

19TH JUDICIAL DISTRICT COURT FOR THE PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

No. C-716690

SECTION 24

JAMES BULLMAN, ET AL.

VERSUS

R. KYLE ARDOIN, IN HIS OFFICIAL CAPACITY AS
LOUISIANA SECRETARY OF STATE

FILED: _____

DEPUTY CLERK

**MATH/SCIENCE INTERVENORS' MEMORANDUM IN OPPOSITION TO
DEFENDANT'S DECLINATORY, DILATORY, AND PEREMPTORY EXCEPTIONS**

Michael Mislove, Lisa J. Fauci, Robert Lipton, and Nicholas Mattei (collectively, the "Math/Science Intervenors") submit this memorandum in opposition to the exceptions filed on March 21, 2022, by Defendant, Secretary of State R. Kyle Ardoin. The Math/Science Intervenors adopt and incorporate by reference the arguments made by the *Bullman et al.* Plaintiffs in their March 21, 2022 Memorandum in Opposition to Defendant's Exceptions and further state the following:

PRELIMINARY STATEMENT

The Math/Science Intervenors, as previously stated in their Petition for Intervention, believe in harnessing the power of "high-performance computers and cutting-edge algorithmic techniques ... to thwart gerrymandering, improve the redistricting process, and promote fair and effective representation for all Louisianans." Math/Science Intervenors' Petition for Intervention ¶ 19 (filed Mar. 14, 2022).

The Math/Science Intervenors are primarily interested in ensuring that at the end of this litigation, the voters of Louisiana have a congressional districting map that comports with the principle of "one person, one vote" and divides the state into six congressional districts in a way that conforms with federal and state law, respects the state's political subdivisions, promotes fair representation for all Louisianans, and adheres to any additional neutral redistricting principles or

priorities that this Court may articulate. As such, the Math/Science Intervenors' focus is directed more to the substance of the map than to the procedural issues raised in the Defendant's exceptions.

The Math/Science Intervenors plan to propose a congressional map created using "computational redistricting," which draws from recent advances in mathematics, statistics, and computer science to apply high-performance computing, algorithmic techniques, and spatial demography to redistricting. The Math/Science Intervenors believe that this method, when properly employed, is far superior to drawing maps manually, one at a time.

The premise behind this approach is simple: "Given the number of [redistricting] criteria typically present and the spatial nature of how the criteria operate, it is not easy for humans to find optimal redistricting outcomes on their own.... Put simply, good maps are needles in a haystack of bad or at least worse maps. Enter redistricting algorithms. They are capable of meticulous exploration of the astronomical number of ways in which a state can be partitioned. They can identify possible configurations of districts and zero in on the maps that best meet the redistricting criteria. The algorithms sort through the haystack more efficiently and more systematically so that the needle—the better maps—can be found."¹ In this way, a "computer program essentially substitutes for a very large body of neutral experts and the viable, neutral maps they draw."²

The computational-redistricting process not only identifies high-performing maps, but also yields valuable information about the levels at which multiple competing redistricting principles can be balanced with each other, without unduly sacrificing any specific principle to achieve the others. Redistricting is a complex process that involves balancing multiple legal requirements. Improving compliance with one redistricting requirement often creates "downstream consequences" for compliance with others.³ For example, achieving population equality necessarily requires splitting some political subdivisions, and keeping certain parishes intact could

¹ Emily Rong Zhang, *Bolstering Faith with Facts: Supporting Independent Redistricting Commissions with Redistricting Algorithms*, 109 CAL. L. REV. 987, 1012–13 (2021) (internal quotation marks omitted).

² Bruce E. Cain, et al., *A Reasonable Bias Approach to Gerrymandering: Using Automated Plan Generation to Evaluate Redistricting Proposals*, 59 WM. & MARY L. REV. 1521, 1536–37 (2018).

³ Zhang, *supra*, at 1013.

make the map as a whole less compact.⁴ Exploring millions of alternatives by computer sheds light on these tradeoffs.⁵ By systematically sorting through a very large number of plans, computational redistricting reveals the optimum levels at which specific criteria can be attained in balance with other criteria.⁶

The Math/Science Intervenors will use algorithms that incorporate Louisiana-specific information. For example, the Math/Science Intervenors plan to use data from past statewide elections to ensure that the maps created provide fair electoral opportunities for Louisianans of color, who make up more than 40% of the state's population.

ARGUMENT

The Math/Science Intervenors adopt and incorporate by reference the arguments made by the *Bullman et al.* Plaintiffs in their March 21, 2022 Memorandum in Opposition to Defendant's Exceptions. Furthermore, the Math/Science Intervenors note that, although the computational-redistricting methods that they intend to use in this case represent enormous advances in speed and efficiency, they cannot be properly deployed overnight. Therefore, the Math/Science Intervenors urge the Court to adopt a litigation schedule with clear deadlines to ensure that a first-rate congressional map can be adopted for the people of Louisiana sufficiently in advance of the November 2022 election. Such a sensible schedule, however, would only be frustrated by granting the Defendant's exceptions and postponing the progress of this case in this Court.

⁴ *Id.*

⁵ *See Cain, supra*, at 1537; *Zhang, supra*, at 1013–15.

⁶ *Id.*

CONCLUSION

For the foregoing reasons, and because the Defendant's exceptions fail to demonstrate any reason why this Court should dismiss any of the claims brought by the Math/Science Intervenors, the Defendant's exceptions should be denied.

Dated: March 23, 2022

Respectfully submitted,

JENNER & BLOCK LLP

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* *Pro hac vice application forthcoming*
***Pro hac vice application pending*

CERTIFICATE OF SERVICE

I hereby certify that on March 23, 2022, I served the foregoing document by electronic mail to all counsel of record.


