UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

CLEVE DUNN, JR., ET AL.	**CIVIL ACTION NO. 3:24-CV-00521**
VERSUS	**CHIEF JUDGE DICK**
EAST BATON ROUGE PARISH, CITY OF BATON ROUGE, ET AL.	**MAGISTRATE JUDGE WILDER-DOOMES**

EAST BATON ROUGE PARISH/CITY OF BATON ROUGE'S MEMORANDUM IN SUPPORT OF MOTION TO DISMISS PURSUANT TO RULE 12

NOW INTO COURT, through undersigned counsel, comes Defendant, City of Baton Rouge, Parish of East Baton Rouge, *through the Baton Rouge Metropolitan Council* ("Metro Council" or "Council"), who respectfully moves this Court for the dismissal of all claims asserted against it by Plaintiffs, Chauna Banks, Darryl Hurst, Cleve Dunn, Jr., LaMont Cole, Carolyn Coleman, Lael Montgomery, and Eugene Collins (collectively, "Plaintiffs"), with prejudice.

I. FACTUAL BACKGROUND[1]

This litigation arises out of the Metro Council's adoption of Ordinance 18596 on August 10, 2022, which approved a reapportionment plan for the Metropolitan Council Districts.

East Baton Rouge Parish is divided into twelve (12) Metropolitan Council Districts ("Districts"). Following each decennial census, local governing authorities in Louisiana, including the Metro Council, are required by law to review the apportionment plan of its districts to determine if there are any substantial variations in the representation of the election districts.[2] The

[1] The 5th Circuit has found it proper to judicially notice Census data and publicly available government records. *See, e.g. Hollinger v. Home State Mut. Ins. Co.*, 654 F.3d 654, 571-72 (5th Cir. 2011) ("United States census data is an appropriate and frequent subject of judicial notice."); *La Union del Pueblo Entero v. Abbott*, 305 F.Supp 3d 449, 484 n.16 (W.D. Tex. 8/2/22) (taking judicial notice of governmental websites) (citing *Coleman v. Dretke*, 409 F.3d 665, 667 (5th Cir. 2005) (per curiam)). The Fifth Circuit has further held that it is proper to take judicial notice of public records in consideration of a motion to dismiss. *Cox v. Richards*, 761 Fed. App'x. 244, 248 (5th Cir. 2019) (citations omitted). The Metro Council requests that the Court take judicial notice of all information contained on the Metro Council website, www.brla.gov, 2020 Census data cited to herein, and cited memoranda from Mike Hefner to the Metro Council which are public records.

[2] La. R.S. 33:1411(A).

"ideal" population is considered to be the product of dividing the total population of the parish by the number of districts. Any district whose population deviates greater than plus or minus five percent from this ideal district population is deemed a substantial variation. After this review, the local governing authority must adopt an ordinance either declaring its apportionment to be equitable or provide for a new apportionment plan.[3]

After the 2020 census, the Metro Council hired Mike Hefner ("Hefner"), a demographer, to assist them in the determination of whether reapportionment[4] was required. Historically, seven (7) of the Districts (Districts 1, 3, 4, 8, 9, 11, and 12) have had a majority White population and five (5) of the Districts (Districts 2, 5, 6, 7, and 10) have had a majority Black population. Based on the 2020 Census population count, Hefner determined that the number of majority-White and majority-Black Districts remained unchanged, that the ideal population for each District was 38,065 persons, and that Districts 1, 2, 3, 5, 6, 7, 9, and 11 were all outside of the allowable deviation range.[5] Therefore, the Metro Council was required to reapportion the Districts to rebalance the population counts.

From February 22, 2022 through August 10, 2022, the Metro Council held redistricting workshops so that the Council and the public could "brainstorm various configurations to the districts that would result in a plan that better represents the Parish."[6] Initially, Hefner provided a reapportionment plan with six (6) White-majority districts and five (5) Black-majority districts entitled "Illustrative Plan 1" as "a good illustration of how the districts will generally have to adjust to rebalance the numbers."[7]

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[3] *Id.*
[4] The words "reapportionment" and "redistricting" are used interchangeably throughout.
[5] Hefner, M., "2020 Census Election District Determination" Memorandum, p.2, a copy of which is attached hereto as **Exhibit A**.
[6] *See* Hefner, M., "Illustrative Plan 1" Memorandum, a copy of which is attached hereto as **Exhibit B**; *see also*, www.brla.gov/1085/Live-Stream-Archived-Meetings.
[7] *See Id.*

After the first redistricting workshop, Hefner issued a memorandum to the Council saying that he would like to "dedicate the majority of the available working time to concentrate on the [creation of] majority-minority districts."[8] However, he acknowledged that he needed to "see if the census numbers and geography will work to increase the number of majority-minority districts."[9] Alongside this memorandum, Hefner issued a new reapportionment plan entitled "Plan 2," again with six (6) White-majority districts and five (5) Black-majority districts.[10]

Over the course of the following months, the Council continued holding redistricting workshops with Hefner, with a primary focus being the creation of an additional majority-minority district.[11] Alongside the issuance of "Plan 6," Hefner explicitly stated that the Metro Council "did some aggressive modeling to see what could be done to add another majority-minority district to the Council demographics. The results were seen in Plan 5."[12] Hefner continued, "[t]o even get slightly above a 50% Black total population required considerable changes in the district boundaries in that area as compared to the current boundaries."[13] The awkward shapes of the boundaries in this proposed Plan 5 concerned Hefner to such a degree that he created Plan 6, another plan which does not contain a sixth Black-majority district.[14]

After the presentation of numerous reapportionment plans which did not create a sixth Black-majority District, Hefner "was asked to see if [he] could work up a plan that added an additional majority-minority district using District 1 as the new district."[15] Complying with this request, Hefner created "Plan 7" wherein he used the reapportionment plan entitled "Plan 4" as a base and

[8] *See* Hefner, M., "Plan 2" Memorandum, p. 5, a copy of which is attached hereto as **Exhibit C**.
[9] *Id.*
[10] *Id.*
[11] *See Id.*
[12] Hefner, M., "Plan 6" Memorandum, a copy of which is attached hereto as **Exhibit D**.
[13] *Id.*
[14] *See Id.*
[15] Hefner, M., "Plan 7" Memorandum, a copy of which is attached hereto as **Exhibit E**.

"deci[ded] on which precincts to add or take out [] based solely on race and how it would affect the targeted Black percentages for District 1."[16] However, Hefner went on to "caution the Council that [court decisions] have struck down plans that used race as the primary or sole criteria in determining which voters are added to or taken out of a district."[17] In his opinion, the configuration of Districts 1 and 2 in Plan 7 is indicative that race played a more predominate factor than was required to rebalance the districts.[18]

After continued work and deliberation in an effort to create an additional majority-Black District that would abide by the law, Hefner introduced a reapportionment plan entitled "Plan 6A" to the Council as a potential solution.[19] He explained that Plan 6A would make District 8 a "toss-up district" with neither a Black or White majority.[20] Plan 6A attempted to strike a balance between the status quo of Plans 4 and 4A and the dramatic addition of majority-minority district in Plan 7.[21] However, even still, Plan 6A does not create an additional Black-minority district, but rather, merely dilutes the White vote in District 8.

In total, seventeen (17) reapportionment plans were proposed to the Metro Council, only three of which contained 6 Black-majority Districts—Plans 7, 7A, and 5B.[22] On August 10, 2022, the

[16] *Id.*
[17] *Id.*
[18] *Id.*
[19] Hefner, M., "Summary of Plans 4 through 8 and the Addition of Plan 6A" Memorandum, a copy of which is attached hereto as **Exhibit F**.
[20] *Id.*
[21] *Id.*
[22] The proposed reapportionment plans contained demographic majorities as follows: Plan 1 = 6 white-majority and 5 Black-majority Districts; Plan 1a = 6 white-majority and 5 Black-majority Districts; Plan 2 = 6 white-majority and 5 Black-majority Districts; Plan 3 = 6 white-majority and 5 Black-majority Districts; Plan 3a = 6 white-majority and 5 Black-majority Districts; Plan 3b = 6 white-majority and 5 Black-majority Districts; Plan 4 = 7 white-majority and 5 Black-majority Districts; Plan 4A = 6 white-majority and 5 Black-majority Districts; Plan 4B = 7 white-majority and 5 Black-majority Districts; Plan 5 = 6 white-majority and 5 Black-majority Districts; Plan 5A = 6 white-majority and 5 Black-majority Districts; Plan 5B = 6 white-majority and 5 Black-majority Districts; Plan 6 = 6 white-majority and 5 Black-majority Districts; Plan 6A = 6 white-majority and 5 Black-majority Districts; Plan 7 = 6 white-majority and 6 Black-majority Districts; Plan 7A = 6 white-majority and 6 Black-majority Districts; and Plan 8 = 7 white-majority and 5 Black-majority Districts.
See Metro Council website, REDISTRICTING 2022 (https://www.brla.gov/2723/Redistricting-2022).

Council adopted Ordinance 18596 (the "Ordinance") which approved Plan 4B, a reapportionment plan which maintained seven (7) White-majority Districts (Districts 1, 3, 4, 8, 9, 11, and 12) and five (5) Black-majority Districts (Districts 2, 5, 6, 7, and 10).[23]

On June 26, 2024, Plaintiffs filed a Complaint against the City of Baton Rouge, Parish of East Baton Rouge (the "Metro Council"), alleging violations of Section 2 of the Voting Rights Act of 1965, 52 U.S.C. § 10301 ("VRA"), the Fourteenth Amendment of the United States Constitution ("Fourteenth Amendment"), and the Fifteenth Amendment of the United States Constitution ("Fifteenth Amendment"), and seeking declaratory, injunctive, and compensatory relief.[24] Specifically, Plaintiffs allege that the Ordinance is unlawful because it "dilutes Black voting strength" and request that this Court declare that the Ordinance violates the VRA, enjoin the enforcement of the Ordinance, and order the adoption of a reapportionment plan which creates an additional Black-majority district.[25]

II. LAW AND ANALYSIS

The Equal Protection Clause of the Fourteenth Amendment provides that no State shall "deny to any person within its jurisdiction the equal protection of the laws."[26] This has as its central mandate, "racial neutrality in governmental decisionmaking."[27] Likewise, Section 1 of the Fifteenth Amendment provides that the right to vote "shall not be denied or abridged . . . on account of race, color, or previous condition of servitude."[28]

Courts are cautioned to "be sensitive" to the complexities of the redistricting process because, while the Equal Protection Clause prohibits the consideration of race, compliance with Section 2

[23] See Ordinance 18596; *see also*, "Summary of E. Baton Rouge Metro Council Plan Demographics for Plans 4 through 8" (https://www.brla.gov/DocumentCenter/View/15305/EBR-Metro-Council-Plans-4-through-8-Demographicspdf).
[24] R. Doc. No. 1.
[25] R. Doc. No. 1, Prayer for Relief ¶ C.
[26] U.S. Const., Amend. XIV, § 1.
[27] *Miller v. Johnson*, 515 U.S. 900, 904 (1995).
[28] U.S. Const. Amend. XV, § 1.

of the Voting Rights Act of 1965 ("VRA" or "Section 2") often requires the creation of districts because of race.[29] With this in mind, courts analyze Equal Protection Clause claims for voting discrimination under a two-step analysis, the first factor of which requires plaintiffs to prove that "race was the predominant factor motivating the legislature's decision to place a significant number of voters within or without a particular district."[30] Only after the plaintiffs have proven that the law was passed with discriminatory intent will the Court apply strict scrutiny to the law.[31]

The narrative established by the facts belies an underlying theme: Calls for the creation of a sixth Black-majority District for the sake of achieving racial proportionality were present from the beginning of the reapportionment process, increased with time, and ultimately bubbled over into the litigation before this Court.[32] However, "[f]orcing proportional representation is unlawful and inconsistent with [the Supreme Court's] approach to implementing § 2."[33] This requires legislative bodies to dance along a delicate line between violating the Fourteenth and Fifteenth Amendments and Section 2.

As initially enacted, Section 2 largely mirrored the language of Section 1 of the Fifteenth Amendment, so the Supreme Court interpreted Section 2 as they had interpreted the Fifteenth Amendment— a prohibition on voting laws passed with a racially discriminatory motivation but not precluding those voting laws that are only discriminatory in effect.[34] However, while the

[29] *Miller v. Johnson*, 515 U.S. 900, 915–16 (1995); *See also*, *Abbott v. Perez*, 585 U.S. 579 (2018).
[30] *Miller v. Johnson*, 515 U.S. 900, 916 (1995).
[31] *Cooper v. Harris*, 581 U.S. 285, 292 (2017) (quoting *Bethune-Hill v. Va. State Bd. Of Elections*, 580 U.S. 178, 193 (2017)).
[32] *Compare* Exhibit C, p. 5 (where Hefner explains that he intends to primarily focus on creating an additional, legally-acceptable Black-minority district), *with* Exhibit E (where Hefner explains that he could not reshape District 1 into a Black-majority district without contravening legal requirements), *and* Exhibit F (where Hefner suggests a "toss-up district" as a solution in an effort to appease the unabating demands to create a sixth majority-Black district), *and* R. Doc. No. 1, ¶¶ 30-54 (where Plaintiffs allege the "Factual Background" supporting their demand for a sixth Black-majority District and focus primarily on changing demographic proportions).
[33] *Allen v. Milligan*, 599 U.S. 1, 26 (2023); 52 U.S.C. 10301 (". . . nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population").
[34] *City of Mobile v. Bolden*, 446 U.S. 55 (1980).

Fifteenth Amendment still only prohibits voting laws passed with discriminatory purpose, the language of Section 2 was amended in 1982 to preclude the adoption of laws with discriminatory effect.[35] Section 2 of the VRA now provides:

> (a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color . . ., as provided in subsection (b).
>
> (b) A violation of subsection (a) is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: Provided, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.[36]

To prevail on a claim under Section 2 of the VRA because of alleged vote dilution, Plaintiffs must now satisfy three threshold conditions set forth by the Supreme Court in *Thornburg v. Gingles*.[37] That is, Plaintiffs must be able to show that (1) the minority group is "sufficiently large and geographically compact to constitute a majority in a single-member district"; (2) the minority group is "politically cohesive"; and (3) the "White majority votes sufficiently as a bloc to enable it . . . usually to defeat the minority's preferred candidate."[38] Although Section 2 inevitably demands some racial proportionality in districting, when properly applied, "the *Gingles* framework

[35] *Allen v. Milligan*, 599 U.S. 1, 25 (2023).
[36] 52 U.S.C. 10301.
[37] *Thornburg v. Gingles*, 478 U.S. 30 (1986).
[38] *Gingles*¸478 U.S. at 50-51.

[] imposes meaningful constraints on proportionality" by requiring compliance with traditional districting principles.[39]

"The 'geographically compact majority' and 'minority political cohesion' showings are needed to establish that the minority has the potential to elect a representative of its own choice in some single-member district. And the 'minority political cohesion' and 'majority bloc voting' showings are needed to establish that the challenged districting thwarts a distinctive minority vote by submerging it in a larger White voting population."[40] **Unless all three *Gingles* factors are established** by Plaintiffs, "**there neither has been a wrong nor can [there] be a remedy**."[41]

If Plaintiffs cannot establish the existence of an injury which can be remedied, Plaintiffs do not have standing.

A. PLAINTIFFS' SECTION 2 CLAIMS SHOULD BE DISMISSED PURSUANT TO RULE 12(B)(1) BECAUSE PLAINTIFFS LACK STANDING TO ASSERT SUCH CLAIM.

The jurisdiction of federal courts under Article III of the United States Constitution is limited to "cases" or "controversies."[42] The "case or controversy" requirement encompasses many doctrines which establish the fundamental limits on federal judicial power, the most important of which is the doctrine which requires plaintiffs to have "standing" to invoke the power of a federal court.[43] Since putative plaintiffs lacking standing are not entitled to have their claims litigated in federal court, whether a plaintiff has standing under Article III is a jurisdictional question.[44]

As set forth by the United States Supreme Court in *Lujan v. Defenders of Wildlife*, the standard for establishing standing contains three elements: Each Plaintiff must have (1) suffered a concrete

[39] *Allen v. Milligan*, 599 U.S. 1, 26-28 (2023).
[40] *Growe v. Emison*, 507 U.S. 25, 40 (1993) (citing *Gingles*, 478 U.S. at 50-51).
[41] *Id.* at 40-41 (**emphasis** added).
[42] *See* U.S. Const. art. III, §2; *Lujan v. Defenders of Wildlife*¸504 U.S. 555, 559-60 (1992).
[43] *See Allen v. Wright*¸468 U.S. 737, 750 (1984).
[44] *Meadowbriar Home for Children, Inc. v. Gunn*, 81 F. 3d 521, 528-29 (5th Cir. 1996).

and particularized injury-in-fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely, not merely speculative, the injury would be redressed by a favorable judicial decision.[45]

Thus, the party invoking the jurisdiction of the federal court bears the burden of proving that they have suffered an injury-in-fact that is traceable to the Defendant's actions and likely to be redressed by a favorable decision.[46] In ruling on a motion to dismiss for lack of subject matter jurisdiction, the court may rely on the complaint, presuming the allegations to be true, as supplemented by undisputed facts plus the Court's resolution of any disputed facts.[47] There is no presumption of truthfulness when determining questions of jurisdiction, especially so when "matter outside the complaint is the basis of the [factual] attack."[48]

"Since [the elements of standing] are not mere pleading requirements but rather an indispensable part of the plaintiff's case, each element must be supported in the same way as any other matter on which the plaintiff bears the burden of proof, i.e., with the manner and degree of evidence required at the successive stages of the litigation."[49] At the pleading stage, plaintiffs are generally required to provide general factual allegations of injury to establish standing.[50]

Nevertheless, plaintiffs must establish all three *Gingles* conditions to prove the existence of a redressable injury.[51] "Without sufficiently detailed evidence, a court is flatly unable to evaluate whether a possible redistricting scheme would establish legally adequate districts consistent with traditional districting principles such as compactness, contiguity, maintaining communities of

[45] *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992).
[46] *Anne Harding v. County of Dallas, Texas*¸ 948 F.3d 302, 307 (5th Cir. 2020).
[47] *Den Norske Stats Oljeselskap As v. HeerMac V.O.F.*, 241 F. 3d 420, 424 (5th Cir. 2001).
[48] *See Williamson v. Tucker*, 645 F.2d 404, 412 (5th Cir. 1981); *See also Montez v. Dep't of the Navy*, 392 F.3d 147, 149 (5th Cir. 2004).
[49] *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992).
[50] *Id.*
[51] *Growe v. Emison*, 507 U.S. 25, 40-41 (1993) ("Unless [the *Gingles* factors] are established, there neither has been a wrong nor can be a remedy.").

interest, and respect for incumbency."[52] It is not the task of the Court to forage for facts which support the existence of a VRA violation; instead, Plaintiffs bear the burden of proof in presenting such evidence to the Court.[53] Therefore, Plaintiffs are still required to allege facts sufficient to establish that they have suffered a non-hypothetical injury-in-fact which is likely, and not merely speculative, to be redressed by a favorable decision of the Court.[54]

Herein, Plaintiffs' Complaint is facially deficient of facts necessary to assert standing for the claims asserted. Specifically, Plaintiffs have failed to establish the existence of a particularized injury-in-fact capable of being redressed by a favorable decision by this Court.

1. Plaintiffs Have Not Alleged a Concrete and Particularized Injury-In-Fact.

To establish Article III standing, an alleged injury must be "concrete, particularized, and actual or imminent."[55] A particularized injury is one which affects a plaintiff "in a personal and individual way."[56] "In vote dilution cases, the 'harm arises from the particular composition of the voter's own district, which causes his vote—having been packed or cracked—to carry less weight than it would carry in another, hypothetical district.'"[57]

Only those voters alleging facts which show a "disadvantage to themselves as individuals have standing to sue," not those who assert "only a generalized grievance against governmental conduct of which he or she does not approve."[58] Therefore, to have standing, the Complaint must allege

[52] *Fairley v. Hattiesburg, Miss.*, 584 F.3d 660, 669 (5th Cir. 2009) (citing *Sensley v. Albritton*, 385 F.3d 591, 595 (5th Cir. 2004).
[53] *Id.* ("Requiring the district court to fish through the record for evidence that might conceivably support redistricting approaches that were never urged by the plaintiffs or presented as developed plans would be downright perverse. . . After all, the plaintiffs bear the burden of proof in a VRA case, and any lack of record evidence on VRA violations is attributed to them, not the district court.").
[54] *Lujan*, 504 U.S. at 560-61.
[55] *Monsanto Co. v. Geertson Seed Farms*, 561 U.S. 139, 149 (2010).
[56] *Gill v. Whitford*, 585 U.S. 48 (2018) (citations omitted).
[57] *Anne Harding v. County of Dallas, Texas*, 948 F. 3d 302, 307 (5th Cir. 2020) (quoting *Gill*, 561 U.S. at 67).
[58] *Compare Baker v. Carr*, 369 U.S. 186, 206 (1962), *with United States v. Hays*, 515 U.S. 737, 745 (1995).

that each individual plaintiff is a Black, registered voter who has "less opportunity than other members of the electorate to . . . elect representatives of their choice," as a result of the Ordinance.[59]

Plaintiffs have alleged that the Ordinance dilutes Black voting strength "by 'packing' large numbers of Black voters into majority-Black council districts where they constitute an ineffective minority unable to participate equally in the electoral process."[60] The Ordinance contains five (5) majority-Black council districts: Districts 2, 5, 6, 7, and 10.[61] The identity of the Plaintiffs are alleged as follows:

> Plaintiff Chauna Banks is a resident of East Baton Rouge, and a resident of and the Metro Councilperson for District 2.
>
> Plaintiff Darryl Hurst is a resident of East Baton Rouge, and a resident of and the Metro Councilperson for District 5.
>
> Plaintiff Cleve Dunn, Jr. is a resident of East Baton Rouge, and a resident of and the Metro Councilperson for District 6.
>
> Plaintiff LaMont Cole is a resident of East Baton Rouge, and a resident of and the Metro Councilperson for District 7.
>
> Plaintiff Carolyn Coleman is a resident of East Baton Rouge, and a resident of and the Metro Councilperson for District 10.
>
> Plaintiff Lael Montgomery is a resident of East Baton Rouge and District 1.
>
> Plaintiff Eugene Collins is a resident of East Baton Rouge and District 2.[62]

Plaintiffs Banks, Hurst, Dunn, Cole, Coleman, and Collins are all alleged to reside in majority-Black Districts under the Ordinance. This leaves Plaintiff Montgomery as the only Plaintiff who would allegedly be part of "an ineffective minority unable to participate equally in the electoral

[59] 52 U.S.C. 10301(b); *see also*, *Petteway v. Galveston Cty.*, 111 F.4th 695, 609 (5th Cir. 2024) ("Section 2 requires a showing that minorities "have less opportunity than other members of the electorate to … elect representatives of their choice.") (quoting *Bartlett v. Strickland*, 556 U.S. 1, 14 (2009)).
[60] R. Doc. 1, ¶¶ 1-2.
[61] *See* R. Doc. 1, ¶ 61.
[62] R. Doc. 1., ¶¶ 10–16.

process" because of their residence in a White-majority District. Plaintiffs Banks, Hurst, Dunn, Cole, Coleman, and Collins have not alleged an individualized injury sufficient to confer Article III standing. Rather, they have asserted only the type of generalized grievance which the Supreme Court has repeatedly struck down as insufficient.

Even still, Plaintiffs have failed to establish the existence of an actual, concrete injury-in-fact. That is, Plaintiffs have failed to establish that the challenged redistricting map adopted by the Ordinance weakens the vote of a distinct minority by submerging it in a larger White voting population.[63] As discussed below, Plaintiffs have not established the existence of a compact, politically cohesive minority group nor a majority voting bloc who votes against their preferred candidate. Rather, the Complaint is filled with facts and statistics that, although framed to give the reader a poor impression of the citizens and government of Baton Rouge, provide no substantive support for the existence of a sufficiently large, compact, and politically cohesive Black Voting-Age Population whose preferred candidates are usually defeated by a politically cohesive White majority.[64]

Plaintiffs have alleged precisely the sort of generalized, conjectural injury which the Supreme Court warned against in *Lujan*. The Court's analysis can and should end here.

2. Plaintiffs Have Failed to Allege a Redressable Harm.

To have Article III standing, not only must a plaintiff allege that they have suffered an injury-in-fact that is traceable to the defendant, but "it must be 'likely,' as opposed to merely 'speculative,' that the injury will be 'redressed by a favorable decision.'"[65] Here, Plaintiffs' Section 2 claim turns on the allegation that their votes have been diluted.

[63] *Growe v. Emison*, 507 U.S. 25, 40 (1993).
[64] *Infra*, Part II.A.2.
[65] *Lujan*, 504 U.S. at 561.

As stated before, to establish a claim for vote dilution under Section 2, Plaintiffs must satisfy the *Gingles* factors.[66] Where the Plaintiff has not established all three *Gingles* factors, they have not established the existence of a harm that is redressable by the Court.[67] In particular, if the Plaintiffs have not established the existence of a sufficiently large and geographically compact minority group with political cohesion, the Plaintiffs have not established that an order from this Court could result in the creation of a Black-majority district.[68]

a. *Plaintiffs Have Not Established the Existence of a Sufficiently Numerous and Compact Minority Group.*

To satisfy the first *Gingles* factor, Plaintiffs must establish that Black voters as a group are "sufficiently large and geographically compact to constitute a majority in some reasonably configured legislative district."[69] The inquiry is not based solely on whether there is a majority of Black voters in the entirety of East Baton Rouge Parish, but whether there is a large group of Black voters that reside close enough together to create an additional Black-majority District without violating other legal considerations. Therefore, this first factor has two elements within itself: numerosity and compactness.

i. Plaintiffs Fail to Establish Sufficient Numerosity.

"[A] party asserting § 2 liability must show . . . that the minority population in the potential election district is greater than 50 percent."[70] Plaintiffs vaguely allege that "[b]lack voters make up almost 50 percent of Baton Rouge."[71] They do not specify whether this number is for the City of Baton Rouge, the entire Parish of Baton Rouge, or a hypothetical, additional majority-minority

[66] *Thornburg v. Gingles*, 478 U.S. 30 (1986).
[67] *Growe v. Emison*, 507 U.S. 25, 40-41 (1993) ("Unless [the *Gingles* factors] are established, there neither has been a wrong nor can be a remedy.").
[68] *See Id.* at 40.
[69] *Cooper v. Harris*, 581 U.S. 285, 302 (2017) (internal quotation marks omitted).
[70] *Bartlett v. Strickland*, 556 U.S. 1, 19–20 (2009).
[71] R. Doc. No. 1, ¶ 56.

district for which they advocate. Even if they did, such a generalized allegation does not establish that any hypothetical district would have a Black population greater than 50 percent. Accordingly, the facts alleged in the Complaint do not support the allegation that a sixth Black-majority District could be lawfully created.

ii. Plaintiffs Fail to Establish Compactness.

Typically, satisfying the *Gingles´* compactness inquiry requires the submission of hypothetical redistricting schemes in the form of illustrative plans.[72] "Under the compactness inquiry, the Court should examine whether an illustrative plan abides traditional districting principles such as respecting communities of interest, including reasonably shaped districts, ensuring districts are contiguous, and avoiding pairing incumbents."[73] In this context, visual assessments are appropriate when assessing compactness. "Bizarre shaping of a district that, for example, cuts across pre-existing precinct lines and other natural or traditional divisions, suggests a level of racial manipulation that exceeds what § 2 would justify."[74] However, the evaluation of compactness is not a "beauty contest" between the districts.[75]

In the Complaint, Plaintiffs allege that Plan 7A and "multiple maps proposed to the Metro Council" support their assertion that a sixth Black-majority district which comports with traditional redistricting principles can be created.[76] Plaintiffs contend that District 1 could be redrawn according to Plan 7A to change District 1 into a majority-Black district.[77] However, upon a plain viewing of Plan 7A, the proposed District 1 obviously violates traditional districting principles by separating communities of interest. Plan 7A would have District 1 annex the northern

[72] *Gonzalez v. Harris Cnty.*, 601 Fed. App'x. 255, 258 (5th Cir. 2015) (per curiam); *Fairley v. Hattiesburg*, 584 F.3d 660, 669 (5th Cir. 2009) (citing *Magnolia Bar Ass'n., Inc. v. Lee*, 994 F.2d 1143, 1151 n.6 (5th Cir. 1993).
[73] *Nairne v. Ardoin*, 2024 WL 492688 at *12 (M.D. La. 2024).
[74] *Nairne v. Ardoin*, 2024 WL 492688 at *2 (M.D. La. 2024) (citation omitted).
[75] *See Bush v. Vera*, 517 U.S. 952, 978 (1996).
[76] R. Doc. No. 1, ¶¶ 58-65.
[77] R. Doc. No. 1, ¶ 60.

half of the town of Baker, dividing the town between Districts 1 and 2, and cede Precincts 3-37, 2-8, 2-7, 2-33, 1-23, and 1-22 to District 2, pairing the citizens of Cheneyville, with those that live in the Mid City North neighborhood of Baton Rouge.[78]

Plan 7A divides these communities solely to achieve the goal of creating a sixth majority-Black district. Hefner warned the Council when he proposed Plan 7 that redistricting with the sole objective of creating majority-minority districts has been repeatedly struck down by the Supreme Court.[79] Further, Hefner stated that neither District 1 nor District 2 in Plan 7 were geographically compact.[80] Although Plan 7 is merely the parent-plan to Plan 7A, and not the one put forward by Plaintiffs, Plan 7A is still contaminated by the taint of race-based redistricting. In fact, the only modification made between Plan 7 and Plan 7A was the inclusion of Precinct 2-11 in District 2.[81]

Any argument that the racially gerrymandered District 1 proposed by Plan 7A is "compact" or that it "comports with traditional redistricting principles and is narrowly tailored to comply with the Voting Rights Act" is plainly incorrect. Were the Metro Council required to adopt Plan 7A as the Plaintiffs propose, this Court would be requiring the Metro Council to violate the Equal Protection Clause of the Fourteenth Amendment.[82]

Plaintiffs also allege that "[s]ize and compactness are evidenced by, among other things, the multiple maps proposed to the Metro Council during its consideration of the 2025 map that contain six majority black districts."[83] However, of the seventeen (17) maps proposed to the Metro Council, only three (3) propose plans which contain a sixth Black-majority district—Plans 7, 7A, and 5B.

[78] *See* R. Doc. No. 1, ¶ 58.
[79] *See* Exhibit E.
[80] *See Id.*
[81] *Compare* Plan 7, attached hereto as **Exhibit G** *with* R. Doc. No. 1, ¶¶ 58-59.
[82] *See Robinson v. Ardoin*, 86 F. 4th 574, 594–95 (5th Cir. 2023) ("Racial gerrymandering is prohibited by the Equal Protection Clause of the Fourteenth Amendment.") (citation omitted).
[83] R. Doc. No. 1, ¶ 58.

As discussed *supra*¸ Plans 7 and 7A were drawn with the sole objective of creating a Black-majority district. Plan 5B is no different. When introducing Plan 5, Hefner explicitly stated that the Metro Council "did some aggressive modeling to see what could be done to add another majority-minority district to the Council demographics. The results were seen in Plan 5."[84] "To even get slightly above a 50% Black total population required considerable changes in the district boundaries in that area as compared to the current boundaries," Hefner continued.[85] The awkward shapes of the boundaries in this proposed Plan 5 concerned Hefner to such a degree that he created Plan 6, another plan which does not contain a sixth Black-majority district.[86] Just like Plans 7 and 7A, Plan 5B varies only slightly from Plan 5.

Plaintiffs have recited the element required to be proved by alleging that the Black voting-age population is "sufficiently large and geographically compact to constitute a majority in some reasonably configured legislative district," but as support, Plaintiffs have only offered facts which show that the creation of a sixth-Black majority district would require the Metro Council to violate Section 2 of the VRA and the Equal Protection Clause by making race the "predominant factor motivating the [Metro Council's] decision to place a significant number of voters within or without a particular district."[87]

Once again, Plaintiffs have allowed their thirst for proportionality to cause them to disregard all other legal requirements. Accordingly, Plaintiffs have failed to establish the existence of a sufficiently large minority group that is geographically compact enough to constitute a majority in a legally acceptable district. Even if the Court were to issue a decision favorable to the Plaintiffs,

[84] Exhibit D.
[85] *Id.*
[86] *See Id.*
[87] *See Miller v. Johnson*, 515 U.S. 900, 916 (1995).

based upon the allegations in the Complaint, one can only speculate that a legally valid sixth Black-majority District could be created.[88]

Plaintiffs have failed the first *Gingles* factor. The Court's analysis can, and should, end here.

b. Plaintiffs Have Failed to Establish the Existence of a Politically Cohesive Black Voting-Age Population Whose Preferred Candidates are Usually Defeated by a Politically Cohesive White Majority.

"The second and third *Gingles* preconditions pose the same question, but for different demographic groups: Is there significant racial bloc voting (or racially polarized voting)?[89] To satisfy these preconditions, the Plaintiffs must prove that "a significant number of minority group members usually vote for the same candidates" and that "the White majority votes sufficiently as a bloc to enable it—in the absence of special circumstances, such as the minority candidate running unopposed . . .—usually to defeat the minority's preferred candidate."[90] This "usual predictability of the majority's success" is what "distinguishes structural dilution from the mere loss of an occasional election."[91]

In a misguided effort to demonstrate the political cohesion of Black voters, Plaintiffs allege that, since 2009, the five districts with a Black majority under the 2020 census data have elected black candidates.[92] However, the Supreme Court has made clear that "it is the *status* of the candidate as the *chosen representative of a particular racial group*, not the race of the candidate, that is important."[93] Therefore, this allegation provides no support to the conclusion that the Black population usually votes cohesively to support any particular candidate.

[88] *See Lujan*, 504 U.S. at 560-61 (1992).
[89] *Fusilier v. Landry*, 963 F.3d 447, 458 (5th Cir. 2020) (citation omitted).
[90] *Gingles*, 478 U.S. at 50–51.
[91] *Gingles*, 478 U.S. at 51.
[92] R. Doc. No. 1, ¶¶ 67–68.
[93] *Gingles*, 478 U.S. at 68

The Plaintiffs then offer statistics with no citation to any source which proports to show a precinct-by-precinct correlation between the racial demographics of each precinct and the percentage of the population which voted for Donald Trump and Joe Biden in the 2020 presidential election.[94] The Metro Council maintains that statistics from the 2020 U.S. Presidential Election is an inappropriate metric to measure the political cohesion of demographic groups for the purpose of local redistricting efforts.[95]

However, these uncited charts are not necessarily specific to the precincts in East Baton Rouge Parish, as they contain no information linking them to such. Further, the chart in Paragraph 71 of the Complaint has conflicting data: The chart states that it predicts the vote share for Kamala Harris in the 2020 election by correlating the percent of Black registered voters with the "Percent of Precinct Who Vote for Kamala Harris (Nov. 3, 2024)".[96] Either this chart is predicting the result of the 2024 election (which does not prove political cohesion) or it is analyzing data for a candidate which was not even on the ballot for the 2020 election (which does not prove political cohesion).

Even if these unreliable and inconsistent charts were germane, a correlation between the percentage of the population that is Black/White and the percentage of the population that supports a particular candidate does not mean that the population identifying as each demographic votes cohesively. If someone were to say that 50% of the population in East Baton Rouge Parish were female, and that 50% of the population in East Baton Rouge Parish were brunettes, it would be preposterous to conclude that all women in East Baton Rouge Parish were brunettes. Yet, the Plaintiffs use this same logic to support their allegations.

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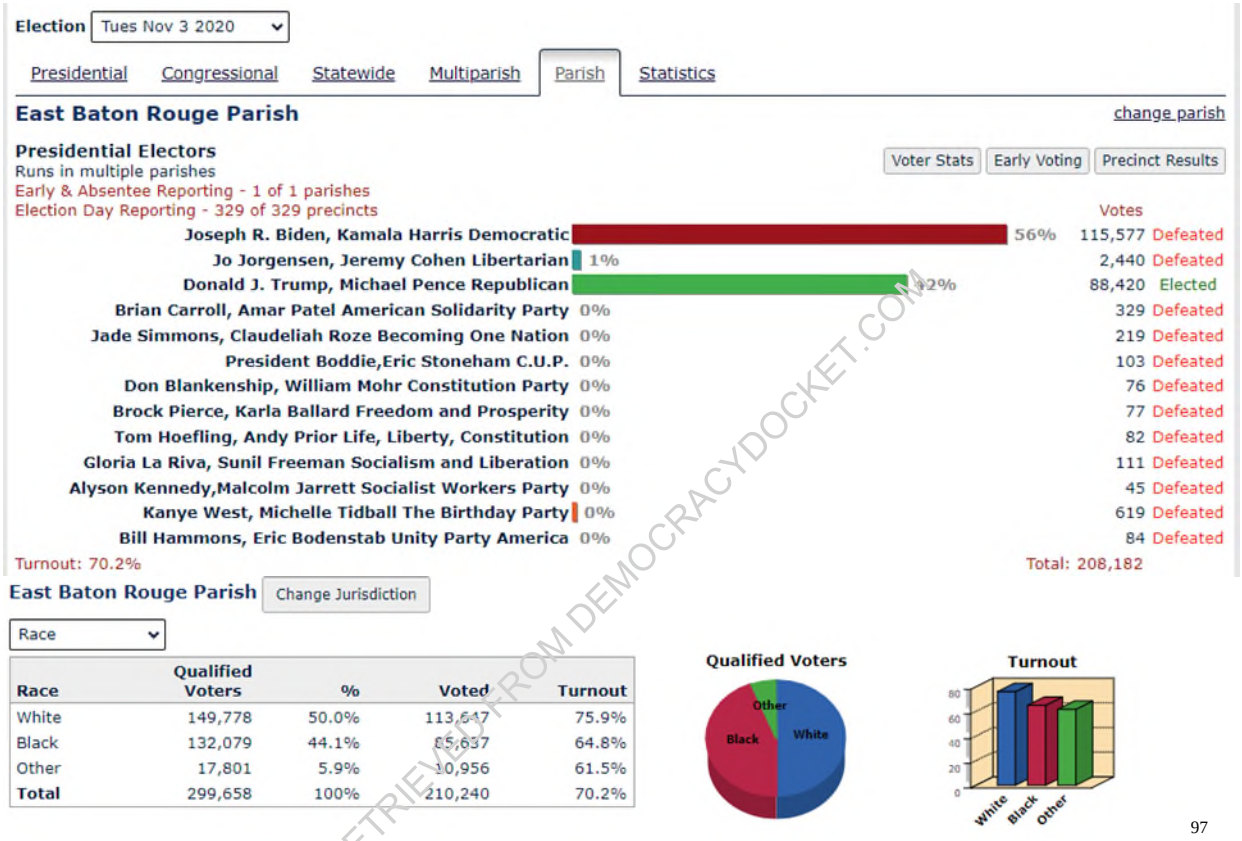
[94] R. Doc. No. 1, ¶ 70–71.
[95] *See, e.g. Magnolia Bar Ass'n, Inc. v. Lee*, F.2d 1143, 1149 (5th Cir. 1993) ("[E]lections involving the particular office at issue will be more relevant than elections involving other offices.").
[96] R. Doc. No. 1, ¶ 71.

Simply put, the statistics presented by Plaintiffs for their assertion that Black voters are politically cohesive lack reliability, and even if they were reliable, do not support their assertions. For instance, the following information is pulled directly from the official voting results of the November 3, 2020 U.S. Presidential Election maintained by the Louisiana Secretary of State:



Race	Qualified Voters	%	Voted	Turnout
White	149,778	50.0%	113,647	75.9%
Black	132,079	44.1%	85,637	64.8%
Other	17,801	5.9%	10,956	61.5%
Total	299,658	100%	210,240	70.2%

The above information shows that President Biden received 115,577 votes in the November 2020 election (56% of the votes in East Baton Rouge Parish). This is almost perfectly correlated with the 113,647 voters that were White. Using the same logic and assumptions as the Plaintiffs, the same data could be used to support the exact opposite of Plaintiffs' allegations.

Plaintiffs then employ similar faulty logic to skewed statistics to assert that White voters cohesively oppose Black voter's preferred candidates. The Complaint pairs plain demographic

[97] Louisiana Secretary of State, Official Election Results for November 3, 2020 Election (https://voterportal.sos.la.gov/graphical).

statistics with cherrypicked 2020 election results as chimeric examples of "White voters vot[ing] as a bloc to usually defeat Black voters' preferred candidates."[98] Specifically, it points to the December 5, 2020 electoral victories of Brandon Noel as District 1 councilmember and Aaron Moak as District 4 councilmember, and the November 3, 2020 electoral victories of Denise Amoroso as District 8 councilmember and Garret Graves as U.S. Representative for Louisiana's 6th Congressional District.[99] In each instance, Plaintiffs arbitrarily identify candidates as White-preferred or Black-preferred, provide the percentage of the votes won by candidates, compare it to the percentage of the population that is White or Black, and attempt to pass off this tenuous correlation as competent evidence of racially polarized voting.[100]

For example, the Complaint alleges that Brandon Noel won 54% of the votes cast and Eric Lewis won 46% of the votes cast in the December 5, 2020 District 1 runoff election. Plaintiffs point to these numbers as "mirroring the district's composition: 51.57% White, 41.99% Black, 6.43% other,"[101] which leads Plaintiffs to conclude that "White voters vote as a bloc to usually defeat Black voters' preferred candidates."[102]

The Metro Council maintains that such loose correlations are tenous, at best, and have nothing to do with which persons support which candidates. Even still, the logic employed to reach such a conclusion is faulty. By the same reasoning, the facts presented by Plaintiffs make it equally, if not more, plausible that female-voters (who make up 54.2% of registered voters in District 1) voted as a bloc to defeat Eric Lewis. Thus, despite allegations that the second and third *Gingles* factors

[98] R. Doc. No. 1, ¶¶ 72–82.
[99] R. Doc. No. 1, ¶¶ 73–81.
[100] *See e.g.*, R. Doc. No. 1, ¶¶ 75–76 ("In December 5, 2020, in Metro Council District 4, the white voters' preferred candidate, Aaron Moak, defeated Black voters' preferred candidate Temika James. Moak won 70% to 30%, mirroring the district's composition: 60.15% white, 25.38% Black, 14.47% other.")
[101] R. Doc. No. 1, ¶ 74.
[102] R. Doc. No. 1, ¶ 72.

are satisfied, the facts asserted by Plaintiffs fail to establish that the Ordinance "thwarts a distinctive minority vote by submerging it in a larger White voting population."[103]

Plaintiffs have alleged that they have satisfied the three *Gingles* factors but rely on unrelated and misconstrued statistics to do so. As such, the Plaintiffs' failed to establish in the Complaint that a sixth Black-majority District could be drawn without violating traditional redistricting principles or the constitutional rights of others;[104] that Black voters usually vote for the same candidates;[105] and that White voters are politically cohesive enough to usually defeat Black voters' preferred candidates.[106] Plaintiffs have not established any of the *Gingles* factors. Accordingly, Plaintiffs have failed to establish the existence of an injury-in-fact capable of being redressed by a favorable decision of this Court.[107] Thus, Plaintiffs do not have standing under Article III, and this Court is without jurisdiction to hear this case.

B. PLAINTIFFS HAVE NOT PLED FACTS SUFFICIENT TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED.

When addressing a 12(b)(6) motion, the district court must accept all well-pleaded facts as true and view those facts in the light most favorable to the plaintiff; however, a complaint is deficient when it merely "tenders 'naked assertion[s]' devoid of 'further factual enhancement.'"[108] Plaintiffs must plead enough facts, if taken as true, to state a claim that is plausible on its face.[109] While a "formulaic recitation of the elements of a cause of action" will not meet this pleading standard, plausibility does not require a showing of probability.[110] Rather, "[a] claim has facial plausibility

[103] *Growe v. Emison*, 507 U.S. 25, 40 (1993) (citing *Gingles*, 478 U.S. at 50-51).
[104] *See supra*, Part II.2.a.
[105] *See supra*, Part II.2.b.
[106] *Id.*
[107] *See Growe v. Emison*, 507 U.S. 25, 40-41 (1993) ("Unless [the *Gingles* factors] are established, there neither has been a wrong nor can be a remedy.").
[108] *Johnson v. Ardoin*¸2019 WL 2329319, at *4 (M.D. La. 2019) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)).
[109] *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556 (2007).
[110] *Id.* at 555–56.

when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged."[111]

Here, the Complaint fails to allege facts sufficient to state plausible claims under Section 2 of the VRA or the Fourteenth and Fifteenth Amendments.

1. Plaintiffs' Section 2 Claim Should be Dismissed for Failure to State a Claim.

As extensively discussed above, Plaintiffs' allegations do not satisfy the three *Gingles* factors, each of which "must be proved on a district-by-district basis for each *Gingles* claim."[112] Plaintiffs' broad allegations of only general facts pertaining to the entirety of East Baton Rouge Parish do not satisfy this standard.[113]

In sum, the first *Gingles* factor requires that the minority group "demonstrate that it is sufficiently large and geographically compact to constitute a majority in a single-member district."[114] At the pleading stage, Plaintiffs are only required to plead facts which make it plausible that it can create a geographically compact district in which the minority group constitutes a majority of the voting-age population.[115] However, Plaintiffs have not only failed to show plausibility of satisfying this precondition, but have proactively shown that the creation of a sixth majority-Black is likely impossible without violating traditional redistricting principles and the Equal Protection Clause of the Fourteenth Amendment.[116]

The second *Gingles* factor requires that the minority group "show that it is politically cohesive."[117] As discussed *supra*, as support for its threadbare allegation that this element is met,

[111] *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).
[112] *League of United Latin American Citizens v. Abbott*, 2022 WL 12097120, at *3 (W.D. Tex. 10/20/2022) (citing *Wis. Legis. v. Wis. Elec. Comm'n*, 595 U.S. 398, 404 (2022)).
[113] *See supra*, Part. II.A.2.
[114] *Gingles*, 478 U.S. at 50.
[115] *League of United Latin American Citizens v. Abbott*, 2022 WL 12097120, at *4 (W.D. Tex. 10/20/2022) (citing *Valdespino v. Alamo Heights Indep. School Dist.*, 168 F.3d 848, 852-53 (5th Cir. 1999)).
[116] *See supra*, Part. II.A.2.a.
[117] *Gingles*¸478 U.S. at 51.

Plaintiffs have identified a trend in Black-majority districts electing Black councilmembers and White-majority districts electing White councilmembers.[118] However, as the Supreme Court has stated, "it is the *status* of the candidate as the *chosen representative of a particular racial group*, not the race of the candidate, that is important."[119] These factual allegations provide no support for the notion that the Black population usually votes cohesively to support any particular candidate.

Plaintiffs further provide charts allegedly showing a correlation between the percentage of a precinct's registered voters who are White or Black and the percentage of persons who voted for Donald Trump and Mike Pence or Joe Biden and Kamala Harris.[120] However, these uncited and predominantly unlabeled charts provide conflicting information irrelevant to the issues at hand. Even if these unreliable and inconsistent charts are taken as true, a *prediction* of future votes or the *prediction* of votes for a candidate who dropped out of the 2020 presidential race does not make it any more plausible that Black voters typically vote cohesively to support a single candidate.

The third *Gingles* factor requires Plaintiffs to show that "the White majority votes sufficiently as a bloc to enable it . . . usually to defeat the minority's preferred candidate."[121] Once again, Plaintiffs arbitrarily identify candidates as White-preferred or Black-preferred, provide the percentage of the votes won by candidates, compare it to the percentage of the population that is White or Black, and attempt to pass off this tenuous correlation as competent evidence of racially polarized voting.[122] Not only do Plaintiffs fail to provide any actual support for the allegation that any race of voter preferred either candidate, but the logic employed to reach their conclusion is

[118] *See supra* Part II.A.2.b; *see* also, R. Doc. No. 1, ¶ 68.
[119] *Gingles*, 478 U.S. at 68
[120] R. Doc. No. 1, ¶¶ 70–71.
[121] *Gingles*, 478 U.S. at 51.
[122] *See e.g.*, R. Doc. No. 1, ¶¶ 75–76 ("In December 5, 2020, in Metro Council District 4, the white voters' preferred candidate, Aaron Moak, defeated Black voters' preferred candidate Temika James. Moak won 70% to 30%, mirroring the district's composition: 60.15% white, 25.38% Black, 14.47% other.")

faulty. As mentioned above, by the same reasoning, the facts presented by Plaintiffs make it equally, if not more, plausible that female-voters (who make up 54.2% of registered voters in District 1) voted as a bloc to defeat Eric Lewis.[123]

2. Plaintiffs' Constitutional Claims Should be Dismissed for Failure to State a Claim.

As mentioned above, the Fourteenth and Fifteenth Amendments to the U.S. Constitution require "racial neutrality in governmental decisionmaking."[124] This requirement is made more complex when voting rights are involved because while the Constitution generally prohibits the consideration of race, the VRA often requires it.[125] Despite the factual complexities, the pleading standard remains quite simple. To establish a violation of either of these constitutional claims, Plaintiffs are required to show that the Ordinance was passed with a discriminatory purpose ***and*** a discriminatory effect.[126] The Complaint does not contain any allegation that the Metro Council had any discriminatory intent when it enacted the Ordinance. As such, Plaintiffs have not alleged facts sufficient to state a claim under the Fourteenth and Fifteenth Amendments to the United States Constitution.

III. CONCLUSION

In conclusion, disregarding bare recitation of the elements of the claims asserted and taking all other factual allegations as true, Plaintiffs have failed to allege facts which support a plausible claim for relief under Section 2 or which establish the existence of an actual, concrete, and particularized injury redressable by a favorable decision of this Court. Plaintiffs have not alleged facts which support an inference that a large and politically cohesive minority group who usually

[123] *See supra* Part II.A.2.b.
[124] *Miller v. Johnson*, 515 U.S. 900, 904 (1995).
[125] *Miller v. Johnson*, 515 U.S. 900, 915–16 (1995); *See also, Abbott v. Perez*, 585 U.S. 579 (2018).
[126] *See, e.g.*, *Chisom v. Roemer*, 501 U.S. 380, 403–04 (1991) (explaining that *Mobile v. Bolden*, 446 U.S. 55, 100 (1980), put on plaintiffs the "burden of proving discriminatory intent" in Fifteenth Amendment cases); *See also Reno v. Bossier Parish Sch. Bd.*, 520 U.S. 471, 481 (1997); *Village of Arlington Heights v. Metropolitan Hous. Dev. Corp.*, 429 U.S. 252, 265 (1977); *Washington v. Davis*, 426 U.S. 229, 241–42 (1976).

has its preferred candidates defeated by the White majority exists in a geographically compact are sufficient to create an additional majority-minority district which comports with traditional redistricting principles. Instead, Plaintiffs rely on inconsistent, unsupported facts and faulty logic to shoehorn a majority-minority district for the singular goal of proportional representation—a goal which is explicitly prohibited under Section 2 of the VRA.[127] Accordingly, Plaintiffs Section 2 claim must be dismissed.

Further, Plaintiffs did not allege any discriminatory intent on the part of the Metro Council in enacting the Ordinance, so accordingly, their constitutional claims must be dismissed as well.

Respectfully submitted,

PHELPS DUNBAR LLP

BY: */s/ Christopher J. Vidrine*

Walt Green (La. Bar Roll No. 27812)
Christopher J. Vidrine (La. Bar Roll No. 40538)
II City Plaza | 400 Convention Street, Suite 1100
Baton Rouge, Louisiana 70802
Telephone: 225 376 0292
Facsimile: 225 381 9197
Email: walt.green@phelps.com
Email: chris.vidrine@phelps.com

ATTORNEYS FOR DEFENDANT, CITY OF BATON ROUGE, PARISH OF EAST BATON ROUGE, THROUGH THE BATON ROUGE METROPOLITAN COUNCIL

[127] *Allen v. Milligan*, 599 U.S. 1, 26 (2023); 52 U.S.C. 10301(b).

CERTIFICATE OF SERVICE

I hereby certify on October 11, 2024, the foregoing *East Baton Rouge Parish/City Of Baton Rouge's Memorandum in Support Of Motion To Dismiss Pursuant To Rule 12* was electronically filed with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to all counsel of record.

/s/ Christopher J. Vidrine.
Christopher J. Vidrine