

BENBROOK LAW GROUP, PC
BRADLEY A. BENBROOK (SBN 177786)
STEPHEN M. DUVERNAY (SBN 250957)
1301 Dove Street, 5th Floor
Newport Beach, CA 92660
Telephone: (916) 447-4900
brad@benbrooklawgroup.com

PUBLIC INTEREST LEGAL FOUNDATION
J. CHRISTIAN ADAMS*
KAYLAN PHILLIPS*
JOSEPH M. NIXON*
JEWEL M. LIGHTFOOT*
CAROLYN C. VALDES*
107 S. West Street
Alexandria, VA 22314
Telephone: (703) 745-5870

**Pro hac vice*

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MITCH NOYES, HOLDEN LOMELI,
and ANTHONY MCBROOM,

Plaintiffs,

vs.

GAVIN NEWSOM, in his official capacity
as Governor of California; and SHIRLEY
WEBER in her official capacity as
California Secretary of State,

Defendants.

Case No.: 2:25-cv-11480-SPG-PVC
**THREE-JUDGE COURT
REQUESTED**

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Date: February 4, 2026
Time: 10:00 a.m.
Courtroom 5C, 5th Floor
Hon. Sherilyn Peace Garnett

TABLE OF CONTENTS

PAGE:

TABLE OF CONTENTS	i
TABLE OF AUTHORITIES	ii
I. INTRODUCTION	- 1 -
II. BACKGROUND	- 2 -
III. ARGUMENT	- 3 -
A. Plaintiffs are Likely to Succeed on the Merits Because the Prop 50 Map Was Drawn on Account of Race	- 3 -
1. The Fifteenth Amendment and the VRA Prohibit Race-Based Redistricting	- 4 -
2. Race was a Factor in Drawing the Prop 50 Map, as Evidenced by the Careful Preservation of the 16 Hispanic-Majority Districts	- 6 -
Examples of Unconstitutional Racially Drawn Districts	- 7 -
3. Race was a Factor in Drawing the Prop 50 Map, as Evidenced by Ensuring that California's Two Black Influence Districts Remained Untouched	- 9 -
4. The Illustrative Map Demonstrates it was Possible for Defendants to Achieve their Redistricting Goals without Sorting Population by Race	- 11 -
5. The Fact that the Prop 50 Map was Passed by Referendum Does not Overcome the Constitutional Violation	- 12 -
B. Absent an Injunction, the Prop 50 Map Will Cause Irreparable Harm	- 12 -
C. The Balance of Equities and the Public Interest Favor the Injunction	- 13 -
D. This Case is Distinct from <i>Tangipa v. Newsom</i>	- 14 -
IV. CONCLUSION	- 16 -

TABLE OF AUTHORITIES

PAGE:

Cases

1		
2		
3	<i>Alexander v. S.C. State Conf. of the NAACP,</i>	
4	602 U.S. 1 (2024).....	5
5	<i>Am. Bev. Ass’n v. City & Cnty. of San Francisco,</i>	
6	916 F.3d 749 (9th Cir. 2019).....	13
7	<i>Am. Encore v. Fontes,</i>	
8	152 F.4th 1097 (9th Cir. 2025)	14
9	<i>Davis v. Guam,</i>	
10	932 F.3d 822 (9th Cir. 2019).....	4
11	<i>Elrod v. Burns,</i>	
12	427 U.S. 347 (1976)	12
13	<i>Env’t Prot. Info. Ctr. v. Carlson,</i>	
14	968 F.3d 989 (9th Cir. 2020).....	3
15	<i>Gomillion v. Lightfoot,</i>	
16	364 U.S. 339 (1960)	4, 5
17	<i>Lucas v. Forty-Fourth Gen. Assembly,</i>	
18	377 U.S. 713 (1964)	12
19	<i>Melendres v. Arpaio,</i>	
20	695 F.3d 990 (9th Cir. 2012).....	12
21	<i>Metro Broad. v. FCC,</i>	
22	497 U.S. 547 (1990)	5
23	<i>Monterey Mech. Co. v. Wilson,</i>	
24	125 F.3d 702 (9th Cir. 1997).....	12
25	<i>Nken v. Holder,</i>	
26	556 U.S. 418 (2009)	3
27	<i>Palmore v. Sidoti,</i>	
28	466 U.S. 429 (1984)	5
	<i>Porretti v. Dzurenda,</i>	
	11 F.4th 1037 (9th Cir. 2021)	3
	<i>Prejean v. Foster,</i>	
	227 F.3d 504 (5th Cir. 2000).....	4
	<i>Purcell v Gonzalez,</i>	
	549 U.S. 1 (2006)	14
	<i>Republican Nat’l Comm. v. Democratic Nat’l Comm.,</i>	
	589 U.S. 423 (2020)	14
	<i>Reynolds v. Sims,</i>	
	377 U.S. 533 (1964)	14
	<i>Rice v. Cayetano,</i>	
	528 U.S. 495 (2000)	4
	<i>Shaw v. Reno,</i>	
	509 U.S. 630 (1993)	4, 5

1	<i>Terry v. Adams</i> ,	
	345 U.S. 461 (1953).....	4
2	<i>Winter v. Nat. Res. Def. Council, Inc.</i> ,	
3	555 U.S. 7 (2008).....	3
4	<i>Zepeda v. U.S. Immigr. and Naturalization Serv.</i> ,	
	753 F.2d 719 (9th Cir. 1983).....	12, 13
5	Statutes	
6	52 U.S.C. § 10101(a).....	1
7	Constitutional Provisions	
8	U.S. Const. amend. XV, § 1	1, 4

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RETRIEVED FROM DEMOCRACYDOCKET.COM

I. INTRODUCTION

California violated the Fifteenth Amendment to the United States Constitution and the Voting Rights Act (“VRA”) when it drew new congressional district lines on account of race.¹ The Fifteenth Amendment forbids any state action for which a racially discriminatory intent or purpose is a motivating factor. This includes the use of race to gain a partisan political advantage. California’s use of race to draw its 2026 congressional districts violates the Fifteenth Amendment.

Congress passed the Fifteenth Amendment following the Civil War. This Amendment unequivocally promises that “the right of citizens of the United States to vote” will never again be “denied or abridged...by any State on account of race, color, or previous condition of servitude.” U.S. Const. amend. 15, § 1. Section 2(a) of the VRA is symmetrical to the Fifteenth Amendment. Section 2(a) forbids enforcing election procedures enacted with a racial intent or that result in a denial, or abridgment, of the right of any citizen of the United States to vote on account of race and it states that all qualified electors “shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude.” 52 U.S.C. § 10101(a).

In November 2025, California passed Proposition 50, which amended its constitution to replace the congressional voting districts created by an independent redistricting commission with districts that deliberately sorted California’s population by race. The United States Constitution and the VRA forbid this kind of racial spoils

¹ A separate and distinct case, *Tangipa v. Newsom* (Case No. 2:25-cv-10616), has been filed in the Central District of California. The merits of, and progress in, *Tangipa* should have no bearing on this case. This case involves a stand-alone Fifteenth Amendment claim, in contrast to *Tangipa* which includes a Fourteenth Amendment claim. The Defendants in this case do not have the same safe harbors and defenses to a Fifteenth Amendment claim that are available to the *Tangipa* defendants. Unlike a claim under the Fourteenth Amendment, with a Fifteenth Amendment claim plaintiffs do not have to prove that race was a predominant factor in the redistricting process and the defendants do not have a compelling interest defense. As such, while the factual circumstances of the cases may overlap, *Tangipa* is distinct and should have no impact on this case.

1 approach to map-drawing. Absent an injunction, California's election will be tainted
2 by an unconstitutional congressional map.

3 California's practice of sorting population by race to draw congressional
4 district boundaries violates the Fifteenth Amendment and Section 2(a) of the VRA.
5 As such, Plaintiffs respectfully move under Federal Rule of Civil Procedure 65(a) to
6 preliminarily enjoin Defendants from implementing Proposition 50's congressional-
7 district map (Prop 50 Map) and to mandate Defendants use the 2024 map for the
8 2026 congressional election.

9 II. BACKGROUND

10 In July 2025, following the 2020 Census, California's Independent Citizens
11 Redistricting Commission implemented a decennial redistricting map in response to
12 an order from California's Democrat-led legislature. *See* Yes on Prop 50: FAQ,
13 CADEM, <https://cadem.org/yes-on-proposition-50-faq/> (last visited Jan. 6, 2026).
14 California retained Paul Mitchell from Redistricting Partners to draw the new
15 congressional map.

16 In August 2025, Governor Newsom announced a legislative package that
17 would replace the 2024 map with five additional non-competitive Democrat
18 congressional districts subject to voter approval at a special election on November 4,
19 2025. *See* Governor Gavin Newsom, Governor Newsom launches statewide response
20 to Trump rigging Texas' elections, (Aug. 14, 2025),
21 [https://www.gov.ca.gov/2025/08/14/governor-newsom-launches-statewide-response-](https://www.gov.ca.gov/2025/08/14/governor-newsom-launches-statewide-response-to-trump-rigging-texas-elections/)
22 [to-trump-rigging-texas-elections/](https://www.gov.ca.gov/2025/08/14/governor-newsom-launches-statewide-response-to-trump-rigging-texas-elections/) (last visited Jan. 6, 2026). The problem for
23 Defendants is that the execution of this redistricting was built around racial goals and
24 used racial tools.

25 There is direct evidence of racial intent. The drawer of the Prop 50 Map, Paul
26 Mitchell, admitted to drawing lines based on race. On a podcast, when asked about
27 his decision to place new districts in Los Angeles despite net population loss in the
28 city, Paul Mitchell volunteered: "We've actually gained Latino population, so why

1 would you remove districts from a Latino community that has been historic and has a
2 lot of community of interest arguments in that district. Why take that out when you
3 can just leave it there and let all of the districts in LA push out over the county area?”
4 *Mapmaker Paul Mitchell on California’s Emergency Redistricting Proposal*,
5 CAPITOL WEEKLY (Aug. 15, 2025), [https://capitolweekly.net/mapmaker-paul-](https://capitolweekly.net/mapmaker-paul-mitchell-on-californias-emergency-redistricting-proposal/)
6 [mitchell-on-californias-emergency-redistricting-proposal/](https://capitolweekly.net/mapmaker-paul-mitchell-on-californias-emergency-redistricting-proposal/). That isn’t all.

7 There is also strong circumstantial evidence that the Prop 50 Map could not
8 have been drawn without race playing a central and deliberate role in the new
9 districts, which is described in detail in Plaintiffs’ Exhibit 1 and in Plaintiffs’
10 Complaint [ECF No. 1]. Unlike other challenges to the Prop 50 Map, the evidence
11 here deconstructs Defendants’ specific racial strategies, tactics, and aims. This is a
12 textbook violation of the Fifteenth Amendment.

13 III. ARGUMENT

14 To obtain a preliminary injunction, the movant “must establish [1] that he is
15 likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the
16 absence of preliminary relief, [3] that the balance of equities tips in his favor, and [4]
17 that an injunction is in the public interest.” *Porretti v. Dzurenda*, 11 F.4th 1037, 1047
18 (9th Cir. 2021) (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24
19 (2008)). When, like here, the nonmovant is the government, the last two *Winter*
20 factors “merge.” *Nken v. Holder*, 556 U.S. 418, 435 (2009).

21 Plaintiffs meet all four requirements for this Court to issue a preliminary
22 injunction.

23 A. Plaintiffs are Likely to Succeed on the Merits Because the Prop 50 Map 24 Was Drawn on Account of Race

25 “Likelihood of success on the merits is a threshold inquiry and is the most
26 important factor” when a district court is deciding whether to issue a preliminary
27 injunction. *Env’t Prot. Info. Ctr. v. Carlson*, 968 F.3d 985, 989 (9th Cir. 2020).

1 The evidence demonstrates that the Prop 50 Map was drawn based on race in
2 violation of the Fifteenth Amendment of the United States Constitution and the VRA.
3 Rather than engaging in traditional redistricting practices, Defendants shifted
4 populations and re-drew district lines based on race to preserve a specific number of
5 majority-Hispanic districts and two Black influence districts, leaving those outside
6 the preferred racial groups with demeaned rights of citizenship.

7
8 **1. The Fifteenth Amendment and the VRA Prohibit Race-Based Redistricting**

9 The Fifteenth Amendment promises that “[t]he right of citizens of the United
10 States to vote shall not be denied or abridged by the United States or by any State on
11 account of race, color, or previous condition of servitude.” U.S. Const. amend. 15, §
12 1. “The design of the [Fifteenth] Amendment is to reaffirm the equality of races at the
13 most basic level of the democratic process, the exercise of the voting franchise.” *Rice*
14 *v. Cayetano*, 528 U.S. 495, 512 (2000).

15 There is no room in the Fifteenth Amendment for racial sorting. As the Ninth
16 Circuit aptly noted, “[t]he Fifteenth Amendment’s prohibition on race-based voting
17 restrictions is both *fundamental* and *absolute*.” *Davis v. Guam*, 932 F.3d 822, 832
18 (9th Cir. 2019) (citing *Shaw v. Reno*, 509 U.S. 630, 639 (1993)) (emphasis added).

19 The Fifteenth Amendment established an absolute prohibition against using
20 race in elections with no room for a compelling state interest defense. *Terry v.*
21 *Adams*, 345 U.S. 461, 467 (1953); *Prejean v. Foster*, 227 F.3d 504, 519 (5th Cir.
22 2000). “[T]he [Fifteenth] Amendment is cast in fundamental terms, terms
23 transcending the particular controversy which was the immediate impetus for its
24 enactment.” *Rice*, 528 U.S. at 512. The Fifteenth Amendment requires voters to be
25 members of the whole citizenry, rather than a distinct racial group. *Id.* at 523. “[S]tate
26 authority over the boundaries of political subdivisions, ‘extensive though it is, is met
27 and overcome by the Fifteenth Amendment to the Constitution.’” *Id.* at 522 (quoting
28 *Gomillion v. Lightfoot*, 364 U.S. 339, 345 (1960)). Prop 50’s map violates the

1 Fifteenth Amendment’s requirement by sorting California’s population by racial
2 groups and then drawing new congressional district boundaries based on the
3 concentration of each racial group.

4 The Supreme Court refused to “sanction the achievement by a State of any
5 impairment of voting rights...so long as it was cloaked in the garb of the realignment
6 of political subdivisions.” *Gomillion*, 364 U.S. at 345. The Supreme Court repeatedly
7 recognized a state “may not separate its citizens into different voting districts on the
8 basis of race.” *Miller v. Johnson*, 515 U.S. 900, 911 (1995). If race was used or racial
9 goals were present in line drawing, the maps are constitutionally invalid.

10 The Supreme Court in *Miller* explained an important reason for prohibiting
11 racial sorting: “At the heart of the Constitution’s guarantee of equal protection lies
12 the simple command that the Government must treat citizens ‘as individuals, not “as
13 simply components of a racial, religious, sexual or national class.”’” *Id.* The practice
14 of racial sorting “embod[ies] stereotypes that treat individuals as the product of their
15 race, evaluating their thoughts and efforts—their very worth as citizens—according
16 to a criterion barred to the Government by history and the Constitution.” *Metro*
17 *Broad. v. FCC*, 497 U.S. 547, 604 (1990) (O’Connor, J., dissenting) (citation
18 omitted); *see also Palmore v. Sidoti*, 466 U.S. 429, 432 (1984) (“Classifying persons
19 according to their race is more likely to reflect racial prejudice than legitimate public
20 concerns; the race, not the person, dictates the category.”).

21 The intent alone to sort voters by race, regardless of the effect, violates the
22 Fifteenth Amendment. “The constitutional injury underlying a racial gerrymandering
23 claim is the legislature’s mere use of a racial classification in drawing its map...That
24 injury exists whether race is a legislature’s first or last consideration in drawing
25 districts. ‘Racial classifications of *any sort* pose the risk of lasting harm to our
26 society.’” *Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1, 57 (2024)
27 (Thomas, J., concurring) (quoting *Shaw*, 509 U.S. at 657).

1
2 **2. Race was a Factor in Drawing the Prop 50 Map, as Evidenced by the**
3 **Careful Preservation of the 16 Hispanic-Majority Districts**

4 There is potent direct and circumstantial evidence that race was a factor in
5 drawing the Prop 50 Map.

6 Following a district-by-district analysis of the Prop 50 Map, Plaintiffs'
7 redistricting expert John Morgan concluded that the Prop 50 Map demonstrates voters
8 were sorted deliberately and surgically by race. *See Exh. 1, "John Morgan Expert*
9 *Report,"* at 2.

10 His conclusion was reached, in part, because the Prop 50 Map very
11 deliberately and illegally preserved California's 16 majority-Hispanic districts. The
12 map accomplished this goal by using tight narrow margins of Hispanic population in
13 these districts, save District 44. Defendants deliberately set a target threshold
14 percentage of Hispanic Citizen Voting Age Population (CVAP) between 52% and
15 55%. *See Exh. 1* at 3-4. This was accomplished by passing Hispanic population
16 between districts while enforcing a 52% CVAP floor to preserve the total number of
17 Hispanic majority congressional districts. *See Exh. 1* at 3-4. This was not a
18 coincidence.

19 A comparison between the 2024 Map and the Prop 50 Map show Defendants'
20 intent was to maintain the precise number of Hispanic seats using tight racial
21 thresholds of Hispanic CVAP to achieve a smaller and more efficient range. *See Exh.*
22 *1* at 23. Looking at the specific population movements between the 2024 Map and
23 Prop 50 Map shows that most redistricting decisions resulted in decreasing the
24 percentage of Hispanic population while carefully maintaining the number of
25 majority-Hispanic CVAP districts.

26 California's efforts to maintain sixteen race-based Hispanic majority
27 congressional districts is made more egregious by the State's demographic
28 composition. According to federal census data, California's population is one of the
most diverse in the country—40% of Californians are Hispanic, 34% are White, 16%

1 are Asian American or Pacific Islander, 6% are Black, 3% are multiracial, and less
2 than 1% are Native American or Alaska Natives. *See* Hans Johnson, Marisol Mejia,
3 Eric McGhee, California's Population, Public Policy Institute of California (Jan.
4 2025), [https://www.ppic.org/publication/californias-](https://www.ppic.org/publication/californias-population/#:~:text=No%20race%20or%20ethnic%20group,to%20US%20Census%20Bureau%20estimates)
5 [population/#:~:text=No%20race%20or%20ethnic%20group,to%20US%20Census%2](https://www.ppic.org/publication/californias-population/#:~:text=No%20race%20or%20ethnic%20group,to%20US%20Census%20Bureau%20estimates)
6 [0Bureau%20estimates](https://www.ppic.org/publication/californias-population/#:~:text=No%20race%20or%20ethnic%20group,to%20US%20Census%20Bureau%20estimates).

7 While no single racial group composes a majority of California's population,
8 Hispanics compose the largest plurality group and would wield the most political
9 power in a race blind redistricting. The Hispanic population's political dominance
10 was illicitly expanded when California implemented district lines to, in part,
11 maximize the political influence of its largest racial group. This is consistent with
12 Paul Mitchell's stated goal of preserving the 16 majority-Hispanic districts
13 guaranteeing outsized Hispanic political control to the detriment of non-Hispanic
14 voters.

15 The Fifteenth Amendment and the VRA prohibit this brazen and deliberate
16 redistricting to manipulate voting strength on account of race. The result of this
17 careful population sorting by race is to preserve the outsized power of the largest
18 racial group.

19 *Examples of Unconstitutional Racially Drawn Districts*

20 **District 13**

21 District 13 is the first example of a district where Hispanic CVAP was moved
22 from the 2024 Map to the Prop 50 Map while maintaining the tight narrow band of
23 Hispanic CVAP—53.7%. *See Exh. 1* at 11. Between the 2024 Map and the Prop 50
24 Map, District 13 experienced several population shifts, including losing Hispanic
25 CVAP to Districts 22 and 5, and gaining Hispanic CVAP from District 9. *See Exh. 1*
26 at 12. After all the shifts in Hispanic CVAP the total Hispanic CVAP in District 13
27 decreased, but because the overall CVAP also decreased the percentage of Hispanic
28 CVAP in District 13 remained the same. *See Exh. 1* at 12. With all the population

1 shifts and the overall decrease in CVAP, the Hispanic CVAP would not have
2 remained the same by pure happenstance. Instead, the only explanation is that a racial
3 target was set. This is strong evidence that Defendants used precise racial percentages
4 to allocate population to new congressional districts.

5 **District 18**

6 Another example of this unconstitutional racial sorting is District 18. Between
7 the 2024 Map and the Prop 50 Map, District 18 maintained approximately 52%
8 Hispanic CVAP. *See Exh. 1* at 11. While the Hispanic CVAP stayed about the same
9 in the new map, portions of the Hispanic population in the prior District 18 were shed
10 to Districts 16 and 17. Between the 2024 Map and the Prop 50 Map, District 18 shed
11 4,701 Hispanic CVAP to District 16 and 5,301 Hispanic CVAP to District 17. *See*
12 *Exh. 1* at 10. Without using a benchmark racial threshold, it is unlikely that District
13 18 would have remained a majority-Hispanic CVAP district by coincidence after
14 moving so many Hispanic CVAP to other districts. *See Exh. 1* at 11.

15 **District 52**

16 Another problematic district is District 52 which has a 92% core retention—
17 meaning 92% of the Prop 50 District 52 is the same as the 2024 Map District 52. *See*
18 *Exh. 1* at 18. The surrounding districts experienced a great deal of change in
19 population,² but care was taken to ensure District 52 remained a majority-Hispanic
20 CVAP at 51.7% (very close to the original Hispanic CVAP 52%). *See Exh. 1* at 19.
21 District 52 absorbed territory from District 48, but it absorbed less majority-Hispanic
22 territory leading to the nearly identical Hispanic CVAP. *See Exh. 1* at 18.

23 **Districts 42 and 41**

24 Districts 42 and 41 also demonstrate deliberate and targeted racial sorting. The
25 Prop 50 District 41 is a completely new reconfiguration that effectively replaces the
26

27 ² District 41 was effectively “chopped” into three pieces with portions going to
28 Districts 48, 40, and 23. *See Exh. 1* at 17. Original District 41 was eliminated, and the
number was used elsewhere. *Id.*

1 original District 42. The original District 42 was split between Districts 44, 38, and
2 41 in the Prop 50 Map. *See Exh. 1* at 26-27.

3 The Prop 50 District 41 was specifically engineered to become a majority-
4 Hispanic CVAP district. *See Exh. 1* at 29. This new Prop 50 District 41 was
5 constructed to replace the original District 42 as a majority-Hispanic CVAP district.
6 *See Exh. 1* at 30. The territory moved around, but by sorting the population by race,
7 the Prop 50 Map established two majority-Hispanic CVAP districts (Districts 38 and
8 41) in the same geographic area as the 2024 Map Districts 38 and 42. *See Exh. 1* at
9 31.

10 **Districts 33, 31, 35, 38, and 41**

11 Another instance of racial sorting is the construction of Districts 33, 31, 35, 38,
12 and 41. In drawing new lines for these new districts, high concentrations of Hispanic
13 population were passed from one district to another. *See Exh. 1* at 33-44. In each
14 instance of “passing” the Hispanic population, the Hispanic CVAP in each of the
15 districts was reduced below 55% but was kept within the targeted 52% to 55%
16 Hispanic CVAP range. *See Exh. 1* at 33. Without sorting voters by race, this “passing
17 of the population” and the tight band of Hispanic CVAP would not have occurred.

18 The specific percentages of Hispanic CVAP in these districts in the Prop 50
19 Map was not a coincidence—13 out of 16 majority-Hispanic CVAP districts are
20 within the tight band of 52% to 55% Hispanic CVAP. *See Exh. 1* at 14. Also, despite
21 the new district lines, nine of the sixteen majority-Hispanic CVAP districts are within
22 2% of the 2024 Map percentages. *See Exh. 1* at 20. With so much movement of
23 Hispanic CVAP between the districts described above, the tight band of Hispanic
24 CVAP must have been intentional.

25 **3. Race was a Factor in Drawing the Prop 50 Map, as Evidenced by** 26 **Ensuring that California’s Two Black Influence Districts Remained** 27 **Untouched**

28 Districts 37 and 43 demonstrate evidence of more racial sorting. They show an
intent to maintain two Black influence districts by fracturing both the Black and

1 Hispanic communities. The result is the creation of two districts, not required by the
2 VRA, that are racially motivated influence districts.

3 Defendants could have achieved the desired partisan outcomes of Districts 37
4 and 43 without sorting population by race.

5 Despite substantial population changes in the surrounding districts, these
6 districts are unchanged from the 2024 Map to the Prop 50 Map and sit beside each
7 other. *See Exh. 1* at 48. These two districts have the highest percentage of Black
8 VAP—around 25% Black Voting Age Population (VAP) and 31% Black CVAP. *See*
9 *Exh. 1* at 49. They also have high percentages of Hispanic CVAP, but neither has a
10 majority-Hispanic CVAP. Hispanic CVAP for District 43 is 46.6% and Hispanic
11 CVAP for District 37 is 39.9%. *See Exh. 1* at 49.

12 The registration disparity between the Black and Hispanic communities in
13 these districts effectively make Districts 43 and 37 Black influence districts. The
14 Black population has a higher effective registration rate which means the Black
15 community has a stronger voting influence relative to the Hispanic population. Even
16 though the districts are not majority-Black, the Black community has a controlling
17 interest in Districts 43 and 37. *See Exh. 1* at 57-58. Districts 43 and 37 illustrate an
18 intentional fracturing of the Black and Hispanic communities. Instead of redrawing
19 these districts to make another majority-Hispanic district that would be consistent
20 with the construction of the rest of the new map, the Prop 50 Map left these two
21 Black influence districts completely untouched.

22 While Districts 43 and 37 did not change between the 2024 Map and the Prop
23 50 Map, the inconsistency in how these districts were treated compared to the other
24 districts demonstrates the intentional use of race to maintain these race-based
25 districts. Rather than creating another majority-Hispanic district, race was used to
26 maintain Districts 43 and 37 to allow the Black community in these districts to have a
27 controlling interest in the districts.

28

1 The Prop 50 Map is evidence of unconstitutional racial sorting. Based on the
2 way the Hispanic population was allocated amongst the districts and the maintenance
3 of the two Black influence districts, Californians were unconstitutionally sorted by
4 race.

5 **4. The Illustrative Map Demonstrates it was Possible for Defendants to**
6 **Achieve their Redistricting Goals without Sorting Population by**
7 **Race**

8 Worse for Defendants, they could have achieved their partisan aims without the
9 deliberate creation of racially drawn districts. Plaintiffs' expert, John Morgan,
10 prepared an Illustrative Map showing Defendants could have achieved their partisan
11 goals without using race. *See generally Exh. 3, "John Morgan Illustrative Map."* In
12 drawing this map, Mr. Morgan applied standard redistricting criteria with the goal of
13 flipping five Republican seats to Democrat seats without using racial data. The
14 Illustrative Map proves it was possible to draw a map that achieves Defendants'
15 political goals without unconstitutionally sorting population by race.

16 Mr. Morgan drew the race-blind congressional map using the traditional
17 redistricting principles employed by the California Independent Redistricting
18 Commission. *See Exh. 2, "John B. Morgan Supplemental Expert Report,"* at 2.

19 In the Illustrative Map, Mr. Morgan achieved Governor Newsom's stated
20 political objectives by flipping District 1 (from 36.1% Democrat to 54.5% Democrat),
21 District 3 (from 46.5% Democrat to 53.3% Democrat), District 23 (from 40.3%
22 Democrat to 53% Democrat), District 40 (from 47.2% Democrat to 51.6%
23 Democrat), and District 48 (from 41.1% Democrat to 50.9% Democrat). *See Exh. 2* at
24 10.

25 After applying demographic data to the Illustrative Map following its creation,
26 this plan did not produce any majority-Asian or Black CVAP Districts and reduced
27 the number of majority-Hispanic CVAP districts to eleven. *See Exh. 2* at 32. Rather
28 than constraining the majority-Hispanic districts to a narrow range, as the Prop 50
Map did, the race-neutral Illustrative Map allowed majority-Hispanic Districts 43 and

1 44 to substantially increase their Hispanic CVAP, while the Hispanic CVAP
2 percentages decreased in Districts 29, 35, 38, and 39. *See Exh. 2* at 34. This raising
3 and lowering of Hispanic CVAP percentages was the result of the movement of
4 population as partisan district lines were redrawn. Without using racial data, the
5 Illustrative Map achieved the stated partisan aims.

6
7 **5. The Fact that the Prop 50 Map was Passed by Referendum Does not
Overcome the Constitutional Violation**

8 It is of no legal significance that the Prop 50 Map came to fruition by virtue of
9 a statewide election rather than directly by an act of the State legislature. Arguments
10 to the contrary are wrong.

11 Voters may not absolve an illegal, racially motivated map by adopting it
12 through a referendum. The Supreme Court explained, “the fact that an apportionment
13 plan is adopted in a popular referendum is insufficient to sustain its constitutionality
14 or to induce a court of equity to refuse to act. ... ‘One’s right to life, liberty, and
15 property . . . and other fundamental rights may not be submitted to vote; they depend
16 on the outcome of no elections.’ A citizen’s constitutional rights can hardly be
17 infringed simply because a majority of the people choose that it be.” *Lucas v. Forty-*
18 *Fourth Gen. Assembly*, 377 U.S. 713, 736-37 (1964) (internal citations omitted).

19 **B. Absent an Injunction, the Prop 50 Map Will Cause Irreparable Harm**

20 An injunction is the only remedy to a Fifteenth Amendment violation. *Zepeda*
21 *v. U.S. Immigr. and Naturalization Serv.*, 753 F.2d 719, 727 (9th Cir. 1983). In
22 general, a constitutional injury “unquestionably constitutes irreparable injury.”
23 *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*,
24 427 U.S. 347, 373 (1976)). More specifically, the injury in this case is caused by
25 unconstitutional racial sorting and classifications. The Ninth Circuit has explained
26 that simply “alleg[ing] constitutional infringement will often alone constitute
27 irreparable harm” where government “classifies by ethnicity.” *Monterey Mech. Co. v.*
28 *Wilson*, 125 F.3d 702, 715 (9th Cir. 1997) (citation omitted).

1 The injury at stake in this case is irreparable without an injunction. The Prop
2 50 Map violates Plaintiffs' constitutional right to be free from discriminatory
3 treatment and monetary damages cannot suffice to remedy the violation. Absent an
4 injunction, Plaintiffs will suffer an illicit constitutional violation of demeaned
5 citizenship that cannot be remedied later. As such, immediate relief is warranted.

6 **C. The Balance of Equities and the Public Interest Favor the Injunction**

7 Because Plaintiffs are likely to succeed on the merits, and because the harm at
8 issue is a constitutional violation, both the balance of equities and the public interest
9 favor granting this injunction.

10 Defendants have no legitimate interest in enforcing a congressional district
11 map that violates Plaintiffs' constitutional right to be free from discrimination. "[I]t is
12 always in the public interest to prevent the violation of a party's constitutional
13 rights." *Am. Bev. Ass'n v. City & Cnty. of San Francisco*, 916 F.3d 749, 758 (9th Cir.
14 2019) (en banc) (citation omitted). The Ninth Circuit explains that the state "cannot
15 reasonably assert that it is harmed in any legally cognizable sense by being enjoined
16 from constitutional violations." *Zepeda*, 753 F.2d at 727.

17 California has unconstitutionally sorted voters by race and discriminated
18 against those who are outside the preferred racial groups. These factors favor the
19 Court granting an injunction. It would not be equitable or in the public interest to
20 allow states to violate constitutional mandates and protections. *See Am. Bev. Ass'n*,
21 916 F.3d at 758.

22 The public interest in protecting Plaintiffs' constitutional rights far outweighs
23 any minimal burden to Defendants. Granting the injunction would mean California
24 uses the 2024 Map. This Map was drawn following the most recent federal census
25 and was used in the 2022 and 2024 elections. Candidates and the electorate are
26 familiar with this map so the injunction would not cause confusion or harm.

1 This case also does not present a *Purcell* problem because the election is not
2 close at hand and maintaining the status quo, i.e., continuing to apply the 2024 Map,
3 will not cause voters or candidates confusion.

4 Under *Purcell*, “federal courts should ordinarily not alter the election rules on
5 the eve of an election.” *Republican Nat’l Comm. v. Democratic Nat’l Comm.*, 589
6 U.S. 423, 424 (2020) (citing *Purcell v Gonzalez*, 549 U.S. 1 (2006) (*per curiam*)).
7 “Only ‘under certain circumstances, such as where an impending election is imminent
8 and a State’s election machinery is already in progress’ is *Purcell* implicated.” *Am.*
9 *Encore v. Fontes*, 152 F.4th 1097, 1121 (9th Cir. 2025) (quoting *Reynolds v. Sims*,
10 377 U.S. 533, 585 (1964)).

11 In this case, the election is not imminent, and the election machinery is not
12 already in progress. Candidates intending to run for office have until March 6, 2026
13 to submit their nomination documents, the Secretary of State certifies the list of
14 candidates for the primary election on March 26, and the election is not until June 2.
15 See Key Dates and Deadlines, California Secretary of State,
16 [https://www.sos.ca.gov/elections/upcoming-elections/primary-election-june-2-](https://www.sos.ca.gov/elections/upcoming-elections/primary-election-june-2-2026/key-dates-and-deadlines)
17 [2026/key-dates-and-deadlines](https://www.sos.ca.gov/elections/upcoming-elections/primary-election-june-2-2026/key-dates-and-deadlines).

18 Also, as noted, maintaining the status quo means using the congressional
19 district map that has been used in the past two elections and reflects the most recent
20 federal census data. It would not be a hardship on the State or the candidates planning
21 on running for office to use the congressional map they are used to and have been
22 using for the past five years.

23 Because of the constitutional nature of the injury at stake, the balance of harms
24 tips in favor of the Plaintiffs and an injunction would be in the public interest.

25 **D. This Case is Distinct from *Tangipa v. Newsom***

26 Finally, the Plaintiffs recognize that a preliminary injunction motion in a
27 different case was heard. *Tangipa v. Newsom* (Case No. 2:25-cv-10616) is distinct for
28

1 several important reasons, and the progress in that case should not impact the timing
2 or merits of this case.

3 The *Tangipa* defendants themselves acknowledge that this case is distinct.
4 They opposed consolidation with Plaintiffs here on the basis that, among other things,
5 this case “raise[s] distinct claims based on distinct allegations” and asserts “separate .
6 . . . factual allegations.” See *Lightfoot Decl., Exh. 1, “Defendants’ Objection to*
7 *Consolidation.”* We agree.

8 Even though both cases are constitutional challenges, they are challenges of an
9 entirely different nature. The Fifteenth Amendment prohibits more conduct in map-
10 drawing than the Fourteenth Amendment does. In contrast to the Fourteenth
11 Amendment, the Fifteenth Amendment leaves no room for a compelling interest
12 defense and does not require Plaintiffs prove that race was the predominant factor.
13 Rather, with a Fifteenth Amendment claim, the fact that race was used *at all* in the
14 redistricting process violates the Constitution. See *Davis*, 932 F.3d at 832 (9th Cir.
15 2019) (“The Fifteenth Amendment’s prohibition on race-based voting restrictions is
16 both *fundamental* and *absolute*.” (emphasis added)).

17 The factual posture between the cases is also different. Plaintiffs here present a
18 complete factual analysis of the Prop 50 Map, including an analysis of demographic
19 shifts on a district-by-district level and a complete, statewide *Alexander* map
20 demonstrating Defendants could have achieved their political goals without resorting
21 to racial sorting.

22 Because of the distinct legal claims and significantly different expert showings,
23 *Tangipa* should have no bearing on the timing or merits of this case.

24 //

IV. CONCLUSION

For the foregoing reasons, the Court should grant the Plaintiffs' motion for a preliminary injunction, and all such other relief to which Plaintiffs may be entitled.

January 7, 2026

BENBROOK LAW GROUP, PC
/s/ Bradley Benbrook

Bradley A. Benbrook
Stephen M. Duvernay

PUBLIC INTEREST LEGAL
FOUNDATION

J. Christian Adams

Kaylan Phillips

Joseph M. Nixon

Jewel M. Lightfoot

Carolyn C. Valdes

Attorneys for the Plaintiffs