IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA

LOUISIANA STATE CONFERENCE OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, *et al.*,	§	
Plaintiffs,	§	
v.	§	**Case No. 3:19-cv-00479 -JWD-EWD**
STATE OF LOUISIANA, *et al.*,	§	
***Defendants*.**	§	

PLAINTIFFS' BRIEF IN OPPOSITION TO DEFENDANTS' JOINT MOTION FOR CERTIFICATION OF ORDER FOR INTERLOCUTORY APPEAL

Plaintiffs Louisiana State Conference of the National Association for the Advancement of Colored People ("NAACP"), Anthony Allen, and Stephanie Anthony ("Plaintiffs") respectfully submit this Memorandum in Opposition to Defendants' State of Louisiana, through Attorney General Jeff Landry and the Secretary of State of Louisiana, through Kyle Ardoin (together "Defendants") Joint Motion for Certification of Order for Interlocutory Appeal (ECF No. 51, the "Motion"). For the reasons set forth below, the Court should deny the Motion.

INTRODUCTION

Unhappy with the Court's denial of their motions to dismiss (ECF No. 47, the "Order") and evidently intent on further delaying a resolution of this matter on the merits, Defendants now ask the Court to certify the Order for interlocutory review in the Fifth Circuit. As set forth in detail below, this Motion is meritless because it is wholly predicated on the false premise that some future ruling of this Court could "put[] the State in [the] untenable position of potentially two conflicting rulings from two sister courts governing the same reapportionment map[.]" (Defs.' Br. at 1.) As the Court has already ruled, "conflicting rulings" will not occur in this case.

In addition, Defendants have failed to meet the requirements for certification for interlocutory appeal. The Court should therefore deny the Motion, decline to certify the Order for interlocutory review and set the case for trial without further delay.

STANDARD OF REVIEW

"An interlocutory appeal from a non-final order in a civil case is permissible when (1) the order involves 'a controlling question of law,' (2) there is 'substantial ground for difference of opinion' on the question presented, and (3) an immediate appeal would 'materially advance the ultimate termination of the litigation.' *Gruver ex rel Gruver v. Louisiana*, CIV. A. 18-772-SDD-EWO, 2019 WL 6245421, at *1 (M.D. La. Nov. 21, 2019) (quoting 28 U.S.C. § 1292(b)). "A district court cannot certify an order for interlocutory appeal unless all three criteria are present." *Id.* (citing *Aparicio v. Swan Lake*, 643 F.2d 1109, 1110 n.2 (5th Cir. 1981)). "Interlocutory appeals are generally disfavored, and statutes permitting them must be strictly construed." *Fannie Mae v. Hurst*, 613 F. App'x 314, 318 (5th Cir. 2015) (quoting *Allen v. Okam Holdings, Inc.*, 116 F.3d 153, 154 (5th Cir. 1997)). "The purpose of § 1292(b) is to provide for an interlocutory appeal in those exceptional cases" in which the statutory criteria are met. *United States v. Garner*, 749 F.2d 281, 286 (5th Cir. 1985), *opinion supplemented*, 752 F.2d 116 (5th Cir. 1985).

The Fifth Circuit has explained:

> The foundation of the principle codified by 28 U.S.C. § 1291 (1976), which permits appeals of only "final decisions," is the avoidance of piecemeal litigation. The policy that cases are ordinarily to be reviewed only once, and then comprehensively, conserves judicial energy and eliminates the delays, harassment, and costs that would be occasioned by a succession of separate interlocutory appeals.
>
> The Judicial Code, however, authorizes appeals from interlocutory orders in exceptional cases such as those in which the potential shortening of litigation warrants such an extraordinary procedure.

United States v. Bear Marine Services, 696 F.2d 1117, 1119 (5th Cir. 1983) (emphasis added), *abrogated on other grounds by Burlington N. & Santa Fe Ry. Co. v. White*, 548 U.S. 53 (2006). *See also Kemp v. CTL Distribution, Inc.*, No. 09-1109, 2013 WL 2490954, at *1 (M.D. La. June 7, 2013) ("Interlocutory appeals under Section 1292(b) are only granted in 'exceptional cases'") (citing *United States v. Garner*, 749 F.2d 281, 286 (5th Cir. 1985)). "Routine resort to § 1292(b) requests would hardly comport with Congress' design to reserve interlocutory review for 'exceptional' cases while generally retaining for the federal courts a firm final judgment rule." *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 74 (1996). *See also Clark-Dietz & Assocs.-Eng'rs v. Basic Constr. Co.*, 702 F.2d 67, 69 (5th Cir. 1983) ("The basic rule of appellate jurisdiction restricts review to final judgments, avoiding the delay and extra effort of piecemeal appeals.").

ARGUMENT

The Court's Order is not appropriate for interlocutory review. As with Defendants' contemporaneously filed motion to transfer venue (ECF No. 52), the State's entire argument rests on the false premise that this Court asserted "jurisdiction over the same map controlled by the continuing jurisdiction of the Eastern District" when it denied their motions to dismiss. (Defs.' Br. at 4.) But as this Court has already found, the *Chisom* decree created Supreme Court District 1, this case is specifically geared to "the redrawing of Supreme Court District 5 in Baton Rouge", and the relief Plaintiffs seek can be granted without disturbing District 1, thus avoiding any conflict between sister courts. (ECF No. 47, at 22.) Defendants have altogether failed to meet the criteria for interlocutory review of this Order, and the Motion should be denied.[1]

[1] Defendants also claim that "[t]he State has no preference for any specific forum other than the desire not to be placed between the Scylla of the Eastern District and the Charybdis of the Middle District . . . [i]f the Court eventually order's [sic] some relief for the Plaintiffs, the State will *necessarily* have to violate the terms of the Consent Decree in the Eastern District." (Defs.' Br. at 4, n.3). While colorfully expressed, this contention is based on the same flawed proposition as Defendants' other arguments. Plaintiffs do not seek to disturb District 1, and thus

Indeed, the Court is familiar with the issues presented by Defendants' motion, and in similar contexts. Recently, for example, this Court considered the interplay between Section 2 of the Voting Rights Act ("VRA") and the procedural requirement for three-judge panels in cases concerning legislative redistricting. *Johnson v. Ardoin*, CIV. A. 18-625-SED-EWD, 2019 WL 4318487 (M.D. La. Sept. 12, 2019). The Louisiana Secretary of State – one of the Defendants in this case – filed a motion to dismiss, which the Court denied. *Id.* The Secretary then moved the Court to certify the ruling for interlocutory review. *Id.* The Court also denied that motion, holding that the defendant "fail[ed] to satisfy all three elements required for certification. *Id. See also Cedar Lodge Plantation, LLC v. CSHV Fairway View I, LLC*, No. 13-00129, 2017 WL 3908918, at *11 (M.D. La. Sept. 6, 2017) (denying motion to certify where the mover "merely relie[d] on abstract arguments concerning a potential disagreement on the ultimate determination."), *aff'd in part, rev'd in part*, 753 F. App'x 191 (5th Cir. 2018). As shown below, this case is not suitable for certification under 28 U.S.C. § 1292(b) either, and the outcome here should be the same as in *Johnson*.

A. Defendants Have Not Demonstrated That the Court's Order Involves A "Controlling Question of Law" That Would Resolve this Case in Its Entirety

"[A] question of law is controlling if reversal would terminate the litigation." *Ferrand v. Schedler*, No. CIV.A. 11-926, 2012 WL 2087399, at *3 (E.D. La. June 8, 2012) (quoting *Decena v. Am. Int'l Cos. (AIG)*, No. 11-1754, 2012 WL 1640455, at *2 (E.D. La. 2012)). "However, an issue is not considered a controlling question of law if 'resolution on appeal would have little or

there will be no conflict between the two court orders. Moreover, the abstract "conflict" Defendants suggest simply will not occur from a practical perspective if the State Defendants cease their dilatory tactics and accept the jurisdiction of this Court. Even if they somehow wanted to, the class plaintiffs in *Chisom* would not have standing to challenge this Court's order granting Plaintiffs the relief they seek concerning Supreme Court District 5 because the relief the *Chisom* class won concerning District 1 will remain undisturbed. Only the State Defendants are parties in both *Chisom* and this case, and therefore Defendants can avoid the conflict they claim to be concerned about by not initiating collateral proceedings in the Eastern District. Simply put, the State has its hand on the tiller and can steer clear of both Scylla and Charybdis.

no effect on subsequent proceedings.'" *United States v. Louisiana*, CIV A. 11-470-JWD-RLB, 2016 WL 4522171, at *3 (M.D. La. Aug. 29, 2016) (quoting *United States v. La. Generating LLC*, 09-100, 2012 WL 4588437 at *1 (M.D. La. Oct. 2, 2012) (quotations omitted)). "Multiple circuits have specified that a controlling question of law must refer to a 'pure question of law'—one that the 'court of appeals could decide quickly and cleanly without having to study the record.'" *Gruver ex rel Gruver*, 2019 WL 6245421, at *3 (alteration in original) (quoting *Williams v. Taylor*, CIV. A. 15-321, 2015 WL 4755162, at *3 ((E.D. La. Aug. 11, 2015).

The interlocutory appeal sought by Defendants will not terminate this case. The thrust of Defendants' argument in their motions to dismiss was that a consent decree issued nearly twenty years ago by the Eastern District in a different case dealing with different issues concerning a different judicial district deprives this Court of subject matter jurisdiction. This Court rejected that argument for multiple reasons. (ECF No. 47, at 22). But even if Defendants' position had any merit – which it does not -- the best outcome Defendants could hope for would be to have the case transferred to the Eastern District. It would not terminate the case on the merits. Defendants admit as much by asking this Court to transfer venue to New Orleans, even though the case concerns Supreme Court District 5 and the plaintiff class is composed of voters living in and around Baton Rouge.

Moreover, Plaintiffs have acknowledged and stipulated that this Court need not modify the *Chisom* Decree, which established Supreme Court District 1, as part of any remedy they seek. Defendants raise the specter of a jurisdictional problem that does not exist, either legally or practically.[2] Even if Defendants somehow prevailed in appealing this Court's well-reasoned

[2] Again, if this Court grants the relief Plaintiffs' seek by redrawing District 5 and leaving District 1 undisturbed, the *Chisom* plaintiff class would not have standing to challenge that order and the State can avoid any abstract conflict by ending its delaying tactics and accepting jurisdiction and venue in this Court.

Order concerning the *Chisom* Decree, the State's violations of VRA Section 2 presents factual issues that would still have to be tried.[3] Furthermore, because the Defendants insist that the long and complex history of *Chisom* and Supreme Court District 1 bears upon this case (which it does not), this is not a case that the "'court of appeals could decide quickly and cleanly without having to study the record." *Gruver*, 2019 WL 6245421, at *3 (citations omitted). For this reason alone, the Court should deny the Motion.

B. There is No Substantial Ground for Difference of Opinion Concerning the Scope of the *Chisom* Decree

Defendants also fail to meet their burden of showing that there is substantial ground for difference of opinion as required for section 1292(b) certification. "The threshold for establishing the 'substantial ground for difference of opinion'" for interlocutory certification "is a high one." *S. U.S. Trade Ass'n v. Unidentified Parties*, No. 10-1669, 2011 WL 2790182, at *2 (E.D. La. July 14, 2011) (denying motion to certify interlocutory appeal in part Defendant "failed to demonstrate" a "substantial grounds for a difference of opinion.") (citations omitted). "The mere fact that settled law might be applied differently is insufficient to show that there is a substantial ground for difference of opinion." Similarly, this Court has instructed that "[d]isagreement with the district court's ruling is insufficient to establish a substantial ground for a difference of opinion." *Cedar Lodge*, 2017 WL 3908918 at *10-11.

Defendants' arguments on this factor simply rehash their motions to dismiss and show nothing more than their disagreement with the Court's Order. Defendants' claim that there is a

[3] The State's suggestion that it would be "an extraordinary waste of judicial and party resources" to litigate this case through to the merits if the Fifth Circuit later finds that the Eastern District should have heard the case also rests on a false premise that the parties here would then have to restart the case from zero. If, as it suggests, the State has no preference for either court and wants a speedy resolution of this matter, it could drop any appeal to the Fifth Circuit on this issue and could, in any event, stipulate that the factual record developed in this Court will be used to resolve the case in the Eastern District if future proceedings there are required. Defendants are, again, suggesting a parade of abstract harms that they have the power to prevent.

substantial ground for difference of opinion as to whether this Court is empowered to "entertain a lawsuit that seeks to modify or overturn a sister court's consent decree." (Defs.' Br. at 5.) The Court has rejected this contention and its supporting propositions. Defendants assert, for example, that voting rights jurisprudence is unique in that "any specific [elected] body of government can only have *one* map setting forth its electoral boundaries." But this ignores that the central aim of *Chisom* was "to ensure black voters *in the Parish of Orleans* have an equal opportunity to participate in the political process and to elect candidates of their choice[.]" (ECF No. 47 at 10, quoting *Chisom* Decree (emphasis added).) Moreover, Defendants' assertion that the Eastern District forever claimed jurisdiction over a "map" runs counter to the plain language of the *Chisom* Decree and defies common sense. That the State ultimately adopted a new, statewide scheme for the election of Supreme Court justices to draw the new District 1 does not mean that the Eastern District intended to assert or in fact did retain jurisdiction over all future cases by different classes of Louisiana voters concerning different Supreme Court districts. Indeed, after the State Legislature enacted Louisiana Acts 1997, No. 776, which created District 1, the State consented to an order modifying the *Chisom* Decree and agreed "to accept Louisiana Acts 1997, No. 776 as compliance with the mandates of said consent judgment." (ECF No. 27-4 at 8.) (*See* also ECF No. 47 at 11 (recognizing that Louisiana Acts 1997, No. 776 "[met] the intent of all parties to this litigation [*Chisom*] for final resolution of the matter." (first modification in original).) Thus, it is absurd for the State to contend now – twenty years later – that the Eastern District intended to retain jurisdiction over "the map" even after that court and the *Chisom* parties acknowledged that Louisiana Acts 1997, No. 776 fulfilled the "mandates" of the Decree. Nor does it follow that this Court cannot decide whether the State unlawfully dilutes

the votes of African American citizens who live in an around Baton Rouge – a wholly separate part of the State that was not at issue in *Chisom.*

"Contrary to Defendants' arguments, this relief [the redrawing of Supreme Court District 5 in Baton Rouge] can easily be accomplished without redrawing District 1 in Orleans Parish, and Plaintiffs' stipulation to this effect reflects that." (ECF No. 47, at 22.) Indeed, Plaintiffs maintain, and will later show, that there is at least one way to redraw Supreme Court District 5 without affecting Orleans Parish and Supreme Court District 1. Therefore, Defendants' belief that "[a]ny order from this Court ordering any alteration of any boundary of any district would put [them] in a quandary about which map to follow" is unfounded. (Defs.' Br. at 1 n.1.) So long as District 1 is not affected by this Court, the *Chisom* order will not be implicated and there will not be even a hypothetical conflict with the Eastern District's order. Defendants' failure to carry their burden on this factor is also a sufficient and independent basis for denying the Motion.

C. Certification of the Order for Interlocutory Appeal Would Not Materially Advance the Ultimate Termination of the Litigation

Certifying the Order for interlocutory appeal would result in piecemeal appeals – contrary to the intent of 1292(b) and governing Fifth Circuit law. Defendants argue that if the "Fifth Circuit reverses on appeal on jurisdictional grounds there will have been an extraordinary waste of party and judicial resources that can be prevented by this timely request for interlocutory appeal." (Defs.' Br. at 8-9.) The State attempted a similar argument in *United States v. Louisiana*, CIV. A. 11-470-JWD0RLB, 2016 WL 4522171, at *4 (M.D. La. Aug. 29, 2016), a case concerning the State's alleged failure to meet its obligation under the National Voter Registration Act. There, the State argued that an interlocutory appeal of this Court's denial (in part) of the State's motion for summary judgment would materially advance the litigation because it "would constitute a waste of time and resources if the case proceeded to trial . . . and it

proved out after appeal that only a portion of the transactions [at issue in the case] should have been tried." *Id.* (citation omitted). The Court rejected this argument.

> Defendant's logic is circular and misguided; *every* erroneous ruling by a district court has potential to harm litigants affected by the judgment, just as every erroneous ruling will likely lead to additional expense of judicial resources to reach a just resolution. However, this does not render every erroneous ruling subject to interlocutory appeal. Moreover, Defendant's argument under this prong is premised on the underlying assumption that this Court's ruling is erroneous. However, this premise is undermined by the fact that, as discussed above, there is no difference of opinion on this issue . . . , and the few rulings rendered on the subject are consistent with this Court's. Defendant has offered no persuasive arguments to convince this Court the Fifth Circuit would disagree with its previous Order.

Id.

The result should be the same here. As the Court noted in *U.S. v. Louisiana*, any error by a court could lead to the additional expense of judicial resources and could "harm" litigants. It does not follow, however, that every ruling by a district court should be certified for interlocutory appeal under § 1292(b). This is especially true where, as here, the party seeking interlocutory review has not shown that the order in question concerns a controlling question of law about which there are substantial grounds for differences of opinion. Quite the opposite, Defendants persistent efforts to muddy the waters by interweaving this case with *Chisom* – a case that was put to rest long ago – strongly suggests that Defendants simply disagree with the Court's decision and will go to extreme lengths to avoid having to reach the merits of this case. The Court should see through this veneer and deny the Motion.

D. A Stay is Unwarranted and Would Merely Create Delay

"A stay pending appeal 'simply suspends judicial alteration of the status quo.'" *Veasey v. Perry*, 769 F.3d 890, 892 (5th Cir.) (citing *Nken v. Holder*, 556 U.S. 418, 429 (2009)), *motion to vacate stay denied*, 135 S. Ct. 9 (2014). While a district court is granted discretion in its decision on whether to grant a stay when a stay is not required, "the exercise of that discretion is not

unbridled." *In re First S. Sav. Ass'n*, 820 F.2d 700, 709 (5th Cir. 1987). "[R]ather, the court must exercise its discretion in light of what this court has recognized as the four criteria for a stay pending appeal." *Id.* Those four traditional factors include: "(1) whether a stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the parties interested in the proceeding; and (4) whether the public interest favors a stay." *Weingarten Realty Investors v. Miller*, 661 F.3d 904, 908 (5th Cir. 2011) (citation omitted).

The Supreme Court has held that the "first two factors of the traditional standard are the most critical." *Veasey*, 769 F.3d at 892 (citing *Nken*, 556 U.S. at 434). There is also a "widely held view that a stay can never be granted unless the movant has shown that success on appeal is probable." *Ruiz v. Estelle*, 650 F.2d 555, 565 (5th Cir. 1981). Furthermore, where "there is even a fair possibility that the stay . . . will work damage to someone else," the party seeking a stay "must make out a clear case of hardship or inequity in being required to go forward." *Fed. Deposit Ins. Corp. v. Belcher*, No. 2020 WL 242781, at *3 (E.D. La. Jan. 16, 2020) (quoting *Landis. v. N. Am. Co.*, 299 U.S. 248, 255 (1936)).

1. Defendants Are Not Likely to Succeed on the Merits

Defendants' conveniently omit any discussion on whether their appeal would succeed on the merits, the "most critical" factor in a court's stay analysis. *Ruiz*, 650 F.2d at 565. The request for a stay should be denied for this reason alone. *See Dooley v. MB Indus., LLC*, CIV. A. 16-0110, 2018 WL 1146338, at *6 (W.D. La. Mar. 1, 2018) (disregarding as "unpersuasive" defendants' "argument [that] is underdeveloped and not supported by case law"). In any event, there is no reason to believe that Defendants will succeed on the merits. As has previously been briefed in this case, the Supreme Court's holding *in Chisom v. Roemer* that VRA Section 2

applies to judicial districts has not been reversed and remains the law of the land. 501 U.S. 380 (1991). In addition, the Court has already found that *Johnson v. Ardoin* "serves as an example of a case involving the creation of a second majority-minority district that has survived the pleading stage." (ECF No. 47 at 31.) Thus, as *Johnson* instructs, the mostly likely outcome of this litigation is that Plaintiffs will prevail, resulting in the creation of a majority-minority Supreme Court district in the Baton Rouge area (which need not change the contours of Supreme Court District 1).

2. Defendants Will Not Be Irreparably Harmed in the Absence of a Stay

Defendants likewise offer no argument as to how they will be "irreparably injured absent a stay," the other critical component of the stay analysis. *Weingarten*, 661 F.3d at 908. They baldly assert that "[i]t is in the interest of all parties to settle this jurisdictional dispute now to avoid lengthy and expensive litigation that has every possibility of being relitigated when dismissal or transfer is ordered." (Defs.' Br. at 9.) This argument fails for three reasons. First, aside from being so terse as to invite the Court to simply ignore it, the argument wrongly assumes that there is a live "jurisdictional dispute." There is not. Plaintiffs more than sufficiently invoked the Court's jurisdiction, and the Court held that it may exercise jurisdiction. Defendant's rehash of their argument that the *Chisom* Decree deprives this Court of jurisdiction does not translate to "irreparable harm" for purposes of a stay pending appeal.

Second, Defendants presume there will come a time "when" the case will be dismissed or transferred and that the parties would necessarily have to start from zero, rather than using the record developed in this Court. Again, there is no reason to believe any of those things will or must occur, nor do Defendants even attempt to explain their rationale for this belief or cite any case law supporting their argument.

Finally, having to litigate a case, even if it could later be reversed, is not "irreparable harm" for purposes of a stay. Otherwise, section 1292(b) has no meaning, and every case in which a party disagrees with the Court's ruling on a motion to dismiss would be suitable for interlocutory review. This is not the law.

3. Plaintiffs Will Be Substantially Injured as a Result of Continued Delay and Ongoing Disenfranchisement under the Voting Rights Act

"An injury is irreparable if it 'cannot be undone through monetary remedies.' The right at issue in this case, the right to vote, is entirely nonpecuniary, and no amount of financial compensation can redress its deprivation." *Chisom v. Edwards*, 690 F. Supp. 1524, 1535 (E.D. La.) (quoting *Spiegel v. City of Houston*, 636 F.2d 997, 1001 (5th Cir. 1981)), *vacated*, 853 F.2d 1186 (5th Cir. 1988). While the Fifth Circuit has not held that deprivation of voting rights constitutes irreparable injury per se, other courts have recognized that "[w]hen constitutional rights are threatened or impaired, irreparable injury is presumed." *Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012), (citing *ACLU of Ky. v. McCreary Cty., Ky.*, 354 F.3d 438, 445 (6th Cir. 2003)). *See also Jones v. Governor of Fla.*, 950 F.3d 795, 828 (11th Cir. 2020) (finding that district court did not abuse its discretion in finding that plaintiffs would suffer a irreparable injury if they were precluded from voting in election in which they were constitutionally entitled to vote); *Williams v. Salerno*, 792 F.2d 323, 326 (2d Cir. 1986) (holding that plaintiffs "would certainly suffer irreparable harm if their right to vote were impinged upon"). "A restriction on the fundamental right to vote therefore constitutes irreparable injury." *Mich. State A. Philip Randolph Inst. v. Johnson*, 749 F. App'x 342, 366 (6th Cir. 2018) (citations omitted). Here, as in *Chisom v. Edwards*, no amount of financial compensation will ever redress the harm Plaintiffs suffer with each passing election and, indeed, with each passing day in which the State undervalues their roles as voters and citizens by diluting their votes in violation Section 2.

4. The Public Interest Strongly Favors the Prompt Resolution of Cases Concerning a State's Violation of Federal Statutory Voting Rights

The public interest strongly favors the prompt resolution of cases concerning a state's violation of federal statutory voting rights. *See O'Keefe v. New York City Bd. Of Elections*, 246 F. Supp. 978, 980 (S.D.N.Y. 1965) (describing the Voting Rights Act as "a statute affecting the public interest") (cited in *Aubin v. Columbia Cas. Co.*, CIV. A. 16-290-BAJ-EWD, 2017 WL 1416814, *2 (M.D. La. Apr. 19, 2017)). Indeed, the history of the VRA "reflect[s] a strong national mandate for the immediate removal of all impediments, intended or not, to equal participation in the election process. Thus when [it] is violated the public as a whole suffers irreparable injury." C. Wright & A. Miller, Federal Practice and Procedure § 2948, at 440 (1973)).

Defendants contend only that the public interest would be served by "correct application of the law in this matter." (Defs.' Br. at 9.) There is no reason to doubt, however, that the law has been and will be correctly applied by the Court in this matter. What will truly serve the public interest is rectifying the State's ongoing violation of VRA Section 2 with respect to the election of Supreme Court justices. As a statute of public interest, the VRA exists precisely to stop the kind of vote dilution in the Baton Rouge area alleged in the Complaint. The public interest would be best served by denying Defendants' motion and setting this case for trial as soon as is practicable.

CONCLUSION

"Interlocutory appeals represent a rarely used exception to the strong judicial policy disfavoring piecemeal appeals," *Ladd v. Equicredit Corp. of Am.*, 2001 WL 1339007, at *1 (E.D. La. Oct. 30, 2010). Defendants have failed to show that the Order they seek to appeal is so

exceptional as to qualify as one of the exceedingly rare cases justifying interlocutory appellate treatment under 28 U.S.C. § 1292(b).

WHEREFORE, the Plaintiffs pray that Defendants' Joint Motion for Certification of Order for Interlocutory Appeal be denied.

Dated: August 7, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 7, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a Notice of Electronic Filing to all counsel of record identified below.

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