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**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

DAVID TANGIPA, et al.,

Plaintiffs,

and

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

**GAVIN NEWSOM, in his official
capacity as the Governor of California,
et al.,**

Defendants,

**DEMOCRATIC CONGRESSIONAL
CAMPAIGN COMMITTEE, et al.,**

Defendant-Intervenors.

Case Nos. 2:25-cv-10616-JLS-
WLH-KKL (Lead); 2:25-cv-11480-
JLS-WLH-KKL

**DEFENDANT-INTERVENOR
DCCC'S MOTION TO DISMISS
THE CONSOLIDATED
COMPLAINT**

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

Hearing date: June 26, 2026

Time: 10:30 a.m.

Courtroom: 1

DEFENDANT-INTERVENOR DCCC’S MOTION TO DISMISS

1
2 Defendant-Intervenor the Democratic Congressional Campaign Committee
3 (“DCCC”) hereby moves the Court to dismiss Plaintiffs’ and Plaintiff-Intervenor’s
4 Consolidated Complaint, ECF No. 240. In support of its motion, DCCC submits and
5 incorporates the attached Memorandum of Points and Authorities. Pursuant to Local Rule
6 7-3, counsel for DCCC conferred with counsel for Plaintiffs and Plaintiff-Intervenor on
7 April 22, 2026. Plaintiffs and Plaintiff-Intervenor informed DCCC that they oppose
8 DCCC’s motion.
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1 Dated: April 24, 2026

Respectfully submitted,

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 This Court has already spotted this case for what it is: a political disagreement
3 about partisan gerrymandering, masquerading as a racial gerrymandering challenge. *See*
4 *generally* Prelim. Inj. Order, ECF No. 216 (“PI Order”). In the Consolidated Complaint,
5 ECF No. 240 (“Consol. Compl.”), three groups of Plaintiffs regurgitate flawed challenges
6 to California’s new congressional map (the “Prop 50 map”), which was overwhelmingly
7 endorsed by California voters at the ballot box. The first group, the “Tangipa Plaintiffs,”
8 advances a racial gerrymandering claim under the Fourteenth Amendment. The
9 Consolidated Complaint, however, does not address the numerous pleading deficiencies
10 with this claim that DCCC has already identified, *see* ECF No. 225, and which the Court
11 already recognized, *cf.* PI Order at 67 (concluding Tangipa Plaintiffs “fail[ed] to establish
12 serious questions going to the merits of racial gerrymandering”). Among other pitfalls,
13 the Tangipa Plaintiffs impermissibly challenge the Prop 50 map as an undifferentiated
14 whole, *but see Alabama Legislative Black Caucus v. Alabama*, 575 U.S. 254, 264 (2015);
15 fail to allege direct evidence of discriminatory intent attributable to any state actor, *but*
16 *see Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1, 8 (2024); and fail to allege
17 any circumstantial evidence permitting an inference of racial predominance, *but see*
18 *Miller v. Johnson*, 515 U.S. 900, 913 (1995). The second group, the “Noyes Plaintiffs,”
19 advance a similar racial gerrymandering claim under the Fifteenth Amendment—though
20 they fail to set out a coherent legal theory for any standalone Fifteenth Amendment
21 claim—as well as a claim under Section 2 of the Voting Rights Act (“VRA”). Not only
22 have the Noyes Plaintiffs failed to adequately allege standing as to nearly all the districts
23 they challenge, but as a matter of law their allegations about Hispanic and Black voting
24 districts do not plausibly allege intentional race discrimination. Finally, the United States
25 advances tag-along Fourteenth Amendment and VRA claims, but these copycat claims
26 fall short for the same reasons as the claims brought by the first two groups. These
27 pleading shortcomings are terminal and the Consolidated Complaint should be dismissed
28 in its entirety or, at minimum, severely curtailed in scope.

1 **BACKGROUND**¹

2 This case arises out of California’s mid-decade redistricting effort, which began in
3 response to events in Texas. Consol. Compl. ¶ 6. Specifically, in August 2025, Governor
4 Newsom and other Democratic legislative leaders in California announced that they
5 would “not allow [President] Trump’s Republican Party to rig the system and take
6 permanent control of the U.S. House of Representatives” through mid-decade
7 redistricting efforts undertaken in Texas at the President’s behest. Ex. 18. Vowing to
8 “fight fire with fire,” *id.*, these legislators introduced a three-bill legislative package to
9 replace California’s existing congressional map, *see* Consol. Compl. ¶ 57. The stated
10 purpose of this package was avowedly partisan. Assembly Constitutional Amendment
11 No. 8, which amended the California Constitution to permit mid-decade redistricting,
12 asserted that “[t]he 2026 United States midterm elections for Congress must be
13 conducted on a level playing field without an extreme and unfair advantage for
14 Republicans.” Assemb. Const. Amend. 8, 2025–26 Reg. Sess. (Cal. 2025). Accordingly,
15 the legislative package was crafted for the proclaimed purpose of “neutraliz[ing] the
16 partisan gerrymandering being threatened by Republican-led states.” *Id.* And it was
17 further designed to require voter approval before going into effect. *See* Consol. Compl.
18 ¶ 57. After a contentious partisan debate, the Legislature approved the package along a
19 party line vote, with nearly every Democratic legislator voting in favor and all
20 Republican legislators voting against.²

21
22 _____
23 ¹ The Court is well familiar with the background and posture of this case. *See* PI Order
24 at 4–12; *see also id.* at 74–77. DCCC therefore offers a brief summation based on the
25 pleadings, the materials incorporated therein, and other public records. All citations to
26 exhibits throughout this motion refer to the parties’ Second Am. Joint Ex. List, ECF No.
27 176. DCCC relies exclusively upon exhibits that are public records or that can be fairly
28 construed as incorporated into the complaints. *See Coto Settlement v. Eisenberg*, 593
F.3d 1031, 1038 (9th Cir. 2010).

² The Court may take notice of the legislative debate and vote history on the legislative
package. *See, e.g., Watson v. Crumbl LLC*, 736 F. Supp. 3d 827, 838 (E.D. Cal. 2024);

1 As the Consolidated Complaint concedes, the proposed congressional map
2 included in the legislative package—the Prop 50 map—was not drawn by legislators or
3 even paid for by the Legislature. *See* Consol. Compl. ¶ 56. Instead, the Consolidated
4 Complaint alleges that the Prop 50 map was drawn by Paul Mitchell, an independent
5 consultant paid by DCCC. Consol. Compl. ¶¶ 6, 56, 74. Plaintiffs do not allege that
6 Mitchell was a state actor or that he acted at the direction of any state actor. Instead, they
7 claim that DCCC—an organization with an indisputably partisan mission—paid for the
8 Prop 50 map and submitted it to the Legislature. *See id.* ¶¶ 56, 73–74.³

9 Like the original pleadings, the Consolidated Complaint neglects to discuss the
10 three-month long public campaign and debate that followed Prop 50’s passage by the
11 Legislature. As the Court observed in its preliminary injunction order, that absence is
12 conspicuous. *Cf.* PI Order at 37. Public records reflect the overwhelmingly partisan
13 nature of the debate over Prop 50. For example, the Voter Information Guide published
14 by the Secretary of State echoed the legislative purpose contained in ACA 8, while also
15 providing arguments for and against Prop 50 that focused on its partisan motivations and
16 consequences. *See* Ex. 444 at 5.⁴ Nothing in the Voter Information Guide suggested to
17 voters that it would favor particular racial groups. Rather, the Guide’s only mention of
18
19

20 *Rodriguez v. Ford Motor Co.*, 722 F. Supp. 3d 1104, 1111 (S.D. Cal. 2024); *see also* PI
21 Order at 6–7 (discussing excerpts of the debate); *Bill Votes: ACA-8 Congressional*
22 *Redistricting*, Cal. Legis. Info. (last updated Aug. 21, 2025), <https://perma.cc/9ZH4-3LET>; *Bill Votes: AB-604 Redistricting: Congressional Districts*, Cal. Legis. Info (last
23 updated Aug. 21, 2025), <https://perma.cc/3FT9-X5A8>; *Bill Votes: SB-280 Elections*, Cal
24 Legis. Info. (last updated Aug. 21, 2025), <https://perma.cc/G5AR-ALJR>.

25 ³ DCCC disputes Plaintiffs’ characterization of this arrangement, *see* Decl. of Julie Merz
26 ¶ 5, ECF No. 20-1 ¶ 5, but for purposes of the present motion does not dispute that DCCC
ultimately submitted a proposed map to the Legislature.

27 ⁴ The Court may take notice of public records, like those published by the Secretary of
28 State, in this posture. *See, e.g., Bravo v. Neff*, No. 5:24-CV-2458-PA-RAO, 2025 WL
2005483, at *4 (C.D. Cal. July 3, 2025); *Fisher v. Ramirez-Palmer*, 219 F. Supp. 2d
1076, 1078 n.2 (E.D. Cal. 2002).

1 race—from Prop 50’s *opponents*, no less—argued that Prop 50 would *harm*, rather than
2 bolster, representation of minority voters. *Id.* at 17.

3 On November 4, 2025, California voters overwhelmingly approved Prop 50 by a
4 two-to-one margin. *See* Consol. Compl. ¶ 61; *see also Official Declaration of the Vote*
5 *Results on State Ballot Measure*, Cal. Sec’y of State (last visited Feb. 11, 2026),
6 <https://perma.cc/H5D4-ZLZ3>. The Tangipa Plaintiffs sued the very next day, *see* ECF
7 No. 1, and the United States filed a motion to intervene, along with a complaint in
8 intervention, shortly thereafter, *see* ECF No. 28. The Noyes Plaintiffs brought a separate
9 case about a month later, filing their initial complaint on December 2, 2025. *See* Case
10 No. 2:25-cv-11480, ECF No. 1.

11 Both the Tangipa Plaintiffs and the United States moved for preliminary
12 injunctions. *See* ECF Nos. 15, 29. This Court held a three-day hearing where it heard
13 testimony from nine witnesses (including six experts) and received over 500 exhibits into
14 evidence. *See* PI Order at 2. The Court concluded that the Tangipa Plaintiffs and the
15 United States “failed to show that racial gerrymandering occurred.” *Id.* This
16 “conclusion,” the Court noted, “probably seems obvious to anyone who followed the
17 news in the summer and fall of 2025.” PI Order at 2. Nonetheless, the Tangipa Plaintiffs
18 appealed to the Supreme Court, and subsequently sought an injunction pending appeal.
19 *See Tangipa v. Newsom*, No. 25A839 (U.S. Jan. 20, 2026). After briefing, the Supreme
20 Court denied that request in a brief order without any noted dissent. Order Denying
21 Application for Writ of Injunction Pending Appeal, *Tangipa. v. Newsom*, No. 25A839
22 (U.S. Feb. 4, 2026). The Tangipa Plaintiffs later voluntarily dismissed their appeal. *See*
23 ECF Nos. 237, 239.

24 After the Supreme Court denied the request for an injunction pending appeal, this
25 Court ordered all parties to show cause why the Tangipa and Noyes cases should not be
26 consolidated. *See* ECF No. 230. All parties except for the Noyes Plaintiffs agreed to
27 consolidation, *see* ECF Nos. 231, 232, 233, 234, 235 & Case No. 2:25-cv-11480, ECF
28

1 No. 53, and on March 17, the Court consolidated the cases and ordered all three groups
2 of Plaintiffs to file a single complaint. ECF No. 238 at 6.

3 Plaintiffs filed the Consolidated Complaint on March 27, 2026. *See* ECF No. 240.
4 The Consolidated Complaint advances five claims, each associated with a different
5 Plaintiff group. The Tangipa Plaintiffs, in Count I, assert a racial gerrymandering claim
6 under the Fourteenth Amendment. *See* Consol. Compl. ¶¶ 124–33. The Noyes Plaintiffs,
7 in Counts II and III, assert racial gerrymandering claims under the Fifteenth Amendment
8 and Section 2 of the VRA, respectively. *See id.* ¶¶ 134–52. The United States, in Counts
9 IV and V asserts racial gerrymandering claims under the Fourteenth Amendment and
10 Section 2 of the VRA, respectively. *See id.* ¶¶ 153–66. Thus, the Consolidated Complaint
11 essentially combines the three previously operative pleadings and retains essentially the
12 same division of parties and claims as those pleadings.

13 LEGAL STANDARDS

14 A complaint must be dismissed where it “fail[s] to state a claim upon which relief
15 can be granted.” Fed. R. Civ. P. 12(b)(6). At the motion-to-dismiss stage, the Court “must
16 accept as true all of the allegations contained in a complaint” but need not accept the
17 complaint’s “legal conclusions.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). “Factual
18 allegations must be enough to raise a right to relief above the speculative level.” *Bell Atl.*
19 *Corp. v. Twombly*, 550 U.S. 544, 555 (2007). “[W]here the well pleaded facts do not
20 permit the court to infer more than the mere possibility of misconduct, the complaint has
21 alleged—but it has not ‘show[n]’—‘that the pleader is entitled to relief.’” *Iqbal*, 556 U.S.
22 at 679 (second alteration in original) (quoting Fed. R. Civ. P. 8(a)(2)). “Threadbare
23 recitals of the elements of a cause of action, supported by mere conclusory statements,
24 do not suffice.” *Id.* at 678. Dismissal is also required when a complaint contains “no
25 cognizable legal theory” or fails to allege “sufficient facts . . . to support a cognizable
26 legal theory,” *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001). In addition to the
27 allegations in the complaint, the Court can consider materials incorporated into the
28 complaint or in the public record. *Coto Settlement*, 593 F.2d at 1038.

1 A similar standard governs a facial challenge to subject matter jurisdiction under
2 Rule 12(b)(1): the Court must “[a]ccept[] all factual allegations in the operative
3 complaint as true” and draw “reasonable inferences in the plaintiff’s favor,” then
4 “determine whether the plaintiff’s allegations are sufficient to invoke the court’s
5 jurisdiction.” *Searle v. Allen*, 148 F.4th 1121, 1128 (9th Cir. 2025).

6 ARGUMENT

7 Plaintiffs’ claims fail for a host of reasons. First, each group impermissibly attacks
8 the Prop 50 Map as a whole, rather than on a district-specific basis, notwithstanding
9 extensive Supreme Court authority precluding such an approach. Plaintiffs’ error requires
10 dismissal or, at minimum, severe curtailment of Plaintiffs’ claims. *See infra* § I. The
11 Noyes Plaintiffs, in turn, assert a confused Fifteenth Amendment claim which is either
12 not pled at all, or not supported by plausible allegations. *See infra* § II. Next, even
13 assuming the Consolidated Complaint sufficiently raises cognizable district-specific
14 challenges, the pleadings fail to allege *any* sort of direct evidence of racial predominance.
15 *See infra* § III. That failure presents a substantial challenge for Plaintiffs, *see Alexander*,
16 602 U.S. at 8, but their fate is sealed by the failure to plausibly allege even circumstantial
17 evidence of impermissible racial predominance in the drawing of any district in the Prop
18 50 Map. *See infra* § IV. Taken together, these shortcomings require dismissal of the entire
19 Consolidated Complaint.

20 **I. Plaintiffs’ overbroad racial gerrymandering claims directed to the entire** 21 **Prop 50 map must be dismissed as a matter of law.**

22 Although the Consolidated Complaint advances several categories of racial
23 gerrymandering claims, each category suffers from a common fatal flaw: they
24 impermissibly attack California’s statewide map as “an undifferentiated whole,”
25 *Alabama*, 575 U.S. at 264 (emphasis omitted). This flaw manifests in ways applicable to
26 both Rule 12(b)(1) and Rule 12(b)(6). For example, the Tangipa Plaintiffs and United
27 States fail to allege racial predominance on a district-by-district basis, as required to
28 plausibly allege their Fourteenth Amendment claims. The Noyes Plaintiffs, in turn, have

1 not adequately alleged standing to bring *any* of their claims—and they too have failed to
2 advance specific allegations as to most of the districts they challenge. Nor does the
3 participation of the United States permit Plaintiffs to broaden the scope of their attack on
4 the Prop 50 map. These threshold deficiencies require dismissing several claims entirely
5 and severely curtailing others (which fail, in turn, for reasons set forth *infra* §§ III, IV).

6 **A. The Tangipa Plaintiffs’ and United States’s Fourteenth**
7 **Amendment claims impermissibly attack the Prop 50 map as an**
8 **undifferentiated whole.**

9 In their Fourteenth Amendment claims, the Tangipa Plaintiffs and United States
10 advance a broadside attack on 16 of the 52 congressional districts in the Prop 50 map.
11 *See* Consol. Compl. ¶¶ 125, 157. But, with the exception of CD-13, the Consolidated
12 Complaint says almost nothing about *any* of these districts, and instead attacks the Prop
13 50 map writ large. This is a fatal defect. Even setting aside for now the “especially
14 stringent” racial predominance standard Plaintiffs must meet, *Alexander*, 602 U.S. at 11,
15 Plaintiffs must allege facts showing racial predominance on a “district-by-district” basis,
16 *Bethune-Hill v. Va. State Bd. of Elections*, 580 U.S. 178, 191 (2017); *see* PI Order at 24
17 (noting that plaintiffs must show “race predominated in enacting a map for a particular
18 district”). As the Supreme Court has repeatedly admonished, “the basic unit of analysis
19 for racial gerrymandering claims in general, and for the racial predominance inquiry in
20 particular, is the district.” *Bethune-Hill*, 580 U.S. at 191. Thus, a racial gerrymandering
21 claim cannot target a map as “an undifferentiated whole,” *Alabama*, 575 U.S. at 264
22 (emphasis omitted), or seek “to invalidate the whole State’s . . . districting map,” *Gill v.*
23 *Whitford*, 585 U.S. 48, 66 (2018).

24 The Consolidated Complaint, however, says nothing about most of the districts
25 challenged by the Tangipa Plaintiffs and the United States in their Fourteenth
26 Amendment claims. These claims are based on a theory that Paul Mitchell drew certain
27 districts to benefit Latino voters over other racial groups, and that the 16 districts targeted
28 by this theory are all Latino-majority districts in the Prop 50 map. *See* Consol. Compl.

1 ¶¶ 41, 89, 125, 157.⁵ But Plaintiffs do not allege *anything* about most of these districts,
2 and even where they mention one of the districts in passing, they fail to connect the
3 allegation to their legal theory. Indeed, although the Noyes Plaintiffs direct allegations
4 to a handful of these districts, *see, e.g.*, Consol. Compl. ¶¶ 99, 106, the Consolidated
5 Complaint states that the Tangipa Plaintiffs “do not join” these allegations, *id.* ¶ 93 n.7.
6 And the “direct evidence” of discriminatory intent that Plaintiffs allege, such as it is,
7 similarly has no connection to any particular district. *See, e.g.*, Consol. Compl. ¶¶ 62
8 (alleging that Paul Mitchell “used race and Hispanic demographics as criteria *in*
9 *designing the map*” (emphasis added)); 78 (alleging that legislators “identified explicitly
10 racial . . . motivations behind their support *for the new map*” (emphasis added)).
11 Plaintiffs’ prayer for relief is even more candid: they do not even bother to identify a
12 *single* specific district for purposes of relief, instead targeting the “proposition 50 map”
13 wholesale. *See* Consol. Compl. at 39–40.

14 This is a fundamental pleading deficiency that sinks Plaintiffs’ Fourteenth
15 Amendment claims a matter of law. “Plaintiffs who complain of racial gerrymandering
16 in their State *cannot sue* to invalidate the whole State’s legislative districting map.” *Gill*,
17 585 U.S. at 66 (emphasis added). Plaintiffs’ “state-wide” allegations about “the [Prop 50
18 map] as a whole” have “no probative force with respect to their racial-gerrymandering
19 claim[s],” *Alexander*, 602 U.S. at 33, meaning that for this reason alone each of their
20 Fourteenth Amendment claims must be dismissed under Rule 12(b)(6) or, at minimum,
21 restricted to CD-13.

22 **B. The Noyes Plaintiffs have failed to allege standing to bring their**
23 **Fifteenth Amendment and VRA claims.**

24 The Noyes Plaintiffs’ Fifteenth Amendment and VRA claims suffer from an even
25 more fundamental pleading deficiency: standing. “[A] plaintiff who alleges that he is the
26 object of a racial gerrymander—a drawing of district lines on the basis of race—has

27 _____
28 ⁵ Specifically, the Fourteenth Amendment claims challenge Districts 13, 18, 21, 22, 25,
29, 31, 33, 34, 35, 38, 39, 41, 44, 46, and 52.

1 standing to assert only that his own district has been so gerrymandered.” *Gill*, 585 U.S.
2 at 66–67. Absent a person who actually lives in a challenged district, and has thus
3 “personally been subjected to a racial classification,” a racial gerrymandering claim
4 asserts only a “generalized grievance against governmental conduct.” *United States v.*
5 *Hays*, 515 U.S. 737, 745 (1995). Therefore, “Plaintiffs who complain of racial
6 gerrymandering in their State cannot sue to invalidate the whole State’s legislative
7 districting map”; they are limited to challenging the districts which they themselves
8 inhabit. *Gill*, 585 U.S. at 66.

9 The Consolidated Complaint does not identify the districts in which the Noyes
10 Plaintiffs reside, and thus fails to allege the information needed to “invoke the court’s
11 jurisdiction.” *Searle*, 148 F.4th at 1128; see *Dutta v. State Farm Mut. Auto. Ins. Co.*, 895
12 F.3d 1166, 1173 (9th Cir. 2018) (noting that plaintiffs must plead the elements of
13 standing). All three paragraphs discussing the Noyes Plaintiffs allege only that they are
14 “California resident[s]” who are “registered to vote in California” and “assigned to a
15 district drawn with racial intent.” Consol. Compl. ¶¶ 33–35. But their pleadings
16 otherwise fail to identify what district the Noyes Plaintiffs reside in, or to even confirm
17 that they live in districts challenged by the Noyes Plaintiffs’ claims. They have thus failed
18 to allege that any of them has “personally been subjected to a racial classification,” an
19 essential element of standing for a redistricting claim. *Hays*, 515 U.S. at 745. Rule
20 12(b)(1) therefore requires outright dismissal or narrowing of their claims to the districts
21 in which the Noyes Plaintiffs actually live—a maximum of three districts.

22 Relatedly, Rule 12(b)(6) also requires dismissing or narrowing the Noyes
23 Plaintiffs’ claims. The number of districts the Noyes Plaintiffs *purport* to challenge under
24 their Fifteenth Amendment and VRA claims is ambiguous, but read generously, the
25 Consolidated Complaint appears to include all sixteen Latino-majority districts and two
26 “black influence districts.” See Consol. Compl. ¶ 151. But their claims suffer from at
27 least two fatal threshold deficiencies: The Noyes Plaintiffs have not alleged that they live
28 in *any* of those districts, nor have they advanced district-specific allegations as to about

1 half of them. The Consolidated Complaint references by name only 9 districts that were
2 alleged to have been drawn with race in mind: Districts 13, 18, 37, 38, 41, 42, 43, 44,
3 and 52. *See* Consol. Compl. ¶¶ 91–93, 97–99, 100, 103, 107, 109, 117. Setting aside
4 whether Plaintiffs have adequately alleged discriminatory intent with respect to these
5 districts—they have not, as explained below—Plaintiffs’ failure to even try to conduct
6 the required “district-by-district” analysis, *Bethune-Hill*, 580 U.S. at 191, further
7 warrants dismissal or narrowing of their claims. Simply put, as a matter of law, the Noyes
8 Plaintiffs’ claims can extend no further than those districts within which they actually
9 reside *and* for which they supply meaningful, district-specific allegations that satisfy the
10 Rule 12(b)(6) plausibility standard.

11 **C. The United States’s participation in this case cannot broaden the**
12 **substantive scope of Plaintiffs’ challenges.**

13 The involvement of the United States does not permit the Tangipa or Noyes
14 Plaintiffs to broaden the scope of their attack on the Prop 50 map. The United States
15 pursues two claims—a Fourteenth Amendment claim and a VRA Section 2 claim. *See*
16 Consol. Compl. ¶¶ 36–37. As to the former, the United States’s claim does not include
17 concrete allegations about specific districts other than CD-13, so its Fourteenth
18 Amendment claim must likewise be dismissed entirely or, at minimum, restricted to CD-
19 13 alone. *See* Consol. Compl. ¶¶ 153–58; *see also supra* Argument § I.A.

20 As to its VRA claim, the United States again supplies no greater factual allegations
21 than those supplied by the Noyes Plaintiffs. Accordingly, at its absolute outer bounds,
22 the United States’s VRA claim can only be understood to challenge the 9 districts
23 purportedly drawn with race in mind, *see supra* Argument § I.B., as it otherwise fails to
24 allege “that race was improperly used in the drawing of the boundaries of [additional]
25 specific electoral districts.” *Alabama*, 575 U.S. at 263 (emphasis omitted).

26 * * *

27 As in their original pleadings, the Plaintiffs each once more seek “to invalidate the
28 whole State’s legislative districting map,” *Gill*, 585 U.S. at 66, notwithstanding both the

1 limited scope of their claims and, as to the Noyes Plaintiffs, the narrow geographic reach
2 of their inadequately pled injuries. Accordingly, at the outset, the Court must dismiss or
3 narrow the claims set forth in the Consolidated Complaint. Moreover, for the reasons
4 below, Plaintiffs fail to plausibly allege racial gerrymandering claims, even as the small
5 handful of districts actually discussed within the Consolidated Complaint.

6 **II. The Noyes Plaintiffs have not alleged a cognizable vote-dilution claim**
7 **under the Fifteenth Amendment or the VRA.**

8 In addition to the fundamental overbreadth of their claims, the Noyes Plaintiffs'
9 standalone Fifteenth Amendment claim suffers from at least two facial deficiencies. *See*
10 *Consol. Compl.* ¶¶ 134–47 (Count II). As an initial matter, their pleadings fail to set forth
11 a coherent framework for adjudicating this claim, citing instead to a grab bag of cases
12 that bear no resemblance to this one. *See id.* ¶ 136. *Rice v. Cayetano*, for example,
13 concerned a race-based qualification for voting in certain statewide elections, *see* 528
14 U.S. 495, 499 (2000), while *Garza v. County of Los Angeles* does not even reference the
15 Fifteenth Amendment at all, *see generally* 918 F.2d 763 (9th Cir. 1990). Simply put, by
16 failing to lay out the basic contours of their Fifteenth Amendment claim, the Noyes
17 Plaintiffs do not meet their “obligation to provide the grounds of [their] entitlement to
18 relief.” *Twombly*, 550 U.S. at 555 (cleaned up); *see also Navarro*, 250 F.3d at 732
19 (explaining dismissal is proper “where there is no cognizable legal theory” asserted in
20 the complaint).

21 To be sure, cognizable Fifteenth Amendment claims do exist, even though the
22 Noyes Plaintiffs fail to intelligibly set forth the claim they are asserting. But the Noyes
23 Plaintiffs’ Fifteenth Amendment claim fails twice over because they fail to adequately
24 plead such a claim. A redistricting plaintiff can advance one of two “analytically distinct”
25 types of claims under the Fifteenth Amendment. *Christian Ministerial All. v. Thurston*,
26 714 F. Supp. 3d 1093, 1096 (E.D. Ark. 2024) (quoting *Miller*, 515 U.S. at 915). *First*, a
27 plaintiff can advance a “vote dilution” theory, which requires showing that a state “has
28 enacted a particular voting scheme as a purposeful device to minimize or cancel out the

1 voting potential” of specific racial groups. *Miller*, 515 U.S. at 911. To plead a vote
2 dilution claim, a plaintiff must plausibly allege both “that the purpose and operative
3 effect” of the challenged scheme is “to dilute the voting strength of minority citizens,”
4 and that “there is an actual discriminatory effect on that group.” *Vallejo v. Keller Indep.*
5 *Sch. Dist.*, No. 4:25-CV-00138-O, 2026 WL 112050, at *5 (N.D. Tex. Jan. 15, 2026)
6 (citations omitted, alterations incorporated).

7 But to the extent the Noyes Plaintiffs intend to advance a vote dilution theory, they
8 have failed to advance any allegations about vote dilution, much less allegations
9 plausibly suggesting that *their* votes have been diluted. Neither the word “dilute” nor any
10 of its variants appears in the Noyes’ Plaintiffs’ Fifteenth Amendment claim, Consol.
11 Compl. ¶¶ 148–52, and where the word appears elsewhere in the Consolidated
12 Complaint, it refers to racial gerrymandering in *other states*, e.g., *id.* ¶ 6 (alleging that
13 California legislators feared “that the voting power of racial groups in other states was
14 being diluted”). The Noyes Plaintiffs thus have not plausibly alleged that *any* California
15 voters experienced vote dilution on racial grounds—meaning they have not alleged
16 “sufficient facts . . . to support a cognizable legal theory.” *Navarro*, 250 F.3d at 732. And,
17 by extension, they necessarily have not alleged standing as required for a vote-dilution
18 claim. “[I]n the racial gerrymandering . . . context[], vote dilution occurs when voters are
19 harmed compared to irrationally favored voters from other districts.” *Wood v.*
20 *Raffensperger*, 981 F.3d 1307, 1314 (11th Cir. 2020). The Noyes Plaintiffs have not even
21 alleged what districts they inhabit, much less facts sufficient to plausibly suggest that the
22 value of their votes has been diluted compared to voters in other districts. Absent a
23 cognizable harm, the Consolidated Complaint’s allegations are not “sufficient to invoke
24 the court’s jurisdiction.” *Searle*, 148 F.4th at 1128. The requirements to plead a vote-
25 dilution claim under the VRA are the same as to plead a vote-dilution claim under the
26 Fifteenth Amendment. *See League of United Latin Am. Citizens v. Abbott*, 809 F. Supp.
27 3d 502, 515 (W.D. Tex. 2025). Thus, to the extent the Noyes Plaintiffs intended their
28 VRA claim to assert a vote-dilution theory, it fails for the same reasons.

1 *Second*, a plaintiff can advance a traditional racial gerrymandering theory under
2 the Fifteenth Amendment, though typically in combination with a Fourteenth
3 Amendment claim. *Cf. Abbott v. League of United Latin Am. Citizens*, 146 S. Ct. 418,
4 422 (2025) (Kagan, J., dissenting) (observing that plaintiffs alleged a racial gerrymander
5 “in violation of the Fourteenth and Fifteenth Amendments”). As explained below,
6 however, pleading this traditional racial gerrymandering theory requires plausibly
7 alleging that “race was the predominant factor motivating the legislature’s decision” to
8 draw particular lines. *Cooper v. Harris*, 581 U.S. 285, 291 (2017) (citation omitted). The
9 Noyes Plaintiffs at times hint at the notion that they are advancing a racial
10 gerrymandering claim that is somehow subject to a lower standard than Plaintiffs’
11 Fourteenth Amendment claims. *See, e.g.*, Consol. Compl. ¶ 136. But the Supreme Court
12 has never recognized a lower-bar racial gerrymandering claim under the Fifteenth
13 Amendment; courts instead uniformly subject racial gerrymandering claims to the same
14 high standard, whether they are brought under the Fourteenth or Fifteenth Amendments.⁶
15 To the extent the Noyes Plaintiffs intend to advance a racial gerrymandering theory under
16 the Fifteenth Amendment—as the title to Count II suggests—that claim is subject to the
17 same standards as the Tangipa Plaintiffs’ Fourteenth Amendment claim—and falls short
18 for the reasons explained below. *See infra*, Argument §§ III–IV.

19
20 ⁶ *See, e.g., Abbott*, 146 S. Ct. at 422 (Kagan, J., dissenting) (explaining the standard for
21 “racial-gerrymander claim[s]” under the “Fourteenth and Fifteenth Amendments”
22 involves “show[ing] that race was the predominant factor motivating the legislature’s
23 decision to place a significant number of voters within or without a particular district”);
24 *Page v. Bartels*, 248 F.3d 175, 192 (3d Cir. 2001) (applying the “predominant factor”
25 test to Fifteenth Amendment claims); *Prejean v. Foster*, 83 F. App’x 5, 11 (5th Cir. 2003)
26 (same); *Robertson v. Bartels*, 148 F. Supp. 2d 443, 453–54 (D.N.J. 2001) (applying the
27 same standard to Fourteenth and Fifteenth Amendment racial gerrymandering claims),
28 *aff’d*, 534 U.S. 1110 (2002); *Johnson-Lee v. City of Minneapolis*, No. 02-
1139(JRT/FLN), 2004 WL 2212044, at *13 (D. Minn. Sept. 30, 2004) (same), *aff’d*, 170
F. App’x 15 (8th Cir. 2006); *cf. Washington v. Finlay*, 664 F.2d 913, 919 (4th Cir. 1981)
(characterizing, prior to *Shaw*, Fourteenth and Fifteenth Amendment claims in this realm
as “essentially congruent”).

1 **III. The Consolidated Complaint does not plausibly allege direct evidence of**
2 **race discrimination as to any district.**

3 The Supreme Court has indicated that direct evidence of racial predominance is an
4 all-but-essential requirement for plausibly alleging a racial gerrymandering claim. *See*
5 *Alexander*, 602 U.S. at 8. Such evidence typically takes “the form of a relevant state
6 actor’s express acknowledgment that race played a role in the drawing of district lines.”
7 *Id.* This “state actor” requirement is further reflected in the substantive standards for each
8 of the claims asserted in the Consolidated Complaint. For example, Plaintiffs’ Fourteenth
9 and Fifteenth Amendment claims require them to allege that relevant state actors
10 “subordinated traditional race-neutral districting principles, including but not limited to
11 compactness, contiguity, and respect for political subdivisions or communities defined
12 by actual shared interests, to racial considerations.” *Miller*, 515 U.S. at 916; *see also*
13 *Page*, 248 F.3d at 192 (applying the “predominant factor” test to Fifteenth Amendment
14 claims); *Prejean*, 83 F. App’x at 11 (same). As for their VRA § 2 claim, Plaintiffs must
15 allege that “racial discrimination [was] . . . a ‘substantial’ or ‘motivating’ factor behind
16 enactment of” the Prop 50 map, *Hunter v. Underwood*, 471 U.S. 222, 228 (1985), and
17 the Court must consider any “actual non-racial motivations” held by the relevant state
18 actors, *N.C. State Conf. of NAACP v. McCrory*, 831 F.3d 204, 221 (4th Cir. 2016).⁷

19 Plaintiffs have not plausibly alleged discriminatory intent on the part of *any* state
20 actor—a gaping omission that undermines the plausibility of their claims. For example,

21
22 ⁷ The Ninth Circuit has also held that to advance a claim under § 2 of the VRA, a plaintiff
23 must allege facts sufficient to permit an inference of discriminatory intent under the
24 *Arlington Heights* framework. *See Old Person v. Cooney*, 230 F.3d 1113, 1130–31 (9th
25 Cir. 2000). That standard requires considering numerous factors, including
26 contemporaneous statements by state actors, procedural or substantive deviations, and
27 the degree of burden on majority and minority voters. The Consolidated Complaint says
28 nothing about these factors—which is yet another pleading deficiency for Plaintiffs’
VRA claims. *Walls v. Sanders*, 760 F. Supp. 3d 766, 797 (E.D. Ark. 2024) (“To survive
a motion to dismiss under *Arlington Heights*, a plaintiff must allege facts sufficient to
allow the Court to draw a reasonable inference that lawmakers acted with a
discriminatory intent or purpose when they enacted the law at issue.”).

1 Plaintiffs say nothing about the intent of the California electorate, which was the final
2 arbiter as to Prop 50’s enactment and which this Court has already held to be the most
3 relevant state actor. And the supposed direct evidence they *do* discuss consists of
4 cherrypicked statements from Paul Mitchell (whom they fail to plausibly allege is a state
5 actor) and California legislators, all of which ultimately confirm Prop 50’s
6 overwhelmingly partisan motivations.

7 **A. The Consolidated Complaint offers no discussion of the intent of**
8 **the California electorate.**

9 As this Court has already observed, Prop 50 is different from other redistricting
10 efforts because it was placed before the electorate as a ballot measure, rather than enacted
11 via legislation alone. *See* PI Order at 17; *see also* Cal. Const. art. II, § 1 (the California
12 voters have the final power over amendments to the state constitution); *Hollingsworth v.*
13 *Perry*, 570 U.S. 693, 707 (2013) (recognizing that, in California, ballot proposals
14 “bec[o]me ‘a duly enacted constitutional amendment or statute’” only once “approved
15 by the voters” (quoting *Perry v. Brown*, 265 P.3d 1002, 1021 (Cal. 2011)). Accordingly,
16 the Court “must look to the intent of the voters, rather than the legislature” alone to
17 determine whether race predominated in drawing the Prop 50 map. PI Order at 18. The
18 United States apparently agrees with this framework: in its brief supporting the Tangipa
19 Plaintiffs’ request for an injunction pending appeal before the Supreme Court, the United
20 States argued it was “appropriate . . . to treat the voters as the ultimate legislature for
21 purposes of th[e] Court’s racial-gerrymandering precedents.” Brief for the United States
22 at 20, *Tangipa v. Newsom*, No. 25A839 (U.S. Jan. 22, 2026).

23 Even so, the Consolidated Complaint does not advance a *single* allegation about
24 whether voters intended to enact a racial gerrymander or whether the campaign itself was
25 tainted by racial appeals. Plaintiffs allege only that “Proposition 50 was passed in a
26 special election by California voters,” Consol. Compl. ¶ 61, with nary a mention of the
27 openly partisan ballot campaign that preceded the vote. And while the Consolidated
28 Complaint discusses statements by Paul Mitchell and California legislators about Prop

1 50—which might conceivably “speak directly to voters,” and therefore provide indirect
2 evidence of “the voters’ intent,” PI Order at 18—the Consolidated Complaint does not
3 bridge that gap by alleging that any of Mitchell’s or the legislators’ statements informed,
4 influenced, or reflected the motives of the California electorate. *See generally* Consol.
5 Compl. On its own, the total absence of *any* allegations about the intent of “the most
6 relevant state actors,” PI Order at 15, warrants dismissing Plaintiffs’ claims, *see also*
7 *Alexander*, 602 U.S. at 8, or at minimum demands particularly compelling allegations of
8 circumstantial evidence, *see id.*, which Plaintiffs likewise fail to supply.

9 **B. Plaintiffs’ cherrypicked statements from California legislators do**
10 **not establish discriminatory intent.**

11 The Consolidated Complaint also references a handful of stray statements by
12 California legislators about the Prop 50 map as evidence of racial predominance. But
13 every statement identified in the Complaint either (1) accuses *other* states of engaging in
14 racial gerrymandering to *disfavor* minorities or (2) advocates for Prop 50 in part because
15 it preserves existing majority-minority or Voting Rights Act districts in the previous map.
16 *See* Consol. Compl. ¶¶ 78–87. Even in the out of-context manner in which Plaintiffs
17 present these statements, they do not plausibly show that the Prop 50 map was enacted
18 to favor or disfavor any racial group, much less that race predominated in the drawing of
19 any specific district.

20 The first set of statements, on their face, do not say anything about the Prop 50
21 map at all—instead, they indict alleged racial gerrymandering in *other* states, and it is
22 unclear what inference Plaintiffs expect the Court to draw from these statements.
23 Generously construed, Plaintiffs appear to be alleging that these statements somehow
24 reflect a *reciprocal* desire on the part of some California legislators to engage in racial
25 gerrymandering of the sort alleged to be taking place elsewhere. But Plaintiffs do not
26 even muster a bare allegation to this effect, never mind sufficient allegations to overcome
27 the presumption of legislative good faith. *Alexander*, 602 U.S. at 11.
28

1 The second category of statements are simply boilerplate puffery about Prop 50's
2 preservation of existing minority voting rights. These statements at most suggest that
3 some legislators may have “considered race, along with other partisan and geographic
4 considerations,” in voting for Prop 50, *Easley v. Cromartie*, 532 U.S. 234, 253 (2001),
5 which is not enough to allege predominance, *see Cubanos Pa 'lante v. Fla. House of*
6 *Representatives*, 766 F. Supp. 3d 1204, 1212–13 (S.D. Fla. 2025) (dismissing complaint
7 because “generalized language” employed by legislators to refer to “protected[] majority-
8 minority Hispanic districts” failed to “sustain the inference that race predominated in the
9 Legislature’s discussions”). Indeed, the more plausible interpretation of the statements is
10 that some legislators wished to preserve aspects of the prior map, which the Supreme
11 Court has recognized as a legitimate legislative consideration. *See Karcher v. Daggett*,
12 462 U.S. 725, 740 (1983) (recognizing “preserving the cores of prior districts” as a valid
13 criterion); *Miller*, 515 U.S. at 916 (similar); *see also Alexander*, 602 U.S. at 10
14 (explaining the Court must draw all reasonable inferences in the legislature’s favor).
15 Thus, none of these alleged statements provide a plausible inference that race played a
16 predominant role in the California Legislature’s evaluation of Prop 50.⁸

17 **C. The allegations about Paul Mitchell do not establish discriminatory**
18 **intent attributable to any state actor.**

19 In contrast to their allegations concerning California’s voters and legislators,
20 Plaintiffs focus substantial portions of their pleadings on Paul Mitchell, the independent
21 consultant who allegedly prepared a draft map for DCCC. But the Consolidated
22 Complaint alleges no facts to suggest that he is a state actor or that his statements are
23

24 ⁸ The Consolidated Complaint also suggests that Mitchell’s company, Redistricting
25 Partners, provided DCCC with a draft map that “included census population tables and
26 CVAP in each district, broken down by race,” and that “DCCC then sent this document
27 to the California Legislature.” Consol. Compl. ¶¶ 73–74. It is unclear whether Plaintiffs
28 intend to suggest that this constitutes direct evidence of racial intent, but if so, it plainly
does not: at most, it indicates “consciousness” of racial statistics, which is not enough to
show predominance. *Shaw v. Reno*, 509 U.S. 630, 646 (1993).

1 attributable to California legislators or the California electorate. According to the
2 Consolidated Complaint, Paul Mitchell is a private consultant at “Sacramento-based
3 Redistricting Partners.” Consol. Compl. ¶ 56. After Mitchell drafted a map, DCCC, an
4 indisputably partisan organization, “paid Mr. Mitchell for the new congressional map
5 and submitted it to the California legislature.” *Id.* ¶¶ 56, 73–74. The closest Plaintiffs
6 come to alleging Mitchell’s relevance is a one-sentence allegation that Mitchell “met
7 with Speaker of the California Assembly Robert Rivas’s Chief of Staff, Steve Omara,
8 and began conversations with the California Legislature about drawing the new
9 congressional districts that would become the Proposition 50 map.” *Id.* ¶ 56. But the mere
10 suggestion that Mitchell had a conversation with legislative staff about Prop 50—even if
11 true—falls far short of demonstrating that he is a relevant state actor who can speak for
12 the Legislature or the electorate. *See Abbott v. Perez*, 585 U.S. 579, 608–10 (2018) (racial
13 gerrymandering plaintiffs must show it was the state actors responsible for enacting
14 specific challenged districts who had “discriminatory intent”); *Alexander*, 602 U.S. at 8
15 (focusing on the intent of a “relevant state actor[]”); *Am. Mfrs. Mut. Ins. Co. v. Sullivan*,
16 526 U.S. 40, 52 (1999) (“Action taken by private entities with the mere approval or
17 acquiescence of the State is not state action.”); *cf. Brnovich v. Democratic Nat’l Comm.*,
18 594 U.S. 647, 689–90 (2021) (explaining “legislators who vote to adopt a bill are not the
19 agents of the bill’s sponsor or proponents”).

20 Thus, there is a mile-wide gap between the Consolidated Complaint’s paltry
21 allegations and any permissible inference that Mitchell’s views or statements can be
22 attributed to a relevant state actor. Absent well-pled facts suggesting Mitchell is a state
23 actor or that his statements can be imputed to one, Plaintiffs’ allegations about Mitchell
24 reflect nothing more than snippets of a third party’s personal opinions.⁹ *See Cooke v.*
25 *Corp. of the President of the Church of Jesus Christ of Latter Day Saints*, 395 F. App’x
26

27 ⁹ As DCCC has explained elsewhere, when placed in context, Mitchell’s statements make
28 crystal clear that his predominant motivation was partisan gain for Democratic Party
candidates. *See* DCCC’s Opp’n to Mot. for Prelim. Inj., ECF No. 112.

1 367 (9th Cir. 2010) (affirming dismissal of complaint where plaintiff failed to allege
2 defendants were state actors); *Cox v. Ass’n of Or. Corr. Emps., Inc.*, No. 24-2763, 2025
3 WL 1077133, at *1 (9th Cir. Apr. 10, 2025) (similar). Accordingly, even setting aside
4 how Plaintiffs mischaracterize the substance of his remarks, *see infra*, Argument § IV.A,
5 there is no basis to begin with for treating Mitchell’s comments as direct evidence of any
6 kind.

7 **IV. Plaintiffs have not plausibly alleged racial predominance as to any of the**
8 **specific districts they discuss.**

9 The inchoate legal framework of Plaintiffs’ claims, coupled with their failure to
10 plausibly allege *any* relevant direct evidence of racial predominance whatsoever, is
11 enough to dismiss their claims. *See Alexander*, 602 U.S. at 11; *Cubanos Pa ’lante*, 766
12 F. Supp. 3d at 1212–13. But even were the Court to consider their remaining
13 circumstantial allegations directed towards specific congressional districts, these
14 allegations do not plausibly show racial predominance, and certainly do not overcome
15 the strong presumption of legislative good faith. *See Cubanos Pa ’lante*, 766 F. Supp. 3d
16 at 1216 (dismissing allegations as to two challenged districts where plaintiffs offered
17 “only conclusory allegations in place of . . . more specific circumstantial evidence”).
18 Most obviously, the supposed district-specific evidence Plaintiffs allege suffers from the
19 same pleading deficiencies discussed above—Plaintiffs glaringly fail to allege *any* facts
20 that could supply direct evidence that voters or legislators held racialized motives as to
21 the adoption of any of the districts they discuss. *See supra*, Argument § III. And
22 Plaintiffs’ critiques of isolated portions of a handful of challenged districts fail to nudge
23 their claims over the line from speculative to plausible, because they do not even try
24 “rul[e] out the competing explanation that political considerations dominated” the
25 redrawing of these districts. *Alexander*, 602 U.S. at 9–10; *accord Twombly*, 550 U.S. at
26 557.

1 **A. The allegations concerning CD-13 do not plausibly show racial**
2 **predominance.**

3 Like the Tangipa Plaintiffs’ original complaint, the Consolidated Complaint
4 focuses significantly on CD-13, a congressional district in the San Joaquin Valley. *See*
5 *Consol. Compl.* ¶¶ 117–23. Plaintiffs do not even attempt to allege that the California
6 electorate or California’s legislators held racialized motives in adopting CD-13’s
7 boundaries, *see id.*, meaning they have not plausibly alleged that race predominated in
8 the drawing of CD-13’s boundaries. *See Cubanos Pa’ lante*, 766 F. Supp. 3d at 1216
9 (finding even more substantial legislative statements “too generalized to support the
10 inference that race motivated” redistricting efforts for two congressional districts and
11 granting Rule 12(b)(6) motion); *supra* Argument § III (explaining why lack of voter or
12 legislator statements suggesting racial motivation warrants dismissal).

13 The closest the Consolidated Complaint comes to alleging direct evidence of
14 discrimination as to CD-13 is its recitation of Paul Mitchell’s statement during his
15 presentation to a Hispanic advocacy organization, Hispanas Organized for Political
16 Equality (HOPE), that the Prop 50 map would make the Latino vote more “effective,
17 particularly in the Central Valley.” *Consol. Compl.* ¶ 67. But there are at least three
18 problems with relying on this remark as circumstantial evidence regarding CD-13. *First*,
19 Plaintiffs never allege that Mitchell was referring to CD-13 when he made this statement.
20 And the Court cannot simply assume that he was—the Central Valley includes at least
21 *eight* congressional districts in whole or part,¹⁰ and there is no dispute that Prop 50

22 _____
23 ¹⁰ The precise contours of the Central Valley are variable, but the Court can take judicial
24 notice of the fact that the California Department of Justice defines the Central Valley as
25 including at least the following ten counties: Fresno, Kern, Kings, Madera, Mariposa,
26 Merced, San Joaquin, Stanislaus, Tulare, Tuolumne. *See Game Rules*, State of Cal. Dep’t
27 of Just. (last visited Feb. 11, 2026), <https://perma.cc/K3G5-2MQJ>. Under the Prop 50
28 map, these counties are located partially or entirely within congressional districts 5, 9,
13, 18, 20, 21, 22, 23. *See generally* Assemb. B. 604, 2025–26 Reg. Sess. (Cal. 2025)
(identifying county census blocks by congressional district). Regardless of any quibbles

1 significantly altered many of them. Mitchell’s bare reference to the “Central Valley”
2 therefore fails to supply the necessary district-specific allegations for Plaintiffs’ CD-13
3 claims. *See Alabama*, 575 U.S. at 262–63. *Second*, and just as importantly, Mitchell was
4 expressly told prior to making this remark to “keep it nonpartisan” when explaining what
5 “Latino voters [should] pay the most attention to when it comes to . . . the[] Prop 50
6 maps[.]” Consol. Compl. Ex. B at 28:8–11.¹¹ Simply put, it is impossible to infer
7 *anything* about the relative predominance of race versus partisanship from this particular
8 remark given that the materials in the Consolidated Complaint show that Mitchell was
9 asked to avoid speaking about the latter. *See, e.g., Baidan v. Shull*, No. 24-CV-03171-
10 VKD, 2025 WL 267348, at *4 (N.D. Cal. Jan. 22, 2025) (dismissing complaint where
11 transcript incorporated into the pleadings failed to permit inference sought by
12 complainant); *cf. City of Baton Rouge/E. Baton Rouge Par. v. Bank of Am., N.A.*, No. 19-
13 CV-725-SDD-RLB, 2021 WL 1201664, at *4 (M.D. La. Mar. 30, 2021) (dismissing
14 Sherman Act claim where chat room transcript incorporated into complaint “scarcely
15 evidences an understanding regarding price whatsoever, let alone an explicit one,” and
16 therefore failed to support a plausible inference of conspiracy). *Third*, Mitchell’s
17 statement on its face concerned the *effects* of the Prop 50 map, not the intent underlying
18

19 about the precise boundaries of the Central Valley, the point remains the same: the Court
20 cannot simply assume an offhand reference to the region refers to CD-13 specifically.

21 ¹¹ Plaintiffs conveniently fail to quote the actual question that Mitchell was asked when
22 giving his response, which was: “[T]rying as much as we can to keep it nonpartisan, from
23 your perspective, what should Latino voters pay the most attention to when it comes to
24 this -- to these Prop. 50 maps?” *See* Consol. Compl. Ex. B at 28:8–11. Even so, that
25 portion of the transcript is plainly incorporated into the Consolidated Complaint. *See*
26 Consol. Compl. Ex. B; Consol. Compl. ¶ 63 (introducing Mitchell’s HOPE presentation
27 as an exhibit). The “policy concern underlying this [incorporation] rule is to prevent
28 plaintiffs from surviving a motion to dismiss by deliberately omitting references to, or
portions of, documents that weaken or doom their claims.” *Darling v. Eddy*, No. 9:21-
CV-00147-DLC, 2023 WL 157712, at *2 (D. Mont. Jan. 11, 2023). That is precisely the
case here, where Plaintiffs omit the very question Mitchell was asked, and the critical
context it supplies, yet seize upon his response in isolation in a vain effort to state a claim.

1 the map. “[R]ace and partisan preference are [often] highly correlated,” *Alexander*, 602
2 U.S. at 6, meaning a map *intended* to make a district more Democratic might have the
3 *effect* of making it more effective for Latino voters. The Consolidated Complaint’s
4 allegations entirely fail to “disentangle race and politics,” *id.*, and thus do not state a
5 claim for racial predominance.

6 Bereft of any allegations of direct evidence as to CD-13, Plaintiffs are forced to
7 place loadbearing weight on circumstantial allegations of racial predominance. Such
8 evidence takes the form (notionally) of allegations that discrete portions of CD-13 are
9 “so bizarre on [their] face that it discloses a racial design” without any plausible
10 alternative explanation. *Id.* at 8 (quoting *Miller*, 515 U.S. at 914). Tellingly though, in
11 making these allegations, Plaintiffs fail to discuss “the design of the district as a whole”—
12 which on its face largely traded rural, conservative voters for more urban and suburban
13 liberal ones—or to “take account of the districtwide context,” as required to present a
14 coherent claim. *Bethune-Hill*, 580 U.S. at 192.

15 The Consolidated Complaint briefly mentions two geographic features of CD-13:
16 (1) a “bulge[]” which “omits a significant white Democratic population in Modesto while
17 capturing a heavily Hispanic Republican population,” and (2) a “split . . . near Stockton”
18 which “leaves heavily Democratic areas to the west of the district but includes a northern
19 appendage.” Consol. Compl. ¶¶ 120–23. These fleeting allusions, which assert in
20 conclusory fashion that CD-13’s design “makes little sense from the perspective of a
21 mapmaker intending to maximize partisan performance,” *id.* ¶ 123, hardly foreclose the
22 prospect that “political considerations dominated” in the broader drawing of CD-13,
23 *Alexander*, 602 U.S. at 9–10. This is particularly true given that, according to Plaintiffs’
24 own allegations, Prop 50 *reduced* the overall Latino population of CD-13. Consol.
25 Compl. ¶¶ 117–118 (noting that the “Hispanic” population of CD-13 was 65.9% in the
26 old map, and 64.8% in the new map). As a result, Plaintiffs’ offhand criticisms of a
27 “bulge” in one small area of the district and a “split” in another fails to supply an
28 inference that race, rather than politics, “dominated” the drawing of CD-13 as a whole.

1 *Alexander*, 602 U.S. at 9–10. “Factual allegations founded on describing the minutiae of
2 a district’s boundaries without connecting those boundaries’ shapes to the impermissible
3 use of race cannot survive a motion to dismiss.” *Cubanos Pa ’lante*, 766 F. Supp. 3d at
4 1216 (dismissing claims with more substantial critiques of district boundaries). To the
5 contrary, Plaintiffs’ myopic focus on the minutiae of a couple small portions of CD-13’s
6 boundaries ignores “the design of the district as a whole” and fails to “take account of
7 the districtwide context.” *Bethune-Hill*, 580 U.S. at 192.

8 Plaintiffs also fail to offer any allegations that foreclose the more plausible and
9 obvious alternative explanation for why certain Democrats were “omit[ted]” from CD-
10 13, namely, that there are “tradeoff[s] . . . inherent in every redistricting: some voters are
11 shifted out of one district and into another.” *Jackson v. Tarrant County*, 158 F.4th 571,
12 582 (5th Cir. 2025). Plaintiffs make no allegations explaining why a reasonable
13 mapdrawer—motivated exclusively by partisanship—would not leave some Democrats
14 on the table just outside CD-13 in order to deploy them in neighboring competitive
15 districts. And, even setting partisanship aside, Plaintiffs offer *no* allegations to suggest
16 that other “traditional redistricting factors,” such as “compactness, contiguity of territory,
17 and respect for communities of interest,” *Bethune-Hill*, 580 U.S. at 183, did not play a
18 role in drawing CD-13. Thus, Plaintiffs have fundamentally failed to comply with their
19 pleading obligations under *Twombly* and *Iqbal*, which require the complainant to supply
20 allegations that “plausibly suggest[],” and are “not merely consistent with,” a legal
21 violation. *Twombly*, 550 U.S. at 557; *see also In re Century Aluminum Co. Sec. Litig.*,
22 729 F.3d 1104, 1108 (9th Cir. 2013) (“To render their explanation plausible, plaintiffs
23 must do more than allege facts that are merely consistent with both their explanation and
24 defendants’ competing explanation.”); *Redlands Country Club Inc. v. Cont’l Cas. Co.*,
25 No. 10-CV-1905-GAF-DTBX, 2011 WL 13224843, at *3 (C.D. Cal. Jan. 28, 2011)
26 (“Allegations that are equally consistent with lawful and unlawful conduct are
27 insufficient under *Twombly*.”).

1 In *Cubanos Pa 'lante*, for example, the three-judge court dismissed racial
2 gerrymandering claims towards Florida's CD-27 because the complaint failed to offer
3 allegations foreclosing "equally plausible explanation[s] for the district's shape." 766 F.
4 Supp. 3d at 1216. In other words, "equally plausible inferences" of lawful conduct
5 remained even when accepting the facts in the complaint as true. *Id.* That is the case here
6 as well. Plaintiffs have not even tried to plead the most basic counter-explanation as to
7 why partisanship does not explain the choice to leave some Democrats outside of the
8 district—and thus available for neighboring districts like CD-5 and CD-9—when looking
9 at CD-13. That failure is critical given the need to "disentangle race and politics" when
10 pleading a racial gerrymandering claim. *Alexander*, 602 U.S. at 6. As such, Plaintiffs
11 have "not offered allegations" to render their racial gerrymandering theory "plausible,"
12 even as to CD-13 specifically. *In re Century Aluminum*, 729 F.3d at 1108; *see also*
13 *Cubanos Pa 'lante*, 766 F. Supp. 3d at 1216–17.

14 **B. Plaintiffs' allegations about HCVAP percentages do not plausibly**
15 **show racial predominance.**

16 Similar to their allegations about CD-13, Plaintiffs suggest that the Prop 50 map
17 deliberately creates "Hispanic-majority Districts" by "passing Hispanic-majority census
18 blocks from one adjacent district to another." Consol. Compl. ¶ 95. The Prop 50 map
19 achieves this, according to Plaintiffs, by "reducing Hispanic population with precision in
20 many districts, but at a level that very carefully and deliberately maintained a floor of
21 52% Hispanic population." *Id.* In making these allegations, Plaintiffs rely on statistics
22 about the "Hispanic Citizen Voting-Age Population" (also referred to as "Hispanic
23 CVAP" or "HCVAP") of the districts they discuss.

24 But those statistics belie this theory. According to Table 1, the previous
25 congressional map had sixteen "Hispanic-majority districts"—the *exact same number* as
26 the Prop 50 map. Consol. Compl. at Table 1. Moreover, the number of "Hispanic-
27 majority" districts in the previous plan with an HCVAP percentage below 52% is zero—
28 whereas the Prop 50 map contains at least one "Hispanic-majority" district, CD-52, with

1 less than 52% HCVAP. *Id.* Thus, Plaintiffs have not plausibly alleged that the Prop 50
2 map establishes a “floor of 52% Hispanic population”—if anything, the map goes below
3 that “floor” more so than the prior map. *See Hall v. Virginia*, 385 F.3d 421, 424 n.3 (4th
4 Cir. 2004) (affirming dismissal of racial gerrymandering claim where statistics did not
5 support the plaintiff’s theory).

6 Plaintiffs also suggest that the Prop 50 map intentionally draws districts with
7 between 52% and 55% HVCAP, and that the configuration of these districts was
8 designed, for some reason, to be consistent with an opinion letter sent by HOPE to
9 California’s previously operative Redistricting Commission concerning Latino-majority
10 districts. *See* Consol. Compl. ¶¶ 64, 96.¹² But not all districts fall within this band; two
11 districts exhibit over 61% HCVAP, while one falls below 52%, as just discussed. *Id.* at
12 Table 1. And as the Consolidated Complaint shows, the prior map itself contained seven
13 districts with between 52% and 55% HCVAP, and seven more districts with HCVAP
14 between 55% and 58%. *See id.* at Table 1. Plaintiffs do not plausibly allege, based on the
15 mere presence of districts with slightly altered Latino majorities, that the Prop 50 map
16 was drawn with racial goals in mind, especially given the multitude of other redistricting
17 criteria a state may legitimately consider in districting. *See Miller*, 515 U.S. at 916.
18 Simply gesturing toward districts’ HCVAP percentages does not amount to a plausible
19 allegation of “racial predominance” in any given district. *Bethune-Hill*, 580 U.S. at 191.

20 Finally, the Consolidated Complaint does not even discuss the vast majority of the
21 districts with between 52% and 55% HCVAP, and thus their theory that Mitchell
22 somehow passed Hispanic-majority census blocks between districts is not adequately
23 supported by the required “district-by-district” analysis or any specific factual
24

25
26 ¹² The HOPE letter allegedly suggests creating districts with HCVAP percentages
27 “between 53% and 54%,” but Plaintiffs allege that Prop 50 aims for “a tight range
28 between 52-55%.” *Compare* Consol. Compl. ¶ 95 with *id.* ¶ 96. This discrepancy further
undermines the already implausible hypothesis that the Prop 50 map was designed to
comply with the HOPE letter.

1 allegations. *Bethune-Hill*, 580 U.S. at 191 (citation omitted). The only district Plaintiffs
2 do discuss as having been kept “within the deliberately tight band of 52-55% Hispanic
3 CVAP range” is CD-18. *See* Consol. Compl. ¶¶ 97–99. But Plaintiffs neglect to mention
4 that CD-18 *also* had a HCVAP percentage of between 52% and 55% in the prior map.
5 *See id.* at Table 1. And Plaintiffs do not, and cannot, explain why a state that wished “to
6 favor Latino voters,” Consol. Compl. ¶ 162, would do so by replacing one slightly
7 Latino-majority district with another slightly Latino-majority district, rather than, for
8 example, expanding the actual number of Latino-majority districts. Far from “ruling out”
9 competing explanations, *Alexander*, 602 U.S. at 9, Plaintiffs’ allegations—even taken at
10 face value—do not plausibly suggest racial motivation as the predominant factor behind
11 any specific district.

12 **C. The allegations directed to CD-38, CD-41, and CD-42 do not**
13 **plausibly show racial predominance.**

14 The Consolidated Complaint also includes a handful of paragraphs concerning
15 CD-41 and CD-42, though the precise implications of these allegations are difficult to
16 parse. *See* Consol. Compl. ¶¶ 100–07. The gist appears to be that Prop 50 converted CD-
17 42 from a Latino-majority district into a non-Latino majority district, and then did the
18 reverse with CD-41, redrawing it from a White-plurality district outside of Los Angeles
19 into a Latino-majority district within Los Angeles County, while maintaining CD-38 as
20 a Latino-majority district by making it absorb components of CD-42. *Id.* In other words,
21 Plaintiffs contend that Prop 50 swaps CD-41 and CD-42 in order to “preserv[e] the
22 number of majority Hispanic CVAP districts at sixteen.” *Id.* ¶ 101.

23 Plaintiffs, however, fail to provide any additional allegations that could supply an
24 inference that these two districts were drawn for an impermissible racial purpose, rather
25 than in service of Prop 50’s openly stated goal of electing more Democrats to Congress.
26 *See* PI Order at 2 (Prop 50 adopts “congressional district lines that everyone agrees are
27 likely to flip five congressional seats from Republicans to Democrats”). Nor do they offer
28 allegations suggesting some sort of “trade-off” or “swap” between CD-42 and CD-41.

1 To the contrary, Plaintiffs’ own sources in the Consolidated Complaint confirm that that
2 CD-41 was moved into Los Angeles primarily to “eliminat[e] the Ken Calvert district in
3 Riverside,” in service of the expressly partisan goal of providing “an opportunity for
4 Democrats to pick up five seats, and to counterbalance the five Republican seats in
5 Texas.” Consol. Compl., Ex. B at 25:14–26:8. Moving CD-41 into Los Angeles
6 County—and, in the process, adding a substantial number of Democratic-leaning urban
7 voters to the district—displaced parts of the existing CD-42, pushing it further south and
8 causing it *lose* HCVAP in the process. *See* PI Order at 46–47 (“Only one challenged
9 district, District 41, became a majority-Latino district under the Proposition 50 Map,
10 while another district that is not challenged, District 42, is no longer a majority-Latino
11 district . . .”). Nothing about that shift supplies an inference of unlawful racial
12 motivation. If anything, “a map drawn to favor Latino voters,” Consol. Compl. ¶ 162,
13 would have endeavored to *retain* a Latino-majority district CD-42, rather than swapping
14 one for another (and in the process netting a Democratic-leaning seat).

15 At most, Plaintiffs’ insinuation that Prop 50 deliberately swapped an HCVAP-
16 majority in CD-42 for one in CD-41 reflects “race consciousness,” which “does not lead
17 inevitably to impermissible race discrimination.” *Shaw*, 509 U.S. at 646. As the Supreme
18 Court has explained, such racial consciousness does “not, in and of itself, convert a
19 political gerrymander into a racial gerrymander, no matter how conscious redistricters
20 were of the correlation between race and party affiliation.” *Bush v. Vera*, 517 U.S. 952,
21 968 (1996); *see also Alexander*, 602 U.S. at 9 (collecting similar authority). Plaintiffs fail
22 to offer pleadings that nudge their meager allegations about CD-41 and CD-42 from
23 (charitably construed) indicative of racial awareness, to evidence of racial discrimination.

24 **D. Plaintiffs’ allegation that Prop 50 preserves existing VRA and**
25 **Black-influence districts does not establish racial predominance.**

26 Plaintiffs also allege, as circumstantial evidence of discriminatory intent, that the
27 Prop 50 map “deliberately preserved two performing black-influence districts”—CD-37
28 and CD-43. Consol. Compl. ¶¶ 108–09. Needless to say, these allegations suffer the same

1 fatal flaws as Plaintiffs’ other allegations about specific districts: Plaintiffs say nothing
2 to support a plausible inference that the California Legislature or California electorate
3 were motivated by race in retaining these pre-existing districts. *Supra*, Argument § III.
4 Plaintiffs’ allegations about CD-37 and CD-43 are not even thematically consistent with
5 their overall theory of the case. Elsewhere in the Consolidated Complaint, Plaintiffs
6 suggest that Paul Mitchell was motivated to improve Latino voting power, and that he
7 considered “Hispanic demographics as criteria in designing the map” for that purpose.
8 Consol. Compl. ¶¶ 62–77. Yet according to Plaintiffs, in both CD-37 and CD-43, “the
9 [B]lack population has an increased voting strength *relative to the Hispanic population*
10 *in both districts.*” *Id.* ¶ 111 (emphasis added). Plaintiffs do not even attempt to explain
11 why, in a map supposedly drawn to benefit Latino voters, CD-37 and CD-43 were drawn
12 to “wall[] off the Hispanic . . . populations to the surrounding districts.” *Id.* ¶ 116. And
13 they certainly have alleged no direct evidence suggesting that an intent to benefit Black
14 voters played *any* role in the design of the Prop 50 map.

15 Further, Plaintiffs’ allegations as to CD-37 and CD-43, even if accepted as true,
16 fail to “rule out [] competing explanation[s]” for the districts’ designs. *Alexander*, 602
17 U.S. at 9. Plaintiffs admit that CD-37 and CD-43 changed little from the previous map.
18 “No racial groups’ CVAP populations in Districts 43 and 37 changed,” according to the
19 Consolidated Complaint, and the Prop 50 map simply “preserve[s] the [B]lack
20 populations’ proportion in both districts.” Consol. Compl. ¶¶ 110, 111. Thus, whereas
21 Plaintiffs complain that other districts changed too much, their gripe seems to be that
22 CD-37 and CD-43 did not change *enough*. But the desire not to change a district is *itself*
23 a legitimate redistricting criterion. In *Karcher v. Daggett*, the Supreme Court noted that
24 “preserving the cores of prior districts” was a “legitimate objective.” 462 U.S. at 740–
25 41; *see also Miller*, 515 U.S. at 916 (similar). Given the complete absence of any
26 evidence that Paul Mitchell—much less a relevant actor like the Legislature or
27 electorate—intended to unlawfully benefit Black voters, the shapes of CD-37 and CD-
28

1 43 are “equally consistent with lawful and unlawful conduct,” and thus insufficient to
2 state a claim under Rule 12(b)(6). *Redlands Country Club*, 2011 WL 13224843, at *3.

3 Nor can Plaintiffs evade these principles by suggesting that the Legislature that
4 *originally* enacted CD-37 and CD-43 possessed discriminatory intent in creating these
5 districts. Even if their creation was discriminatory (a proposition Plaintiffs do not even
6 allege), as the Supreme Court has emphasized in the redistricting context, “[p]ast
7 discrimination cannot, in the manner of original sin, condemn governmental action that
8 is not itself unlawful.” *Abbott*, 585 U.S. at 603 (citation omitted). To the contrary, the
9 “presumption of legislative good faith” requires the Court to assume that challenged state
10 action was *not* motivated by invidious discrimination. *Id.* Plaintiffs’ allegations about
11 CD-37 and CD-43 require the Court to do the opposite—to assume legislative *bad* faith
12 in the presence of an equally plausible alternative explanation. That inference is legally
13 impermissible, and thus, Plaintiffs have failed to plausibly allege that race predominated
14 in the drawing of CD-37 or CD-43.

15 CONCLUSION

16 For the foregoing reasons, the Court should dismiss the Consolidated Complaint.
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1 Dated: April 24, 2026

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Proposed Intervenor-Defendant DCCC, certifies that this brief contains 9,142 words, which complies with the word limit of Local Rule 11-6.1 as modified by the Court’s order.

Dated: April 24, 2025

/s/ Lalitha D. Madduri
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