

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

MIGUEL COCA, et al.,

Plaintiffs,

v.

CITY OF DODGE CITY, KANSAS, a  
municipal corporation, et al.,

Defendants.

Case No. 22-cv-1274-EFM-RES

**PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY**

Pursuant to District of Kansas Local Rule 7.1(f), Plaintiffs notify the Court of the decision of the United States Supreme Court in *Allen v. Milligan*, 599 U.S. \_\_\_, (2023) (Nos. 21-1086 and 21-1087), *attached hereto as Exhibit A*, issued on June 8, 2023, which is the Court's most recent case under Section 2 ("Section 2") of the Voting Rights Act of 1965 ("VRA"), 52 U.S.C. § 10301.

The Supreme Court in *Allen* affirmed preliminary injunctions in three actions brought by private plaintiffs alleging violations of Section 2 of the VRA by the State of Alabama in congressional redistricting, holding that these private plaintiffs had established such violations under the familiar *Gingles* standard that "has governed our [VRA] jurisprudence since it was decided 37 years ago." *Allen*, slip op. at 11. While Alabama did not raise the private right issue at the Supreme Court, it did so in the lower court. In today's decision, the Court did not dispute the fact that private plaintiffs alone brought the action or suggest that relief would be inappropriate because there is no private right of action available under Section 2.

Defendants' theory supporting their pending motions to amend and certify, Docs. 79, 80, is that no private right of action exists under Section 2. The decision today in *Allen* runs directly

counter to that theory. It strains credulity to assume that the Supreme Court affirmed an order requiring Alabama to redraw its congressional map yet believes that private plaintiffs had no authority to bring the case in the first place. In denying Defendants' Motion to Dismiss, this Court rightfully rejected such a far-fetched idea. *See* Doc. 71. *Allen* provides further weight in the already heavy scale against granting Defendants their requested extraordinary relief under 28 U.S.C. § 1292(b) for interlocutory review of their novel, and in any event non-dispositive, argument that the many decades of private litigation under Section 2, now up to and including *Allen*, should be disregarded. *See* Pls.' Opp. to Defs.' Mot. to Amend and Certify, Doc. 86.

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Dated: June 8, 2023

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**CERTIFICATE OF SERVICE**

Pursuant to D. Kans. Loc. R. 5.1(f), I hereby certify that on this 8th day of June 2023, a true and correct copy of the foregoing was served via the United State District Court's CM/ECF system on all parties or persons requiring notice, including upon attorneys for defendants:

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