting strength of Lawrence Democrats and minorities, including Plaintiffs Dillon and Raite. Under Ad Astra 2, Plaintiff Dillon, who is Black, and Plaintiff Raite, who is Hispanic, both politically active members of Generation Z, will have to vote for their congressional representative alongside rural Kansans hundreds of miles away with whom they share little in common. Figure 7 shows Ad Astra 2's butchering of Douglas County, with the District 1 colored red and District 2 colored blue. Figure 8 zooms in on the separation of Lawrence from the rest of Douglas County, together with precinct-level partisan leanings based on a composite index of statewide elections from 2016 to 2020. Blue shading indicates Democratic-leaning precincts, the darker the more heavily Democratic. The same is true for Republican-leaning precincts and red.

Figures 7 and 8: Ad Astra 2 Split of Douglas County



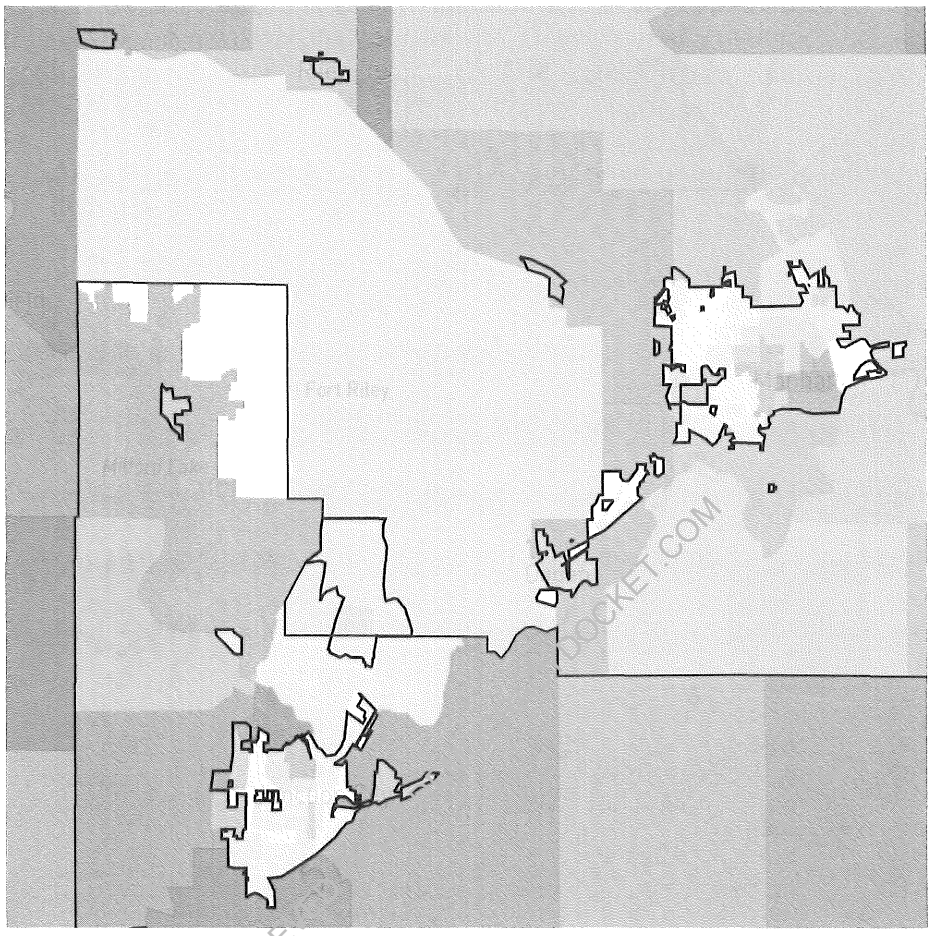


Source: *Kansas, 2022 US House Districts, Ad Astra 2,* Dave's Redistricting, https://davesredistricting.org/maps#viewmap::b4bc74fe-43ca-47d7-9358-b5ece7ccc839 (last visited Feb. 13, 2022)

95. Ad Astra 2 also splits minority communities in Douglas. About 25 percent of Douglas County residents are minorities. Of the total minority population in Douglas County, almost 91% of it is placed in District 1. In contrast, only 78% of the total white population of Douglas County is in District 1.

96. Ad Astra 2 also separates Fort Riley and Manhattan, Kansas (home of Kansas State University) from Junction City, thereby breaking apart one of Kansas's most important military communities of interest, a noticeable change from the 2012 Plan. Despite being just a couple of miles apart, Fort Riley and Manhattan are in the Big First, while Junction City is in the Second District. A soldier leaving post in the First District and exiting Grant or Trooper Gates into Junction City will suddenly find herself in the Second District. And this region of the state is extremely diverse. Fort Riley and Junction City have Hispanic populations of 53.9 percent and 55.7 percent, respectively. There is no need to split these closely-knit communities. This split is depicted in Figure 9 below. City borders in the figure below are blue and district borders are black. Fort Riley can be seen north of Junction City and southwest of Manhattan, with the district splitting off the southernmost portion of the base. Partisan leanings are also overlaid, with precinct-level results based on a composite of statewide elections from 2016 to 2020.

Figure 9: Junction City / Fort Riley Split



Source: *Kansas, 2022 US House Districts, Ad Astra 2,* Dave's Redistricting, https://davesredistricting.org/maps#viewmap::b4bc74fe-43ca-47d7-9358-b5ece7ccc839 (last visited Feb. 13, 2022)

C. Ad Astra 2 divides Kansas's Native American populations into separate districts.

97. When the Court drew the 2012 Plan, it placed all four of Kansas's major Native populations in the highly compact former Second District.

98. Ad Astra 2, on the other hand, splits the state's major reservations between the Second District and the Big First, with three of the four in the former and one in the latter.

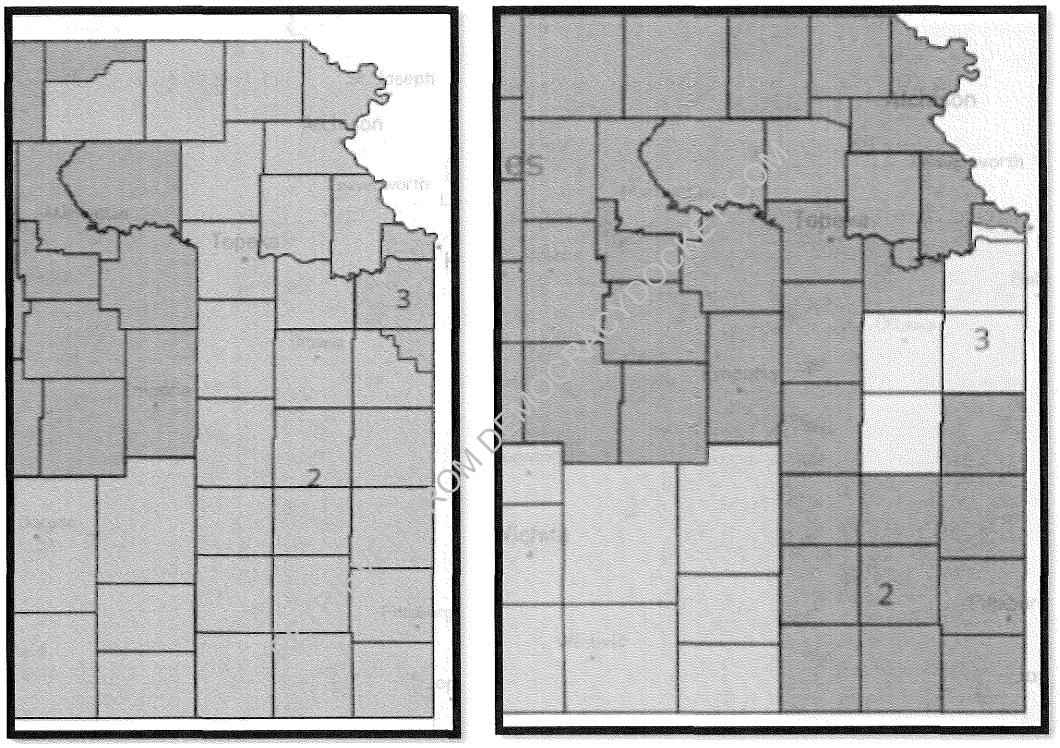
99. The two largest reservations are split from one another, despite being just a few miles apart. The Kickapoo reservation lands in the Second District. Meanwhile, the Prairie Band

Potawatomi Nation falls in the Big First. There is no legitimate reason for splitting the reservations.

D. District 2 is unnecessarily non-compact and oddly shaped.

100. Under the court-drawn 2012 Plan, the Second District was a compact, regularly shaped district that fell along county lines almost entirely. Figure 10 depicts the Second District in the 2012 Plan in green and in Ad Astra 2 in purple.

Figure 10: District 2, 2012 Plan (Left), Ad Astra 2 (Right)



101. Ad Astra 2 mutates the 2012 Second District. Commentators have observed that the backward "S" shape of Ad Astra 2's Second District is reminiscent of the original infamous salamander-shaped district drawn by Massachusetts Governor Elbridge Gerry, from which the term gerrymander was coined.

102. Widely used compactness metrics confirm the irregularity of the snaking Second District. The 2012 District 2 had a Polsby-Popper score of .35. Ad Astra 2's District 2 is

significantly less compact and has a Polsby-Popper score of just .15. In fact, Ad Astra 2's Second District was the *least compact* district of all the districts in all the maps submitted to the House and Senate redistricting committees. No legitimate reason explains District 2's configuration.

103. Again, the numbers reveal there was no reason to dramatically reconfigure District 2. Despite the former Second District being *underpopulated* by 21,463 people, 186,774 people were moved out of District 2 and into Districts 1 and 3. Separately, 208,237 people were moved into District 2 from Districts 1 and 3. A total of 395,011 people were moved, *373,548* people beyond the population deviation of 21,436—again in violation of the Redistricting Guidelines' requirement to preserve the cores of former districts.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Right to Vote

(Kan. Const. Art. 5, § 1; Kan. Const. Bill of Rights §§ 1-2)

104. Plaintiffs hereby re-allege and incorporate by reference all prior paragraphs of this Petition and the paragraphs below as though fully set forth herein.

105. Article 5, Section 1 of the Kansas Constitution guarantees all Kansans a right to vote in the state's elections: "Every citizen of the United States who has attained the age of eighteen years and who resides in the voting area in which he or she seeks to vote shall be deemed a qualified elector." Kan. Const. Art. 5, § 1.

106. Section 1 of the Bill of Rights to the Constitution provides that "[a]ll men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness." Kan. Const. Bill of Rts. § 1.

107. Section 2 of the Bill of Rights guarantees that "[a]ll political power is inherent in the people, and all free governments are founded on their authority, and are instituted for their

equal protection and benefit. No special privileges or immunities shall ever be granted by the legislature, which may not be altered, revoked or repealed by the same body; and this power shall be exercised by no other tribunal or agency." Kan. Const. Bill of Rts. § 2.

108. The Kansas Supreme Court has recognized that the right to vote is fundamental: "It is every elector's portion of sovereign power to vote on questions submitted. Since the right of suffrage is a fundamental matter, any alleged restriction or infringement of that right strikes at the heart of orderly constitutional government, and must be carefully and meticulously scrutinized." *Moore v. Shanahan*, 486 P.2d 506, 511 (Kan. 1971).

109. The Court has also interpreted Section 1 to secure natural rights distinct from and broader than those protected by the United States Constitution. *Hodes & Nauser, MDs v. Schmidt*, 440 P.3d 461, 472 (Kan. 2019).

110. Numerous courts have also recognized that the right to vote includes the right to equal voting power. Order at ¶ 4, *Harper v. Hall*, No. 413PA21 (N.C. Feb. 4, 2022) (opinion forthcoming) ("The fundamental right to vote includes the right to enjoy 'substantially equal voting power and substantially equal legislative representation'" (quoting *Stephenson v. Bartlett*, 562 S.E.2d 377, 382 (N.C. 2002))); *State ex rel. Skaggs v. Brunner*, 900 N.E.2d 982, 992 (Ohio 2008) ("[t]he right to vote includes the right to have one's vote counted on equal terms with others." (internal citation omitted)). Partisan gerrymandering violates this right by diluting the votes of members of one party to benefit members of another. Order at ¶ 4, *Harper*, No. 413PA21.

111. Ad Astra 2 unlawfully seeks to predetermine election outcomes in individual districts and across the state as a whole. Plaintiffs' right to vote is violated because they do not possess substantially equal voting power with voters who prefer other candidates. Ad Astra 2 creates this inequality by placing Plaintiffs in districts in which their votes are diluted, and they

have no chance to elect their candidate of choice. By cracking apart Democratic votes in Wyandotte County and in Douglas, Johnson, Riley, and Geary, Ad Astra 2 creates three safe Republican districts and one Republican-leaning competitive district. This deprives Democrats in the state of any semblance of equal political power in Congress, and thereby deprives them of the right to vote on equal terms.

112. The map's partisan breakdown is entirely out of line with the statewide preferences of Kansans, which over recent years have begun to swing in the direction of Democrats. Between 2016 and 2020, statewide Democratic candidates received, on average, 40 percent of the vote to Republicans' 55 percent (Independents received 5 percent). Indeed, in 2018, Governor Kelly won the statewide race for the office she now holds by a margin of 5 percent. Seeking to thwart growing Democratic power, Ad Astra 2 creates a strong likelihood that Republicans will win 100 percent of the congressional seats, just as Senate President Wagle promised back in 2020.

113. Ad Astra 2's division of Wyandotte County's heavily Democratic population is not justifiable by any neutral redistricting criteria, including the legislature's own guidelines: it results in several highly noncompact districts, it fails to preserve political subdivisions, it fails to retain the cores of former districts, and it tears apart communities of interest, most notably the Kansas City metro area, which has twice been recognized by federal courts as a single unit deserving of preservation. *See Essex*, 874 F. Supp. 2d at 1086; *O'Sullivan*, 540 F. Supp. at 1204. Democratic strongholds are similarly divided, with Lawrence separated from the remainder of Douglas County, and Manhattan and Fort Riley separated from Junction City, despite their close ties. These unnecessary divisions indicate the legislature's intent to subjugate the state's neutral redistricting criteria to partisan considerations in contravention of voters' rights under the Kansas Constitution.

114. Because the plan infringes on the fundamental right to vote, it must survive strict

scrutiny in order to stand. *See Hodes & Nauser*, 440 P.3d at 500-01 (violations of natural rights subject to strict scrutiny). But the enacted plan is not narrowly tailored to a compelling state interest.

115. But even if some less exacting level of scrutiny applies (and it does not), since no governmental interest, much less a compelling one, can justify Ad Astra 2, it must be struck down as violative of Article 5, Section 1 of the Kansas Constitution and Sections 1 and 2 of the Bill of Rights.

116. Plaintiffs advance this claim under the Kansas state constitution only. Plaintiffs do not seek relief under the United States constitution or any federal statute.

SECOND CLAIM FOR RELIEF
Equal Protection
(Kan. Const. Bill of Rights §§ 1-2)

117. Plaintiffs hereby re-allege and incorporate by reference all prior paragraphs of this Petition and the paragraphs below as though fully set forth herein.

118. Section 1 of the Bill of Rights guarantees that "[a]ll men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness." Kan. Const. Bill of Rts. § 1.

119. Section 2 of the Bill of Rights guarantees that "[a]ll political power is inherent in the people, and all free governments are founded on their authority, and are instituted for their equal protection and benefit. No special privileges or immunities shall ever be granted by the legislature, which may not be altered, revoked or repealed by the same body; and this power shall be exercised by no other tribunal or agency." Kan. Const. Bill of Rts. § 2.

120. The Supreme Court of Kansas has interpreted Sections 1 and 2 to collectively protect rights similar to those protected under the Due Process and Equal Protection Clauses of the

Fourteenth Amendment to the United States Constitution, with Section 1 focused on "individual personal or property rights" and Section 2 focused on "political rights." *Farley v. Engelken*, 740 P.2d 1058, 1061 (Kan. 1987). In the same opinion, the Court also recognized that the state constitution supplies broader and more robust protection for equal-protection rights than its federal counterpart. *See id.* at 1063 (applying heightened scrutiny to a Section 1 equal protection claim by victim of medical malpractice alleging he was deprived of a remedy against person who wronged him, and holding that "the Kansas Constitution affords separate, adequate, and greater rights than the federal Constitution").

121. As a North Carolina court recognized in interpreting an analogous provision of that state's constitution, the right to equal protection encompasses a right to "substantially equal voting power." *Common Cause v. Lewis*, 2019 WL 4569584, at *113 (Super. Ct. N.C. Sep. 3, 2019) (quoting *Stephenson*, 562 S.E.2d at 393-96 & n.2). Partisan gerrymandering runs afoul of this protection: "by seeking to diminish the electoral power of supporters of a disfavored party, a partisan gerrymander treats individuals who support candidates of one political party less favorably than individuals who support candidates of another party." *Lewis*, 2019 WL 4569584, at *113, *accord* Order at ¶ 5, *Harper*, No. 413PA21 ("The General Assembly violates the North Carolina Constitution when it deprives a voter of his or her right to substantially equal voting power on the basis of partisan affiliation."); *see also League of Women Voters of Ohio v. Ohio Redistricting Comm.,* Slip Opinion No. 2022-Ohio-65 ¶ 157 (Brunner, J, concurring) ("when legislative maps are adopted in a manner that manipulates electoral constituencies to favor and entrench the legislative control of one party and disfavor another, creating unequal classes of voters, this affects the weight and power of each person's vote and violates [Ohio's Equal Protection clause]").

122. By cracking Democratic voters across the state, the Republican supermajority deprived Democrats in Kansas of the fundamental right to equal voting power. It is therefore subject to strict scrutiny. But even if some less exacting level of scrutiny applies (and it does not), since no interest, much less a compelling one, can justify Ad Astra 2's dilution of Democratic votes, the plan fails strict scrutiny. Ad Astra 2 therefore violates Plaintiffs' equal protection rights guaranteed by Sections 1 and 2 of the Kansas Bill of Rights.

123. Plaintiffs advance this claim under the Kansas state constitution only. Plaintiffs do not seek relief under the United States constitution or any federal statute.

THIRD CLAIM FOR RELIEF
Freedom of Speech
(Kan. Const. Bill of Rights § 11)

124. Plaintiffs hereby re-allege and incorporate by reference all prior paragraphs of this Petition and the paragraphs below as though fully set forth herein.

125. Section 11 of the Bill of Rights guarantees that "all persons may freely speak, write or publish their sentiments on all subjects, being responsible for the abuse of such rights . . . ." Kan. Const. Bill of Rts. § 11.

126. As the Kansas Supreme Court has said, "Freedom of speech and of the press are secured against abridgment by the federal and state Constitutions. They are among the most fundamental personal rights and liberties of the people." *Unified Sch. Dist. No. 503 v. McKinney*, 236 Kan. 224, 234, 689 P.2d 860, 869 (1984).

127. As courts in other states have recognized, partisan gerrymandering violates this guarantee of the right to freedom of speech. *Lewis*, 2019 WL 4569584, at *121-22, *accord* Order at ¶ 3, *Harper*, No. 413PA21 (concluding North Carolina's drawing of a partisan gerrymander following the 2020 census was "unconstitutional beyond a reasonable doubt under the . . . free

speech" clause of the North Carolina Constitution). This is because partisan gerrymandering favors one party over another, and therefore amounts to unconstitutional viewpoint discrimination. *Lewis*, 2019 WL 4569584, at *121-22.

128. As discussed above, the Republican supermajorities passed Ad Astra 2 to dilute Democratic votes. This "packing and cracking" of Democrats in Kansas "make[s] it harder for them to translate votes into [congressional] seats" and therefore "single[] out a subset of messages for disfavor based on the views expressed . . . This is the essence of viewpoint discrimination." *Id.* (quoting in second part *Matal v. Tam*, 137 S. Ct. 1744, 1766 (2017) (Kennedy, J., concurring)). Ad Astra 2 thereby privileges Republican viewpoints while singling out Democratic viewpoints for disapproval.

129. As a viewpoint-discriminatory measure, Ad Astra 2 is subject to strict scrutiny. *Id.* at *123; *see also McKinney*, 236 Kan. at 227–28 ("Restrictions on free speech are valid only where necessary to protect compelling public interests and where no less restrictive alternatives are available.").

130. But even if some less exacting level of scrutiny applies (and it does not), since no interest, much less a compelling one, can justify Ad Astra 2's discrimination against Democratic viewpoints, Ad Astra 2 violates Section 11's guarantee of freedom of speech.

131. Plaintiffs advance this claim under the Kansas state constitution only. Plaintiffs do not seek relief under the United States constitution or any federal statute.

FOURTH CLAIM FOR RELIEF
Freedom of Assembly
(Kan. Const. Bill of Rights § 3)

132. Plaintiffs hereby re-allege and incorporate by reference all prior paragraphs of this Petition and the paragraphs below as though fully set forth herein.

133. Section 3 of the Bill of Rights guarantees the people "the right to assemble, in a peaceable manner, to consult for their common good, to instruct their representatives, and to petition the government, or any department thereof, for the redress of grievances." Kan. Const. Bill of Rts. § 3.

134. For purposes of congressional representation, Ad Astra 2 "severely burden[s]—if not outright preclude[s]—the ability of [plaintiffs] 'to instruct their representatives, and to apply to the General Assembly for redress of grievances.'" *Lewis*, 2019 WL 4569584, at *120 (quoting N.C. Const. Art. I § 2). Under Ad Astra 2, every Democrat in the state will live in a district where it is unlikely a candidate of their choice will be elected. For Democrats in the three safe Republican districts, they will have no ability to meaningfully petition their member of Congress, who in turn will feel no sense of accountability to Democratic voters, since such votes will play no role in determining whether or not the incumbent in the district is reelected.

135. In interpreting substantially identical language, other state courts have also read this type of language to incorporate a freedom to associate. *See id.* (citing *Libertarian Party of N.C. v. State*, 707 S.E.2d 199, 204-05 (N.C. 2011)). This freedom of assembly protects the right to form political parties with likeminded citizens and participate in those organizations. *See id.*; *Shane v. Parish of Jefferson*, 209 So. 3d 726, 741 (La. 2015).

136. Ad Astra 2's elimination of a Democratic congressional district in Kansas burdens Plaintiffs' associational rights. By placing every district in the state further out of reach for Democratic congressional candidates, Ad Astra 2 will likely "debilitate[] the [Democratic] party" and "weaken[] its ability to carry out its core functions and purposes." *Lewis*, 2019 WL 4569584, at *122 (cleaned up). This creates difficulties in fundraising, registering voters, and attracting volunteers. *Id.* These harms are not limited to the party itself. Plaintiffs, who wish to organize in

favor of their candidates of choice, will face similar problems. If potential Democratic voters do not believe there is any point to electoral organizing, they will be unlikely to volunteer or donate to organizations that Plaintiffs either belong to or wish to form.

137. Because Ad Astra 2 severely burdens Plaintiffs' right to freedom of assembly and to instruct their representatives, it is subject to strict scrutiny. *Id.* at *123. But even if some less exacting level of scrutiny applies (and it does not), because no interest can justify Ad Astra 2's burden on Plaintiffs' rights, it violates Section 3 of the Kansas Bill of Rights.

138. Plaintiffs advance this claim under the Kansas state constitution only. Plaintiffs do not seek relief under the United States constitution or any federal statute.

FIFTH CLAIM FOR RELIEF
Racial Vote Dilution
(Kan. Const. art. 5 § 1; Kan. Const. Bill of Rights §§ 1-2)

139. Plaintiffs hereby re-allege and incorporate by reference all prior paragraphs of this Petition and the paragraphs below as though fully set forth herein.

140. Article 5, Section 1 of the Kansas Constitution guarantees all Kansans a right to vote in the state's elections: "Every citizen of the United States who has attained the age of eighteen years and who resides in the voting area in which he or she seeks to vote shall be deemed a qualified elector." Kan. Const. Art. 5, § 1.

141. Section 1 of the Bill of Rights guarantees that "[a]ll men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness." Kan. Const. Bill of Rts. § 1.

142. Section 2 of the Bill of Rights guarantees that "[a]ll political power is inherent in the people, and all free governments are founded on their authority, and are instituted for their equal protection and benefit. No special privileges or immunities shall ever be granted by the

legislature, which may not be altered, revoked or repealed by the same body; and this power shall be exercised by no other tribunal or agency." Kan. Const. Bill of Rts. § 2.

143. As discussed, the Kansas Supreme Court has recognized that Sections 1 and 2 are the state analogue to the federal Equal Protection Clause but have also held that the state constitution supplies broader and more robust protection for equal-protection rights than its federal counterpart. *See Farley*, 740 P.2d at 1063 (applying heightened scrutiny to a Section 1 equal protection claim by victim of medical malpractice alleging he was deprived of a remedy against person who wronged him, and holding that "the Kansas Constitution affords separate, adequate, and greater rights than the federal Constitution").

144. As discussed under Claim 2 above, Sections 1 and 2 protect a right to equal voting power. As a corollary to this principle, when government action dilutes the votes of one or several racial minorities, it denies to those communities the equal protection of the laws that Sections 1 and 2 guarantee.

145. Ad Astra 2 dilutes the voting power of Black and Hispanic residents. There is significant racially polarized voting throughout the state. Against this backdrop, the Republican supermajority cracked the Black and Hispanic communities of the Kansas City metro area into two separate districts, thereby submerging them with votes that were overwhelmingly white and Republican. The same is true in Douglas County. Because minority voters in Kansas prefer Democrats (as do the overwhelming majority of voters in Wyandotte County and Douglas County), this strategy deprived minority voters of their ability to elect their candidates of choice.

146. As a result, for Ad Astra 2 to stand, it must survive strict scrutiny. However, the legislature cannot show any interest, let alone a compelling one, that supports diluting minority votes or consciously dividing the minority communities of Wyandotte County into two separate

districts. Ad Astra 2 therefore violates the equal-protection rights recognized under Sections 1 and 2 of the Bill of Rights.

147. Plaintiffs advance this claim under the Kansas state constitution only. Plaintiffs do not seek relief under the United States constitution or any federal statute.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against Defendants, and

a. Declare that the enacted plan is unconstitutional and invalid because it violates the rights of Plaintiffs, along with other Democratic and minority voters in Kansas, under the Sections 1, 2, 3, and 11 of the Kansas Bill of Rights and Article 5, Section 1 of the Kansas Constitution;

b. Enjoin Defendants, their agents, officers, and employees from administering, preparing for, or moving forward with the 2022 primary and general elections for Congress using the enacted plan;

c. Establish a new congressional districting plan that complies with the Kansas Constitution, if the Kansas legislature fails to enact a new congressional comporting with the Kansas Constitution in a timely manner;

d. Enjoin Defendants, their agents, officers, and employees from otherwise diluting the voting power of citizens or groups of citizens in any future redistricting of Kansas's congressional map based on their race, political beliefs, party affiliation, or past votes;

e. Expedite the proceedings in this case such that a lawful congressional map can be adopted and implemented prior to the 2022 August primary election;

f. Award Plaintiffs their costs, expenses, and reasonable attorneys' fees; and

g. Grant Plaintiffs such other and further relief as the Court deems just and appropriate.

Respectfully submitted, this 14th day of February, 2022.

/s/ Barry R. Grissom
Barry Grissom (#10866)
Jake Miller*
GRISSOM MILLER LAW FIRM LLC
1600 Genessee Street
Suite 460
Kansas City, Missouri 64102
barry@grissommiller.com
jake@grissommiller.com
(913) 359-0123

Abha Khanna*
ELIAS LAW GROUP LLP
1700 Seventh Ave
Suite 2100
Seattle, WA 98101
akhanna@elias.law
(206) 656-0177

Lalitha D. Madduri*
Henry J. Brewster*
Spencer Klein*
ELIAS LAW GROUP LLP
10 G Street NE
Suite 600
Washington, DC 20002
lmadduri@elias.law
hbrewster@elias.law
sklein@elias.law
(202) 968-4518

Counsel for Plaintiffs
**Pro Hac Vice Application Forthcoming*

Exhibit D

Petition in *Alonzo v. Schwab,* 2022-CV-90 (Wyandotte County D. Ct.)

ELECTRONICALLY FILED
2022 Feb 14 AM 9:32
CLERK OF THE WYANDOTTE COUNTY DISTRICT COURT
CASE NUMBER: 2022-CV-000090

IN THE TWENTY-NINTH JUDICIAL DISTRICT
WYANDOTTE COUNTY DISTRICT COURT
CIVIL DEPARTMENT

TOM ALONZO, SHARON AL-UQDAH, AMY CARTER, CONNIE BROWN COLLINS, SHEYVETTE DINKENS, MELINDA LAVON, ANA MARCELA MALDONADO MORALES, LIZ MEITL, RICHARD NOBLES, ROSE SCHWAB, and ANNA WHITE,

Plaintiffs,

v.

SCOTT SCHWAB, Kansas Secretary of State and Kansas Chief Election Officer, in his official capacity, and MICHAEL ABBOTT, Wyandotte County Election Commissioner, in his official capacity,

Defendants.

Case No. _____

PETITION FOR DECLARATORY AND INJUNCTIVE RELIEF AND MANDAMUS PURSUANT TO K.S.A. CHAPTER 60

INTRODUCTION

1. The Kansas Constitution establishes a democracy in which "[a]ll political power is inherent in the people" and must be "founded on their authority." Kan. Const. Bill of Rights, § 2. The Constitution declares that this State's government is "instituted for the[] equal protection and benefit" of the people," *id.*, and every Kansan is therefore "possessed of equal power and influence in the making of laws which govern him." *Harris v. Shanahan*, 192 Kan. 183, 204, 387 P.2d 771, 789 (1963). Central to this democratic form of government are free and fair elections, in which

every citizen can exercise their fundamental "constitutional right" to vote on equal terms, with equal voting power. *State v. Beggs*, 126 Kan. 811, 271 P. 400, 402 (1928) (quoting *Wheeler v. Brady*, 15 Kan. 26, 32 (1875)).

2. But in a partisan gerrymander, the dominant party manipulates the district boundaries to dilute the voting power of the minority party's voters and advantage the dominant party. The mapmakers classify voters on the basis of their political beliefs, and then systematically sort the minority party's voters into districts to minimize their electoral influence—to prevent them from translating votes into seats. This practice is "incompatible with democratic principles." *Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 576 U.S. 787, 791 (2015) (alteration in original) (quoting *Vieth v. Jubelirer*, 541 U.S. 267, 292 (2004) (plurality opinion)).

3. Last week, through manipulation and abuse of legislative procedures, the Kansas Legislature rushed through an extreme and intentional partisan and racial gerrymander of the state's congressional districts. These actions were taken in open defiance of the Kansas Constitution and the Legislature's own redistricting criteria. Moreover, the Legislature disregarded public input, including the testimony and public comment of scores of Kansans, and the well-recognized and longstanding importance of a united Kansas City Metro Area district. After three days of bizarre legislative maneuvering and arm-twisting, Republican legislators passed the Enacted Plan (Sub. Sen. Bill 355) through veto-override votes in the Senate and House.

4. The Enacted Plan was deliberately designed to consistently and efficiently elect exclusively Republicans to Congress, and specifically to prevent Democratic voters in the Kansas City Metro Area from electing their preferred candidate, currently Congresswoman Sharice Davids. Republican legislative leaders did not even try to hide it. Although it remains unclear who actually drafted the Enacted Plan, the intent of state Republican party leaders was made clear

in 2020, when then-Senate President Susan Wagle openly urged Republican legislators to pass a map "that takes out Sharice Davids up in the 3rd," and boasted, "I guarantee you we can draw four Republican congressional maps." Sherman Smith & Tim Carpenter, *Senate President Susan Wagle Embraces Gerrymandering to Benefit GOP in Kansas*, Kan. Reflector (Oct. 9, 2020), https://kansasreflector.com/2020/10/09/senate-president-susan-wagle-embraces-gerrymandering-to-benefit-gop-in-kansas.

5. The Enacted Plan achieves its desired effects. The map transforms the existing Congressional Third from a district with a Democratic majority into one that, based on recent statewide elections, will now favor Republicans. Under this plan, Kansas will likely find itself represented in Congress by four Republicans and zero Democrats—even though over 40% of Kansans have voted for Democratic candidates in recent statewide and congressional elections.

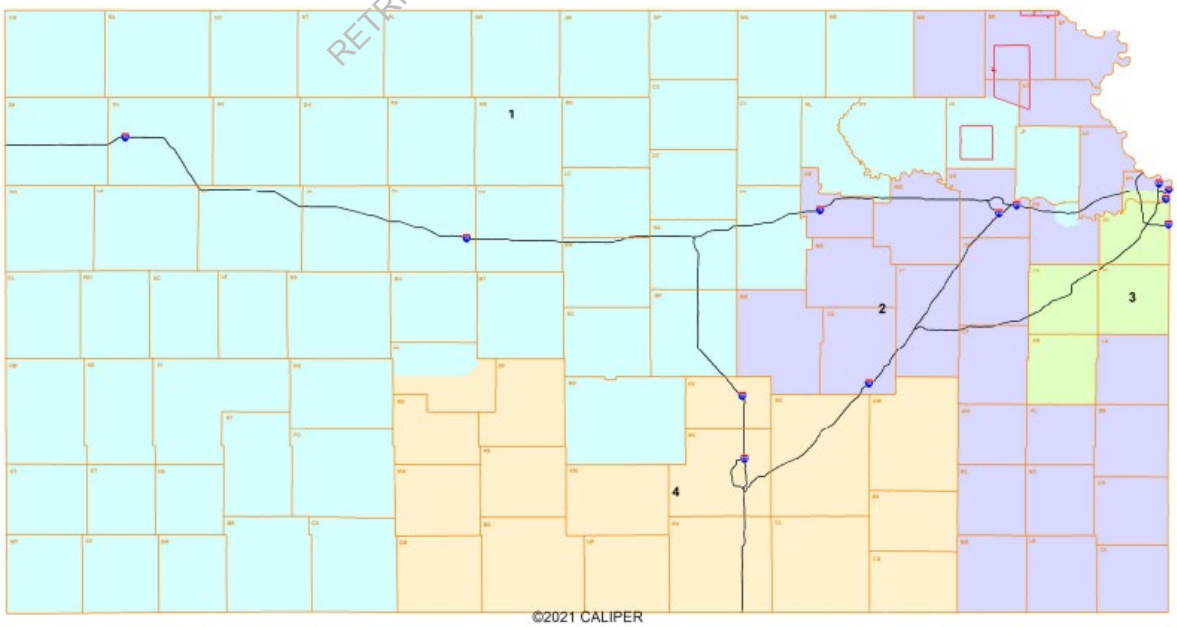
6. The map-drawers accomplished this goal by splitting the Kansas City Metro Area in two. The Kansas City portion of Wyandotte and Johnson Counties is an indivisible social, economic, and political unit, the division of which can be justified only on impermissible partisan grounds. While the Kansas City Metro Area has been united in a single district for the last fifty years, the Enacted Plan now places the northern half of Kansas City, Kansas in Congressional District 2, and the southern half in District 3. Wyandotte County—the State's only majority-minority county—is split in two for the first time in 40 years.

7. The map also preserves Republican control of Congressional District 2 by carving the heavily Democratic city of Lawrence out of Douglas County and placing it in the new Congressional District 1. This was done to prevent the transplanted Wyandotte County Democratic voters in the new Congressional District 2—the majority of whom are racial and ethnic minorities—from joining with Democratic voters in Lawrence to elect their preferred candidates.

8. In addition to its extreme partisan bias, the Enacted Plan also intentionally discriminates on the basis of race. Although minority voters constitute less than a majority of voters in current District 3, they have succeeded in electing their preferred candidate—Representative Davids, a Native American woman—with the support of a portion of white voters who cross over to support the minority-preferred candidate. The Enacted Plan's splitting of majority-minority Wyandotte County between two districts dilutes African American voting power and electoral influence by eliminating this performing "crossover district." In particular, the Enacted Plan moves the bulk of Wyandotte County's minority voters into District 2, where too few white voters cross over to enable the minority community to elect their preferred candidates.

9. The result is a map so patently gerrymandered that District 2 has earned the moniker "The Waglemander," a reference to the salamander shape of Elbridge Gerry's original gerrymandered district from the early 1800s and to its first Kansas Republican endorser, Senator Wagle.

M3_AdAstra_2 for KLRD TR



10. This gerrymandered map is not only unfair and wrong; it violates the Kansas Constitution. When voters are classified and sorted into districts based on their political beliefs to minimize the minority party's electoral influence, their treatment is not "equal." Kan. Const. Bill of Rights, §§ 1, 2. When the minority party's voters are drawn into districts to ensure they cannot elect candidates of their choice, they are denied their rights to "freely speak" and assemble. *Id.* §§ 3, 11. And when the map prevents the minority party's voters from translating their votes into seats, it impermissibly burdens the fundamental right of suffrage. Kan. Const. art. V, § 1. In addition, the intentional destruction of a performing crossover district, represented by a Native American woman, violates the equal protection guarantees of the Kansas Constitution.

11. Plaintiffs request that this Court declare the Enacted Plan invalid under the Kansas Constitution, enjoin use of the Enacted Plan, order the Legislature promptly to adopt a lawful new plan, and retain the authority to draw a map itself if the legislature fails to timely do so.

12. This matter is of great urgency and significant public concern. Plaintiffs intend to file a motion to expedite this case to enable decision and the adoption of the new map in advance of the June 1, 2022 candidate filing deadline for the primary elections.

JURISDICTION

13. This is an action for mandamus, declaratory, and injunctive relief authorized by K.S.A. 60-802 (mandamus), 60-1701, 60-1703 (declaratory relief), and K.S.A. 60-901, 60-902 (injunctive relief).[1] The Court has general jurisdiction under K.S.A. 20-301.

14. The Court has personal jurisdiction over Defendants, Secretary of State Scott Schwab and Wyandotte County Election Commissioner Michael Abbott, because they are state

[1] This complaint alleges causes of action only under the state Constitution, and does not allege any federal cause of action.

government officials and are sued in their official capacity. *See Merriman v. Crompton Corp.*, 282 Kan. 433, 439, 146 P.3d 162, 168 (Kan. 2006).

15. Venue is proper under K.S.A. 60-602(2) and K.S.A. 60-608 because this action seeks declaratory and injunctive relief against public officers for acts done or threatened to be done in Wyandotte County by those officers under color of their office.

PARTIES

16. Plaintiff Tom Alonzo, a 64-year-old gay Latinx man who lives in Kansas City, Kansas, in Wyandotte County, is a retired federal government employee and engaged community member in the Kansas City area. He votes for Democratic candidates and intends to vote for Democratic candidates in future elections. Under the Enacted Plan, Plaintiff Alonzo will no longer be a voter in Congressional District 3; his precinct will be moved to Congressional District 2, where his vote will be diluted and he will have no chance of electing a Democrat to Congress. He intends to vote in 2022 and in future elections.

17. Plaintiff Sharon Al-Uqdah, a 67-year-old Black woman who lives in Kansas City, Kansas, in Wyandotte County, is the former president and director of the American Postal Workers Union in Kansas City, Missouri, and an engaged community member in the Kansas City area. She votes for Democratic candidates and intends to vote for Democratic candidates in future elections. Under the Enacted Plan, Plaintiff Al-Uqdah will no longer be a voter in Congressional District 3; her precinct will be moved to Congressional District 2, where her vote will be diluted and she will have no chance of electing a Democrat to Congress. She intends to vote in 2022 and in future elections.

18. Plaintiff Connie Brown Collins, a 68-year-old Black woman who lives in Kansas City, Kansas, in Wyandotte County, is the founder and organizer of the nonpartisan Voter Rights

Network of Wyandotte County, and an engaged community member in the Kansas City area. She votes for Democratic candidates and intends to vote for Democratic candidates in future elections. Under the Enacted Plan, Plaintiff Brown Collins will no longer be a voter in Congressional District 3; her precinct will be moved to Congressional District 2, where her vote will be diluted and she will have no chance of electing a Democrat to Congress. She intends to vote in 2022 and in future elections.

19. Plaintiff Amy Carter, a 44-year-old white woman who lives in Overland Park, Kansas, in Johnson County, is a self-employed Certified Public Accountant and an engaged community member in the Kansas City area. She votes for Democratic candidates and intends to vote for Democratic candidates in future elections. Under the Enacted Plan, she will remain a voter in Congressional District 3, but the cracking of Democratic voters in District 3 substantially decreases the chance that she and other Democratic voters will be able to elect the candidate of their choice. She intends to vote in 2022 and in future elections.

20. Plaintiff Sheyvette Dinkens, a 36-year-old Black woman who lives in the Rosedale neighborhood of Kansas City, Kansas, in Wyandotte County, is an educator, runs a civic engagement organization for youth in the Kansas City Metro Area, and participates in numerous community and faith-based groups. She is an engaged community member in the Kansas City area, votes for Democratic candidates, and intends to vote for Democratic candidates in future elections. Under the Enacted Plan, she will remain a voter in Congressional District 3, but the cracking of heavily Democratic communities in District 3 substantially decreases the chance that she and other Democratic voters will be able to elect the candidate of their choice. She intends to vote in 2022 and in future elections.

21. Plaintiff Melinda Lavon, a 42-year-old white woman who lives in Lawrence, Kansas, in Douglas County, is a midwife who practices in Lawrence, Kansas, in Douglas County, in Chanute, Kansas, in Neosho County, and throughout Congressional District 2. She is an engaged community member in Lawrence and throughout Congressional District 2, votes for Democratic candidates, and intends to vote for Democratic candidates in future elections. Under the Enacted Plan, Plaintiff Lavon will no longer be a voter in Congressional District 2; her precinct would be moved to Congressional District 1. Although the cracking of heavily Democratic Kansas City from District 3 into District 2 could have enabled Plaintiff Lavon to elect a candidate of her choice if she remained in District 2, the mapmakers cracked her community and moved her and other Democratic voters in Lawrence into District 1 to prevent her from electing a candidate of her choice. Plaintiff Lavon intends to vote in 2022 and in future elections.

22. Plaintiff Ana Marcela Maldonado Morales, a 33-year-old Latinx woman who lives in Kansas City, Kansas, in Wyandotte County, is a business owner and an engaged community member in the Kansas City area. She votes for Democratic candidates and intends to vote for Democratic candidates in future elections. Under the Enacted Plan, Plaintiff Maldonado Morales will no longer be a voter in Congressional District 3; her precinct will be moved to Congressional District 2, where her vote will be diluted and she will have no chance of electing a Democrat to Congress. She intends to vote in 2022 and in future elections.

23. Plaintiff Liz Meitl, a 45-year-old white woman who lives in Overland Park, Kansas, in Johnson County, is an educator and human resources advisor for USD 500 and an engaged community member in the Kansas City area. She votes for Democratic candidates and intends to vote for Democratic candidates in future elections. Under the Enacted Plan, she will remain a voter in Congressional District 3, but the cracking of heavily Democratic communities in District 3

substantially decreases the chance that she and other Democratic voters will be able to elect the candidate of their choice. She intends to vote in 2022 and in future elections.

24. Plaintiff Richard Nobles, a 40-year-old Black man who lives in Overland Park, Kansas, in Johnson County, is a clinical psychologist with the University of Kansas Health System and an engaged community member in the Kansas City area. He votes for Democratic candidates and intends to vote for Democratic candidates in future elections. Under the Enacted Plan, he will remain a voter in Congressional District 3, but the cracking of heavily Democratic communities in District 3 substantially decreases the chance that he and other Democratic voters will be able to elect the candidate of their choice. He intends to vote in 2022 and in future elections.

25. Plaintiff Rose Schwab, a 35-year-old white woman who lives in Kansas City, Kansas, in Wyandotte County, is a pastor at Shawnee Mission Unitarian Universalist Church in Johnson County and an engaged community member in the Kansas City area. She votes for Democratic candidates and intends to vote for Democratic candidates in future elections. Under the Enacted Plan, Plaintiff Schwab will no longer be a voter in Congressional District 3; her precinct will be moved to Congressional District 2, where her vote will be diluted and she will have no chance of electing a Democrat to Congress. She intends to vote in 2022 and in future elections.

26. Plaintiff Anna White, a 35-year-old white woman who lives in Kansas City, Kansas, in Wyandotte County, is an independent contractor and consultant, and an engaged community member in the Kansas City area. She votes for Democratic candidates and intends to vote for Democratic candidates in future elections. Under the Enacted Plan, she will remain a voter in Congressional District 3, but the cracking of heavily Democratic communities in District 3

substantially decreases the chance that she and other Democratic voters will be able to elect the candidate of their choice. She intends to vote in 2022 and in future elections.

27. Plaintiffs have standing because the partisan gerrymandering of the Enacted Map dilutes their voting power and ability to elect the representatives of their choice. Each Plaintiff in the Kansas City Metro Area resides in current Congressional District 3, but under the Enacted Plan, they will be split into two districts where they will be unable to elect their preferred candidates. One Plaintiff lives in Lawrence, in the current Congressional District 2, but under the Enacted Plan, will be moved into Congressional District 1.

28. Each Black and Latinx plaintiff likewise has standing because they are currently able to elect a candidate of their choice in Congressional District 3, a performing crossover district. In the Enacted Plan, however, Congressional District 3 is cracked and a portion of its racial and ethnic minority voters are moved apart from other racial and ethnic minority voters and crossover white voters. These racial and ethnic minority voters are instead submerged in a district—either the new Congressional District 2 or new Congressional District 3—in which white bloc voting will prevent them from electing their preferred candidates.

29. Defendant Scott Schwab is the Kansas Secretary of State and the state's chief elections officer. The Secretary of State's Office is responsible for administering elections. All candidates for national office must file their candidacy with the Secretary of State's office, and the Secretary is responsible for furnishing county election officers with ballots and certifying the names of candidates to county election officers. He is sued in his official capacity.

30. Defendant Michael Abbott is the Wyandotte County Election Commissioner. As Election Commissioner, Mr. Abbott is responsible for managing and conducting elections

throughout Wyandotte County, including managing voter registration and early voting, and collecting and tabulating ballots. He is sued in his official capacity.

FACTUAL ALLEGATIONS

A. Kansas's Current Congressional Delegation Has Three Republicans and One Democrat, Reasonably in Line With the State's Political Makeup

31. For the last four years, Kansas has been represented in the U.S. House of Representatives by three Republicans and one Democrat.

32. The Republicans are Tracey Mann (First District), Jacob LaTurner (Second District), and Ron Estes (Fourth District).

33. The Democrat is Sharice Davids, who represents the Third District and whose historic 2018 election made her the first openly LGBTQ Native American in Congress and, at the time, just the second Native American in the entire chamber.

34. Representative Davids defeated Republican incumbent Kevin Yoder by a 10% margin in 2018, 53.6% to 43.9%.

35. Representative Davids won again in 2020, defeating Republican challenger Amanda Adkins by a similar margin, 53.6% to 43.6%.

36. The 3-1 Republican-Democrat split in Kansas's congressional delegation generally reflects statewide political preferences, and, if anything, underrepresents Kansas voters' growing support for Democratic candidates. Democrats hold only 25% of the state's congressional seats despite winning over 40% of the statewide vote in the 2020 Presidential, Senate, and Congressional

elections.[2] Kansas also has a Democratic Governor, Laura Kelly, who was elected in 2018 by a five-point margin with 48% of the vote.

37. Kansas has had at least one Democratic congressperson for six of the last fifteen years. Prior to Representative Davids's victory in 2018, Democratic congresswoman Nancy Boyda represented the Second District from 2007-2009.

38. Prior to Governor Kelly's election in 2018, Kansas also had a Democratic Governor from 2003 to 2011 (Kathleen Sebelius and Mark Parkinson).

39. Indeed, in the 12 gubernatorial elections since Kansas adopted four-year terms in 1974, Democratic candidates have won six times and Republican candidates have won six times.

B. Republican Leaders Announced Their Plan to Gerrymander the New Map to Lock in Four Republican Seats and Eliminate Representative Davids's Seat

40. The Enacted Plan, introduced in the statehouse under the name "Ad Astra 2" is a direct response to Representative Davids's defeat of former Representative Yoder in 2018.

41. In fact, former Kansas Senate President Susan Wagle raised the idea of eliminating the ability of Democratic voters to reelect Representative Davids through redistricting even before Representative Davids won reelection in 2020.

42. Two months before the 2020 midterms, former Senator Wagle emphasized the importance of retaining a veto-proof Republican supermajority in the state Senate so that Republicans could gerrymander Representative Davids out of her seat. Senator Wagle told a Republican gathering, "So redistricting, it's right around the corner. And if Governor Kelly can

[2] The 2020 election results were as follows. Presidential election: 56.21% Republican; 41.56% Democrat. Senatorial election: 53.22% Republican; 41.79% Democrat. Statewide Congressional results: 57.1% Republican; 41.0% Democrat. Election results are obtained from Kansas Secretary of State, *2020 General Election Official Vote Totals* (https://sos.ks.gov/elections/elections-results.html).

veto a Republican bill that gives us four Republican congressmen, that takes out Sharice Davids up in the 3rd—we can do that. I guarantee you we can draw four Republican congressional maps. But we can't do it unless we have a two-thirds majority in the Senate and House." Sherman Smith & Tim Carpenter, *Senate President Susan Wagle Embraces Gerrymandering to Benefit GOP in Kansas*, Kan. Reflector (Oct. 9, 2020), https://kansasreflector.com/2020/10/09/senate-president-susan-wagle-embraces-gerrymandering-to-benefit-gop-in-kansas/. Although Senator Wagle is no longer in the Kansas legislature, current Republican leaders followed through on Wagle's guarantee.

C. The Legislature Passed the Enacted Plan in a Rushed Process That Substantially Departed from Ordinary Legislative Procedures

43. In the 2020 elections, Republicans secured their veto-proof supermajorities in both chambers of the Legislature, and they used those supermajorities to pass a gerrymandered congressional map targeting Representative Davids, just as Senator Wagle proposed.

44. The Kansas Legislature adopted the Enacted Plan in a rushed process that substantially departed from the ordinary procedure for passing legislation of major public import.

45. In the summer of 2021, the Kansas Legislature initiated the 2022 redistricting process. The Legislature exclusively scheduled town halls before the release of census data, ensuring that public comments were limited to generalized input rather than specific requests.

46. Rejecting requests from advocacy groups, the Legislature scheduled the town halls with limited advance notice, during working hours, in inaccessible locations, and in crowded indoor spaces without masking requirements despite the ongoing pandemic.

47. Nevertheless, over 500 concerned Kansans—including Plaintiffs Brown Collins, Carter, and Nobles—submitted testimony over the course of the 14 town halls. The vast majority of those who provided testimony, whether written or oral, urged the Legislature to preserve metro

Kansas City in a single congressional district, or at the very least to preserve Wyandotte County in a single congressional district.

48. The census data, released on August 12, 2021, showed that while population growth made it impossible to keep both Wyandotte and Johnson County whole in a single district, it was possible to preserve the Kansas City Metro Area in a single district, and it was possible to preserve Wyandotte County. Removing the Miami County portion of current District 3 along with the rural portions of Johnson County would have balanced the population of new District 3.

49. The Legislature held four additional town halls between August 12, 2021 and the start of the 2022 legislative session on January 10, 2022, but they were scheduled for the days immediately before and after the Thanksgiving holiday, and participation was limited.

50. At their initial meetings on January 12, 2022, the Senate and House Committees on Redistricting adopted joint congressional redistricting guidelines substantively identical to guidelines from prior cycles. These 2022 Guidelines provide that:

1. The basis for congressional redistricting is the 2020 U.S. Decennial Census. The "building blocks" to be used for drawing district boundaries shall be Kansas counties and voting districts (VTDs) as described on the official 2020 Redistricting U.S. Census maps.
2. Districts are to be as nearly equal to 734,470 population as practicable.
3. Redistricting plans will have neither the purpose nor the effect of diluting minority voting strength.
4. Subject to guideline No. 2 above:
    a. Districts should be as compact as possible and contiguous.
    b. There should be recognition of communities of interest. Social, cultural, racial, ethnic, and economic interests common to the population of the area, which are probable subjects of legislation should be considered.
    c. The core of existing congressional districts should be preserved when considering the communities of interest to the extent possible.
    d. Whole counties should be in the same congressional district to the extent possible while still meeting guideline No. 2 above. County lines are meaningful in Kansas and Kansas counties historically have been significant political units. Many officials are elected on a countywide basis, and political parties have been organized in county units. Election of the Kansas members of Congress is a political process requiring political

> organizations which in Kansas are developed in county units. To a considerable degree most counties in Kansas are economic, social, and cultural units, or parts of a larger socioeconomic unit. These communities of interest should be considered during the creation of congressional districts.[3]

51. A majority of the members of the House and Senate Redistricting Committees are Republicans.

52. Following the adoption of 2022 Guidelines, the House and Senate each adopted the Enacted Plan, known as "Ad Astra 2," at lightning speed: it took eight days from introduction of the map to passage in both chambers.

53. What became the Enacted Plan was introduced in the House and Senate on January 18, 2022, and originally called "Ad Astra." The plan split Wyandotte County and the Kansas City Metro Area between District 2 and District 3. Democrats on the House and Senate Committees, as well as outside groups, presented draft maps that preserved Wyandotte County and the urban core of Johnson County together in District 3.

54. In the Senate, the Committee Chair scheduled debate on the maps for Thursday, January 20, less than 48 hours after their introduction. Under Senate rules, all persons submitting hearing testimony were required to do so 24 hours in advance, that is, by 10:00 a.m. on Wednesday, January 19, less than 24 hours after the proposals were introduced. The Kansas Legislative Research Department (KLRD) did not publicly release the underlying data and boundary lines of the proposed maps until the afternoon of January 19, after the deadline for testimony had passed.

[3] Kan. Off. of Revisor of Statutes, *Guidelines and Criteria for 2022 Kansas Congressional and State Legislative Redistricting* (http://kslegislature.org/li/b2021_22/committees/ctte_h_redistricting_1/misc_documents/download_testimony/ctte_h_redistricting_1_20220112_02_testimony.html).

55. Eighty-six members of the public—including Plaintiffs Brown Collins, Carter, and Nobles—presented written or oral testimony at the January 20 Senate Redistricting Committee hearing. The testimony overwhelmingly supported preserving the Kansas City Metro Area as a cohesive community of interest within District 3. Much of the testimony also criticized the lightning speed with which the Committee was moving and its failure to follow a process that permitted adequate public input.

56. When debate resumed after the public testimony, senators raised concerns about the political motivation behind the map and its impact on minority communities. Senator Corson noted that the map deliberately diluted the most racially diverse county in Kansas. Senate President Masterson responded that he "reject[s] even the underlying assumption that all minority voters think alike or vote alike."

57. In response to criticism that the Ad Astra map needlessly split the Kickapoo Native American reservation into two congressional districts, Senate President Masterson submitted a revised map dubbed "Ad Astra 2" that kept the Kickapoo tribe in a single district and slightly adjusted other district lines to account for the population shift.

58. After roughly an hour and a half of debate—and less than 24 hours after data on the maps was published—the Senate Redistricting Committee voted the Ad Astra 2 map, now known as Sub. Sen. Bill 355, out of committee.

59. Less than 24 hours later, on Friday, January 21, the full Senate met to consider the bill. Several amendments were offered and rejected.

60. Senate leadership then invoked emergency action to call a final vote on the bill, even though there was no emergency.

61. The Senate passed the map 26-9. No Democrats voted in favor of the map, and one Republican voted against it. Five members (three Democrats, two Republicans) were absent.

62. In the House, Chairman Croft likewise introduced the Ad Astra map at the House Redistricting Committee's January 18 hearing, the same day it was introduced in the Senate Redistricting Committee.

63. Both the House and Senate Committees then held hearings on January 20 at the same time, discouraging members of the public from testifying at both. As in the Senate, Democratic legislators in the House Redistricting Committee introduced proposed maps that preserved Wyandotte County and the urban core of Johnson County together in District 3.

64. Like in the Senate, the House Committee scheduled hearings on the proposals for two days later, Thursday, January 20. House rules, like Senate rules, required witnesses to submit testimony at least 24 hours before the Thursday meeting, although Chairman Croft made an exception and allowed testimony submitted late. And again, the KLRD did not release the data underlying the House maps until after that deadline.

65. The testimony before the House Committee overwhelmingly opposed the Ad Astra map, or any map that would divide the Kansas City Metro Area into multiple congressional districts, and lamented the speed of the proceedings and the exclusion of meaningful public input.

66. The House continued to hear testimony the following day, Friday, January 21, while the Senate was passing the Ad Astra 2 map. This testimony continued to overwhelmingly oppose the Ad Astra map and any proposal that would split Metro Kansas City.

67. During House Committee debate, multiple representatives raised concerns that the map was a partisan gerrymander, especially because of how it broke up the metro Kansas City area and split Lawrence off from Douglas County. Representatives reiterated those concerns during

the House Committee's meeting on January 24, and Representative Burroughs specifically stated: "To have someone present a map that impacts that diversity to the extent that it mutes voices is of great concern. Was that the intent of the map when it was present initially, to mute minority voices in electing public officials in a congressional map?... I'm just asking because I think it's important knowing the intent behind this map - to disenfranchise a community that is made up of the ethnic division that we have, the ethnic population that we have in Wyandotte County."

68. The House received the substitute bill advancing Ad Astra 2 from the Senate on Monday, January 24, and referred it to the House Committee on the Whole the same day. On January 25, 2022, the House Committee on the Whole passed the Senate Bill containing the Ad Astra 2 map.

69. On Wednesday, January 26, the House passed the map 79-37. No Democrats voted in favor of the map, and one Republican voted against it. Nine members did not vote or were absent.

70. On February 3, 2022, Governor Kelly vetoed the bill, explaining:

> Senate Bill 355, known as Ad Astra 2, does not follow [the Legislature's] guidelines and provides no justification for deviation from those guidelines. Wyandotte County is carved into two separate congressional districts. Without explanation, this map shifts 46% of the Black population and 33% of the Hispanic population out of the third congressional district by dividing the Hispanic neighborhoods of Quindaro Bluffs, Bethel-Welborn, Strawberry Hill, Armourdale and others from Argentine, Turner and the rest of Kansas City, Kansas south of I-70. To replace lost population in the third district, this map adds in counties that are more rural to the south and west of the core of the Kansas City metropolitan area.
>
> Ad Astra 2 also separates the city of Lawrence from Douglas County and inserts urban precincts of Lawrence into the largely rural Big First Congressional District, reducing the strength of communities of interest in Western Kansas and unnecessarily dividing communities of interest in Eastern Kansas.
>
> Several alternatives would allow for the same deviation as Ad Astra 2 while protecting the core of the existing congressional districts and without diluting minority communities' voting strength. I am ready to work with the Legislature in

> a bipartisan fashion to pass a new congressional map that addresses the constitutional issues in Senate Bill 355. Together, we can come to a consensus and pass a compromise that empowers all people of Kansas.[4]

D. Republican Legislators Overrode the Governor's Veto of the Enacted Plan Amidst a Circus Atmosphere

71. On February 7, 2022, the Senate convened to override Governor Kelly's veto. The affirmative vote of 27 senators is necessary to override a veto. The initial vote was 25-13, with two senators (one Republican and one Democrat) not present.

72. The Republican Senate leadership held the vote open for hours under the pretext of a call of the Senate; Republican Sen. Thompson was reported to be "hiding" in the building in order to allow Senate leadership to hold the vote open as they attempted to browbeat the two Republicans who voted against the override to change their votes. During this hours-long charade, a third Republican Senator, John Doll, switched his vote from "yea" to "nay."

73. After hours of this ruse, Republican leader Sen. Masterson switched his vote to "nay" as a procedural maneuver that would allow him to move to reconsider the vote later. He then quickly moved to adjourn. Doing so guaranteed an additional 24 hours for Senate leadership to extract the necessary votes to override the veto.

74. The tactic succeeded. Two Republican senators who had voted to sustain the veto switched their votes, and on February 8, 2022 the necessary 27 senators voted to override Governor Kelly's veto. One of those Republican senators has indicated that he switched his veto-override vote to "yea" in exchange for a commitment by Republican leadership to advance a bill that would

[4] Press Release, Governor Laura Kelly, Governor Laura Kelly Vetoes Congressional Redistricting Map, Senate Bill 355 (Feb. 3, 2022) (https://governor.kansas.gov/governor-laura-kelly-vetoes-congressional-redistricting-map-senate-bill-355/).

effectively ban Kansas's Board of Healing Arts from investigating him for COVID-19 related misconduct in his capacity as a private physician.

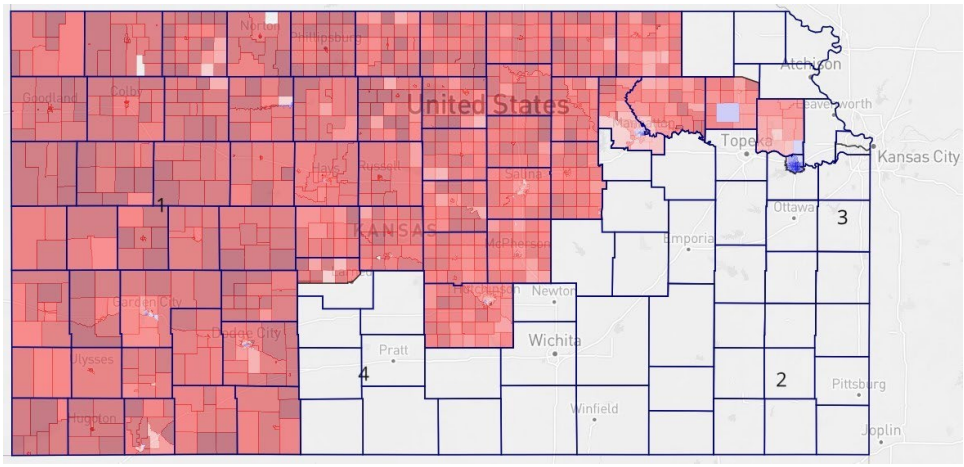
75. On February 9, 2022, the House engaged in similar antics, holding a call of the House until Republican leadership obtained sufficient votes. The House then voted to override the veto, 85-37. No Democrat voted in favor of overriding the veto, and one Republican voted against it.

76. The Enacted Plan became law on February 9, 2022.

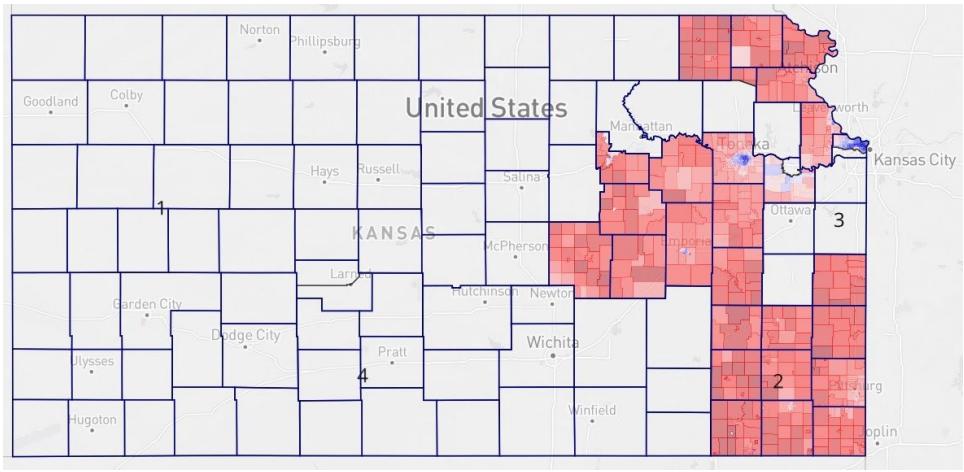
E. The Enacted Plan Is a Partisan Gerrymander that Maximizes Republicans' Chance of Winning All Four Congressional Seats

77. The Enacted Plan achieves its intended result: it minimizes the ability of Kansas Democrats to elect a representative to Congress, likely leading to a 4-0 Republican delegation. It achieves this result by cracking Democratic voters out of Districts 2 and 3 and distributing them into other districts where their votes will be wasted.

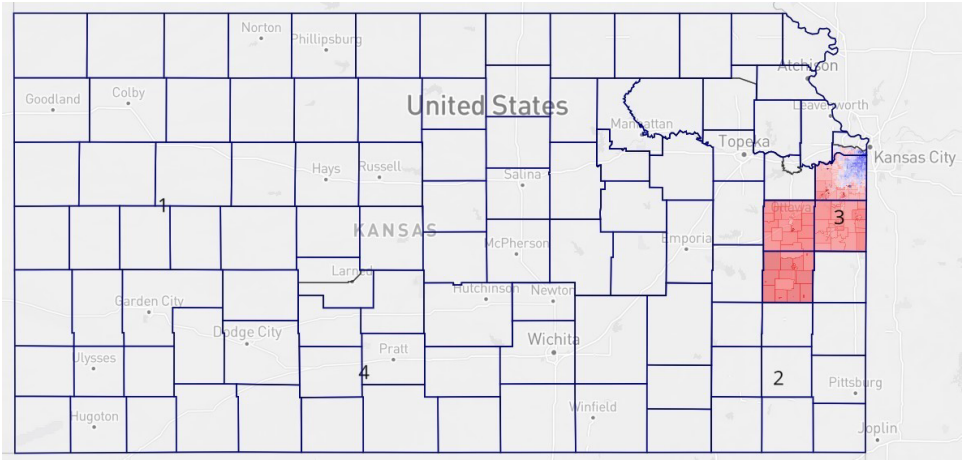
78. The so-called "Big First" already covered much of Northwestern Kansas, occupying its entire western border with Colorado and stretching east nearly to Topeka. The Enacted Plan extends the northern portion of the Big First even further east, passing above Topeka just far enough to scoop the city of Lawrence out of Douglas County and District 2. This move splits Douglas County, which is overwhelmingly Democratic, in order to safeguard the Republican advantage in District 2 against the increase in Democratic voters from Wyandotte County, whom the Enacted Plan cracks out of District 3. Under the Enacted Plan, the Big First retains a 30-point Republican advantage, down from its current 40-point spread. The following map is shaded red and blue to show the partisan performance of each VTD in District 1 in the Enacted Plan, showing how the city of Lawrence is added to an overwhelming Republican District to waste the votes of Lawrence Democrats:



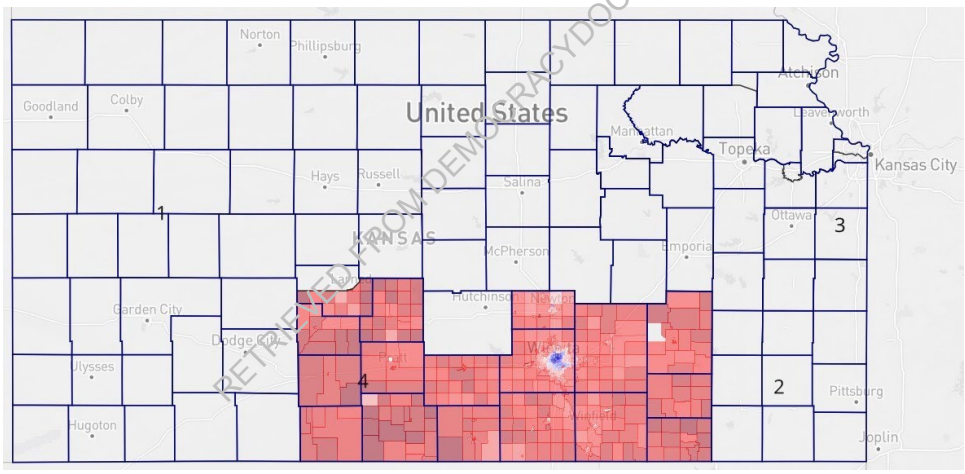
79. The Second District currently occupies all of Kansas's eastern border—from Oklahoma in the south to Nebraska in the north—with the exception of the northeastern shoulder along the Kansas City side of the Missouri border that is home to District 3. The Enacted Plan replaces the previously compact Second District with a salamander shape resembling the infamous 1800s district that inspired the term "gerrymander." The tail of the salamander retains most of southeastern Kansas but bends just enough to add the heavily Republican counties of Anderson and Franklin to the Congressional Third. The District then contorts itself west to accommodate the Third District but then doglegs east through Douglas County but below the city of Lawrence. It ultimately runs northeast through Wyandotte County to the Missouri border, splitting Kansas City, Kansas between congressional districts and cracking two-thirds of Wyandotte County into the Second District. The Second District retains its existing 15-point Republican advantage:



80. The Kansas City Metro Area has been the core of the Congressional Third since 1982. The District currently contains Johnson County and Wyandotte Counties, which form metro Kansas City along the Missouri border, and part of the much smaller Miami County. The 2020 census data made keeping all of Johnson County and Wyandotte County in the same district impossible. But rather than preserve the urban core of Kansas City in the Congressional Third, as courts have instructed for 40 years, the Enacted Plan splits the northern half of Wyandotte County into District 2. The map keeps the southern half of Wyandotte County in the Third District with Johnson County. It also adds the rest of Miami County and Anderson and Franklin Counties to the Third District. All three of these counties are rural, heavily Republican, and share much less in common with the Kansas City portion of the district than does the northern half of Wyandotte County. District 3 currently votes Democrat by over 10 points, but shifts to a Republican-leaning district under the Enacted Plan.

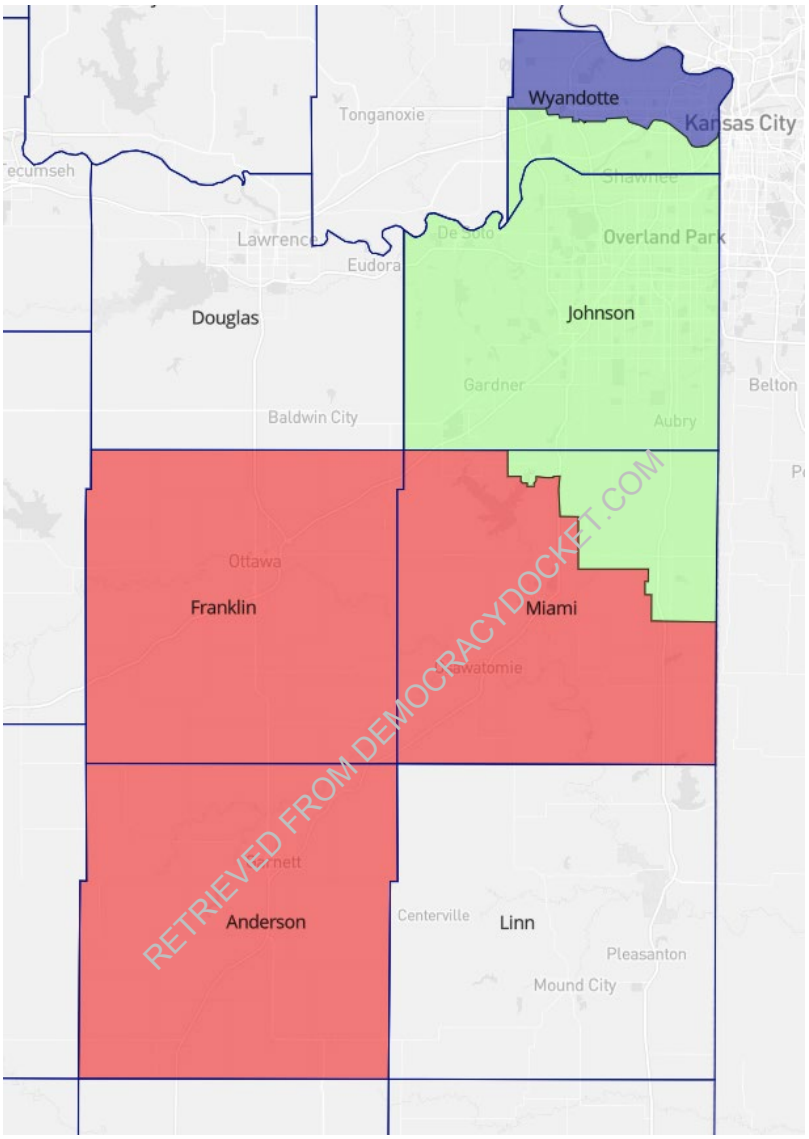


81. The Fourth District is the least changed. Under the Enacted Plan, the Congressional Fourth continues to occupy the central portion of Southern Kansas, including the city of Wichita. The Fourth retains its existing 20-point Republican advantage.



82. This cracking of Democratic voters is not justified based on population changes. After the 2020 census, existing District 3 was overpopulated by 57,816 people. But instead of moving that number of people out of the district, the Legislature instead exported 112,661 Wyandotte County residents out of the district—nearly twice the magnitude of the district's overpopulation. The Legislature then imported into the district 54,845 residents from Miami, Franklin, and Anderson Counties who had previously been in District 2. The Legislature thus moved 167,506 people in order to resolve a deviation of 57,816. The map below illustrates the

population shifts in District 3: the green area remained the same, the blue area was removed, and the red area was added to the district.



83. The population removed from the Third District, shown in blue, is 29.2% white, 34.7% Hispanic, 28.6% Black, and 6.2% Asian. This area is overwhelmingly Democratic.

84. The population added to the Third District, shown in red, is 90.3% white, 3.1% Hispanic, 2.0% Black, and 0.7% Asian. This area is overwhelmingly Republican.

85. The plan preserves Republican control of the Second District, despite the influx of Democratic voters from Wyandotte County, by severing the city of Lawrence from the rest of Douglas County and moving it from the Second District to the First District, combining it with rural counties with which it has no common interest and stretching over 375 miles to the Colorado border. In the current plan, the Second District is underpopulated by 21,463. The enacted plan adds 208,237 people (the majority of whom vote Democratic) and removes 186,774 (the majority of whom vote Democratic).

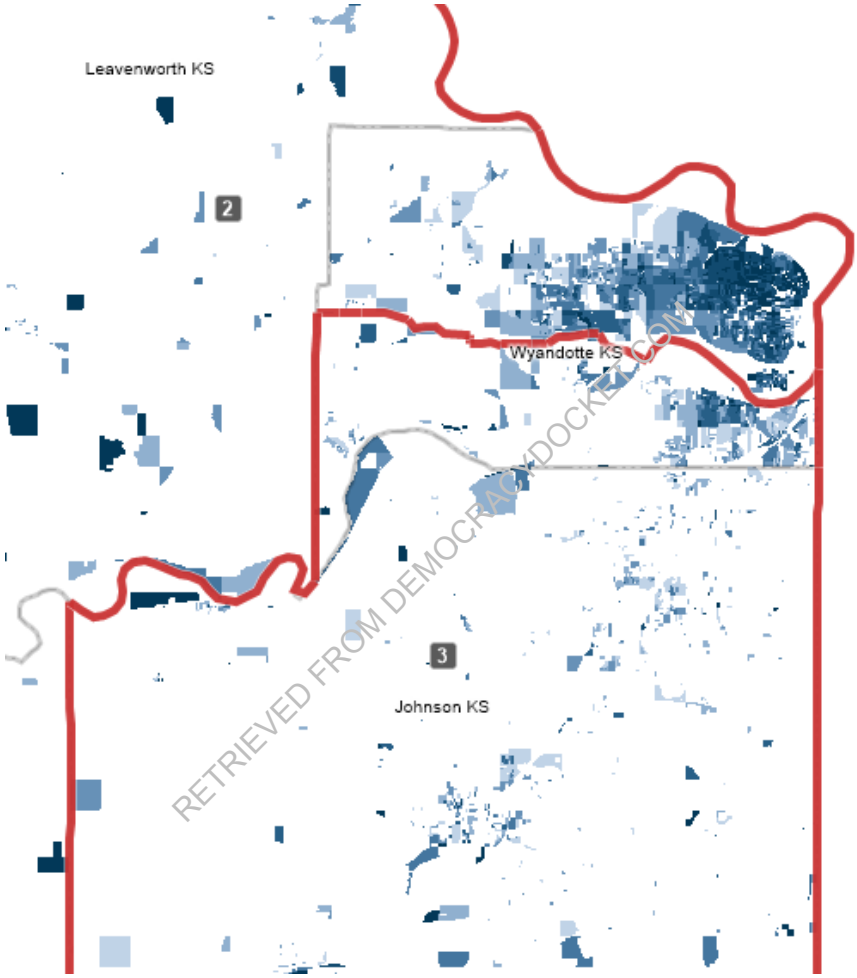
86. The plan thus moves 395,011 people in or out of the Second District—a district with just a 21,463-person deviation—in order to ensure that the minority Democratic voters from Wyandotte County could not join with the white Democratic voters from Lawrence to elect a Democratic congressperson in the revised Second District.

87. The district boundaries in the Enacted Plan, and in particular the cracking of Wyandotte County and the city of Lawrence, can only be explained by the mapmakers' intentional effort to maximize the likelihood of four Republican seats and eliminate Representative Davids' district.

F. The Enacted Plan Intentionally Dilutes the Voting Power of Minority Communities

88. The Enacted Plan also impermissibly targets minority voters. Minority voters comprise 32.4% of District 3 residents and 29% of its voting age population, and they are able to elect their preferred candidate with assistance from a portion of white voters. Specifically, minority voters in the Kansas City metropolitan area strongly prefer Democratic candidates. While white voters in Kansas strongly prefer Republican candidates overall, enough white voters in current District 3 cross over to support minority-preferred Democratic candidates to permit those candidates to prevail.

89. The Enacted Plan intentionally dilutes the votes of minority voters in District 3 and targets their district for elimination. As the map below illustrates, the Legislature achieved this outcome by cleaving through Wyandotte County's minority population, shown in blue (with darker shades reflecting greater concentrations of minority voters).



90. Splitting Wyandotte between Districts 2 and 3 had the obvious and intentional effect of diluting minority voting power. Wyandotte County's total population is 62.7% minority and its voting age population is 57.6% minority. And the Enacted Plan surgically targets for transfer those portions of Wyandotte with the highest concentration of minority voters.

91. This directly violates the Legislature's neutral, agreed upon redistricting criteria, specifically point 3: "Redistricting plans will have neither the purpose not the effect of diluting minority voting strength."

92. In addition to cracking apart Wyandotte County's minority population—stranding the bulk of the County's minority population in District 2 in which they will have no opportunity to elect their preferred candidates—the Enacted Plan adds several rural white counties whose voters strongly vote against minority-preferred candidates.

93. As discussed above, the population removed from current District 3 is over 70% minority, while the population added to District 3 is over 90% white. These shifts were made to destroy District 3 as a performing crossover district in which minority voters were able to elect their preferred candidate, currently a Native American woman.

G. The Kansas City Metro Area Is a Single Community of Interest that Naturally Belongs in the Third District

94. No neutral principle or aspect of Kansas's political geography justifies cracking Democrats and minority voters in the Kansas City Metro Area. In fact, it is the opposite: the Kansas City Metro Area is a single community of interest, made up of Wyandotte County and northern Johnson County, that naturally belongs in its traditional place in the Third District.

95. The Kansas City portions of Wyandotte and Johnson Counties are a discrete community of interest because of their shared "social, cultural, racial, ethnic, and economic interests."[5]

[5] Kan. Office of Revisor of Statutes, *Guidelines and Criteria for 2022 Kansas Congressional and State Legislative Redistricting*, http://kslegislature.org/li/b2021_22/committees/ctte_h_redistricting_1/misc_documents/download_testimony/ctte_h_redistricting_1_20220112_02_testimony.html.

96. Wyandotte County and northern Johnson County contain communities that cross municipal and county lines for numerous social and cultural activities, including religious services, schooling, sports, and more. Because of the compactness of these municipalities, residents, including Plaintiffs, frequently live or work in one municipality, but travel to others on a daily basis for education or extracurricular activities.

97. For example, Plaintiff Brown Collins lives in Bethel Welbourn, a neighborhood within Kansas City, Kansas that is north of I-70, but frequently walks in parks in other parts of Kansas City, and takes yoga classes in Overland Park, in Johnson County. She attends a church over the state line in Kansas City, Missouri. She uses services in Fairway, Kansas (southern Wyandotte County) and attends classes at Kansas City, KS Community College, Johnson County Community College, and a community college in Missouri.

98. Likewise, Plaintiff Rose Schwab lives in Wyandotte County, but is the pastor of a church in Shawnee, in Northern Johnson County. Her parishioners come from all over the Kansas City Metro Area, including Wyandotte County and the communities in Johnson County that are near the Wyandotte County and Missouri borders.

99. The interconnectedness of this dense, urban community creates shared social and cultural values and experiences for the residents of Wyandotte and northern Johnson Counties.

100. The population density of this area also contributes to its shared environmental interests and concerns. Increased traffic flow, air quality, water quality, flooding, and water run-off are shared concerns among residents of these communities, which are primarily urban and suburban. Testimony before the Legislature described how Wyandotte and Johnson Counties share transportation networks and infrastructure systems, such as sewers and water systems. Because of their urban landscape and environment, communities in the immediate vicinity of Kansas City,

Missouri experience many of the same issues, and desire many of the same solutions. The same cannot be said about the more rural communities in the southern portion of Johnson County.

101. Wyandotte County is one of the most diverse counties in the entire state of Kansas, and it is the only county that is majority-minority. Wyandotte County alone has a Black or African American population of 22.6% and a Hispanic or Latino population of 29.8%.[6] This is more than double the percentage of the Black and Hispanic population in Kansas as a whole.

102. The racial and ethnic diversity of Wyandotte County does not split among any physical north/south barrier, such as I-70 or the Kansas River. Communities of color live all over Wyandotte County, with the greatest concentration being in Kansas City, Kansas, a city that encompasses the entire southeastern half of the county.

103. Wyandotte and northern Johnson County are "an engine of economic growth and innovation for Kansas" and "share deep economic and cultural connections" that "contribute to [the area's] growth and success."[7] Because these communities are dense, urban, and closely connected, many individuals work, shop, learn, or utilize public services in one county while living in the other.

104. Wyandotte and northern Johnson County also share a multi-county transportation system, and rely on close relationships among municipal leaders and congressional representatives to ensure expansion, improvement, and repair of the metro-Kansas City area's highways.

105. Municipalities in Wyandotte County and northern Johnson County participate in metropolitan area-wide planning and service provision with the Mid-America Regional Council

---

[6] *See* U.S. Census Bureau, QuickFacts, Wyandotte County, KS, https://www.census.gov/quickfacts/wyandottecountykansas.

[7] Testimony of Dr. Mildred Edwards, Chief of Staff to Mayor Tyrone Garner, Jan. 20, 2022, http://www.kslegislature.org/li/b2021_22/committees/ctte_s_redistricting_1/misc_documents/download_testimony/ctte_s_redistricting_1_20220120_10_testimony.html

(MARC). It is uncommon in Kansas, a state with a high rural population, for so many urban and suburban municipalities to exist in a single geographic region, thereby making coordination of representation among these municipalities through MARC, and a unified voice in Congress, essential.

106. Several municipalities in Wyandotte County and northern Johnson County participate in the First Suburbs coalition, a part of MARC that organizes "communities where a majority of the housing was built shortly after World War II and limited amounts of undeveloped land exist within the city's boundaries."[8] These communities include Fairway and Kansas City, KS in Wyandotte County; and Merriam, Mission, Mission Hills, Mission Woods, Overland Park, Prairie Village, Roeland Park, Westwood, and Westwood Hills in Johnson County.[9] Federal funding is often needed to improve and revitalize these neighborhoods, making unified representation in Congress essential to their joint interests.

107. Kansas City, Kansas is a Democratic stronghold.

108. Wyandotte County is likewise a Democratic stronghold. Its precincts vote more heavily Democratic as their minority populations increase, with pockets of Republican precincts in central and western parts of the County.

109. Johnson County is politically competitive. For example, President Biden carried it in 2020 while former President Trump carried it in 2016. The County's Democratic voters are concentrated in the Kansas City metropolitan area in the northeastern part of the County. The southern and western part of the County is Republican leaning.

---

[8] *See* Mid-America Regional Council, First Suburbs Coalition, https://www.marc.org/Community/First-Suburbs-Coalition.

[9] Member Cities, First Suburbs Coalition Member Cities, https://www.marc.org/Community/First-Suburbs-Coalition/General-Information/Member-Cities.

GROUNDS FOR RELIEF

Count One
Partisan Gerrymander in Violation of Kansas Constitution's Equal Rights and Political Power Clauses, Bill of Rights §§ 1 & 2

110. Plaintiffs restate and incorporate by reference all allegations above as though fully set forth in this paragraph.

111. Irrespective of the U.S. Constitution, the Enacted Plan violates Sections 1 and 2 of the Kansas Bill of Rights because it has the intent and effect of depriving a disfavored class of Kansas voters of an equal opportunity to elect congressional representatives.

112. Section 1 of the Kansas Constitution's Bill of Rights provides that all Kansans are entitled to "equal rights" and Section 2 provides that "[a]ll political power is inherent in the people, and all free governments are founded on their authority, and are instituted for their equal protection and benefit."

113. The Enacted Plan violates Plaintiffs' rights under Sections 1 and 2 because it targets them for differential treatment based upon their political beliefs and past votes.

114. The Enacted Plan cracks apart Plaintiffs and other likeminded Democratic voters in order to prevent them from translating their votes into victories at the ballot box. By systematically disfavoring Democratic voters and favoring Republican voters—in numbers that are vastly disproportionate to their regional and statewide numbers—the Enacted Plan shifts political power from all the people and places it instead in a subset of the people. It thus robs Plaintiffs and other likeminded Kansans of "equal protection and benefit" from their government in violation of Sections 1 and 2 of the Kansas Constitution.

Count Two
Partisan Gerrymander in Violation of Kansas Constitution's Free Speech (Liberty of Press and Speech; Libel) and Free Assembly (Right of Peaceable Assembly; Petition) Clauses, Bill of Rights §§ 3 & 11

115. Plaintiffs restate and incorporate by reference all allegations above as though fully set forth in this paragraph.

116. Irrespective of the U.S. Constitution, the Enacted Plan violates Sections 3 and 11 of the Kansas Bill of Rights because it discriminates against Kansas Democrats based on their protected political views and past votes, burdens the ability of those voters to effectively associate, and retaliates against Democrats for exercising political speech.

117. The Enacted Plan does so by targeting Democratic voters based upon their historical voting preferences and surgically drawing district lines to prevent them from being able to coalesce their votes and elect their preferred candidates who share their political views.

Count Three
Partisan Gerrymander in Violation of Kansas Constitution's Right to Suffrage, Art. 5, § 1

118. Plaintiffs restate and incorporate by reference all allegations above as though fully set forth in this paragraph.

119. Irrespective of the U.S. Constitution, the Enacted Plan violates Article V, Section 1 of the Kansas Constitution because it imposes a severe burden on the right to vote that cannot be justified by a compelling state interest.

120. By targeting Democratic voters to prevent them from translating their votes into victories at the ballot box, the Enacted Plan imposes a severe burden on Plaintiffs' constitutional right to vote as part of a deliberate effort to make their votes ineffective.

Count Four
Racial Discrimination in Violation of Kansas Constitution's Equal Rights and Political Power Clauses, Bill of Rights §§ 1 & 2

121. Plaintiffs restate and incorporate by reference all allegations above as though fully set forth in this paragraph.

122. Irrespective of the U.S. Constitution, the Enacted Plan constitutes unlawful racial discrimination in violation of Sections 1 and 2 of the Kansas Constitution's Bill of Rights.

123. Under the current plan, minority voters in Wyandotte County—the State's only majority-minority county—have the ability to elect the candidate of their choice with the assistance of a portion of white voters who likewise support Democratic candidates. Currently, Wyandotte's minority voters and like-minded white voters in Congressional District 3 have elected Representative Davids, a Native American woman.

124. The Enacted Plan intentionally dilutes the voting power of Wyandotte County's minority voters by surgically removing the county's most heavily minority areas from District 3 and placing them in District 2, an overwhelmingly Republican-leaning district. In District 2 under the Enacted Maps, Wyandotte County's minority voters will no longer have the ability to elect candidates of their choice. The minority voters who remain in District 3 are then submerged into a district in which additional rural, white voters are added who will overpower their voting strength and lead to the likely defeat of their preferred candidates. What's more, the Enacted Plan was created specifically to eliminate the only seat currently held by a minority, Representative Davids.

125. Based on both its racially discriminatory intent and effect, the Enacted Plan's cracking of minority voters in Wyandotte County violates Sections 1 and 2 of the Kansas Constitution's Bill of Rights.

RELIEF SOUGHT

WHEREFORE, for the reasons stated herein and in Plaintiff's Motion to Expedite, Petitioner requests that this Court:

a. Declare that the Enacted Plan is unconstitutional and invalid because it violates the rights of Plaintiffs under the Kansas Constitution's Equal Rights Clause, Political Power Clause, Right of Peaceable Assembly; Petition Clause, Liberty of Press and Speech; Libel Clause, and Qualifications of Electors Clause;

b. Enjoin Defendants and their agents, officers, and employees from administering, preparing for, or moving forward with the 2022 primary and general elections for Congress using the Enacted Plan;

c. Compel Defendants and their agents to perform their official duty in a manner that comports with the Kansas Constitution;

d. Set a deadline by which a new redistricting plan that complies with the Kansas Constitution shall be enacted, and, failing such enactment or failing the enactment of a plan that satisfactorily remedies the violations, order a Court-imposed plan that complies with the Kansas Constitution;

e. Establish a new congressional districting plan that complies with the Kansas Constitution if the Kansas Legislature fails to enact a new congressional districting plan that comports with the Kansas Constitution by a deadline imposed by the Court;

f. Retain jurisdiction of this action to render any further orders that this Court may deem appropriate, including determining the constitutionality of any new congressional redistricting plans adopted by the Legislature,

g. Award Plaintiffs their reasonable attorneys' fees and costs, and

h. Grant such other and further relief as the Court deems just and appropriate.

Respectfully submitted,

AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF KANSAS

/s/ Sharon Brett
Sharon Brett KS Bar #28696
Josh Pierson KS Bar #29095
Kayla DeLoach* ^
6701 W 64th St. Suite 210
Overland Park, KS 66202
(913) 490-4100
sbrett@aclukansas.org
jpierson@aclukansas.org
kdeloach@aclukansas.org

CAMPAIGN LEGAL CENTER

/s/ Mark P. Gaber
Mark P. Gaber*
Kevin Hancock* ^^
Sam Horan* ^^^
Christopher Lamar*
Orion de Nevers* ^^^^
1101 14th St. NW, Suite 400
Washington, DC 20005
(202) 736-2200
mgaber@campaignlegalcenter.org
khancock@campaignlegalcenter.org
shoran@campaignlegalcenter.org
clamar@campaignlegalcenter.org
odenevers@campaignlegalcenter.org

ARNOLD & PORTER KAYE SCHOLER LLP

/s/ Elisabeth S. Theodore
Elisabeth S. Theodore*

R. Stanton Jones*
John A. Freedman*
601 Massachusetts Ave, NW
Washington, DC 20001
(202) 942-5316
elisabeth.theodore@arnoldporter.com
stanton.jones@arnoldporter.com
john.freedman.@arnoldporter.com

TOMASIC & REHORN

/s/ Rick Rehorn
Rick Rehorn KS# 13382
P.O. Box 171855
Kansas City, KS 66117-0855
Tel: (913) 371-5750
Fax: (913) 713-0065
rick@tomasicrehorn.com

Attorneys for Plaintiffs

**Pro Hac Vice Motion forthcoming*

^*Licensed to practice in MO; KS bar application pending*

^^*Licensed to practice in NY only; supervised by Mark P. Gaber, member of the D.C. Bar*

^^^*Licensed to practice in MA only; supervised by Mark P. Gaber, member of the D.C. Bar*

^^^^*Licensed to practice in CA only; supervised by Mark P. Gaber, member of the D.C. Bar*