Nos. 24-109 & 24-110

In the Supreme Court of the United States

STATE OF LOUISIANA,

Appellant,

v.

PHILLIP CALLAIS, ET AL.,

Appellees.

PRESS ROBINSON, ET AL.,

Appellants,

v.

PHILLIP CALLAIS, ET AL.,

Appellees.

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ROBINSON APPELLANTS' MOTION TO STRIKE AND APPLICATION TO EXCEED WORD LIMIT

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RULE 29.6 DISCLOSURE STATEMENT

The Louisiana State Conference of the NAACP is a non-profit membership organization. There are no parents, subsidiaries or affiliates of the Louisiana State Conference of the NAACP that have issued shares or debt securities to the public.

Power Coalition for Equity and Justice is a non-profit coalition of community organizations. There are no parents, subsidiaries or affiliates of the Power Coalition for Equity and Justice that have issued shares or debt securities to the public.

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MOTION AND APPLICATION

Under Rules 18.2 and 24.6 and the Court's August 1, 2025 Order on supplemental briefing, Appellants in No. 24-110, Press Robinson, Edgar Cage, Dorothy Nairne, Edwin René Soulé, Alice Washington, Clee Earnest Lowe, Martha Davis, Ambrose Sims, Davante Lewis, NAACP Louisiana State Conference, and Power Coalition for Equity and Justice (collectively, the "*Robinson* Appellants") move to strike the untimely and improper Supplemental Brief filed by Louisiana Secretary of State, which was filed on September 17, 2025. Appellant the State of Louisiana consents to this motion to strike. Appellees oppose this motion, and the Louisiana Secretary of State also opposes and intends to file a response.

Additionally, *Robinson* Appellants respectfully request leave under Rules 22 and 33.1(d) to file a supplemental reply brief in excess of the word limit, up to a total of 12,000 words. Louisiana takes no position, and the Secretary consents to the application. Appellees oppose the application.

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In support of the motion and application, *Robinson* Appellants state:

1. In the court below, the Secretary was the nominal defendant and adopted Louisiana's position in its defense of S.B. 8. Trial Br., *Callais v. Landry*, No. 3:24-cv-00122 (W.D. La., Apr. 17, 2024), ECF No. 193. The district court order enjoins both the Secretary and Louisiana from conducting any elections under S.B. 8. J.S.A.68a.

2. After the district court ruled against them, the Secretary and Louisiana jointly filed a notice of appeal of the district court's order. J.S.A.147a-150a. On July

18, 2024, the Secretary and Louisiana also jointly moved for an emergency stay and to extend the time to file a jurisdictional statement. Accordingly, the Secretary is an Appellant in case No. 24-109, which has been consolidated with case No. 24-110.

3. On August 1, 2024, the Secretary notified the Court and the parties that she had "no interest in the outcome of this appeal." Consistent with that notice, she did not participate in the merits briefing or oral argument during the October 2024 Term.

4. On August 1, 2025, the Court ordered the parties to file supplemental briefs concerning: "Whether the State's intentional creation of a second majority-minority congressional district violates the Fourteenth or Fifteenth Amendments to the U. S. Constitution." The Court required Appellants to file their briefs by August 27. Appellees' brief was due by September 17.

5. Despite switching its position on the constitutionality of S.B. 8, Louisiana filed its brief by that August 27 deadline. Amici in support of Appellants (including those in support of Louisiana) or neither party also met the amicus deadline of September 3.

6. Nonetheless, over a year after the Secretary's Letter disclaiming any interest in the appeal, more than a month after the Court's Order for supplemental briefing, and over two weeks after the Appellants' deadline for filing their supplemental briefs, the Secretary informed the parties on September 12, 2025 that she will be "filing an Appellee brief." App'x 1.

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7. In the Secretary's brief, she states that the Court's Order on supplemental briefing makes the posture of this case "unquestionably different" for her. *See* Sec'y Supp. Br. at 2. If this were true, under Rule 18.2, the Secretary should have notified the Court and parties that she withdrew her prior Letter, and that she planned to participate in the supplemental briefing. Had the Secretary done so, the Court and the parties could have taken the necessary steps to account for her participation in the appeal. Thus, even if the Secretary's brief had been timely, her failure to serve notice of her intent to rejoin the appeal as a party still would make her brief procedurally improper.

8. The Secretary states that she filed her brief on the deadline for Appellees because that "is how the Secretary is classified on the Court docket." Sec'y Supp. Br. 2 n.2. The Secretary's designation on the case docket merely reflects her non-participation in the appeal to this point, *cf.* Supr. Ct. R. 12.6, and does not reflect a realignment of the parties. Indeed, the Secretary has been listed on the docket as a respondent since long before the Court ordered supplemental briefing. Regardless of the Secretary's designation on the docket, she is an Appellant because she was a defendant below who filed a notice of appeal of the district court's injunction against her. The Court's Order for supplemental briefing did not alter the relevant deadlines for the Secretary, realign the Secretary as an Appellee, or otherwise change the understanding among the Court and the parties of the Secretary's role in this appeal.

9. If the Secretary wished to participate in the supplemental briefing, she should have notified the Court and the parties that she wished to reenter the case

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and then filed her own brief on the August 27 deadline for Appellants. The Secretary's failure to abide by her own prior disclaimer and the Court's Order and deadline serves to circumvent the Court's supplemental briefing schedule.

10. It also prejudices *Robinson* Appellants. The Secretary, for example, makes several claims beyond the supplemental briefing question. *See generally id.* at 14-40. Because the Secretary "agrees" with Louisiana's brief, Sec'y Supp. Br. 2, the Secretary's gambit functionally provides the Secretary and Louisiana two opportunities to respond to *Robinson* Appellants' supplemental brief—first, the Secretary's submitted brief and, second, Louisiana's forthcoming reply brief.

11. The Secretary should not be allowed to engage in such gamesmanship. Her brief is untimely and improper and, therefore, should be struck from the docket.

12. Regardless of the Court's decision regarding *Robinson* Appellants' motion to strike, they separately ask the Court to grant their application for leave to file a supplemental reply brief in excess of the word limit.

13. In the Court's Order for supplemental briefing, Appellants' briefs were not to exceed 13,000 words and were due by August 27. Appellees' brief was due by September 17 and was likewise not to exceed 13,000 words.

14. On August 27, in that brief, Louisiana argued, for the first time in this litigation, that Section 2 of the Voting Rights Act is unconstitutional as applied to redistricting, and that Section 2 therefore did not justify the creation of S.B. 8. That same day, *Robinson* Appellants filed a brief defending the constitutionality of Section

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2 and arguing that it offers a compelling interest sufficient to justify narrowly tailored remedial plans.

15. On September 17, Appellees filed a supplemental brief elaborating on their argument, raised for the first time in their merits brief on appeal, that Section 2 is unconstitutional. That same day, the Secretary also filed her procedurally improper and untimely supplemental brief that, like the State's brief, argued for the first time that Section 2 and S.B. 8 are unconstitutional.

16. *Robinson* Appellants reasonably anticipate that Louisiana will file a reply brief up to 6,000 words by October 3 that will likely seek to both rebut *Robinson* Appellants arguments and defend the position, shared by Appellees and the Secretary, that Section 2 is unconstitutional.

17. In total, Louisiana, the Secretary, and Appellees will have filed no fewer than four supplemental briefs totaling up to 45,000 words in support of the position that Section 2 of the Voting Rights Act as unconstitutional. Even if the motion to strike is granted, Louisiana and Appellees will have had up to 32,000 words to support their position. Notably, even if this application is granted, *Robinson* Appellants would still have filed fewer briefs (two) and had far fewer total words (up to 25,000 in total) to defend the constitutionality of the seminal Voting Rights Act.

18. Accordingly, *Robinson* Appellants respectfully request leave to file a reply brief not to exceed 12,000 words. Although this will not make up for the absence of any determination on the constitutional issue by the district court or the absence

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of any relevant evidence or factual findings, it will provide the Court with the fuller presentation of the issues under these unusual circumstances.

Accordingly, *Robinson* Appellants request that the Court strike the Secretary's brief as improper and untimely. Additionally, *Robinson* Appellants request that the Court grant their application to exceed word limits for their supplement reply brief.

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Respectfully submitted,

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