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11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13 WESTERN DIVISION

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

2:25-cv-10616-JLS-WLH-KKL
2:25-cv-11480-JLS-WLH-KKL
Three-Judge Court

**REPLY IN SUPPORT OF
DEFENDANTS' MOTION TO
DISMISS CONSOLIDATED
COMPLAINT**

22 **MITCH NOYES, et al.**
23 Plaintiffs,
24 v.
25 **GAVIN NEWSOM, in his official**
26 **capacity as the Governor of**
27 **California, et al.,**
28 Defendants.

Date: August 19, 2026
Time: 10:00 a.m.
Courtroom: 1
Judges: Hon. Josephine L.
Staton, Hon. Kenneth K.
Lee, and Hon. Wesley L.
Hsu
Trial Date: None Designated
Action Filed: Nov. 5, 2025

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1 Lastly, no Challenger shows that the Governor is a proper party. Tangipa
2 Plaintiffs waive this issue by failing to respond to Defendants’ sovereign immunity
3 argument, and Noyes Plaintiffs fail to demonstrate that Governor Newsom has the
4 specific enforcement authority over Proposition 50 required by *Ex Parte Young*.
5 This same lack of enforcement authority means that this Court cannot order the
6 Governor to address Plaintiff-Intervenor’s alleged injuries, undermining Plaintiff-
7 Intervenor’s standing as to the Governor.

8 Defendants’ motion to dismiss all claims should be granted and the Governor
9 should be dismissed as a party.

10 **ARGUMENT**

11 **I. TANGIPA PLAINTIFFS AND PLAINTIFF-INTERVENOR FAIL TO STATE A
12 CLAIM UNDER THE FOURTEENTH AMENDMENT¹**

13 The Supreme Court recently reinforced the standard for a Fourteenth
14 Amendment racial gerrymandering claim: when “a State defends a districting
15 scheme on the ground that it was drawn for partisan purposes, plaintiffs have a
16 ‘special’ burden to overcome.” *Callais*, 146 S.Ct. at 1156-57 (quoting *Alexander v.*
17 *S.C. Conf. of the NAACP*, 602 U.S. 1, 9 (2024)). Plaintiffs “must ‘disentangle race
18 from politics’” and “‘rul[e] out the competing explanation that political
19 considerations dominated the legislature’s redistricting efforts.’” *Id.* at 1157
20 (quoting *Alexander*, 602 U.S. at 9-10). And it remains true that a plaintiff fails to
21 “‘clear[] its bar’” if “‘either politics or race could explain a district’s contours[.]’”
22 *Id.*

23 Tangipa Plaintiffs and Plaintiff-Intervenor have failed to meet their special
24 burden to plead that race predominated in the drawing of the Proposition 50 map.

26 ¹ Noyes Plaintiffs claim to bring an “analytically distinct” Fifteenth
27 Amendment claim for “race-based redistricting” that need not meet the Fourteenth
28 Amendment standard. Noyes Opp’n at 14-15. Defendants therefore address Noyes
Plaintiffs’ Fifteenth Amendment claim separately and do not analyze their
allegations under the Fourteenth Amendment rubric.

1 Instead, they continue to rely on inapposite cases and factual allegations stripped of
2 context and attempt to relitigate the legal framework this Court has already
3 established.

4 **A. The Presumption of Good Faith for Racial Gerrymandering**
5 **Claims Applies at Every Stage of Litigation.**

6 Challengers fail to allege sufficient facts to overcome the presumption of good
7 faith that applies to their racial gerrymandering claims. *Alexander*, 602 U.S. at 10;
8 *see Tangipa*, 816 F. Supp. 3d at 1103 (“voters, like the legislature, are entitled to a
9 presumption of good faith”). The Supreme Court has repeatedly emphasized the
10 importance of applying this presumption of legislative good faith in redistricting
11 cases, “direct[ing] district courts to draw the inference that cuts in the legislature’s
12 favor when confronted with evidence that could plausibly support multiple
13 conclusions.” *Alexander*, 602 U.S. at 10; *see also Allen v. Milligan*, Case No.
14 25A1314, 2026 WL 1552756, at *1 (U.S. June 2, 2026) (holding that district court
15 should have applied presumption, even where it considered Alabama’s refusal to
16 comply with an earlier order to remediate racial discrimination to be proof of
17 discriminatory animus). This approach ensures that ““race for its own sake, and not
18 other districting principles, was the legislature’s dominant and controlling rationale
19 in drawing its district lines.”” *Alexander*, 602 U.S. at 10 (quoting *Miller v.*
20 *Johnson*, 515 U.S. 900, 913 (1995)). *Callais* articulated a heightened version of
21 this principle where a State defends a map on partisan grounds and plaintiffs carry a
22 “special burden” to ““disentangle race from politics’ by proving ‘that the
23 former *drove* a district’s lines.’” 146 S.Ct. at 1157 (quoting *Alexander*, 602 U.S. at
24 9).

25 Tangipa Plaintiffs attempt to dismiss the presumption as a mere “evidentiary
26 principle” and argue that it must give way to Rule 12(b)(6)’s plausibility standard
27 and requirement that the Court draw reasonable inferences in Plaintiffs’ favor.
28 Tangipa Opp’n at 12. But the presumption of legislative good faith—an essential

1 part of a plaintiff’s burden of proof—applies at “various stages of litigation,”
2 including the pleading stage and when the Court is “determining whether to permit
3 discovery or trial to proceed.” *Miller*, 515 U.S. at 917; *accord Tenn. State Conf. of*
4 *NAACP v. Lee*, 746 F. Supp. 3d 473, 494 (M.D. Tenn. 2024) (interpreting *Miller* to
5 mean that “the presumption of legislative good faith comprises part of the
6 constitutional test . . . in redistricting cases, including the pleading stage”); *cf.*
7 *Sanchez v. Off. of State Superintendent of Educ.*, 45 F.4th 388, 395-96 (D.C. Cir.
8 2022) (finding “no incompatibility between” the “strong presumption of validity”
9 that accompanies rational-basis review and Rule 12(b)(6)’s plausibility standard
10 (citation omitted)).

11 Courts apply the presumption when determining whether a plaintiff alleging a
12 Fourteenth Amendment racial gerrymandering claim has stated facts sufficient to
13 plead such a claim, even while simultaneously drawing reasonable inferences in
14 favor of the plaintiff. *See, e.g., Higginson v. Becerra*, 363 F. Supp. 3d 1118, 1127
15 (S.D. Cal. 2019) (finding plaintiff failed to overcome presumption of legislative
16 good faith in drawing of a city council’s district lines, even assuming truth of his
17 allegations), *aff’d*, 786 F. App’x 705 (9th Cir. 2019); *see also Tenn. State Conf. of*
18 *NAACP*, 746 F. Supp. 3d at 494 (citing *Alexander*, 601 U.S. at 10) (presumption
19 “directs district courts to ‘draw the inference that cuts in the legislature’s favor
20 when confronted with [a complaint’s allegations] that could plausibly support
21 multiple conclusions” (alteration in original)); *Boardman v. Inslee*, 978 F.3d 1092,
22 1119 (9th Cir. 2020) (refusing to “impute upon Washington voters the allegedly
23 invidious motivations of” drafters and supporters of a state initiative).

24 As explained below, Plaintiffs fail to plausibly allege that race predominated
25 over all other traditional redistricting principles—especially partisanship—and thus
26 cannot establish that their Fourteenth Amendment claims are subject to strict
27 scrutiny.
28

1 **B. Tangipa Plaintiffs’ and Plaintiff-Intervenor’s Failure to Allege**
2 **Any Facts Regarding Voter Intent Is Fatal to Their Claims.**

3 For good reason, this Court has already determined that the voters who
4 ultimately considered and decided to adopt the Proposition 50 map are the “most
5 relevant state actors[.]” *Tangipa*, 816 F. Supp. 3d at 1099. And voters’ intent is
6 relevant here not because the Legislature’s “ultimate source of political authority”
7 is the people in some general sense, *contra* USDOJ Opp’n at 8, but because
8 California voters specifically considered and decided to approve the exact maps at
9 issue here. The “centrality of voters” in this circumstance—which “distinguishes
10 this case from nearly all precedent on racial gerrymandering”—is why this Court
11 previously held that in this case, “the voters are the most relevant state actors and
12 their intent is paramount.” *Tangipa*, 816 F. Supp. 3d at 1098-99. Plaintiff-
13 Intervenor did not appeal that ruling, and Tangipa Plaintiffs withdrew their appeal.
14 ECF No. 237.

15 Challengers’ complaint does not include allegations that plausibly suggest that
16 voters’ predominant purpose in passing Proposition 50 was racial rather than
17 partisan. To the contrary, the ballot and campaign materials referenced in and
18 attached to the complaint, as well as official ballot materials subject to judicial
19 notice, plainly state Proposition 50’s explicitly partisan aims. State Mot. at 5-6, 12-
20 15; *accord Tangipa*, 816 F. Supp. 3d at 1104. In the face of this clear indication of
21 partisan motivation, Challengers’ failure to plausibly allege that the voters were
22 predominantly motivated by race is fatal to their Fourteenth Amendment claim.
23 Their arguments for disregarding voter intent, contrary to this Court’s prior ruling,
24 are unconvincing. *See Tangipa* Opp’n at 12-17; USDOJ Opp’n at 2, 6-11.

25 First, considering voters’ intent as the primary inquiry does not create an
26 “untenable loophole,” *Tangipa* Opp’n at 13, that would “shield all unconstitutional
27 legislative districting from judicial review, so long as it is cleansed by voter
28 approval.” USDOJ Opp’n at 2. This Court has already rejected Challengers’

1 similar arguments that looking to voter intent would allow unlawful discrimination
2 to be “laundered through popular referendum and cleansed of its discriminatory
3 purpose,” *id.* at 10. *See Tangipa*, 816 F. Supp. 3d at 1101-02. As this Court has
4 explained, “the voters and the legislature are not subject to different constitutional
5 standards: under California law, the two possess the same legislative capacity,
6 which is equally limited” by “constitutional limitations,” and “[w]hen the voters
7 speak,” it is “with the utmost legislative authority.” *Tangipa*, 816 F. Supp. 3d at
8 1100 (citing *Legislature v. Deukmejian*, 34 Cal.3d 658 (1983)). And courts “treat[]
9 voters as discerning” members of the ““citizenry [who] make informed choices””
10 and are capable of evaluating the “campaign and electoral process[.]” *Tangipa*, 816
11 F. Supp. 3d at 1101-02.

12 Of course, as with a legislature, voters can exercise their lawmaking authority
13 in ways that violate the Constitution. Thus “when voters’ discriminatory intent is
14 clear, the courts will strike down laws as violative of the Equal Protection Clause.”
15 *Tangipa*, 816 F. Supp. 3d. at 1102 (citing *Perry v. Brown*, 671 F.3d 1052 (9th Cir.
16 2012) and *Romer v. Evans*, 517 U.S. 620 (1996)). But this case is not like *Perry* or
17 *Romer*, both of which involved voter-approved initiatives that blatantly targeted
18 LGBT individuals. *Romer* addressed a voter-approved state constitutional
19 amendment that stripped protected status based on sexual orientation. 517 U.S. at
20 624. And *Perry* struck down Proposition 8, California’s voter-approved
21 constitutional amendment that had the “express purpose . . . and effect to eliminate
22 the right of same-sex couples to marry in California.” 671 F.3d at 1090. In each
23 case, the laws at issue were struck down for lack of a rational basis. Here, by
24 contrast, Proposition 50 is not racially discriminatory on its face, and no one
25 suggests it lacks a rational basis.²

26 _____
27 ² *Lucas v. Forty-Fourth General Assembly*, 377 U.S. 713, 736-37 (1964), and
28 *Hunter v. Underwood*, 471 U.S. 222 (1985), are similarly inapposite. *Lucas*
involved violation of the one person, one vote guarantee—an impermissible effect

1 Nor do administrability concerns weigh against looking to voter intent.
2 Courts commonly consider the intent of voters who approve legislative initiatives
3 or constitutional amendments, for example by examining ballot materials, the text
4 of the legislation, and statements of legislators promoting or opposing the
5 measures, among other sources of evidence. *See* State Mot. at 11-12; *Tangipa*, 816
6 F. Supp. 3d at 1104 (collecting cases). Consulting campaign and ballot materials
7 does not require an “unworkable” inquiry into every individual voter’s subjective
8 motivations. USDOJ Opp’n at 11. That is because the intent that matters is the
9 intent of the relevant decision-making body—whether the electorate or a
10 legislature—as a whole. *See, e.g., Alexander*, 602 U.S. at 6 (considering whether
11 the “legislature was motivated by race as opposed to partisanship” (emphasis
12 added)); *Abbott v. Perez*, 585 U.S. 579, 605 (2018) (“[T]here can be no doubt about
13 what matters: It is the intent of the 2013 Legislature.”).

14 To be sure, in addition to the text of an initiative and campaign materials,
15 statements of particular individuals involved in drafting a measure can be relevant
16 to determining the intent of the final decision-making body. In *Alexander*, for
17 example, the Court considered the testimony of the nonpartisan staffer who drew
18 the map. 602 U.S. at 22-23. And in the context of citizen-initiated ballot measures,
19 courts have looked to particular groups that played a role in drafting. *E.g.,*
20 *Washington v. Seattle Sch. Dist. No. 1* (1982) 458 U.S. 457, 463 (considering
21 statements by officials from group that had “drafted a statewide initiative,” *id.* at
22 462). But while evidence from entities that played a role in preparing a measure

23 _____
24 rather than an impermissible *intent*. Voter intent was therefore irrelevant to the
25 question of whether an Equal Protection violation had occurred. *Hunter* concerned
26 an intentional discrimination claim premised on the theory that a state constitutional
27 provision disenfranchising those convicted of crimes of moral turpitude
28 disenfranchised Black voters. 471 U.S. at 224. That claim was evaluated under the
rubric set forth in *Village of Arlington Heights v. Metropolitan Housing
Development Corporation*, 429 U.S. 252, 266 (1977), which required showing only
that race was a motivating factor. *Id.* at 225-28. *Arlington Heights* does not apply
to Fourteenth Amendment racial gerrymandering claims, which require a showing
that race was the *predominant* motivation.

1 can be relevant, the overall inquiry is still focused on the ultimate decisionmaker.
2 *See Alexander*, 602 U.S. at 20 (evaluating “aim” of “the legislature[]”);
3 *Washington*, 458 U.S. at 471 (assessing information considered by “Washington
4 electorate”); *see also Brnovich v. Democratic Nat’l Comm.*, 594 U.S. 647, 689-90
5 (2021) (refusing to impute statements of individual legislators to legislature as a
6 whole because “legislators who vote to adopt a bill are not the agents of the bill’s
7 sponsor or proponents” and “[u]nder our form of government, legislators have a
8 duty to exercise their judgment”).

9 Here, the campaign discourse and ballot materials referenced in the complaint
10 or subject to judicial notice overwhelmingly focus on Proposition 50’s partisan
11 aims. *See Tangipa*, 816 F. Supp. 3d at 1104. And as explained below, the handful
12 of cherry-picked statements from individual legislators and third parties involved in
13 the map drafting process do not demonstrate that any of these individuals were
14 predominantly motivated by race, let alone that the Legislature or the electorate
15 were. *See infra* Argument § I.C.1-2.

16 **C. The Facts Tangipa Plaintiffs and Plaintiff-Intervenor Allege Do**
17 **Not Support a Plausible Racial Gerrymandering Claim.**

18 No matter how the Court weighs voter versus legislative intent, the complaint
19 fails to state a Fourteenth Amendment claim. Tangipa Plaintiffs and Plaintiff-
20 Intervenor have not plausibly established that race predominated over all other
21 partisan and race-neutral redistricting principles driving the Legislature’s decision
22 to propose the Proposition 50 map to the voters or the voters’ decision to adopt it,
23 let alone “that race was improperly used in the drawing of the boundaries of one or
24 more *specific electoral districts.*” *Ala. Legis. Black Caucus v. Alabama*, 575 U.S.
25 254, 263 (2015).

1 **1. Rather than suggesting racial predominance, the alleged**
2 **legislative statements show that the Proposition 50 map was**
3 **drawn and adopted for partisan purposes.**

4 As a preliminary matter, no Challenger disputes that the text of Assembly
5 Constitutional Amendment 8, the official summary of ACA 8, and the official
6 arguments for and against Proposition 50 all had an overwhelmingly partisan focus.
7 Indeed, ACA 8’s text explained that “[i]t is the intent of the people that California’s
8 temporary maps be designed to neutralize the partisan gerrymandering being
9 threatened by Republican-led states without eroding fair representation for all
10 communities.” State RJN, Ex. 1 at 6, Findings (n); see State Mot. at 5. And while
11 Tangipa Plaintiffs insist that the reference to preserving fair representation for all
12 communities must evidence “the racial design objectives identified in the
13 Complaint,” Tangipa Opp’n at 27, the preservation of communities of interest is a
14 core traditional redistricting principle, see *Rucho v. Common Cause*, 588 U.S. 684,
15 706-07 (2019); see also State Mot. at 14.

16 Second, the complaint and its exhibits do not demonstrate any improper racial
17 purpose and instead offer evidence that amply supports the conclusion that the
18 Legislature relied on constitutionally permissible redistricting criteria to achieve a
19 partisan gerrymander. See State Mot. at 13-14. The individual legislators’
20 comments on which Tangipa Plaintiffs and Plaintiff-Intervenor rely are unhelpful to
21 their racial predominance theory. Plaintiffs cite one sentence in each of two multi-
22 page press releases issued by lawmakers that simply noted perceived effects on
23 existing minority districts. See Tangipa Opp’n at 7, 27. But they ignore that the
24 press releases show the legislators favored redistricting only to counteract “partisan
25 gerrymanders” in Republican-controlled states “aimed to benefit their party[.]”
26 ECF Nos. 240-9 at 2, 240-10 at 1, and thus cannot be characterized as plausibly
27 showing that race was any legislator’s predominant focus. Plaintiffs are entitled to
28 reasonable inferences, but the Court need not blind itself when the text of an exhibit
 on which Challengers rely undercuts the inference they ask the Court to draw. See

1 *Garcia v. Wachovia Mortg. Corp.*, 676 F. Supp. 2d 895, 900 (C.D. Cal. 2009) (“a
2 ‘court may disregard allegations in the complaint if contradicted by facts
3 established by exhibits attached to the complaint”). And as the Supreme Court has
4 repeatedly cautioned, “[r]edistricting legislatures will . . . almost always be aware
5 of racial demographics,” *Alexander*, 602 U.S. at 22 (quoting *Miller*, 515 U.S. at
6 916), “but it does not follow that race predominates in the redistricting process,”
7 *Miller*, 515 U.S. at 916.

8 The remaining cited legislator comments support only the conclusion that
9 California lawmakers thought *another* state’s lawmakers (Texas) redistricted
10 predominantly based on race, not that *California itself* was seeking to redistrict
11 predominantly based on race. See Compl. ¶¶ 78-83. These limited statements do
12 not plausibly show that California voters or the Legislature placed racial
13 considerations over all the other traditional redistricting principles that ACA 8,
14 members of the Legislature, and Paul Mitchell, the map’s initial drafter, expressly
15 stated guided the development of the Assembly Bill 604 map. The statements are
16 also a far cry from those in *Cooper v. Harris*, where the mapmakers, who included
17 members of the legislature, “purposefully established a racial target,” “were not coy
18 in expressing that goal” to their colleagues, and did not propose their map to the
19 voters for approval. 581 U.S. 285, 299 (2017). They are even farther from the facts
20 of *Callais*, where “the State never hid the ball” regarding the fact that the legislature
21 had drawn the map to comply with the VRA, what the Court considered “an
22 ‘express acknowledgement that race played a role.’” 146 S.Ct. at 1161 (quoting
23 *Alexander*, 602 U.S. at 8).

24 **2. The alleged circumstantial evidence does not suggest racial**
25 **predominance.**

26 Nor does the alleged statistical evidence relied upon by Tangipa Plaintiffs and
27 Plaintiff-Intervenor save their Fourteenth Amendment claim, whether alone or
28 when considered in conjunction with the statements from legislators and other

1 individuals. Tangipa Plaintiffs and Plaintiff-Intervenor argue that the existence of
2 sixteen Latino-majority districts in both the prior map and the Proposition 50 map
3 shows racial predominance. Tangipa Opp’n at 1; USDOJ Opp’n at 18. But they
4 have in no way shown that California redistricted for the predominant purpose of
5 maintaining the same racial demographics, that is, for the predominant purpose of
6 changing nothing.

7 They also argue that Mitchell sought to draw districts having a Latino-
8 majority citizen voting age population (“CVAP”) between 52 and 54 percent,
9 claiming that a nonprofit had submitted a letter advocating for this range. Tangipa
10 Opp’n at 26; USDOJ Opp’n at 19. But the nonprofit letter (attached as an exhibit to
11 the complaint), which was submitted years earlier for a different redistricting effort,
12 specifically disclaimed such a general target, ECF No. 240-3 at 4, and proposed this
13 range for only two districts called “STH60 and CDNELA,” *id.* at 5—neither of
14 which Tangipa Plaintiffs and Plaintiff-Intervenor challenge or even discuss. The
15 claim that Mitchell nonetheless drew any map lines with this general target at the
16 forefront of all considerations is unfounded speculation.³ And it says nothing about
17 the intent of either the voters or the Legislature.

18 Tangipa Plaintiffs also argue that the proposed redistricting map that
19 Defendant-Intervenor DCCC submitted to the Legislature shows that race
20 predominated because the map included racial demographics for different districts.
21 Tangipa Opp’n at 6-7. But DCCC’s cover letter enclosing the map explained that
22 the “proposed map was created using traditional redistricting criteria” and served to
23

24 ³ The complaint does not even allege how many districts fall within a range
25 of 52 to 54 percent. *See Ala. Legis. Black Caucus*, 575 U.S. at 262-63 (“We have
26 consistently described a claim of racial gerrymandering as a claim that race was
27 improperly used in the drawing of the boundaries of one or more *specific electoral*
28 *districts.*”) (emphasis in original). It instead arbitrarily selects distinct ranges,
noting that the prior map had more districts in the range of 52 to 58 percent
compared to the Proposition 50 map, while the Proposition 50 map has more
districts in the range of 52 to 55 percent compared to the prior map. It notes too
that the Proposition 50 map has more districts over 61 percent, which cuts against
its own position. Compl. at 22, table 1.

1 counteract Republican efforts “to steal congressional seats and rig the election in
2 their favor”—an explicitly partisan motive. Compl., Ex. D at 1. And while the
3 proposed map included racial demographics, that does nothing to help Tangipa
4 Plaintiffs. “Redistricting legislatures will . . . almost always be aware of racial
5 demographics,” *Miller*, 515 U.S. at 916, and there is “nothing nefarious” about this
6 awareness, *Alexander*, 602 U.S. at 37.

7 Tangipa Plaintiffs and Plaintiff-Intervenor give the Court no reason to set
8 aside the presumption of good faith when their own evidence and Plaintiff-
9 Intervenor’s concession—“that the Proposition 50 map is intended to bolster the
10 performance of the Democratic Party in congressional elections”—demonstrate a
11 partisan motivation for the Proposition 50 map. USDOJ Opp’n at 2; *see Callais*,
12 146 S.Ct. at 1157 (“To prevail, the plaintiff must disentangle race from politics by .
13 . . ruling out the competing explanation that political considerations dominated the
14 legislature’s redistricting efforts.”) (internal citations and quotation marks omitted).

15 **3. The statements of non-state actor Paul Mitchell do not**
16 **support allegations of racial predominance.**

17 Tangipa Plaintiffs and Plaintiff-Intervenor give this Court no reason to impute
18 the intentions of a non-state actor to a legislature-proposed and voter-approved
19 map. *See Tangipa*, 816 F. Supp. 3d at 1114 (citing *Miller*, 515 U.S. at 916) (courts
20 “are not directed to look at the motivation behind a *map*, [they] are directed to look
21 at the motivation of the enacting legislature”); *see also Bell Atlantic Corp. v.*
22 *Twombly*, 550 U.S. 544, 555 (2007) (factual allegations must not be speculative).
23 Nor do they rebut the argument that Mitchell is not a state actor aside from
24 speculating about his role in the legislative process—allegations that are not
25 included in their complaint. Tangipa Opp’n at 15; USDOJ Opp’n at 7, 11, 17.⁴

26 _____
27 ⁴ Defendants did not focus their opening brief on Mitchell’s statements
28 because, as a non-state actor, his intent is not the relevant inquiry here. State Mot.
at 13. They do not, as Plaintiff-Intervenor postulates, concede “that Mitchell had
racial motivations when creating the Proposition 50 map.” USDOJ Opp’n at 17.

1 In fact, Challengers’ own exhibits undermine their allegations and arguments.
2 *See Gonzalez v. Planned Parenthood of L.A.*, 759 F.3d 1112, 1115 (9th Cir. 2014)
3 (courts “need not . . . accept as true allegations that contradict matters properly
4 subject to judicial notice or by exhibit”); *see* State Mot. at 14. In one of the exhibits
5 attached to the complaint, Mitchell made clear that the first principles which guided
6 his mapdrawing were, at the very outset, those consistent with traditional
7 redistricting principles using the State Fair Maps Act criteria and the Citizens
8 Redistricting Commission’s criteria. ECF No. 240-2 at 22:21-23:7; *see* Cal. Const.,
9 art. XXI, § 2(d). He then described what can only be interpreted as minimizing
10 change, core district preservation, and protecting communities of interest in keeping
11 with additional traditional redistricting principles: He “kept about 80 percent” of
12 the existing Commission map, making “modest changes . . . to achieve the political
13 goal”—that is, “to create a push back to what Texas was doing, an opportunity for
14 Democrats to pick up five seats, and to counterbalance the five Republican seats in
15 Texas” while “keep[ing] a large number of communities of interest together” and
16 “reduc[ing] the numbers of cities that were split.” ECF No. 240-2 at 26:1-12, 27:7.
17 In public statements included in another of the complaint’s exhibits, several
18 legislators also referred to reliance on such traditional criteria, noting, for example,
19 the interest in keeping communities together along with the partisan intent to
20 counteract “partisan gerrymanders” in Republican-controlled states “aimed to
21 benefit their party.” ECF No. 240-9 at 2, 240-10 at 1. None of these considerations
22 raises constitutional concerns.

23 Moreover, while Tangipa Plaintiffs and Plaintiff-Intervenor allege that
24 Mitchell and these legislators referred to race, they fail to show that racial
25 considerations *predominated* over all other race-neutral redistricting principles—
26 most notably, partisan advantage—that their own exhibits identify. They allege, for
27 instance, that Mitchell said he created a Latino majority-minority district and a
28 Latino-influence district and believed the map would be “great for the Latino

1 community.” Compl. ¶¶ 65-67. But they never identify the two districts Mitchell
2 referenced. *See Ala. Legis. Black Caucus*, 575 U.S. at 263 (racial gerrymandering
3 claims focus on specific districts). Nor have they shown that Mitchell’s intent can
4 be imputed to the Legislature, let alone the voters.

5 Tangipa Plaintiffs and Plaintiff-Intervenor’s focus on the map-maker’s stray
6 comments to an interest group are also unavailing. While Tangipa Plaintiffs seem
7 to invoke Mitchell’s comments made at a presentation two weeks before the
8 election as evidence of voter intent, Tangipa Opp’n at 27, context matters: These
9 comments were to an audience of unspecified size, occurred on one occasion, and
10 are not alleged to have been repeated ever again before the election. *Id.*; *accord*
11 Compl. ¶¶ 65-67; ECF No. 240-2. And Mitchell was expressly asked by the
12 presentation moderator to “try[] as much as [he could] to keep [the discussion]
13 nonpartisan” despite acknowledging the clearly partisan focus of Proposition 50.
14 ECF No. 240-2 at 28:8-9. This singular interview before a crowd of unknown size
15 cannot have plausibly played a meaningful part of the public discourse that led to
16 Proposition 50’s passage.

17 **D. Tangipa Plaintiffs’ and Plaintiff-Intervenor’s Continued Failure**
18 **to Act on Their Discovery Grievances Does Not Move the Needle**
19 **With Respect to Their Fourteenth Amendment Claim.**

20 As Plaintiff-Intervenor notes, in the half a year since the Court ordered
21 Mitchell to produce documents relating to his development of the first draft of the
22 Proposition 50 map, Mitchell has produced many thousands of documents and
23 several privilege logs. USDOJ Opp’n at 15. At least 10,000 of those documents
24 were produced prior to the conclusion of the preliminary injunction hearing in
25 December, months before the Consolidated Complaint was filed. *Id.*

26 Plaintiff-Intervenor asks the Court to deny dismissal here because of the
27 purported “possible existence of corroborating, improperly withheld
28 documents[.]” *Id.* at 16. But of course, at this stage, the question for this Court is
only whether the allegations in the complaint, taken as true, are sufficient to state a

1 claim, not whether “[m]ore discovery” might “uncover additional evidence that race
2 predominated.” *See id.* at 15. In any event, in the nearly six months since the
3 preliminary injunction hearing concluded, no plaintiff has challenged any of the
4 assertions of privilege in Mitchell’s logs or otherwise made any attempt to secure a
5 judicial order mandating production of any documents. No plaintiff has sought to
6 compel any members of the Legislature to participate in oral or written discovery
7 since counsel for the Legislature asserted privilege on their behalf in December.
8 No plaintiff has challenged the assertion of legislative privilege. And this Court
9 expressly acknowledged that “legislative privilege is frequently invoked in
10 redistricting cases.” *Tangipa*, 816 F. Supp. 3d at 1114 n.14 (declining to infer any
11 “nefarious motives based on invocation of the privilege”).

12 In any case, Tangipa Plaintiffs and Plaintiff Intervenor’s desire to embark on a
13 discovery quest is irrelevant to whether their claims are adequately pled. The Court
14 should dismiss the Fourteenth Amendment claims in their entirety.

15 **II. NOYES PLAINTIFFS FAIL TO ESTABLISH STANDING**

16 Noyes Plaintiffs raise racial gerrymandering claims under the Fifteenth
17 Amendment and Section 2 of the VRA. But they have not plausibly shown that
18 they suffered any cognizable injury because they have not alleged facts showing
19 that their *own* districts have been racially gerrymandered. They do not state the
20 districts they reside in or describe how their districts have been revised. Nor have
21 they offered anything more than conclusory allegations that their right to vote has
22 been denied or abridged based on race, declining even to identify their race. A
23 “generalized grievance against allegedly illegal governmental conduct” is not
24 “sufficient for standing.” *United States v. Hays*, 515 U.S. 737, 743 (1995).

25 Noyes Plaintiffs do not dispute that they lack standing to bring their VRA
26 claim and have thus conceded the point. *See, e.g., Virgin Scent, Inc. v. BT Supplies*
27 *W., Inc.*, 615 F. Supp. 3d 1118, 1136 (C.D. Cal. 2022).

28

1 As for their Fifteenth Amendment claim, Noyes Plaintiffs do not dispute that
2 they have offered only conclusory allegations that their own right to vote was
3 denied or abridged. *See* State Mot. at 19; *Gill v. Whitford*, 585 U.S. 48, 49 (2018)
4 (“The right to vote is ‘individual and personal in nature’”; to have standing, a voter
5 plaintiff must “‘allege facts showing disadvantage to themselves as individuals.’”).
6 Instead, they argue that “[a]ny voter in a state” has standing to challenge that state’s
7 racially gerrymandered map. Noyes Opp’n at 10. But the Supreme Court has long
8 held that “a plaintiff who alleges that he is the object of a racial gerrymander—a
9 drawing of district lines on the basis of race—has standing to assert only that his
10 own district has been so gerrymandered.” *Gill*, 585 U.S. at 66; *see also Hays*, 515
11 U.S. at 739, 745. The cases that Noyes Plaintiffs cite confirm this. For example,
12 the Supreme Court in *North Carolina v. Covington* explained that “it is the
13 segregation of the plaintiffs—not the legislature’s line-drawing as such—that gives
14 rise to their claims[,]” showing that standing is limited “to those legislative districts
15 in which they reside.” 585 U.S. 969, 976 (2018); *see* Noyes Opp’n at 10.

16 Resisting this precedent, Noyes Plaintiffs suggest that the district-specific
17 standing doctrine does not apply when plaintiffs allege racial gerrymandering
18 claims under the Fifteenth Amendment. Noyes Opp’n at 11. The only case Noyes
19 Plaintiffs cite for this argument is *Gomillion v. Lightfoot*, Noyes Opp’n at 11, which
20 involved Black plaintiffs whose own city limits had been redrawn to remove them.
21 364 U.S. 339, 341 (1960). These plaintiffs were themselves plainly the object of
22 racial line-drawing—something that cannot be said of Noyes Plaintiffs. No matter
23 the claim invoked, plaintiffs seeking review in federal court must show an injury
24 that affects them in a personal and individual way. *See Gill*, 585 U.S. at 65.

25 Noyes Plaintiffs also suggest that they need not allege which districts they
26 reside in because every district was drawn with racial intent. Noyes Opp’n at 12.
27 But their complaint purports to challenge only some of California’s fifty-two
28 districts—sixteen Latino-majority districts and two Black-influence districts.

1 Compl. at ¶¶ 5, 141, 151. And their purported expert’s own illustrative map, which
2 is allegedly race-blind, appears to include several districts that are identical to those
3 in the Proposition 50 map, confirming that they find some districts constitutional.
4 ECF No. 240-11 at 225 ¶ 7, 318-19 (showing several districts that appear
5 unchanged, including districts 11, 12, 15, and 19). Even had the Noyes Plaintiffs
6 challenged all districts, however, their standing would be limited to claims
7 “assert[ing] only that [their] own district has been so gerrymandered.” *Gill*, 585
8 U.S. at 66.

9 Lastly, Noyes Plaintiffs argue that they need not be members of a particular
10 racial group to mount a Fifteenth Amendment claim because the Constitution
11 protects all races. Noyes Opp’n at 12. But while any race *can* face discrimination
12 and have their right to vote unlawfully denied or abridged, that general principle
13 does not establish that Noyes Plaintiffs had *their* right to vote denied or abridged
14 based on their race. *Gill*, 585 U.S. at 49 (a voter plaintiff must “allege facts
15 showing disadvantage to themselves as individuals”).

16 **III. NOYES PLAINTIFFS FAIL TO STATE A CLAIM UNDER THE FIFTEENTH**
17 **AMENDMENT**

18 Noyes Plaintiffs’ Fifteenth Amendment claim also fails on the merits. First,
19 there is no standalone cause of action for racial gerrymandering under the Fifteenth
20 Amendment, as Noyes Plaintiffs incorrectly and repeatedly propose. *See* Noyes
21 Opp’n at 14. Second, even if the Fifteenth Amendment did independently
22 recognize racial gerrymandering claims, Noyes Plaintiffs’ allegations do not
23 establish a plausible intentional discrimination claim under that Amendment.
24 *Arlington Heights*, 429 U.S. at 266. The Court should dismiss this claim without
25 leave to amend because no amendment would reconcile Noyes Plaintiffs’ attempt to
26 cast aside decades of precedent with current Fifteenth Amendment jurisprudence.
27 *Or. Clinic, PC v. Fireman’s Fund Ins. Co.*, 75 F.4th 1064, 1073 (9th Cir. 2023) (a
28 court may dismiss a complaint without leave to amend if it “determines that the

1 allegation of other facts consistent with the challenged pleading could not possibly
2 cure the deficiency”).

3 **A. There Is No Standalone Racial Gerrymandering Cause of**
4 **Action Under the Fifteenth Amendment**

5 Noyes Plaintiffs assert the novel argument that the Fifteenth Amendment
6 provides an alternative, less “hard[]” standard for resolving racial gerrymandering
7 claims. Noyes Opp’n at 15. According to Noyes Plaintiffs, this novel standard
8 “prohibits drawing congressional maps with any racial intent, goal, or purpose.”
9 Compl. ¶ 143. They identify *Callais* and *Gomillion* as supporting this position,
10 Noyes Opp’n at 16, but neither does.

11 *Callais* only discusses the Fifteenth Amendment in the context of that
12 Amendment’s authorization to Congress to enact legislation—in that case, the
13 VRA—to “enforce the Amendment’s protections.” 146 S.Ct. at 1144. Since
14 Congress “cannot ‘enforce a constitutional right by changing what the right is,’” the
15 Court held that “the focus of” Section 2 of the VRA “must be enforcement of the
16 Fifteenth Amendment’s prohibition on *intentional* racial discrimination.” *Id.* at
17 1155 (citation omitted). Section 2 liability is accordingly imposed “only when the
18 circumstances give rise to a strong inference that intentional discrimination
19 occurred.” *Id.* at 1156. The Court did not hold or even suggest that the Fifteenth
20 Amendment creates a separate, simpler racial gerrymandering framework like the
21 one Noyes Plaintiffs imagine, or otherwise effect a “tectonic” shift in racial
22 gerrymandering jurisprudence. Noyes Opp’n at 7.⁵

23
24
25 ⁵ Noyes Plaintiffs seek support from the *Callais* Court’s order for
26 supplemental briefing on “[w]hether the State’s intentional creation of a second
27 majority-minority congressional district violates the Fourteenth or Fifteenth
28 Amendments to the U.S. Constitution.” Noyes Opp’n at 17-18. As the Court did
not address the latter question in its ruling, however, this briefing order does not
support Noyes Plaintiffs’ point. *See Alexander v. Sandoval*, 532 U.S. 275, 282
 (“[Courts are] bound by holdings, not language.”).

1 *Gomillion* similarly does not support Noyes Plaintiffs’ theory of a standalone
2 Fifteenth Amendment test. The *Gomillion* petitioners challenged the redrawing of
3 the city boundaries of Tuskegee, Alabama, not the redrawing of a multiple-district
4 legislative map. 364 U.S. at 340. The State intentionally redrew the city
5 boundaries to surgically remove 99 percent of Black voters from the city while
6 retaining 100 percent of the white residents. *Id.* at 341. The Supreme Court found
7 that this action “deprived the petitioners of the municipal franchise and consequent
8 rights.” *Id.* at 347. The Court relied on the Fifteenth Amendment because the State
9 intended to, and did, wholly *deny* Black voters of their right to vote in Tuskegee
10 city elections. *Id.* *Gomillion* is not a case where a racially gerrymandered
11 districting map was struck down merely because a State “used” race, and no court
12 has ever interpreted it that way. *Accord Backus v. South Carolina*, 857 F. Supp. 2d
13 553, 569-70 (D.S.C. 2012), *aff’d* 568 U.S. 801 (2012).⁶

14 **B. Noyes Plaintiffs’ Claim Is Inconsistent with Fifteenth**
15 **Amendment Jurisprudence**

16 Even if Noyes Plaintiffs had styled their claim as one for intentional
17 discrimination, their allegations still fall far short of meeting the requirements for
18 that claim. “As the [Supreme] Court has long held, the Fifteenth Amendment bars
19 only state action “motivated by a discriminatory purpose[.]” *Callais*, 146 S.Ct. at
20 1156 (quoting *Reno v. Bossier Parish Sch. Bd.*, 520 U.S. 471, 481 (1997)). And
21 that action must result in the denial or abridgment of the “freedom to vote” on
22 account of race. U.S. Const. amend. XV; *City of Mobile, Ala. v. Bolden*, 446 U.S.

23
24 ⁶ Although Noyes Plaintiffs do not bring a Fourteenth Amendment claim,
25 they nonetheless seek to undermine the voter-intent framework related to that
26 Amendment by citing to inapposite cases that address Fifteenth Amendment claims,
27 racial discrimination claims under the Fourteenth Amendment, or claims unrelated
28 to redistricting. Noyes Opp’n at 27-29 (citing cases). Those arguments neither
absolve Noyes Plaintiffs from litigating within the applicable legal standards, nor
do they provide a valid reason for the Court to set aside its preliminary injunction
ruling. As discussed, a failure to plead facts regarding voter intent is fatal to racial
gerrymandering claims in the context of this case. *See supra*, Argument § I.

1 55, 65 (1980) (plurality opinion), *superseded by statute on other grounds*. The
2 cases Noyes Plaintiffs cite only reinforce that a plausible Fifteenth Amendment
3 claim must plead facts consistent with this standard. *See Davis v. Guam*, 932 F.3d
4 822, 843 (9th Cir. 2019) (striking down law that restricted voting on a plebiscite to
5 native inhabitants of Guam); *Rice v. Cayetano*, 528 U.S. 495, 518-24 (2000)
6 (striking down provision of Hawaiian Constitution that excluded persons of certain
7 ancestry from voting in elections selecting trustees to state agency); *Gomillion*, 364
8 U.S. at 347 (striking down city boundaries that excluded 99 percent of Black
9 voters).

10 Here, Noyes Plaintiffs did not plead facts plausibly showing that any actor,
11 and certainly not the voters, bore a “discriminatory purpose,” *Callais*, 146 S.Ct. at
12 1155, to deny or abridge the right to vote on account of race, separate from a
13 permissible and inevitable “*aware[ness] of race*,” *Bethune-Hill v. Va. State Bd. of*
14 *Elec.*, 580 U.S. 178, 187 (2017). They likewise fail to sufficiently plead that the
15 Proposition 50 map denies or abridges any person’s right to vote, much less their
16 own. *See supra* Argument § II. Noyes Plaintiffs’ only attempt on this front is to
17 claim that the “use of race abridged and/or denied” their right to vote with no
18 further description. Compl. ¶ 146. But this is no more than a conclusory statement
19 that is “not entitled to the assumption of truth.” *Ashcroft v. Iqbal*, 556 U.S. 662,
20 679 (2009). Accordingly, the Court should dismiss this claim.

21 **IV. NOYES PLAINTIFFS AND PLAINTIFF-INTERVENOR FAIL TO STATE A**
22 **CLAIM UNDER SECTION 2 OF THE VOTING RIGHTS ACT**

23 Noyes Plaintiffs’ and Plaintiff-Intervenor’s Section 2 claims suffer from a
24 similar and fundamental flaw: they do not allege that the State intended to
25 discriminate against, or that it denied or abridged the right to vote of, any member
26 of a protected class. *See* Compl. The VRA’s plain language, *see* 52 U.S.C.
27 § 10301, and decades of case law interpreting it make clear that the absence of such
28 allegations is fatal to a Section 2 claim.

1 to only one or two of the factors is insufficient to overcome the presumption of
2 good faith and plausibly allege “an objective likelihood of intentional
3 discrimination based on the totality of the circumstances.” *Callais*, 146 S.Ct. at
4 1162.

5 Plaintiff-Intervenor argues that the first and fourth factors—historical
6 background and disparate impact—are unnecessary. USDOJ Opp’n at 26. And
7 appearing to address the second and third factors, Plaintiff-Intervenor claims that
8 the sequence of events leading up to the enactment of the Proposition 50 map “so
9 greatly departed from normal procedures that it required amending California’s
10 constitution.” *Id.* (citing Compl. ¶ 163).

11 But seeking voter approval of constitutional amendments is a normal
12 procedure in California because the State’s constitutional design requires voters to
13 approve such amendments. *See* Cal. Const., art. XVII. Moreover, California’s
14 redistricting process is set forth in the State’s constitution and can only be changed
15 through constitutional amendment. *See* Cal. Const., art. XXI. Thus, the fact that
16 California’s constitution was amended does not imply a racially discriminatory
17 intent, nor does it undermine the Legislature’s partisan intent behind proposing the
18 amendment that it did, or the voters’ partisan intent when approving the
19 amendment. Rather, that the Legislature not only publicly debated Proposition 50,
20 but also put the measure and the district maps themselves before the voters
21 contrasts with other cases in which a legislature’s departure from regular procedure
22 stifled public debate over the State’s actions. *See, e.g., Mi Familia Vota v. Fontes*,
23 129 F.4th 691, 728 (9th Cir. 2025) (substantial amendment presented to legislators
24 mere minutes before final passage potentially indicated discriminatory intent).

25 Ultimately, both Noyes Plaintiffs and Plaintiff-Intervenor rest their Section 2
26 claims primarily on curated statements from a non-state actor and state legislators
27 that they claim supposedly evince racially discriminatory intent, Noyes Opp’n at
28 18-21; USDOJ Opp’n at 28; Compl. ¶¶ 63-67, 78-86, and a purported expert report

1 they claim shows that the State attempted to maintain or improve the status quo of
2 Latino and Black voters in the Proposition 50 map, Noyes Opp'n at 21; USDOJ
3 Opp'n at 18-19; Compl. ¶¶ 95, 100, 109, 116, 120, Ex. K. As discussed above,
4 Plaintiff-Intervenor ignores the intent of the voters as the most relevant actors. *See*
5 *supra* Argument § I.B. And no party contends that either the statements or the
6 expert report reveal an “invidious discriminatory purpose,” *Arlington Heights*, 429
7 U.S. at 266, to impose “adverse effects upon an identifiable group,” *Reagan*, 904
8 F.3d at 717. Noyes Plaintiffs and Plaintiff-Intervenor merely allege that they
9 demonstrate that the State bore generalized “racial motives” or “used race” in some
10 capacity. *See generally* Noyes Opp'n; USDOJ Opp'n at 26. That is insufficient to
11 allege discriminatory intent under Section 2 of the VRA.

12 **B. Noyes Plaintiffs and Plaintiff-Intervenor Do Not Allege That the**
13 **State Denied or Abridged Any Person's Right to Vote**

14 In addition to their failure to allege that the State bore an invidious
15 discriminatory intent against a protected class, neither Noyes Plaintiffs nor
16 Plaintiff-Intervenor allege that Proposition 50 denied or abridged the right to vote
17 for any member of a protected class. Such an effect is a necessary element of an
18 intentional discrimination claim. *See Tangipa*, 816 F. Supp. 3d at 1137 (“To
19 prevail on a § 2 claim, Challengers must show both a *purpose* and an *effect*.”); 52
20 U.S.C. § 10301 (prohibiting States from imposing voting standards that “*result[]* in
21 a *denial or abridgment*” of right to vote “on account of race or color” (emphasis
22 added)). This effect may be shown if the political process is not “equally open to
23 participation” by members of a protected class. 52 U.S.C. § 10301.

24 Instead of alleging facts to demonstrate that the political process is not equally
25 open to one protected class relative to another, Noyes Plaintiffs and Plaintiff-
26 Intervenor argue that they do not have to. *See* Noyes Opp'n at 26 (“Noyes
27 Plaintiffs allege that by allocating power based on race to preferred racial groups,
28 every other racial group's right to vote has been abridged or denied.”); USDOJ

1 Opp’n at 28 (“The injury requirement is satisfied when a state has a motive to
2 impose any effects on a racial group—adverse or beneficial.”). In addition to the
3 doctrinal problems with that argument, their Section 2 claims are complicated by
4 the fact that there was no discriminatory effect—both parties allege that the
5 Proposition 50 map was drawn to maintain the same number of Latino-majority
6 districts and preserve the status quo. *See* State Mot. at 26.

7 Both Noyes Plaintiffs and Plaintiff-Intervenor misrepresent their cited cases to
8 circumvent the plain text of the VRA and support their position that the State’s
9 consideration of race in any capacity violates the VRA. Noyes Plaintiffs only cite a
10 portion of *Callais* stating that minority voters are entitled to the same opportunity
11 as other members of the electorate to contribute their vote to a winning cause. *See*
12 Noyes Opp’n at 25-26 (citing *Callais*, 146 S.Ct. at 1155). But this undermines,
13 rather than supports, Noyes Plaintiffs’ point. This language reinforces that to state
14 a Section 2 claim a plaintiff must show that they do not have the same opportunity
15 as the rest of the electorate to contribute their vote to a winning cause, and Noyes
16 Plaintiffs make no allegation to that effect. *See Callais*, 146 S.Ct. at 1157 (“In
17 short, § 2 imposes liability only when the evidence supports a strong inference that
18 the State intentionally drew its districts to afford minority voters less opportunity
19 because of their race.”).

20 Plaintiff-Intervenor takes a different tack, relying on case law interpreting the
21 Equal Protection Clause of the Fourteenth Amendment rather than cases
22 interpreting the VRA. *See* USDOJ Opp’n at 27 (citing *Shaw v. Reno*, 509 U.S. 630,
23 647 (1993) (striking down redistricting map under Equal Protection Clause)), 28
24 (citing *Students for Fair Admissions, Inc. v. President and Fellows of Harvard*
25 *Coll.*, 600 U.S. 181, 229 (2023) (striking down college admissions programs under
26 Equal Protection Clause)). But claims under Section 2 of the VRA and these
27 Fourteenth Amendment cases are “analytically distinct” and follow different
28 analyses. *See Alexander*, 602 U.S. at 38.

1 With the actual text and principles of the VRA in mind, Noyes Plaintiffs and
2 Plaintiff-Intervenor fail to allege a single fact to show that the Proposition 50 map
3 denies or abridges any person’s right to vote. Noyes Plaintiffs assert that “by
4 allocating power based on race to preferred racial groups, every other racial group’s
5 right to vote has been abridged or denied.” Noyes Opp’n at 26. But this is a legal
6 conclusion, not a factual allegation. Plaintiff-Intervenor claims that non-Latino
7 voters are harmed because “California necessarily has excluded non-Hispanics from
8 [sixteen majority-Latino] districts and packed them into the adjacent districts.”
9 USDOJ Opp’n at 28. But despite the use of gerrymandering terminology like
10 “exclude” and “pack,” this statement does not allege any harm to any person’s right
11 to vote. The allegation boils down to the claim that some non-Latino voters in
12 California reside in districts other than the sixteen majority-Latino districts in the
13 Proposition 50 map. In short, Noyes Plaintiffs and Plaintiff-Intervenor fail to allege
14 a denial or abridgment of the right to vote as required to state a VRA claim.

15 **V. GOVERNOR NEWSOM IS NOT A PROPER PARTY**

16 Finally, Noyes Plaintiffs and Plaintiff-Intervenor fail to establish that
17 Governor Newsom is a proper defendant in this suit, while Tangipa Plaintiffs fail to
18 oppose the argument and have thus effectively conceded that sovereign immunity
19 bars their claims against him.

20 Noyes Plaintiffs claim that the Governor lacks immunity under *Ex parte*
21 *Young*, 209 U.S. 123 (1908), because he was sued in his official capacity for
22 injunctive relief and “under the California Constitution, ‘[t]he supreme executive
23 power of this State is vested in the Governor.’” Noyes Opp’n at 30 (quoting Cal.
24 Const., art. V, § 1). But it is well established that a “generalized duty to enforce
25 state law” is insufficient to invoke *Ex parte Young*. *Ass’n des Eleveurs de*
26 *Canards et d’Oies du Quebec v. Harris*, 729 F.3d 937, 943 (9th Cir. 2013)
27 (Governor “entitled to Eleventh Amendment immunity because his only connection
28 to [the challenged law] is his general duty to enforce California law”). Challengers

1 instead need to allege that the Governor holds “some connection with the
2 enforcement of the act” that is “fairly direct.” *Id.* (internal quotation marks
3 omitted). They have failed to do so.

4 Plaintiff-Intervenor argues that the Eleventh Amendment does not bar lawsuits
5 by the federal government against States and their officers, so sovereign immunity
6 does not foreclose its own claims against the Governor. USDOJ Opp’n at 29
7 (citing *Arizona v. California*, 460 U.S. 605, 614 (1983)). But the same lack of
8 enforcement authority that establishes the Governor’s immunity from the private
9 claims in this case undermines Plaintiff-Intervenor’s (and the other Challengers’)
10 standing to sue the Governor. *See Maya v. Centex Corp.*, 658 F.3d 1060, 1067 (9th
11 Cir. 2011) (“[A] plaintiff must show . . . it is likely, as opposed to merely
12 speculative, that the injury will be redressed by a favorable decision.”). In the
13 sovereign-immunity context, “to be a proper defendant in an action to enjoin an
14 allegedly unconstitutional state law, the governor must have ‘a specific duty to
15 enforce’ that law.” *Disability Rts. S.C. v. McMaster*, 24 F.4th 893, 901 (4th Cir.
16 2022); *see Nat’l Audubon Soc’y, Inc. v. Davis*, 307 F.3d 835, 847 (9th Cir. 2002)
17 (California governor dismissed due to lack of enforcement ability). “These
18 principles apply with equal force in the standing context” and are fatal to Plaintiff-
19 Intervenor’s claims against the Governor. *Disability Rts. S.C.*, 24 F.4th at 901; *see*
20 *also Nichols v. Brown*, 859 F. Supp. 2d 1118, 1131-32 (C.D. Cal. 2012).

21 “In cases ‘where there are multiple defendants and multiple claims,’ the
22 plaintiff must demonstrate Article III standing ‘as to each defendant and each
23 claim.’” *Satchell v. Sonic Notify, Inc.*, 234 F. Supp. 3d 996, 1001 n.2 (N.D. Cal.
24 2017); *see also McCarron v. County of Ventura*, No. CV 21-5234, 2021 WL
25 9315371, at *3 (C.D. Cal. Dec. 29, 2021). But here, a favorable decision against
26 the Governor would not redress Challengers’ alleged injury, for the Governor has
27 no specific authority over elections administered using the Proposition 50 map. *See*
28 *S.B. by & through Kristina B. v. California Dep’t of Educ.*, 327 F. Supp. 3d 1218,

1 1235 (E.D. Cal. 2018) (agreeing that “where the official’s connection to the
2 challenged action is so attenuated such that relief as to that official would not
3 redress the plaintiff’s injuries, that official must be dismissed for lack of
4 redressability under Article III of the U.S. Constitution”). So even if the Plaintiff-
5 Intervenor could defeat the Governor’s assertion of sovereign immunity, it still
6 falters on standing. *See United States v. Mattson*, 600 F.2d 1295, 1300 (9th Cir.
7 1979) (“[T]he government must show that, like the private individual, it has such
8 an interest in the relief sought as entitles it to move in the matter”) (quoting *United*
9 *States v. San Jacinto Tin Co.*, 125 U.S. 273, 285 (1888)).

10 For these reasons, in addition to those covered above and in Defendants’
11 moving papers, Challengers’ claims against the Governor must be dismissed.

12 CONCLUSION

13 Challengers’ Complaint should be dismissed in its entirety and the Governor
14 should be dismissed as a defendant.

15
16 Dated: June 12, 2026

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CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Defendants California Governor Gavin Newsom and Secretary of State Shirley Weber, certifies that this brief contains 8,820 words, which complies with the Court’s May 28, 2026 order enlarging the word limits for the defense parties’ reply briefs. ECF No. 267.

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