

1 MICHAEL A. COLUMBO (SBN: 271283)
mcolumbo@dhillonlaw.com

2 SHAWN COWLES (SBN: 163826)
3 scowles@dhillonlaw.com

4 MARK P. MEUSER (SBN: 231335)
mmeuser@dhillonlaw.com

5 DOMENIC P. AULISI (Admitted PHV)
6 daulisi@dhillonlaw.com

7 AMBER R. HULSE (Admitted PHV)
ahulse@dhillonlaw.com

8 **DHILLON LAW GROUP INC.**
4675 MacArthur Court, Suite 1410
9 Newport Beach, CA 92660
10 Telephone: (415) 433-1700
11 Fax: (415) 520-6593

12 *Attorneys for Plaintiffs*

13
14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**

16 **DAVID TANGIPA; et al.,**
17 Plaintiffs,
18
19 vs.
20 **GAVIN NEWSOM, in his official**
capacity as the Governor of California; *et*
21 *al.*;
22 Defendants.
23

CASE NO. 2:25-cv-10616-JLS-WLH-
KKL

**PLAINTIFFS’
CONSOLIDATED REPLY IN
SUPPORT OF MOTION FOR
PRELIMINARY
INJUNCTION (ECF 15)**

Hon. Josephine L. Staton
Hon. Kenneth K. Lee
Hon. Wesley L. Hsu

Action Filed: November 5, 2025
Hearing: December 3, 2025

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF AUTHORITIESii

I. A Preliminary Injunction Should be Granted Because there are Serious
Questions Going to the Merits..... 1

A. Race Predominated in the Drawing of Proposition 50 Maps 1

B. Proposition 50’s Maps of the Challenged Districts Subordinated
Traditional Redistricting Criteria and Partisan Goals to Race.2

C. Mitchell’s Statements as Direct Evidence of Racial Targets5

D. Mitchell is the Most Relevant State Actor6

E. District 13 is a Clear Example of Racial Gerrymandering.....9

F. The Defendants Criticisms of Trende’s Work are Unavailing..... 10

G. Additional Evidence for All Challenged Districts Is Not Required..... 13

II. The Maps Authorized Through Proposition 50 Fail Strict Scrutiny 15

III. Plaintiffs’ Injuries Are Redressable 15

IV. Public Interest and Balance of Equities..... 16

CONCLUSION..... 17



TABLE OF AUTHORITIES

Cases

Abbot v. LULAC,
2025 WL 3215715 (W.D. Tex. Nov. 18, 2025)..... 11

Alabama Legis. Black Caucus v. Alabama,
575 U.S. 254 (2015)..... 1, 2, 5, 9, 15

Alexander v. S. Carolina State Conf. of the NAACP,
602 U.S. 1 (2024)..... 1, 2, 7, 13, 14

Allen v. Milligan,
599 U.S. 1 (2023)..... 5

Am. Bev. Ass’n v. City & Cnty. of San Francisco,
916 F.3d 749 (9th Cir. 2019) 16

Arizona Dream Act Coal. v. Brewer,
757 F.3d 1053 (9th Cir. 2014) 16

Bethune-Hill v. Virginia State Bd. of Elections,
580 U.S. 178 (2017)..... 2, 5, 11, 15

Cooper v. Harris,
581 U.S. 285 (2017)..... 1, 2, 5, 8, 9, 10, 13, 15

Crawford v. Bd. of Educ. of City of L.A.,
458 U.S. 527 (1982)..... 7

Easley v. Cromartie,
532 U.S. 234 (2001)..... 2, 13

Flathead-Lolo-Bitterroot Citizen Task Force v. Montana,
98 F.4th 1180 (9th Cir. 2024) 1

Interstate Circuit v. United States,
306 U.S. 208 (1939)..... 14

League of United Latin Am. Citizens v. Abbott,
601 F. Supp. 3d 147 (W.D. Tex. 2022)..... 14, 16



1 *Lee v. City of Los Angeles*,
2 908 F.3d 1175 (9th Cir. 2018) 8
3 *Merrill v. Milligan*,
4 142 S. Ct. 879 (2022)..... 17
5 *Miller v. Johnson*,
6 515 U.S. 900 (1995)..... 1, 10
7 *Moore v. Harper*,
8 600 U.S. 1 (2023)..... 16
9 *Purcell v. Gonzalez*,
10 549 U.S. 1 (2006)..... 17
11 *Robert L. v. Superior Ct.*,
12 30 Cal. 4th 894 (2003) 7
13 *Shaw v. Hunt*,
14 517 U.S. 899 (1996)..... 1, 10
15 *Shorter v. Los Angeles Unified Sch. Dist.*,
16 No. CV 13–3198 ABC AJW, 2013 WL 6331204 (C.D. Cal. Dec. 4, 2013)..... 15
17
18
19
20
21
22
23
24
25
26
27
28

RETRIEVED FROM DEMOCRACYDOCKET.COM



1 **I. A Preliminary Injunction Should be Granted Because there are Serious**
2 **Questions Going to the Merits**

3 As Government Defendants note, the Ninth Circuit employs a modified Winters
4 test, in which the first element is whether there are “serious questions going to the
5 merits,” that is, a “fair chance of success,” which is a lesser burden than ‘likelihood of
6 success.’ (Gov. Opp. 12, n.7 (citing Flathead-Lolo-Bitterroot Citizen Task Force v.
7 Montana, 98 F.4th 1180, 1190 (9th Cir. 2024)). As noted in the Plaintiffs Motion for
8 Preliminary Injunction, the 2024). The merits of this case turn upon a two-part test: (A)
9 did consideration of race predominate in the drawing of congressional districts; and (B)
10 if so, the burden shifts to the State to satisfy strict scrutiny, that is, showing that the use
11 of race was narrowly tailored to serve a compelling state interest. (See Mot. 9.)

12 **A. Race Predominated in the Drawing of Proposition 50 Maps**

13 A plaintiff proves racial predominance by showing that race, rather than traditional
14 redistricting principles or other legitimate objectives, was the legislature’s “dominant and
15 controlling rationale” in drawing district lines. *Miller v. Johnson*, 515 U.S. 900, 913
16 (1995); accord *Shaw v. Hunt*, 517 U.S. 899, 905 (1996). Plaintiffs need not show that
17 the legislature formally adopted racial criteria: The question is whether racial
18 considerations “had a direct and significant impact” on the drawing of district lines.
19 *Alabama Legis. Black Caucus v. Alabama*, 575 U.S. 254, 274 (2015). While there is a
20 presumption the legislature acted in good faith, *Alexander v. S. Carolina State Conf. of*
21 *the NAACP*, 602 U.S. 1, 6 (2024), that presumption can be rebutted.

22 Courts look to “direct evidence of legislative intent, circumstantial evidence of a
23 district’s shape and demographics, or a mix of both.” *Cooper v. Harris*, 581 U.S. 285,
24 291 (2017) (citing *Miller*, 515 U.S. at 916) (cleaned up). Even so, “the law responds to
25 proper evidence and valid inferences in ever-changing circumstances, as it learns more
26 about ways in which its commands are circumvented. So there may be cases where
27 challengers will be able to establish racial predominance in the absence of an actual
28 conflict by presenting direct evidence of the legislative purpose and intent or other

1 compelling circumstantial evidence.” *Bethune-Hill v. Virginia State Bd. of Elections*, 580
2 U.S. 178, 191 (2017) . While plaintiffs asserting a claim of unlawful racial
3 gerrymandering *can* prevail by relying on “evidence of foregone alternatives” to the
4 districts at issue, such evidence is unnecessary if a plaintiff can show “direct evidence of
5 the [legislature’s] intent in creating the [challenged districts].” *Cooper*. at 321–22
6 (distinguishing *Easley v. Cromartie*, 532 U.S. 234 (2001), based on direct evidence of
7 the legislature’s intent).

8 Where direct evidence of racial predominance exists, such evidence can, by itself,
9 suffice to overcome a state’s assertion that racial separation is a mere byproduct, as
10 opposed to the central objective, of a redistricting scheme producing partisan outcomes.
11 *Id.* at 322 (upholding a district court’s conclusion that direct evidence of a legislature’s
12 intent in drawing district lines “itself satisfied the plaintiffs’ burden of debunking [the
13 state’s] ‘it was really politics’ defense”). “Direct evidence often comes in the form of a
14 relevant state actor’s express acknowledgment that race played a role in the drawing of
15 district lines.” *Alexander v. S. Carolina State Conf. of the NAACP*, 602 U.S. 1, 8 (2024).

16 While the analysis focuses on particular districts, “[t]he Court has recognized that
17 ‘[v]oters, of course, can present statewide evidence in order to prove racial
18 gerrymandering in a particular district.’” *Bethune-Hill v. Virginia State Bd. of Elections*,
19 580 U.S. 178, 192 (2017) (quoting *Alabama, supra*, at 263).

20 **B. Proposition 50’s Maps of the Challenged Districts Subordinated**
21 **Traditional Redistricting Criteria and Partisan Goals to Race.**

22 The existing record already establishes that race predominated in the drawing of
23 at least 14, but potentially 16, key districts authorized by Proposition 50. Although the
24 California constitution at the time limited redistricting authority to an independent
25 Citizens Redistricting Commission to redistrict once per decade after the decennial
26 census, in July 2025 (*see* Mot. 5), political operatives in California launched an effort to
27 complete a mid-decade redistricting in advance of the 2026 election. (*See id.* (describing
28 how, in July 2025, several California congressional Democrats devised a plan to have the

1 Legislature draw a new set of congressional maps for use beginning with the 2026
2 election)); Declaration of Michael A. Columbo (“Columbo Decl.”) Ex. 3.) This would
3 require amending the state constitution and calling for a special election for voters to
4 approve both the amendment and the new maps. (*See id.*) The sole reason for this effort
5 was to compensate for redistricting proposals in other states. (Mot. 12; DCCC Opp. 1;
6 Columbo Decl. Ex. 7; ECF 28-2 (“Hammil Decl.”)), Ex. C at 40–41.)

7 In addition to California’s redistricting compensating for the expected loss of
8 Democratic seats in Congress due to partisan gerrymandering, the statements of
9 Democratic party operatives commissioning the new maps and legislators expressly
10 identified compensating for the anticipated loss of voting power of people of color in
11 other states as an additional purpose of California’s redistricting. (Mot. 5–6; Columbo
12 Decl. Ex. 7.)

13 During the California Assembly’s floor session on August 21, 2025, the day on
14 which the legislative package underlying the Proposition 50 maps was passed,
15 Assemblymember Mark Gonzalez expressly characterized Proposition 50 as a remedy
16 for the anticipated disenfranchisement of Latinos through Republican-led redistricting in
17 other states:

18 **If Florida wants to silence voters of color, we will not sit quietly.**
19 **Because when democracy is attacked, silence is surrender. And California**
20 **has never been and will never be a state that surrenders. California will**
21 **fight back. Because this is not just about the maps. This is about**
22 **dignity. This is about whether a Latino child in Texas, a black family**
23 **in Florida, or an immigrant community in California has a voice in**
their own democracy members. ... It’s not just a bill, it’s [sic] shield. A
shield against racist maps ...

24 (Hammil Decl. Ex. C at 40–41 (emphases added)). There is no plausible interpretation
25 of Asm. Gonzalez’s statements other than as a statement that the Prop 50 maps were
26 designed to “fight back” against perceived efforts in other states to “silence voters of
27 color,” including Latinos, to ensure – through California’s new congressional maps --
28

1 they had “a voice in their own democracy.” Additional statements were made in public
2 press releases and public forums by legislative leaders proudly touting that Proposition
3 50 was designed to “expand[] Voting Rights Act districts” to “empower Latino voters to
4 elect their candidates of choice.” (ECF 16-3 (“Meuser Decl.”) Ex. 8 (Senator Mike
5 McGuire Press Release) at 2.).

6 The DCCC provided its map, drawn by Paul Mitchell, to the Legislature on August
7 15, 2025. (Columbo Decl. Ex. 3 at vi.) As confirmed by Paul Mitchell during his
8 deposition today, the Legislature adopted this map with negligible changes or discussion
9 on August 21, 2025, just four days after returning from recess. (Mot. 5; Compl. ¶ 38.)
10 Mitchell’s map used the Commission’s 2021 map as a starting point. (Meuser Decl. Ex.
11 2 at 25.)

12 The Commission’s 2021 map contained 14 districts that the Commission identified
13 as protected under the VRA. (Columbo Decl. Ex. 4 at 216.) There were a further two
14 districts that had a Hispanic majority but which were not VRA districts. (*See generally*
15 *id.*) Defendants have acknowledged, and Paul Mitchell supported by way of his
16 deposition today, that no state official has any evidence that the 2021 map had to be
17 changed to comply with the VRA and Mitchell acknowledge that the prior map complied
18 with the VRA. (Columbo Decl. Exs. 1, 2; Meuser Decl. Ex. 2 at 3.)

19 Despite Defendants claiming a predominantly partisan motive, Prop 50’s maps, as
20 Government Defendants acknowledge, somehow have the *exact same number* of
21 majority-Latino districts as the Commission’s 2021 map (Gov. Opp. 3, 4, 38), even
22 though the Commission map was *not* drawn to effectuate a partisan gerrymander. This
23 result would be unlikely in the absence of a racial motive.¹

24 _____
25 ¹ DCCC characterizes Plaintiffs’ claims as an undifferentiated challenge to all
26 California districts. (DCCC Opp. 14–16.) Plaintiffs challenge specific Congressional
27 districts: 13, 18, 21, 22, 25, 29, 31, 33, 34, 35, 38, 39, 41, 44, 46, and 52. (Mot. 18.) If
28 any of these districts are found to be unlawful, the relief requested is the only practical
outcome due to the cascading effects of striking one district that may border several.
(*Id.* at 39.)

1 **C. Mitchell’s Statements as Direct Evidence of Racial Targets**

2 Direct evidence that race predominated may be present where specific racial
3 targets are emphasized from the outset of the mapmaking process. *See Alabama*, 575
4 U.S. at 275–79 (recognizing that Section 5 of the Voting Rights Act “does not require
5 maintaining the same population percentages in majority-minority districts as in the prior
6 plan”); *Bethune-Hill v. Virginia State Bd. of Elections*, 580 U.S. 178, 195–96 (2017)
7 (discussing *Alabama*). Thus, plaintiffs meet their burden where the record shows,
8 through either direct or circumstantial evidence, that a congressional map’s drafters
9 worked backwards from racial targets, adjusting the district boundaries until those targets
10 were met, even if those drafters simultaneously claim partisan or other goals. *See Cooper*,
11 581 U.S. at 299–300 (legislators’ instructions that CD 1 be drawn “with a [black voting-
12 age population] in excess of 50 percent” (cleaned up)).

13 Citing the plurality opinion in *Allen v. Milligan*, the Government Defendants
14 contend that even a State’s express racial target does not automatically mean districts
15 were drawn in a racially predominant manner, but rather “was just one factor among
16 others that the court would have to consider as part of ‘[a] holistic analysis.’” (Gov. Opp.
17 15, n.8 (quoting *Allen v. Milligan*, 599 U.S. 1, 32 (2023) (plurality opinion) (discussing
18 *Bethune-Hill v. Virginia State Bd. of Elections*, 580 U.S. 178 (2017))).) *Milligan* was a
19 plurality opinion premised upon “exceedingly thin” evidence, including an expert who
20 had not reviewed all the relevant documents, had no “conclusions or opinions as to the
21 apparent basis of any individual line drawing decisions in Cooper’s illustrative plans,”
22 and who admitted his own analysis “was pretty light.” (*Id.* at 31–32.) In any event,
23 Plaintiffs have provided both strong direct and circumstantial evidence as well as solid
24 expert opinion testimony.

25 In fact, Mitchell stated that his map “maintained the status quo” with respect to the
26 VRA and explained how he rejected a proposal to maximize the partisan advantage of
27 the Prop 50 map in deference to the voting power of minorities. The subordination of any
28 partisan motive to race in Mitchell’s preservation (with limited alteration) of Hispanic

1 districts, including 14 previously identified as VRA districts, constituted redistricting
2 pursuant to racial targets, that is, an intentional racial gerrymander. Any doubts or qualms
3 are extinguished by Mitchell’s own candid admissions. Mitchell publicly stated that he
4 made the reconstruction of “a Latino district from LA” the “**first thing** we did in drawing
5 the [Proposition 50] map.” (Meuser Decl. Ex. 2 at 3 (emphasis added); *accord id.* Ex. 2
6 at 2 (“I started listing out this concept of drawing a replacement Latino majority/minority
7 district in the middle of Los Angeles. That was the number one thing that I first started
8 thinking about” (emphasis added).) Mr. Mitchell further emphasized that the
9 “proposed Proposition 50 map will further increase Latino voting power over the current
10 Commission map” and “add one more Latino influence district.” (Meuser Decl. Ex. 3).
11 The motive to use racial gerrymandering in California to offset a perceived racial impacts
12 from other states’ redistricting also explains why Mr. Mitchell’s “second[]” focus was to
13 “make[] a Latino-influenced district at 35 percent Latino by voting age population.” (*Id.*
14 Ex. 2 at 2–3.)²

15 If Proposition 50 were exclusively a project to increase the numbers of Democratic
16 members of Congress, none of Mr. Mitchell’s statements would make any sense. He did
17 not say that the “first thing” he did was to increase the number of districts that could be
18 won by democrats, or that an incidental benefit of his race-neutral partisan
19 gerrymandering attempt was an increase in Latino voting power. The statements and
20 actions of the architects of Proposition 50’s maps are not incidental comments about
21 demographic realities within the resulting counties resulting from a race-neutral partisan
22 gerrymander. Rather, they present design criteria reflecting clear and quantitative racial
23 goals – to preserve and expand Latino voting power over the prior Commission maps.

24 **D. Mitchell is the Most Relevant State Actor**

25
26 ² Government Defendants claim that Mitchell did not create a Latino district or Latino
27 influenced district as he stated. (Gov Opp. 29.) LULAC, however, affirms that he did
28 indeed create a Latino district as he announced but attempts to defend this blatant racial
gerrymander as merely the reuniting of a “community.” (See LULAC Opp. 11.)

1 Defendants acknowledge that the race predominance test turns on the actions of
2 the relevant state actors. (Gov. Opp. 15; DCCC Opp. 13–14.) Understandably, therefore,
3 they strive in their Oppositions to disavow Mitchell even though he drew the state maps
4 Plaintiffs challenge, arguing instead that the “relevant state actor” was either the
5 Legislature or the voting public. (Gov. Opp. 26; DCCC Opp. 17.) They therefore
6 mistakenly focus on evidence that Proposition 50 was marketed and publicly discussed
7 as a purely partisan measure. (Gov. Opp. 5–11.)

8 Dismissing the explicit admissions of racial targets by the map drawer as mere
9 “offhand remarks by a private consultant,” (Gov. Opp. 26), Defendants instead demand
10 “evidence that race played a part in the decision of the voters ... with respect to the Prop
11 50 map.” (Gov. Opp. at 15 (citing *Alexander*, 602 U.S. at 8, *Crawford v. Bd. of Educ. of*
12 *City of L.A.*, 458 U.S. 527, 532 n.5, 545 (1982), *Crawford v. Bd. of Educ. of City of L.A.*,
13 458 U.S. 527, 532 n.5, 545 (1982), and *Robert L. v. Superior Ct.*, 30 Cal. 4th 894, 904
14 (2003)).) Defendants’ theory that voter intent is paramount and clear in this case is wrong
15 on all counts and, moreover, it is a disconcerting suggestion. The Government
16 Defendants first cite *Alexander*, 602 U.S. at 8, but it provides no authority about voter
17 intent. They next cite *Crawford v. Bd. of Educ. of City of L.A.*, 458 U.S. 527, 532 n.5,
18 545 (1982), which merely tabulates votes in favor of a ballot measure without supporting
19 the claimed premise that the court was “evaluating the voters’ intent in approving a
20 legislatively referred measure.” The Government then resorts to *Robert L. v. Superior*
21 *Ct.*, 30 Cal. 4th 894, 904 (2003)), a case applying California state law to interpret an
22 ambiguous criminal statute enacted by initiative, which is far afield from the instant
23 matter and cannot dictate or limit the reach of the Equal Protection clause. Defendant’s
24 proposition that voters can launder a legislature’s Equal Protection violations through
25 ballot measures, if true, would have a disturbing implication: the majority of voters in a
26 state could lawfully vote to enact a racial gerrymander that obliterates the voting power
27 of a vulnerable minority so long as the measure’s authors were clever enough to conceal
28

1 their design. In any event, AB 604, the law creating Proposition 50 asked the voters to
2 restore redistricting power *to the Legislature so it could draw the map.*

3 Government Defendants acknowledge that “Courts have considered statements
4 and actions by unelected state employees and even independent consultants hired by
5 States in attempting to ascertain a legislature’s intent. (Gov. Opp. At 26 (citing
6 *Alexander*, 602 U.S. at 13 (“nonpartisan staffer”), and *Cooper*, 581 U.S. at 300
7 (“consultant” hired and directed by two legislators).) Race predominates in the drawing
8 of districts where a redistricting plan’s “architects” indicate a focus on the racial makeup
9 of congressional districts and testimony illustrates a drafter’s “resolve to hit a majority-
10 [black voting-age population] target.” *Cooper*, 581 U.S. at 315 (discussing the district
11 court’s assessment of evidence). Further, direct evidence that race predominated exists
12 when legislators directly communicate their racial objectives to mapmakers. *Id.* at 318.

13 Government Defendants’ reliance on *Lee v. City of Los Angeles*, 908 F.3d 1175
14 (9th Cir. 2018), which involved racial statements by “only two people in a process that
15 incorporated multiple layers of decisions and alterations” for a map that was “not adopted
16 ‘as is’” due to layers of review and input from multiple sources (Gov. Opp. 27), is wholly
17 inapplicable to Prop 50. In *Lee*, the multiple stages of deliberation and alteration by the
18 city council’s committees that resulted in changes to the maps 18 times has no analog in
19 this case, where Mitchell was paid to make a “final map” that was delivered to the
20 Legislature and enacted with negligible changes in four days of Legislative proceedings.

21 Government Defendants contend that Mitchell was not acting “at the legislature’s
22 behest.” (Gov. Opp. 26.) In fact, Mitchell testified at his deposition that based on a
23 conversation with Assembly Leader Rivas starting on July 2, 2025, he had an
24 “understanding” that he would draw statewide congressional district maps and that he
25 was paid to provide a “final map.” In this proceeding, California’s legislative leaders and
26 Mr. Mitchell have broadly asserted the legislative privilege over communications
27 between them and, for Mitchell, any substantive discussion of his work on the
28 Proposition 50 maps. For their part, the DCCC has also redacted relevant documents they

1 produced, including a contract with Mr. Mtichell and communications, under claims that
2 the material is protected from disclosure, but, as confirmed by Mitchell during his
3 deposition, those documents clearly indicate Mitchell was providing a map of his creation
4 to the Legislature on August 15, less than one week before the Legislature briskly enacted
5 a materially indistinguishable map.

6 This is a rare case involving the type of direct evidence that the U.S. Supreme
7 Court has found to be sufficient evidence of racial predominance in prior cases. *See, e.g.,*
8 *Cooper*, 581 U.S. at 299–300; *see also Alabama*, 575 U.S. at 277–79 (“[B]oth the District
9 Court and the legislature relied heavily upon a mechanically numerical view” with
10 respect to the racial makeup of the state’s districts).

11 The acknowledged racial objectives of Prop 50 in response to the impact on people
12 of color of the anticipated redistricting in other states, the explicit racial goals to which
13 the map drawer confessed in his public statements, and the creation of Prop maps that
14 carefully subordinated the claimed partisan goal to preservation, if not expansion, of
15 Latino majority-minority districts provides strong evidence that race predominated in the
16 drawing of the challenged districts.

17 **E. District 13 is a Clear Example of Racial Gerrymandering**

18 The boundaries between certain key districts—especially in the Central Valley and
19 Los Angeles region—appear to have been crafted to elevate Hispanic voting-age
20 populations and Hispanic citizen voting-age populations. The “twisted shapes [of these
21 districts] cannot be explained by traditional redistricting principles, nor can they be
22 explained by politics.” (ECF 16-5 (Declaration of Sean Trende (“Trende Decl.”)) ¶ 9.)
23 Rather, it is clear from a detailed analysis of these maps that “[r]ace predominated in
24 these lines.” (*Id.*)

25 For example, the specific design of District 13 is inconsistent with general
26 principles of compactness. “[T]he portion at the northern end of [District 13] [is] heavily
27 Hispanic, while the areas left out to the west of the district are more heavily White. In
28 other words, [the design of District 13] bypasses white Democrats, making the district

1 less compact, to gain Hispanic areas that are less heavily compact.” (*Id.* Ex. 2 at p. 19.)
2 In addition, the shape of District 13 cannot be explained away by partisan considerations.
3 “Most of the Democratic territory left in Modesto is White” and “the Republican territory
4 captured around Ceres is heavily Hispanic.” (*Id.* Ex. 2 at p. 13.) “If partisanship were
5 really the motivating factor for this division, [District 13] would drop some of the
6 Republican areas in Ceres and pick up Democratic areas in Modesto.” (*Id.*)

7 This is precisely the sort of circumstantial evidence the U.S. Supreme Court has
8 historically relied on. In *Shaw*, 509 U.S. at 644, and *Miller*, 515 U.S. at 905, the Court
9 pointed to bizarre or contorted district shapes and repeated splitting of political
10 subdivisions that were “unexplainable on grounds other than race.” And in *Cooper*, the
11 Court recognized that expert testimony concluding that “race, and not party, was the
12 dominant factor” in a congressional district’s design “lent circumstantial support” to the
13 plaintiffs’ position that race predominated in the drawing of North Carolina’s District 12.
14 581 U.S. at 315–16 (cleaned up).

15 **F. Defendants' Criticisms of Trende’s Work are Unavailing**

16 Dr. Trende has provided a rebuttal report thoroughly addressing each of the
17 critiques of his analysis. (*See* Columbo Dec. Ex. 6.) Government Defendants and their
18 expert contend that Trende erred by analyzing the shape of the district, claiming he
19 “inappropriately focuses on three ‘very small’ subparts of District 13, and only criticizes
20 two of those subparts [which he concluded were drawn based on race], without analyzing
21 the entire district.” (Gov. Opp. 32–33; *see also* DCCC Opp. 26 (same).) Citing *Bethune*
22 *Hill*, Government Defendants and DCCC contend the District should instead be viewed
23 as a whole. (Gov Opp. 33; DCCC Opp. 26–27. Defendants thus perplexingly seem to
24 suggest that states may racially gerrymander their citizens—moving them into and out of
25 districts based solely on their race—so long as the overall racial balance of the district as
26 a whole is maintained. *Bethune Hill* in fact says the opposite: “a legislature's race-based
27 decisionmaking may be evident in a notable way in a particular part of a district. It
28 follows that a court may consider evidence regarding certain portions of a district's lines,

1 including portions that conflict with traditional redistricting principles.” *Bethune-Hill v.*
2 *Virginia State Bd. of Elections*, 580 U.S. 178, 192 (2017).

3 Government Defendants also misapprehend the significance of the fact that district
4 13’s Latino CVAP did not change much. (Gov. Opp. 34; *see also* LULAC Opp. at 3
5 (“Plaintiffs fail to explain how the Proposition 50 map is a racial gerrymander when the
6 previous Commission map also had sixteen majority Latino CVAP districts.”); *id.* at 4
7 (“Latino CVAP in District 13 increased by .07 percentage points where Democratic
8 performance increased by nearly four percentage points ... hardly indicative of a racial
9 gerrymander.”); *id.* at 10.) As discussed above, the claimed overall partisan goal of
10 Proposition 50 was, in the challenged districts, subordinated to deference to a target for
11 Latino voting power, in both the number of districts and the Hispanic CVAP in nearly all
12 of those districts. In a wholesale partisan redistricting of tens of millions of voters across
13 52 districts, it strains credulity that an allegedly purely partisan goal would produce a
14 map with exactly the same number of Latino minority-majority districts with Latino
15 CVAP coincidentally nailed within the same tight percentage band as the Commission
16 map, which specifically designated and designed 14 of those districts as VRA districts.
17 Defendants’ “accident” theory is further belied by the letter written by HOPE to the
18 Commission, which advocated for a target Latino CVAP band between roughly 52 and
19 55 percent (*see* Columbo Decl. Ex. 5), plus the fact that Mitchell stated that he drew his
20 map in accordance with the goals of the HOPE letter. (Meuser Decl. Ex. 2 at 3.) Looking
21 at the Prop 50 map, there indeed are 16 Latino minority-majority districts with all but
22 two having Latino CVAPs within the range of roughly 51 to 55%. Columbo Dec. Ex. 6
23 at 10. In the *Abbot v. LULAC* case, the trial court did not credit the map drawer’s direct
24 testimony that he did not consider race because of a similar Hispanic CVAP band. 2025
25 WL 3215715, at *41–43 (W.D. Tex. Nov. 18, 2025). The Supreme Court did not disturb
26 this finding.

27 Government Defendants further claim that Dr. Trende’s conclusion that the two
28 subparts of District 13 do not maximize Democratic vote share is unsound because “it is

1 not always possible to include every conceivable party voter in a district due to the need
2 to equalize population across districts and avoid unnecessary splits of county and
3 municipal boundaries. (Gov. Opp. 34.) Also, they claim the Legislature did not leave
4 Democratic voters “on the table” in the Stockton area, but rather “strategically divided
5 them between two Democratic districts” and that the only way to move these additional
6 Democratic votes in Stockton to District 13 would be to weaken Democratic performance
7 in District 9. (*Id.* at 35.) Trende responds that District 9 is a highly Democratic district,
8 such that it did not need the White area to be part of an “fully efficient” gerrymander.
9 Columbo Dec. Ex. 6 at 16.

10 Government Defendants contend that Dr. Trende failed to counter evidence of
11 partisan intent, claiming District 13 excludes rural areas with Republican Latino voters
12 and drew District 13 to protect the Democratic Party’s most vulnerable incumbent,
13 Representative Adam Gray. However, Dr. Trende found a way to make the district more
14 competitive for Gray without gerrymandering Hispanic voters. Columbo Dec. Ex. 6 at
15 26, 29.

16 DCCC similarly dispute Dr. Trende’s conclusion that “the boundary between
17 districts 5, 9 and 13 of Proposition 50’s map appears to have been crafted specifically to
18 enhance the Hispanic Voting Age Population and Hispanic Citizen Voting Age
19 Population in district 13” because the districts were made more Democratic. (DCCC
20 Opp. 25.) The DCCC instead speculates that Proposition 50’s choice to include Hispanic
21 rather than White democrats in district 13 could have been purely the product of a
22 partisan intent. (*Id.* at 25–26.) The point of Trende’s analysis and alternate maps was to
23 show one could politically gerrymander the map without racially gerrymandering the
24 map. Columbo Dec. Ex. 6 at 16.

25 Government Defendants also assert that District 13 is already compact and does
26 not need a more regular configuration and that Dr. Trende only makes “subtle” changes
27 that result in minimal or no improvement in compactness or Democratic performance.
28 (Gov. Opp. 36.) This misunderstands the point of Trende’s analysis, which was to show

1 the district could be drawn to avoid a racial gerrymander while achieving a partisan
2 gerrymander. Columbo Dec. Ex. 6 at 12.

3 **G. Additional Evidence for All Challenged Districts Is Not Required**

4 Defendant Intervenors DCCC and LULAC claim that Plaintiffs' Motion must be
5 denied because the only district analyzed in detail, with alternate maps, was district 13.
6 (Gov. Opp. 47; DCCC Opp. 32.) While cases such as *Cromartie*, 532 U.S. at 241–43,
7 and *Alexander*, 602 U.S. 8–9, recognize that a strong correlation between race and
8 partisanship calls for plaintiffs to undertake the “demanding” task of “disentangle[ing]
9 race from politics,” including by offering alternative maps, those cases do not alter the
10 core doctrine. Rather, they apply it in settings where there is no credible evidence of
11 direct racial targeting and where the state offers robust evidence that conventional
12 partisan gerrymandering explains the lines. *Cromartie*, 532 U.S. at 257; *Alexander*, 602
13 U.S. at 19, 33,. Where race does not correlate strongly with partisan preferences, or where
14 a plaintiff can produce sufficient direct evidence to draw the conclusion that race
15 predominated, a plaintiff need not undertake this task. *See Cromartie*, 532 U.S. at 258
16 (“In a case such as this one ... where racial identification correlates highly with political
17 affiliation, the party attacking the legislatively drawn boundaries must show at the least
18 that the legislature could have achieved its legitimate political objectives in alternative
19 ways that are comparably consistent with traditional districting principles.”); *Cooper*,
20 581 U.S. at 320–22 (distinguishing *Cromartie*).

21 The consideration of alternate maps is therefore valuable where race and
22 partisanship are highly correlated, there is a lack of direct evidence of racial
23 predominance, and the state offers robust evidence partisan gerrymandering explains the
24 lines. None of these is true here.

25 Race and partisanship in California are not highly correlated. All major racial
26 groups substantially favor Democratic candidates in California statewide contests,
27 undercutting the argument that Latino voters highly correlate with Democratic voters.
28

1 (ECF 16-7 (Declaration of Tom Brunell) ¶ 17 (“majorities of Non-Hispanic Whites,
2 Hispanics, Non-Hispanic Blacks, and Non-Hispanic Asians[] all vote Democratic.”).)

3 Moreover, as explained above, Plaintiffs have provided clear direct and
4 circumstantial evidence of the map-drawer’s racial motives. In response, rather than
5 “robust evidence”: (A) Legislative leaders Rivas and McGuire, who made public
6 statements indicating a racial motive in the redistricting, have refused to testify under a
7 claim of legislative privilege; (B) Paul Mitchell, the map drawer largely refused to testify
8 about drawing the map, asserting legislative privilege over his work beginning on July 2
9 when he reached an “understanding” with Assembly Leader Rivas to draw statewide
10 congressional district maps; (C) Defendants proffered the testimony of four experts who
11 had no role in drawing the Proposition 50 maps and did not communicate with Mr.
12 Mitchell.

13 The Court should draw an adverse inference from the refusal of Sen. McGuire,
14 Asm. Rivas, and Paul Mitchell to testify to their actions with respect to Proposition 50
15 under claims of legislative privilege. There is a “venerable rule that a factfinder may draw
16 an adverse inference when a party fails to produce highly probative evidence that it could
17 readily obtain if in fact such evidence exists.” *Alexander*, 602 U.S. at 36 (citing *Interstate*
18 *Circuit v. United States*, 306 U.S. 208, 226 (1939) (citation omitted)). “The failure under
19 the circumstances to call as witnesses those” with authority and relevant knowledge “is
20 itself persuasive that their testimony, if given, would have been unfavorable.” *Interstate*
21 *Circuit*, 306 U.S. at 226 (“Silence then becomes evidence of the most convincing
22 character.”). This principle has been used to draw an adverse inference from the assertion
23 of legislative privilege over legislative motives in redistricting. *See League of United*
24 *Latin Am. Citizens v. Abbott*, 601 F. Supp. 3d 147, 180 (W.D. Tex. 2022) (“Senator
25 Huffman ... asserted legislative privilege ... and therefore declined to answer questions
26 about her motivation. ... Though courts may not draw negative inferences from a
27 criminal defendant's assertion of his Fifth Amendment rights, no similar constraint binds
28 our assessment of a civil witness’s assertion of legislative privilege.”).

1 **II. The Maps Authorized Through Proposition 50 Fail Strict Scrutiny**

2 Because the legislature “subordinated traditional race-neutral districting principles
3 to racial considerations” when drawing the boundaries of California’s congressional
4 districts, *Alabama*, 575 U.S. at 272 (cleaned up), the resulting districts violate the
5 Fourteenth Amendment’s Equal Protection Clause unless the use of race is “narrowly
6 tailored to serve a compelling state interest,” *id.* at 260; accord *Bethune-Hill*, 580 U.S.
7 at 193.³ Neither Defendant-Intervenor DCCC nor Defendant-Intervenor LULAC offers
8 any argument contesting this view. The State merely asserts that the Court does not need
9 to address whether it had a compelling interest because no race-motivated districting
10 occurred. (Gov. Opp. 40.) Because no party in response meaningfully opposes the
11 assertions made by Plaintiffs on this point, the point is conceded. *See Shorter v.*
12 *L.A. Unified Sch. Dist.*, No. CV 13–3198 ABC AJW, 2013 WL 6331204, at *5 (C.D. Cal.
13 Dec. 4, 2013) (collecting cases regarding waiver by non-opposition).

14 **III. Plaintiffs’ Injuries Are Redressable**

15 Defendant-Intervenor DCCC argues that Plaintiffs have no standing because their
16 injuries are not redressable. DCCC Opp. at 30. The DCCC asserts this standing argument
17 in its response to a motion for preliminary injunction rather than a motion to dismiss. The
18 argument mischaracterizes Plaintiffs’ alleged injury. There is no allegation that the
19 Citizens Redistricting Commission violated the Constitution when it created 14 VRA
20 districts and a further two Hispanic minority-majority districts. As alleged in the
21 Complaint and Plaintiffs’ Motion, however, the Legislature violated the Constitution.
22 Whereas courts permit a state to place citizens in racially gerrymandered districts to
23 comply with the VRA based on good evidence of certain preconditions, which the
24 Commission presumably had, the California Legislature has racially gerrymandered

25
26
27
28 ³ At least one U.S. Supreme Court Justice has expressed the view that the mere existence
of a district created for the express purpose of securing minority representation triggers
strict scrutiny analysis. *Cooper*, 581 U.S. at 327 (Thomas, J., concurring).

1 without satisfying strict scrutiny and thus violated Plaintiffs’ rights. Accordingly, an
2 injunction stopping the illegal racial gerrymander will redress Plaintiffs’ injury.

3 **IV. Public Interest and Balance of Equities**

4 Defendants contend that awarding preliminary relief would not serve the public
5 interest because Proposition 50 was approved by the Legislature and California’s voters
6 and because enjoining it would disrupt next year’s congressional elections. (*See, e.g.,*
7 Gov. Opp. 43–47.) But “it is always in the public interest to prevent the violation of a
8 party’s constitutional rights.” *Am. Bev. Ass’n v. City & Cnty. of San Francisco*, 916 F.3d
9 749, 758 (9th Cir. 2019) (en banc) (citation omitted). The public interest also favors an
10 injunction here for at least two more reasons.

11 *First*, the public has a paramount interest in ensuring that congressional election
12 maps comply with the Fourteenth and Fifteenth Amendments. Majoritarian approval,
13 whether by a legislature or by the electorate, cannot insulate unconstitutional election
14 structures from judicial review. *See, e.g., Moore v. Harper*, 600 U.S. 1, 23–26 (2023)
15 (cases reviewing constitutionality of redistricting schemes). Because plaintiffs have
16 shown a strong likelihood that the state has racially gerrymandered congressional
17 districts in contravention of federal law, the public interest lies in preliminarily
18 preventing those suspect districts from governing future federal elections. *See Arizona*
19 *Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014); *LULAC v. Abbott*, 2025
20 WL 3215715 at *65.

21 *Second*, granting an injunction preserves, rather than upends, the electoral status
22 quo. The unconstitutional districts authorized by Proposition 50 are brand new. They
23 were drawn by a partisan consultant, rushed through the Legislature in a matter of days,
24 and only recently approved at a special election on November 4, 2025. (Mot. 11, 20–22.)
25 By contrast, the Commission’s 2021 congressional map has already governed two federal
26 cycles, been implemented by state and local election officials, and twice been confirmed
27 as consistent with the Voting Rights Act. (Meuser Decl. Ex. 2 at 3.) Requiring the state
28 to continue using that familiar and legal map during the pendency of this litigation

1 maintains the status quo and avoids the risk of forcing election administrators,
2 candidates, and voters to adjust to new lines that may ultimately be held unconstitutional.
3 Moreover, enjoining the use of the Proposition 50 map now, in advance of the 2026
4 elections, avoids placing election officials in the unenviable position of being forced to
5 administer an election in accordance with unlawful maps, merely because of the time
6 between this Court’s eventual order entering judgment and the 2026 elections. *See*
7 *Purcell v. Gonzalez*, 549 U.S. 1 (2006); *Merrill v. Milligan*, 142 S. Ct. 879, 880 (2022)
8 (Kavanaugh, J., concurring). The orderly administration of elections will be best
9 protected by adhering to the long-standing Commission map while this case proceeds.

10 Additionally, Government Defendants contend that “[a]ny time a State is enjoined
11 by a court from effectuating statutes enacted by representatives of its people”—or, as
12 here, by its people directly—“it suffers a form of irreparable injury.” (Gov. Opp. 45; *see*
13 *also* DCCC Opp. 35.) And yet, court’s enjoin states from effectuation unconstitutional
14 statutes and ballot measures. That constitutional rights, the Fourteenth Amendment most
15 of all, would be categorically superseded by the will of a state’s majority is a curious take
16 on civil rights that fortunately has no currency.

17 Plaintiffs’ complaint and motion could hardly have been filed earlier. It was the
18 government of the state of California that chose to embark on redistricting mid-decade,
19 requiring a constitutional amendment, and to submit the question to the voters through a
20 special election less than two months before the first potential deadline. At every step,
21 Plaintiffs have been mindful of the voters and candidates and urged a brisk process.

22 CONCLUSION

23 Plaintiffs have shown “serious questions going to the merits,” that is, a “fair chance
24 of success” on the merits because there is a sufficient likelihood that race predominated
25 in designing at least some specific districts authorized by Proposition 50, and Defendants
26 cannot satisfy strict scrutiny. The Court should, therefore, grant Plaintiffs’ Motion for
27 Preliminary Injunction and enjoin the use of the maps authorized by Proposition 50.

28

1 Date: December 11, 2025

By: /s/ Michael Columbo
MICHAEL A. COLUMBO (SBN: 271283)
mcolumbo@dhillonlaw.com
DHILLON LAW GROUP INC.
177 Post Street, Suite 700
San Francisco, California 94108
Telephone: (415) 944-4996

2
3
4
5
6
7 SHAWN COWLES (SBN: 163826)
scowles@dhillonlaw.com
8 MARK P. MEUSER (SBN: 231335)
mmeuser@dhillonlaw.com
9 **DHILLON LAW GROUP INC.**
10 4675 MacArthur Court, Suite 1410
11 Newport Beach, CA 92660

12 DOMENIC P. AULISI (Admitted PHV)
13 daulisi@dhillonlaw.com
14 AMBER R. HULSE (Admitted PHV)
15 ahulse@dhillonlaw.com
16 **DHILLON LAW GROUP INC.**
17 2121 Eisenhower Avenue, Suite 608
18 Alexandria, VA 22314

19 *Attorneys for Plaintiffs*
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for the Plaintiffs certifies that this brief contains 5,986 words, which complies with the word limit required by the court in Doc. No 82.

Date: December 11, 2025

By: /s/ Michael A. Columbo
MICHAEL A. COLUMBO

RETRIEVED FROM DEMOCRACYDOCKET.COM

