

**UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF LOUISIANA**

JAMILA JOHNSON, *et al.*

Plaintiffs,

v.

KYLE ARDOIN, IN HIS OFFICIAL
CAPACITY AS LOUISIANA SECRETARY
OF STATE,

Defendant.

Case No.: 3:18-cv-00625-SDD-EWD

THIRD PARTY COMPLAINT

Defendant, Kyle Ardoin, in his official capacity as Secretary of State of the State of Louisiana (“Secretary of State”), brings this third party action on the following grounds:

I. The Parties to This Complaint

A. The Plaintiffs

Plaintiff No. 1 is Jamila Johnson, alleged in the Amended Complaint to be a resident of Orleans Parish, Louisiana;

Plaintiff No. 2 is Norris Henderson, alleged in the Amended Complaint to be a resident of Orleans Parish, Louisiana;

Plaintiff No. 3 is Renard Thomas, alleged in the Amended Complaint to be a resident of Orleans Parish, Louisiana;

Plaintiff No. 4 is Tramelle Howard, alleged in the Amended Complaint to be a resident of East Baton Rouge Parish, Louisiana;

Plaintiff No. 5 is Allan Rogers, alleged in the Amended Complaint to be a resident of East Feliciana Parish, Louisiana;

Plaintiff No. 6 is Mildred Armstrong, alleged in the Amended Complaint to be a resident of West Feliciana Parish, Louisiana;

Plaintiff No. 7 is Kristen Smith, alleged in the Amended Complaint to be a resident of East Baton Rouge Parish, Louisiana;

Plaintiff No. 8 is Ciara Hart, alleged in the Amended Complaint to be a resident of East Baton Rouge Parish, Louisiana;

Plaintiff No. 9 is Dadrius Lanus, alleged in the Amended Complaint to be a resident of East Baton Rouge Parish, Louisiana;

Plaintiff No. 10 is Patricia Chaney, alleged in the Amended Complaint to be a resident of St. Helena Parish, Louisiana; and

Plaintiff No. 11 is Edward Galmon, Sr., alleged in the Amended Complaint to be a resident of St. Helena Parish, Louisiana.

B. The Defendant/Third Party Plaintiff

Defendant/Third Party Plaintiff is Kyle Ardoin, in his official capacity as Louisiana Secretary of State, an executive officer of the State charged with the responsibility for conducting elections in accordance with the mandates of other agencies and branches of the State and federal government.

C. The Third Party Defendants

Third Party Defendant No. 1 is William P. Barr (“Attorney General”), serving as the Attorney General of the United States and head of the Department of Justice, 28 USC 501, with his principal office in the District of Columbia. He is sued only in his official capacity; and

Third Party Defendant No. 2 is United States Department of Justice (at times, “DOJ”), an executive department of the United States government, 5 USC § 101, and an agency

of the United States, 5 USC § 701, with its principal office in the District of Columbia, which during the applicable time period herein was charged, together with the Attorney General, with the responsibility for ensuring that changes in voting qualifications, prerequisites, standards, practices or procedures in certain states, including Louisiana, complied with the Voting Rights Act of 1965 and the United States Constitution under a review process commonly known as “preclearance,” 52 USC § 10304.

II. The Complaint and Amended Complaint

A. Plaintiffs filed a Complaint against the Secretary of State on June 13, 2018 generally alleging violations of Section 2 of the Voting Rights Act of 1965, as amended, as well as violations of the U.S. Constitution in connection with the 2010 decennial reapportionment of U.S. congressional districts in Louisiana generally alleging the “cracking and packing” of the districts that adversely impacted African American voting rights. (Doc 1, attached as Exhibit A).

B. On August 21, 2018, plaintiffs filed an Amended Complaint as an amending and superceding complaint generally containing the same factual allegations and claims as set out in the original Complaint stripped of references to the Constitution but asserting a claim under Section 2 of the Voting Rights Act of 1965 (and, the Secretary of State submits, constitutional claims under the Fourteenth and Fifteenth Amendments) again alleging an adverse impact on African American voting rights in U.S. congressional elections in Louisiana. (Doc 19, attached as Exhibit B).

C. On September 23, 2019, the Secretary of State answered the Amended Complaint admitting the Secretary of State’s status and the fact of the 2011 congressional reapportionment but denying the principal allegations of the Amended Complaint and further raising waiver and laches as affirmative defenses. (Doc 106, attached as Exhibit C).

III. Third Party Complaint

A. Grounds for the Third Party Complaint

1. Prior to the Supreme Court's 2013 decision in *Shelby County v. Holder*, 570 U.S. 529 (2013), Section 5 of the Voting Rights Act required "covered" jurisdictions to submit changes in voting qualifications, prerequisites, standards, practices or procedures to the Attorney General and DOJ for review to ensure that the changes complied with the Voting Rights Act and the United States Constitution under a review process commonly known as "preclearance," pursuant to Section 5 of the Act, 52 USC § 10304.

2. Under Section 5, the Attorney General and DOJ had a statutorily imposed obligation to assist covered jurisdictions to achieve compliance with voting rights requirements before implementing any election change.

3. Through the creation of preclearance review, Congress entrusted the Attorney General and DOJ with an affirmative obligation to secure enforcement of the provisions of the Voting Rights Act.

4. By statute, the Attorney General and DOJ bore the responsibility for vindicating the public interest under the Voting Rights Act by achieving full and uniform compliance with its provisions.

5. Section 5 created an affirmative obligation on the part of the Attorney General and DOJ to covered jurisdictions and to the public at large to ensure that voting changes comported with the requirements of the Voting Rights Act and the Constitution, particularly with respect to the impact of such changes on minorities.

6. The Attorney General and DOJ were charged to determine under Section 5 whether voting changes conformed to the Constitution and the Voting Rights Act.

7. In fact, the authority of the Attorney General and DOJ on voting rights was such the plaintiffs in ¶¶ 54, 55, 56, 57, 60, 61, 63, 64, 65, 66 and 69 of their Amended Complaint hold up DOJ as the arbiter of voting rights compliance for the State of Louisiana.

8. In 2011, when Louisiana reapportioned and redistricted its U.S. congressional districts, Louisiana was a “covered” jurisdiction under the Voting Rights Act and was thus required to submit the reapportionment plan to the Attorney General and DOJ for preclearance review.

9. Section 5 preclearance review thus determined whether Louisiana’s reapportionment of U.S. congressional districts could be implemented. Without preclearance, elections could not go forward in the reapportioned districts; with preclearance elections were authorized to proceed.

10. The relevant, information, maps, legislative acts, history, legislative files and other documentation necessary for the Attorney General’s and DOJ’s preclearance review were timely submitted.

11. The Attorney General and DOJ conducted a full preclearance review of the reapportionment and redistricting plan for U.S. Congressional districts adopted by the Louisiana Legislature in 2011 and found the plan to be without constitutional or Voting Rights Act infirmities thus allowing elections under the plan to proceed.

12. Through the preclearance review process, the Attorney General and DOJ contributed to and participated in the formation and implementation of U.S. congressional districts in Louisiana under the plan adopted by the Legislature in 2011.

13. The Attorney General and DOJ played an integral part in Louisiana’s redistricting of U.S. congressional districts in Louisiana in the 2011 reapportionment process.

14. The Secretary of State relied on the Attorney General and DOJ preclearance review before proceeding with U.S. congressional elections in the newly apportioned congressional districts following the 2011 reapportionment and in fact, could not have gone forward with elections absent their determination that the districts did not violate the Constitution or the Voting Rights Act.

15. The Secretary of State continued to rely on the Attorney General and DOJ preclearance review in holding U.S. congressional elections in 2012, 2014, 2016, and 2018, which elections were all held without comment or complaint from the Attorney General DOJ.

B. The Relief and Remedy Requested

1. The Secretary of State believes that the Attorney General and DOJ correctly determined that the U.S. congressional districts adopted by the Louisiana Legislature in 2011 complied with constitutional and statutory requirements; however, in the event the plaintiffs obtain a judgment against the Secretary of State declaring Louisiana's U.S. congressional districts to violate the Constitution and/or the Voting Rights Act, the Secretary of State is entitled to judgment over and against the Attorney General and DOJ for errors in their preclearance determination that led the Secretary of State to hold elections in the districts as adopted by the Legislature.

2. In the event of an adverse judgment, the Secretary of State is further entitled to indemnification from the Attorney General and DOJ for any and all attorney fees, expenses and costs awarded to the plaintiffs.

3. The Secretary of State is further entitled to recover from the Attorney General and DOJ his attorney fees, expenses and costs incurred in defending against the plaintiffs' claims and for the necessity of prosecuting this third party action.

WHEREFORE, defendant/third party complainant, Kyle Ardoin, in his official capacity as Louisiana Secretary of State, respectfully prays:

1. That in accordance with its Answer all claims and demands by the plaintiffs be denied and dismissed;

2. That the Court issue a declaration that the U.S. congressional districts adopted by the Louisiana Legislature in 2011 and precleared by the U.S. Attorney General and DOJ do not violate the requirements of the U.S. Constitution or the Voting Rights Act of 1965.

Alternatively, in the event of an adverse judgment against the Secretary of State:

3. That the Court issue a declaration that the Attorney General and DOJ erred in its preclearance review to the detriment of the Secretary of State;

4. That the Attorney General and DOJ indemnify the Secretary of State for any attorney fees, expenses and costs awarded to the plaintiffs against the Secretary of State; and

5. That the Attorney General and DOJ be ordered to pay attorney fees, expenses and costs to the Secretary of State incurred in defending against the plaintiffs' claim and for prosecuting this third party action.

DATED: May 20, 2019

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CERTIFICATE OF SERVICE

I do hereby certify that, on this 7th day of October 2019, the foregoing Third Party Complaint was electronically filed with the Clerk of Court using the CM/ECF system, which gives notice of filing to all counsel of record.

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IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF LOUISIANA

JAMILA JOHNSON; NORRIS HENDERSON;
RENARD THOMAS; TRAMELLE HOWARD;
ALLAN ROGERS; MILDRED ARMSTRONG;
KRISTEN SMITH; CIARA HART; DADRIUS
LANUS,

Plaintiffs,

v.

KYLE ARDOIN, in his official capacity as the
Acting Secretary of State of Louisiana,

Defendant.

Case No. _____

COMPLAINT

1. Plaintiffs—African-American voters in Louisiana—bring this action to challenge Louisiana Revised Statute § 18:1276.1 (hereinafter “2011 Congressional Plan”), which dilutes African-American voting strength and denies African-American voters in Louisiana the equal opportunity to elect candidates of their choice for the U.S. House of Representatives in violation of Section 2 of the Voting Rights Act, 52 U.S.C. § 10301. Plaintiffs seek to enjoin Defendant from enforcing the 2011 Congressional Plan and from administering any elections under the illegal map.

2. Between the 2000 and 2010 census, Louisiana’s population grew by 1.4 percent from 4,468,976 to 4,533,372. Due in large part to displacement caused by Hurricane Katrina, this growth rate was far below the national growth rate of 9.7 percent over the same period. As a result, following the 2010 census, Louisiana lost one congressional district, reducing its delegation in the U.S. House of Representatives from seven members to six. Despite the reduction in seats, Louisiana’s African-American population remained steady; as of 2010 nearly 32.6 percent of Louisiana’s population was African American, making Louisiana the state with the second highest percentage of African-

American population in the country.

3. Even though Louisiana had maintained a substantial African-American population, the Louisiana State Legislature (“the Legislature”) chose to limit minority voting strength and political influence by “packing” African-American voters into one majority-minority district and “cracking” them among other districts in the 2011 Congressional Plan, instead of unifying them to form an additional majority-minority district in keeping with Section 2 of the Voting Rights Act.

4. Specifically, African-American voters were packed into the Second Congressional District (“CD 2”), the sole majority-minority congressional district included in the 2011 Congressional Plan. CD 2 was first established as a majority-minority district in 1983, as a direct result of *Major v. Treen*, 574 F. Supp. 325, 339-40 (E.D. La. 1983), a Section 2 challenge to Louisiana’s 1981 congressional reapportionment scheme which found that racially polarized voting as well as “Louisiana’s history of racial discrimination, both *de jure* and *de facto*, continu[ed] to have an adverse effect on the ability of its black residents to participate fully in the electoral process.” In 1990, for the first time in the 113 years that had passed since Reconstruction, African-American voters in Louisiana were able to elect an African-American to Congress—William Jefferson. Today, CD 2 is represented by Representative Cedric Richmond, an African American who was first elected in 2010.

5. The packing of African-American voters is most pronounced along the Mississippi River from Orleans Parish to East Baton Rouge Parish, where CD 2 captures African-American voters on the southern shore of Lake Pontchartrain along the Mississippi to cut Kenner, St. Rose, and New Sarpy out of CDs 1 and 6 on the north shore. It then continues, moving up through the River Parishes, and into Assumption, Ascension, and Iberville, including the cities of Gonzales, White Castle, and Port Allen, and on into parts of eastern and northern Baton Rouge.

6. In contrast, African-American voters in other contiguous parishes such as East and West Feliciana, St. Helena, Pointe Coupee, West Baton Rouge, and Avoyelles are dispersed between CDs 5 and 6. In particular, CD 5—which is so vast that it spans nearly the length of the State and encompasses pieces of almost every traditional community of interest in Louisiana, e.g., North and Central Louisiana, Acadiana, and the Florida Parishes—stops short of uniting the northern African-American population centers of Tensas, Madison, and East Carroll with the more southern African-American population centers by carving out parts of East Feliciana, West Feliciana, and St. Helena from its district, and splitting these parishes between CDs 5 and 6.

7. CD 6—which wraps almost entirely around CD 2—encompasses the remaining portions of the River Parishes that CD 2 left behind, while also including the African Americans that were excluded from CD 5.

8. As a result, based on the 2010 census, CD 2 has a Black Voting Age Population (“BVAP”) of 59.7%. CDs 5 and 6, meanwhile, have BVAPs of 33.7% and 21.5%, respectively.

9. African Americans in Louisiana are sufficiently numerous and geographically compact to form a majority of eligible voters in a second congressional district—including but not limited to districts which track the current trajectory of CD 5 as well as districts respecting traditional North, Central, and South Louisiana divisions.

10. As evidenced by an array of factors, such as the history of racial discrimination in voting, the perpetuation of racial appeals in Louisiana elections, and the socio-economic effects of decades of discrimination against African Americans that hinder their ability to participate effectively in the political process, Louisiana’s failure to create a second majority-minority congressional district in its 2011 Congressional Plan has resulted in the dilution of African-American voting strength in violation of Section 2 of the Voting Rights Act.

11. Accordingly, Plaintiffs seek an order (i) declaring that Louisiana's 2011 Congressional Plan violates Section 2 of the Voting Rights Act; (ii) enjoining Defendant from conducting future elections under the 2011 Congressional Plan; (iii) ordering a congressional redistricting plan that includes two majority-minority congressional districts; and (iv) providing any such additional relief as is appropriate.

JURISDICTION AND VENUE

12. This Court has jurisdiction over this action pursuant to 42 U.S.C. §§ 1983 and 1988, and 28 U.S.C. §§ 1331, 1343(a)(3), 1343(a)(4), and 1357.

13. This Court has jurisdiction to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202.

14. Venue is proper under 28 U.S.C. § 1391(b).

PARTIES

15. Plaintiff Jamila Johnson is an African-American citizen of the United States and of the State of Louisiana. Ms. Johnson moved to New Orleans, Louisiana in April 2017, and as a result, is a new resident of Orleans Parish. Ms. Johnson is registered to vote in Orleans Parish in CD 2 and will vote for a candidate for the U.S. House of Representatives in CD 2 for the first time in the November 2018 general election. Because she is packed in CD 2, where her vote is of lesser value because African-American voters are concentrated there, Ms. Johnson will be denied an equal opportunity to vote for candidates for the U.S. House of Representatives in the upcoming election.

16. Plaintiff Norris Henderson is an African-American citizen of the United States and of the State of Louisiana. Mr. Henderson is a life-long resident of Orleans Parish and is registered to vote in CD 2. Mr. Henderson has been a registered voter in Orleans since 2005, when he had

his voting rights restored. Mr. Henderson is denied an equal opportunity to vote for candidates for the U.S. House of Representatives because he is packed in CD 2, where his vote is of lesser value because African-American voters are concentrated there.

17. Plaintiff Renard Thomas is an African-American citizen of the United States and of the State of Louisiana. Mr. Thomas is a life-long resident of Orleans Parish and is registered to vote in CD 2. Mr. Thomas has been a registered voter in Orleans since his voting rights were restored in 2004. Mr. Thomas is denied an equal opportunity to vote for candidates for the U.S. House of Representatives because he is packed in CD 2, where his vote is of lesser value because African-American voters are concentrated there.

18. Plaintiff Tramelles Howard is an African-American citizen of the United States and of the State of Louisiana. Mr. Howard is a life-long resident of East Baton Rouge Parish and is registered to vote in CD 2. Mr. Howard has been a registered voter in East Baton Rouge since he turned eighteen. Mr. Howard is denied an equal opportunity to vote for candidates for the U.S. House of Representatives because he is packed in CD 2, where his vote is of lesser value because African-American voters are concentrated there.

19. Plaintiff Allan Rogers is an African-American citizen of the United States and of the State of Louisiana. He is a resident of East Feliciana Parish and is a registered voter in CD 5. Mr. Rogers has resided in East Feliciana since June 2014 and has been a registered voter in CD 5 since October 2016. In the 2016 election Mr. Rogers, who votes Democratic, was given no opportunity to elect his candidate of choice because both CD 5 candidates were Republican. Mr. Rogers is denied the equal opportunity to vote for a candidate of his choice to the U.S. House of Representatives because African-American voters in East Feliciana are cracked among multiple congressional districts. An additional majority-minority district could be drawn incorporating East

Feliciana Parish to provide a remedy for the existing Section 2 violation.

20. Plaintiff Mildred Armstrong is an African-American citizen of the United States and of the State of Louisiana. She is a lifelong resident of West Feliciana Parish and is a registered voter in CD 5. Ms. Armstrong has been registered to vote in West Feliciana since she was of legal age to register. Ms. Armstrong has been unable to elect the candidates of her choice to the U.S. House of Representatives despite strong electoral support for those candidates from other African-American voters in her community. In the 2016 election, Ms. Armstrong, who votes Democratic, was given no opportunity to elect her candidate of choice because both CD 5 candidates were Republican. An additional majority-minority district could be drawn incorporating West Feliciana to provide a remedy for the existing Section 2 violation.

21. Plaintiff Kristen Smith is an African-American citizen of the United States and of the State of Louisiana. She is a resident of East Baton Rouge Parish and a registered voter in CD 6. Ms. Smith has resided in CD 6 since July 2014, and has been a registered voter in CD 6 since October 2015. In election after election, Ms. Smith has been unable to elect the candidates of her choice to the U.S. House of Representatives despite strong electoral support for those candidates from other African-American voters in her community. An additional majority-minority district could be drawn incorporating East Baton Rouge Parish to provide a remedy for the existing Section 2 violation.

22. Plaintiff Ciara Hart is an African-American citizen of the United States and of the State of Louisiana. She is a resident of East Baton Rouge Parish and a registered voter in CD 6. Ms. Hart has resided in CD 6 since June 2017, and has been a registered voter in CD 6 since October 2017. Ms. Hart will vote for a candidate for the U.S. House of Representatives in CD 6 for the first time in the November 2018 general election; however, because African-American

voters are cracked in CD 6, she likely will be unable to elect the candidate of her choice to the U.S. House of Representatives despite strong electoral support for those candidates from other African-American voters in her community. An additional majority-minority district could be drawn incorporating East Baton Rouge Parish to provide a remedy for the existing Section 2 violation.

23. Plaintiff Dadrius Lanus is an African-American citizen of the United States and of the State of Louisiana. He is a life-long resident of East Baton Rouge Parish and a registered voter in CD 6. Mr. Lanus has been registered to vote in East Baton Rouge Parish since he was eighteen. In election after election, Mr. Lanus has been unable to elect the candidates of his choice to the U.S. House of Representatives despite strong electoral support for those candidates from other African-American voters in his community. An additional majority-minority district could be drawn incorporating East Baton Rouge Parish to provide a remedy for the existing Section 2 violation.

24. Defendant Kyle Ardoin is the Acting Secretary of State of Louisiana and is sued in his official capacity. The Secretary of State is the State's chief election officer. LA Const. art. 4, § 7. In that capacity, he is responsible for preparing and certifying the ballots for all elections, promulgating all election returns, and administering the election laws. *Id.*

LEGAL BACKGROUND

25. Section 2 of the Voting Rights Act, 52 U.S.C. § 10301(a), prohibits any “standard, practice, or procedure” that “results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color[.]” Thus, in addition to prohibiting practices that deny the exercise of the right to vote, Section 2 prohibits vote dilution. A violation of Section 2 is established if “it is shown that the political processes leading to nomination or election” in the jurisdiction “are not equally open to participation by members of a [minority group] in that its

members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” *Id.* § 10301(b).

26. The dilution of African-American voting strength “may be caused by the dispersal of blacks into districts in which they constitute an ineffective minority of voters or from the concentration of blacks into districts where they constitute an excessive majority.” *Thornburg v. Gingles*, 478 U.S. 30, 46 n.11 (1986).

27. The United States Supreme Court, in *Thornburg v. Gingles*, identified three necessary preconditions for a claim of vote dilution under Section 2 of the Voting Rights Act: (1) the minority group must be “sufficiently large and geographically compact to constitute a majority in a single-member district”; (2) the minority group must be “politically cohesive”; and (3) the majority must vote “sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.” *Gingles*, 478 U.S. at 50-51.

28. Once all three preconditions are established, the statute directs courts to consider whether, under the totality of the circumstances, members of a racial group have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. 52 U.S.C. § 10301(b). The Senate Report on the 1982 amendments to the Voting Rights Act identifies several non-exclusive factors that courts should consider when determining if, under the totality of the circumstances in a jurisdiction, the operation of the electoral device being challenged results in a violation of Section 2.

29. These Senate Factors include: (1) the history of official voting-related discrimination in the state or political subdivision; (2) the extent to which voting in the elections of the state or political subdivision is racially polarized; (3) the extent to which the state or political subdivision has used voting practices or procedures that tend to enhance the opportunity for

discrimination against the minority group, such as unusually large election districts, majority-vote requirements, and prohibitions against bullet-voting; (4) the exclusion of members of the minority group from candidate slating processes; (5) the extent to which minority group members bear the effects of discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process; (6) the use of overt or subtle racial appeals in political campaigns; and (7) the extent to which members of the minority group have been elected to public office in the jurisdiction.

30. The Senate Report itself and the cases interpreting it have made clear that “there is no requirement that any particular number of factors be proved, or that a majority of them point one way or the other.” *United States v. Marengo Cty. Comm’n*, 731 F.2d 1546, 1566 n.33 (11th Cir. 1984) (quoting S. Rep. No. 97-417, at 29 (1982)); *see id.* at 1566 (“The statute explicitly calls for a ‘totality-of-the circumstances’ approach and the Senate Report indicates that no particular factor is an indispensable element of a dilution claim.”).

FACTUAL BACKGROUND

31. On April 13, 2011, the Legislature established Louisiana’s six Congressional districts with the passage of Act 2, the 2011 Congressional Plan. The Louisiana State Senate voted 25 to 13 to approve the 2011 Congressional Plan, and the House voted in favor of it 63 to 56. The vast majority of African-American legislators voted against the Plan. The 2011 Congressional Plan was signed into law as La. Rev. Stat. § 18:1276.1 by then-Governor Bobby Jindal on April 14, 2011.

32. Prior to the 2011 Congressional Plan’s passage, multiple maps were proposed, including maps containing an additional African-American opportunity district. Specifically, African-American Senator Lydia Jackson proposed SB 3, a congressional map which contained two horizontal districts for North Louisiana, one of which—proposed CD 4—contained approximately 36% African-American voting age population. It was anticipated that this district

would be one in which African-American voters would have the ability to exert greater influence over congressional elections and demand greater responsiveness to minority interests from congressional representatives. While this plan initially passed through the Senate, it was eventually killed in the House Committee when then-Governor Jindal publicly threatened to veto it if it made it to his desk. A similar minority-opportunity district was proposed in the House by Representative Rick Gallot. Representative Gallot's proposed plan gained even less traction, dying in committee and never reaching the House floor.

33. African-American Senate President Pro Tempore Sharon Weston Broome and Representative Michael Jackson each introduced amendments to the 2011 Congressional Plan which would have created two majority-minority districts, one in CD 2 and one in CD 5. Both amendments were rejected, by votes of 23 to 14 (Broome) and 71 to 20 (Jackson), respectively. All African-American members of the Senate voted in favor of the amendments as did the overwhelming majority of African-American members of the House.

34. In the end, the only majority-minority district to remain intact under the 2011 Congressional Plan was CD 2, which has a total African-American population of 62.9% and a BVAP of 59.7%; 61.6% of the District's registered voters are African-American. The next highest BVAP in the 2011 Congressional Plan are CDs 4 and 5, at 32.7% and 33.7%, respectively.

35. As described above, CD 2 includes parts of New Orleans, excluding the western suburbs, and weaves around to Baton Rouge, capturing its western and northern neighborhoods. The shape of CD 2, as redrawn in 2011, is significantly more contorted than it had been under the prior congressional districting plan, adopted in 2001 ("Benchmark CD 2"). Benchmark CD 2 was relatively more compact and did not stretch west of Kenner or Jefferson Parish. Instead, it represented primarily one community: New Orleans.

36. Benchmark CD 2 had a total African-American population of 64.8% and a BVAP of 60.3%. At that time, 60.7% of registered voters were African-American.

37. The 2011 Congressional Plan as a whole violates Section 2 of the Voting Rights Act by cracking African-American voters among CDs 5 and 6 and packing them in CD 2, rather than including an additional majority-minority district. Indeed, at the time of the 2011 Congressional Plan's passage, the Legislative Black Caucus "raised serious questions about the intentions of the authors and the results of the various maps presented." After the plan was signed, the Legislative Black Caucus announced that the plan did not adequately protect the voting strength of non-white voters, who as of 2010, accounted for 32.6% percent of Louisiana's registered voters, stating that: "We have worked hard to ensure that the state's citizens' voting power was not diluted Despite our efforts, we believe the process was conducted in a manner that diminished minority voters' ability to select a candidate of their choice."

Racial Polarization

38. Louisiana has a long history of racially polarized voting that has been well-recognized by federal courts and continues today. *See, e.g., Terrebonne Par. Branch NAACP v. Jindal*, 274 F. Supp. 3d 395, 436-37 (M.D. La. 2017) (recognizing racially polarized voting in Terrebonne Parish); *St. Bernard Citizens For Better Gov't v. St. Bernard Par. Sch. Bd.*, No. CIV.A. 02-2209, 2002 WL 2022589, at *9 (E.D. La. Aug. 26, 2002) (recognizing racially polarized voting in St. Bernard Parish); *Clark v. Edwards*, 725 F. Supp. 285, 298 (M.D. La. 1988) (finding racially polarized voting "across Louisiana" in family court, district court, and appeals court districts), *modified sub nom., Clark v. Roemer*, 777 F. Supp. 445 (M.D. La. 1990), *vacated*, 750 F. Supp. 200 (M.D. La. 1990), *cert. granted before judgment, order vacated*, 501 U.S. 1246 (1991), *supplemented*, 777 F. Supp. 471 (M.D. La. 1991); *Citizens for a Better Gretna v. City of Gretna*,

636 F. Supp. 1113, 1124 (E.D. La. 1986) (recognizing racially polarized voting in Gretna), *aff'd*, 834 F.2d 496 (5th Cir. 1987); *Major v. Treen*, 574 F. Supp. 325, 337 (E.D. La. 1983) (recognizing racial polarization in Orleans Parish).

39. African-American voters in Louisiana are politically cohesive and overwhelmingly support Democratic candidates.

40. The white majority, which overwhelmingly supports Republican candidates, votes as a bloc usually to defeat African-American voters' candidates of choice.

41. For example, in the 2016 presidential election, the vast majority of African Americans in Louisiana voted for the Democratic candidate, but fewer than 35% of white voters voted for the Democratic candidate. African-American voters' candidate of choice lost the statewide vote by a margin of 20 percentage points.

History of Official Voting-Related Discrimination

42. Louisiana has a long, deep rooted history of voting-related discrimination—one so deeply ingrained that “it would take a multi-volumed treatise to properly describe the persistent, and often violent, intimidation visited by white citizens upon black efforts to participate in Louisiana’s political process.” *Citizens for a Better Gretna*, 636 F. Supp. at 1116. This history directly resulted in Louisiana becoming a covered jurisdiction subject to federal preclearance for any change to its voting laws under Section 5 of the Voting Rights Act—and has continued through the present day.

43. From its inception until the State was forced to allow African Americans to vote during Reconstruction, Louisiana’s state constitution limited the right to vote to white males, wholly excluding African Americans from the franchise. In 1898, as African-American voter registration began to increase, Louisiana called a constitutional convention with the purpose of, in

the words of the Chairman of the Judiciary Committee of the Convention, “establish[ing] the supremacy of the white race.” To that end, the delegates enacted several constitutional provisions that specifically targeted African-American voters.

44. For example, Louisiana expanded its felon disenfranchisement policy to include all individuals convicted of “any crime punishable by imprisonment, and not afterwards pardoned with express restoration of the franchise” as well as all individuals “actually confined in any public prison.” This was a drastic expansion from the policy in place in Louisiana when only white men could vote, which had limited disenfranchisement only to four crimes (bribery, forgery, perjury, high crimes and misdemeanors), and it was directly aimed at disenfranchising African Americans.

45. Further, Louisiana became one of the first states to implement the “Grandfather Clause,” a constitutional provision requiring that registrants whose fathers or grandfathers had not been registered to vote before 1867 comply with additional property and education requirements to register. As the president of the state constitutional convention explained, the Clause was implemented specifically to “let the white man vote” and “stop the negro from voting.”

46. After the Convention, then-Governor Murphy J. Foster stated of all of the new provisions that “[t]he white supremacy for which we have so long struggled at the cost of so much precious blood and treasure, is now crystallized into the Constitution as a fundamental part and parcel of that organic instrument.” Indeed, the effect of the 1898 constitutional changes was profound. African-American voter registration was reduced from approximately 45% to a mere 4% by 1900. The Clause remained in place until it was struck down by the United States Supreme Court in 1915. *See Guinn v. United States*, 238 U.S. 347 (1915). As discussed *infra*, versions of Louisiana’s felon disenfranchisement policy, which disproportionately disenfranchises African Americans, have remained a part of Louisiana’s laws governing access to the franchise. The most

recent iteration of this policy is currently the subject of on-going litigation before the Louisiana Supreme Court.

47. After the 1898 Convention, Louisiana continued to develop alternative ways to ensure that its African-American citizens could not participate in the political process. For example, it implemented an “understanding” clause requiring citizens to “give a reasonable interpretation of any section of the federal or state constitution in order to vote.” *Bossier Par. Sch. Bd. v. Reno*, 907 F. Supp. 434, 455 (D.D.C. 1995) (Kessler, J., concurring in part and dissenting in part) (internal quotation marks and citation omitted), *vacated on other grounds*, 520 U.S. 471 (1997). This law was enforced until 1965, when it was invalidated by the Supreme Court. *See Louisiana v. United States*, 380 U.S. 145 (1965).

48. Moreover, during this time white mobs employed lynchings and massacres of African Americans to intimidate and prevent them from exercising their rights under the newly ratified 15th Amendment. This systemic violence took place with either the tacit or explicit collusion of state actors, and was almost never punished by state law enforcement. In 1868, for example, in St. Landry Parish, white Democrats, “angered by growing black support for white Republican candidates,” murdered over 100 African Americans over a two-week period. In 1873, in what is known as the “Colfax Massacre,” a white mob massacred approximately 150 African Americans in Colfax, Louisiana, after a close gubernatorial race. No one was ever prosecuted for these murders. Ultimately, Louisiana parishes comprised four out of five local jurisdictions in the United States that had the most lynchings between Reconstruction and the 1950s, including 540 documented lynchings in that time period.

49. In the early 1900s Louisiana also levied poll taxes, which prohibited African Americans from voting as they often could not pay the tax, and purged African-American voters

from registration rolls. In 1923, the state authorized an all-white Democratic Primary, which “functioned to deny [African Americans] access to the determinative elections, inasmuch as Republican opposition to the Democratic [P]arty in the general elections was nonexistent.” *Major*, 574 F. Supp. at 340. The all-white primaries remained in place until 1944, when they were also invalidated by the Supreme Court. *See Smith v. Allwright*, 321 U.S. 649 (1944).

50. In the 1950s Louisiana continued its discriminatory voting tactics by implementing a citizenship test and prohibiting single shot voting provisions. The elimination of the latter was particularly detrimental to African-American participation, as single shot voting had given members of minority communities the ability to aggregate their votes behind one candidate in multi-member elections. In 1959, the Legislature established a majority-vote requirement to be elected to party committees, and “from 1940 to 1964, the States Rights Party spearheaded a strong movement against black enfranchisement and judicially-directed desegregation.” *Major*, 574 F. Supp. at 340.

51. In 1965, Congress passed the Voting Rights Act, and Louisiana was immediately declared a “covered” jurisdiction under Section 4(b) of the Voting Rights Act due to its maintenance of a literacy test, as well as its low-level of minority voter registration (below 50%). *See South Carolina v. Katzenbach*, 383 U.S. 301, 312-13 (1966). As a covered jurisdiction, Louisiana was required to have any changes to its election practices or procedures “precleared” by either the U.S. Department of Justice or a federal court.

52. Even after coming under federal oversight, however, Louisiana persisted in its efforts to limit African-American voting power, with Section 5 of the Voting Rights Act often serving as the lone backstop preventing Louisiana from further excluding African Americans from the franchise. Indeed, between 1965 and 2013, when the Voting Rights Act’s coverage formula

was invalidated by *Shelby County v. Holder*, 133 S. Ct. 2612 (2013), the Department of Justice effectively blocked or altered nearly 150 voting related changes in Louisiana pursuant to Section 5 of the Voting Rights Act, with many of the Department of Justice's objections aimed at attempts to dilute minority voting strength in the state as a whole or in local jurisdictions. See U.S. Dep't of Justice, Civil Rights Division, Voting Section, Louisiana Voting Determination Letters, <https://www.justice.gov/crt/voting-determination-letters-louisiana>.

53. For example, in 1968, in an effort to minimize and dilute African-American voting strength, the Legislature passed Acts 561 and 445, which allowed parish school boards and police juries, respectively, to switch to at-large election systems. Only objections from the Department of Justice prevented the laws from being implemented. And indeed, between 1971 and 1972, at least fourteen Louisiana Parishes—St. Helena, Jefferson Davis, Tangipahoa, Franklin, St. Charles, Assumption, Ascension, Bossier, De Soto, East Feliciana, Natchitoches, Caddo, St. James, and St. Mary—attempted to switch to at-large election systems under the nullified laws.

54. Undeterred, in 1973, the Legislature passed Act 106, which provided for the use of divisions or numbered posts for multi-member bodies in all districts, parishes, municipalities, and wards in Louisiana. This would have significantly reduced the potential for minority candidates to win elections to multi-member offices in localities with a pattern of racial bloc voting. Again, the act was blocked by a Department of Justice objection.

55. In 1975, the Legislature again attempted to prevent single shot voting in school board elections with the passage of Act 432. Again, the act was blocked by a Department of Justice objection.

56. Since 1981, much of Louisiana's voting-related discrimination has been perpetrated via discriminatory redistricting schemes which pack African Americans into one voting district,

or crack them among many districts, limiting their influence overall. These discriminatory redistrictings have been carried out at the state and local level.

57. Notably, in 1981, the Legislature and then-Governor attempted to limit African-American influence in Congress by implementing a congressional redistricting plan—Act 20—that “cracked” the African-American majority in Orleans Parish between two congressional districts. At the time of the redistricting, African Americans represented 55% of the total population in Orleans, and the African-American population was highly concentrated. Despite having multiple plans available that produced a majority African-American district, the Governor threatened to veto them stating that plans with majority African-American districts “smacked of racism.” *Major*, 574 F. Supp. at 331. The result was a plan with only majority-white districts that fractured the African-American population in Orleans while leaving white concentrations intact. African-American state legislators, moreover, were excluded from the process of developing the plan. The plan was challenged under Section 2 of the Voting Rights Act in *Major v. Treen*, with plaintiffs asserting that it diluted African-American voting strength. The Eastern District of Louisiana agreed, enjoining implementation of the plan and requiring that a new map be drawn. The resulting map gave rise to CD 2.

58. In 1981 the Legislature also attempted to limit African American influence at the state level via the Louisiana House of Representatives apportionment plan, Act 1. Specifically, the Legislature approved a plan which reduced the number of majority-minority State House of Representatives districts throughout the state, including Orleans Parish and East Baton Rouge Parish. The Department of Justice objected to the plan, citing unsatisfactory explanations for the configuration of districts in Orleans, East Baton Rouge, East Feliciana, St. Helena, West Feliciana, and Rapides Parishes, and noting that, overall, Act 1 “impact[ed] adversely upon black voting

strength.”

59. A similar practice was observed in the next two redistricting cycles—1991 and 2001—when the Legislature again enacted discriminatory State House redistricting plans. In 1991, the Department of Justice objected to the State House redistricting plan, noting that in at least seven areas the proposed plan minimized African-American voting strength. The Department of Justice explained that “the state has not consistently applied its own [redistricting] criteria, but it does appear that the decision to deviate from the criteria in each instance tended to result in the plan’s not providing black voters with a district in which they can elect a candidate of their choice.”

60. In 2001, the Legislature again sought to eliminate an African-American opportunity district in Orleans. Louisiana sought preclearance in the D.C. District Court in *Louisiana House of Representatives v. Ashcroft*, No. 1:02-cv-00062 (D.D.C. Jan. 14, 2002). Both the Department of Justice and the NAACP Legal Defense Fund opposed Louisiana’s preclearance submission. The case settled on the eve of trial, with the State withdrawing the plan and restoring the African-American opportunity district.

61. In addition to the State’s efforts to minimize minority representation through congressional and legislative redistricting, the Legislature and local jurisdictions have also taken a number of other actions to discriminate against Louisiana’s African-American citizens. In 1994, Louisiana attempted to impose a photo ID requirement for first-time voters who voted by mail. The Department of Justice found that this law would adversely impact the state’s African-American population. Moreover, throughout the 1980s and ‘90s Louisiana continued its attempts to expand and reinforce at-large voting for judges, school boards, and boards of alderman, despite repeated warnings of the detrimental impact of these at-large systems on African-American voters.

62. Indeed, in 1969, 1989, 1990, 1991, 1992, and 1994, Louisiana attempted to add at-

large or multimember judicial seats, blatantly ignoring the objections and requests for more information posed by the Department of Justice in response to these acts. Louisiana's actions were so egregious, that in 1990, a court in this district reprimanded Louisiana in *Clark v. Roemer*, 751 F. Supp. 586, 589 n.10 (M.D. La 1990), *reversed on other grounds*, 500 U.S. 646 (1991), stating that Louisiana had "absolutely no excuse for its failure" to obtain preclearance.

63. In 1998, the Legislature attempted to facilitate local governments' resistance to drawing additional majority-minority districts when it passed a law freezing local voting precinct lines through 2003, which included the three years following the 2000 census. The Department of Justice objected, preventing the law from being implemented. Nevertheless, in 2009, the Legislature again tried to freeze precinct lines with the passage of Act 136. The Department of Justice again objected. Additionally, in 2001, the Legislature adopted a plan which allowed electors in St. Bernard Parish to reduce the size of the school board from eleven single-member districts to five single member districts and two at-large seats, eliminating the sole majority-minority voting district in the parish. A federal court later found that this new plan violated Section 2 of the VRA. *St. Bernard Citizens For Better Gov't v. St. Bernard Par. Sch. Bd.*, No. CIV.A. 02-2209, 2002 WL 2022589, at *10 (E.D. La. Aug. 26, 2002).

64. In addition to these actions at the state level, Louisiana localities have also repeatedly discriminated against African Americans through changes to their voting rules. At least forty-four of Louisiana's sixty-five parishes—over 67%—received objections from the Department of Justice during the time that Louisiana was a covered jurisdiction, including, among others, Ascension, Assumption, Avoyelles, East Baton Rouge, East Feliciana, East Carroll, Iberia, Iberville, Madison, Orleans, Pointe Coupee, St. Mary, St. Landry, St. Charles, St. James, St. Helena, St. Martin, Tensas, West Feliciana, and West Baton Rouge. The majority of these

objections have been for redistricting changes.

65. Louisiana's history of voter discrimination is far from ancient history. Louisiana continues to implement voting practices that have hindered the ability of African Americans to participate equally in the political process.

66. For example, as recently as 2012, controversy ensued as the Louisiana Supreme Court refused to seat Justice Bernette Johnson, Louisiana's only African-American Supreme Court Justice, as chief justice. Justice Johnson had joined the Louisiana Supreme Court in 1991 as part of a consent decree entered in a Section 2 case challenging the Louisiana Supreme Court's use of at-large districts. Justice Victory and some members of the Louisiana Supreme Court argued that the nature of Justice Johnson's original appointment to the bench meant that she did not have the requisite seniority to serve as chief justice under the Louisiana Constitution. Only after a federal court found that Justice Johnson should be seated did the Louisiana Supreme Court agree to seat Justice Johnson as chief justice.

67. The Department of Justice has authorized sending observers to more than eleven Louisiana parishes—including Orleans Parish as recently as 2016—to ensure compliance with federal voting laws.

68. As recently as 2017, a court in this district found that the Legislature had intentionally discriminated against African Americans in Terrebonne Parish by maintaining—despite persistent opposition by the African-American community—at-large electoral schemes for the 32nd judicial district. *See Terrebonne Par. Branch NAACP*, 274 F. Supp. 3d at 454.

69. Moreover, as discussed *supra*, Louisiana law continues to disenfranchise felons. Although voters approved a 1974 constitutional provision that makes a suspension of voting rights permissive for people “under order of imprisonment for conviction of a felony,” the legislature

decided in 1976-77 to make this suspension mandatory, and define the phrase to include all people in prison, on probation, and on parole. The result being that as of 2016, Louisiana had over 108,000 disenfranchised individuals as a result of this policy, 63% of whom are African-American. While the recent change in Louisiana law—the passage of Act 636—will carve out approximately 43,000 people from the disenfranchised population if implemented correctly, over 65,000 individuals will remain disenfranchised under Louisiana’s felon disenfranchisement policy, with African Americans remaining the majority of individuals disenfranchised by this policy.

Use of Racial Appeals in Political Campaigns

70. In addition to Louisiana’s history of voting-related discrimination against African Americans, Louisiana political campaigns have also been the subject of both overt and subtle racial appeals.

71. In 1989, Louisiana made national headlines when David Duke—former grand wizard of the Ku Klux Klan—was elected to the Louisiana State House of Representatives. Duke, who claimed to be the spokesman for the “white majority,” went on to run for U.S. Senate in 1990, Louisiana governor in 1991, and U.S. Senate again in 2016. During his primary campaign for governor, Duke urged voters to vote for him, stating that his opponent, then-incumbent Governor Roemer, was “an NAACP member who supports reverse discrimination. . . .” Duke beat Governor Roemer in the primary with 32% of the vote.

72. During the run-off election, Duke equated affirmative action with “racist” and “intolerant organizations,” and his campaign was characterized by rhetoric promising to save Louisiana by giving poor African Americans “tough love.” Duke stated, “If you are white these days you are a second-class citizen in your own country.” While Duke lost the election, he garnered more than 670,000 votes—nearly 40%—in the run-off, and ultimately claimed a moral victory

saying, “I won my constituency. I won 55% of the white vote.” When asked why he voted for Duke, one of Duke’s supporters explained, “I feel like the blacks get too much their own way. You don’t see white people spitting out babies like they do.”

73. In 2016, Duke again ran for U.S. Senate. In explaining why Duke joined the race, his campaign manager stated, “He became very concerned in regards to the Obama administration and the unhealthy way the mainstream media was affecting the racial climate in this country, with this bias toward African Americans against the police officers.”

74. Even moderate Republican candidates in Louisiana have made subtle racial appeals. In particular, former-Governor Mike Foster, in his 1995 race against African-American U.S. Representative Cleo Fields—the first African-American candidate for governor in Louisiana in over 100 years—ran on a platform of repealing affirmative action, support for a judicial challenge to a second majority-minority congressional district in Louisiana, and opposition to the National Voter Registration Act, which was widely viewed as a way to increase African-American voter registration.

75. Indeed, during his race Governor Foster did not repudiate an endorsement he received from a white nationalist group associated with Duke, and at one point stated that Jefferson Parish was “right next to the jungle in New Orleans and has a very low crime rate.” Governor Foster won with 64% of the vote as compared to 36% for Cleo Fields, with reports indicating that only 4% of African Americans voted for Foster, while all but 2% of Fields’ votes were from African Americans.

76. As another example of race-based appeals in Louisiana campaigns, in 2014, it was revealed that current U.S. Representative Steve Scalise (CD 1) spoke to a white supremacist gathering while serving as a Louisiana State Representative in 2002.

Ongoing Effects of Louisiana’s History of Discrimination

77. In the late Nineteenth Century, in a direct repudiation of political gains made by African Americans during Reconstruction, Louisiana began enacting “Black Codes” and Jim Crow laws that enforced official segregation—and restricted the liberty of African Americans—in nearly every sphere of life including transportation, housing, education, business ownership, contracting, criminal justice, and public accommodations. Louisiana’s African-American citizens bear the effects of the State’s official history of discrimination in a number of these spheres. These socio-economic disadvantages born of discrimination hinder African Americans’ ability to participate effectively in the political process.

78. “*De facto* racial segregation remains in education in Louisiana. About 74% of all black elementary and secondary students attend majority-minority schools. Only thirteen states have higher percentages of black students in these majority-minority schools.” *Terrebonne Par. Branch NAACP*, 274 F. Supp. 3d at 442-43. African Americans in Louisiana are ten percent less likely to graduate high school than whites and at least twelve percent less likely to hold a bachelor’s degree.

79. In addition to a lower level of educational attainment, continued racial segregation in Louisiana contributes to lower employment rates for African Americans and correspondingly high levels of poverty. According to the U.S. Census Bureau’s 2012-2016 American Community Survey 5-Year Estimates, African Americans in Louisiana were unemployed at a rate of 12.2%, compared to just 5.6% for whites. Likewise, African American poverty rates in Louisiana exceeded the white poverty rate for that same time period. Indeed, in 2016, 33.1% of African Americans were below the poverty level, compared to just 12.7% of whites.

80. As of the 2010 census, Whites were also more than three times more likely than

African Americans to own a home in Louisiana.

81. The effects of Louisiana's long history of discrimination are also evident in persistent health disparities. According to the Louisiana Department of Health and Hospitals, "[f]rom 2000–2005, Black or African American Louisiana residents had the highest death rate from all causes, approximately 1-2 times higher than White residents." Similarly, during that same time period the infant mortality rate—a key indicator of overall health status—was 13.9% for African Americans, compared to 7.6% for whites. Unsurprisingly, African Americans were 2.7 times more likely than white residents of Louisiana to be uninsured.

82. As of 2015, not only did Louisiana rank number one in its statewide imprisonment rate, but African Americans were also overrepresented in Louisiana jails while whites are underrepresented. Indeed, as of 2014, African Americans were four times as likely to be imprisoned than whites.

Extent to Which African Americans Have Been Elected to Public Office

83. African Americans are still underrepresented in Louisiana public offices. None of the current statewide elected officials are African American. Louisiana has not had an African-American Governor since Reconstruction—though African Americans ran for the office in 1995 and 1999—and Louisiana has never had an African-American Senator.

84. African-American candidates have experienced some success in localized races; however, this is predominantly in areas where the district's voting-age population is majority African-American. For example, Louisiana only has one African-American State Supreme Court Justice, who was elected in a majority-minority district created initially as a result of a consent decree issued from a Section 2 challenge to Louisiana's at-large judicial electoral scheme. Likewise, Louisiana has only twenty-five African-American State Representatives (of 105 total

seats, approximately 23%) and only eight African-American State Senators (of thirty-nine total seats, 20.5%), all of whom were elected from majority-minority districts. These numbers are hardly representative of the total African-American population in Louisiana.

85. “Statewide, [African Americans] have also been underrepresented in the trial and appellate courts. While the black population comprises about 30.5% of the voting age population in Louisiana, black people only account for about 17.5% of the judges in Louisiana.” *Terrebonne Par. Branch NAACP*, 274 F. Supp. 3d at 445.

86. As noted, the only African-American U.S. Representative is from CD 2, a majority-minority district created as a result of a Section 2 challenge to Louisiana’s congressional scheme.

87. Severe racial bloc voting continues to cement these ongoing disparities.

CAUSE OF ACTION

The 2011 Congressional Plan violates Section 2 of the Voting Rights Act

88. Plaintiffs re-allege and incorporate by reference all prior paragraphs of this Complaint as though fully set forth herein.

89. Section 2 of the Voting Rights Act prohibits the enforcement of any voting qualification or prerequisite to voting or any standard, practice, or procedure that results in the denial or abridgement of the right of any U.S. citizen to vote on account of race, color, or membership in a language minority group. 52 U.S.C. § 10301(a).

90. The current district boundaries of CDs 2, 5 and 6 combine to “crack” and “pack” African Americans, resulting in the dilution of the electoral strength of African-American residents of Louisiana, in violation of Section 2 of the Voting Rights Act.

91. African Americans in Louisiana are sufficiently numerous and geographically compact to constitute a majority of eligible voters in two congressional districts.

92. Under Section 2 of the Voting Rights Act, the Legislature was required to create a second majority-minority district in which African Americans have the opportunity to elect their candidates of choice.

93. African-American voters in Louisiana are politically cohesive, and elections in this area reveal a clear pattern of racially polarized voting that allows the bloc of White voters usually to defeat African Americans' preferred candidates.

94. The totality of the circumstances establishes that the current congressional map has the effect of denying African-American voters an equal opportunity to participate in the political process and to elect candidates of their choice, in violation of Section 2 of the Voting Rights Act, 52 U.S.C. § 10301.

95. By engaging in the acts and omissions alleged herein, Defendant has acted and continues to act to deny Plaintiffs rights guaranteed to them by Section 2 of the Voting Rights Act. Defendant will continue to violate those rights absent relief granted by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court:

A. Declare that the 2011 Congressional Plan violates Section 2 of the Voting Rights Act.

B. Issue a permanent injunction enjoining Defendant, along with his agents and successors in office, from enforcing or giving any effect to the boundaries of the congressional districts as drawn in the 2011 Congressional Plan, including an injunction barring Defendant from conducting any further congressional elections under the current map.

C. Hold hearings, consider briefing and evidence, and otherwise take actions necessary to order the adoption of a valid congressional redistricting plan for Louisiana that

includes two majority-minority districts.

D. Grant such other or further relief the Court deems appropriate, including but not limited to an award of Plaintiffs' attorneys' fees and reasonable costs.

Dated: June 13, 2018

Respectfully submitted,

By attorneys:

s/Darrel J. Papillion

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Attorneys for Plaintiffs

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

JAMILA JOHNSON; NORRIS HENDERSON; RENARD THOMAS;
TRAMELLE HOWARD; ALLAN ROGERS; MILDRED ARMSTRONG;
KRISTEN SMITH; CIARA HART; DADRIS LANUS,

(b) County of Residence of First Listed Plaintiff Orleans
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

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225-236-3636

DEFENDANTS

KYLE ARDOIN, in his official capacity as the Acting Secretary of State of Louisiana,

County of Residence of First Listed Defendant East Baton Rouge
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice	☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 835 Patent - Abbreviated New Drug Application ☐ 840 Trademark SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 440 Other Civil Rights ☒ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education	PRISONER PETITIONS Habeas Corpus: ☐ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. §§ 1983 and 1988, and 28 U.S.C. §§ 1331, 1343(a)(3), 1343(a)(4), and 1357
 Brief description of cause:
Action to challenge Louisiana Revised Statute § 18:1276.1

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

06/13/2018

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)

v.

Civil Action No. _____

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____
_____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF LOUISIANA

JAMILA JOHNSON; NORRIS HENDERSON;
RENARD THOMAS; TRAMELLE HOWARD;
ALLAN ROGERS; MILDRED ARMSTRONG;
KRISTEN SMITH; CIARA HART; DADRIUS
LANUS; PATRICIA CHANEY; EDWARD
GALMON, SR.,

Plaintiffs,

v.

KYLE ARDOIN, in his official capacity as the
Acting Secretary of State of Louisiana,

Defendant.

Case No. 3:18-cv-00625-SDD-EWD

AMENDED COMPLAINT

1. Plaintiffs—African-American voters in Louisiana—bring this action to challenge Louisiana Revised Statute § 18:1276.1 (hereinafter “2011 Congressional Plan”), which dilutes African-American voting strength and denies African-American voters in Louisiana the equal opportunity to elect candidates of their choice for the U.S. House of Representatives in violation of Section 2 of the Voting Rights Act, 52 U.S.C. § 10301. Plaintiffs seek to enjoin Defendant from enforcing the 2011 Congressional Plan and from administering any elections under the illegal map.

2. Between the 2000 and 2010 census, Louisiana’s population grew by 1.4 percent from 4,468,976 to 4,533,372. Due in large part to displacement caused by Hurricane Katrina, this growth rate was far below the national growth rate of 9.7 percent over the same period. As a result, following the 2010 census, Louisiana lost one congressional district, reducing its delegation in the U.S. House of Representatives from seven members to six. Despite the reduction in seats, Louisiana’s African-American population remained steady; as of 2010 nearly 32.6 percent of Louisiana’s population

was African American, making Louisiana the state with the second highest percentage of African-American population in the country.

3. Even though Louisiana had maintained a substantial African-American population, the Louisiana State Legislature (“the Legislature”) chose to limit minority voting strength and political influence by “packing” African-American voters into one majority-minority district and “cracking” them among other districts in the 2011 Congressional Plan, instead of unifying them to form an additional majority-minority district in keeping with Section 2 of the Voting Rights Act.

4. Specifically, African-American voters were packed into the Second Congressional District (“CD 2”), the sole majority-minority congressional district included in the 2011 Congressional Plan. CD 2 was first established as a majority-minority district in 1983, as a direct result of *Major v. Treen*, 574 F. Supp. 325, 339-40 (E.D. La. 1983), a Section 2 challenge to Louisiana’s 1981 congressional reapportionment scheme which found that racially polarized voting as well as “Louisiana’s history of racial discrimination, both *de jure* and *de facto*, continu[ed] to have an adverse effect on the ability of its black residents to participate fully in the electoral process.” In 1990, for the first time in the 113 years that had passed since Reconstruction, African-American voters in Louisiana were able to elect an African-American to Congress—William Jefferson. Today, CD 2 is represented by Representative Cedric Richmond, an African American who was first elected in 2010.

5. The packing of African-American voters is most pronounced along the Mississippi River from Orleans Parish to East Baton Rouge Parish, where CD 2 captures African-American voters on the southern shore of Lake Pontchartrain along the Mississippi to cut Kenner, St. Rose, and New Sarpy out of CDs 1 and 6 on the north shore. It then continues, moving up through the River Parishes, and into Assumption, Ascension, and Iberville, including the cities of Gonzales,

White Castle, and Port Allen, and on into parts of eastern and northern Baton Rouge.

6. In contrast, African-American voters in other contiguous parishes such as East and West Feliciana, St. Helena, Pointe Coupee, West Baton Rouge, and Avoyelles are dispersed between CDs 5 and 6. In particular, CD 5—which is so vast that it spans nearly the length of the State and encompasses pieces of almost every traditional community of interest in Louisiana, e.g., North and Central Louisiana, Acadiana, and the Florida Parishes—stops short of uniting the northern African-American population centers of Tensas, Madison, and East Carroll with the more southern African-American population centers by carving out parts of East Feliciana, West Feliciana, and St. Helena from its district, and splitting these parishes between CDs 5 and 6.

7. CD 6—which wraps almost entirely around CD 2—encompasses the remaining portions of the River Parishes that CD 2 left behind, while also including the African Americans that were excluded from CD 5.

8. As a result, based on the 2010 census, CD 2 has a Black Voting Age Population (“BVAP”) of 59.7%. CDs 5 and 6, meanwhile, have BVAPs of 33.7% and 21.5%, respectively.

9. African Americans in Louisiana are sufficiently numerous and geographically compact to form a majority of eligible voters—meaning, a majority of the voting age population¹—in a second congressional district, including but not limited to districts that are more

¹ The phrases “majority of eligible voters” and “majority of the voting age population” have been used by courts interchangeably when discussing the threshold requirements of a vote-dilution claim under Section 2 of the Voting Rights Act. *See, e.g., Bone Shirt v. Hazeltine*, 461 F.3d 1011, 1019 (8th Cir. 2006) (“[T]he first *Gingles* precondition . . . requires only a simple **majority of eligible voters** in a single-member district.” (emphasis added) (internal quotation marks omitted)); *Terrebonne Parish Branch NAACP v. Jindal*, 274 F. Supp. 3d 395, 428 (M.D. La. 2017) (“At the *Gingles* One stage, the Supreme Court requires only a simple **majority of eligible voters** in the single-member district.” (emphasis added) (internal quotation marks omitted)). Hereinafter, the phrase “majority of eligible voters” when used in this Complaint shall also refer to the “majority of the voting age population,” i.e., “citizens of voting age.”

compact than the current districts by both quantitative and qualitative measures, and which track the current trajectory of CD 5, as well as districts respecting traditional North, Central, and South Louisiana divisions, which include the areas where Plaintiffs reside.

10. As evidenced by an array of factors, such as the history of racial discrimination in voting, the perpetuation of racial appeals in Louisiana elections, and the socio-economic effects of decades of discrimination against African Americans that hinder their ability to participate effectively in the political process, Louisiana's failure to create a second majority-minority congressional district in its 2011 Congressional Plan has resulted in the dilution of African-American voting strength in violation of Section 2 of the Voting Rights Act.

11. Accordingly, Plaintiffs seek an order (i) declaring that Louisiana's 2011 Congressional Plan violates Section 2 of the Voting Rights Act; (ii) enjoining Defendant from conducting future elections under the 2011 Congressional Plan; (iii) ordering a congressional redistricting plan that includes two majority-minority congressional districts; and (iv) providing any such additional relief as is appropriate.

JURISDICTION AND VENUE

12. This Court has jurisdiction over this action pursuant to 42 U.S.C. §§ 1983 and 1988, and 28 U.S.C. §§ 1331, 1343(a)(3), 1343(a)(4), and 1357.

13. This Court has jurisdiction to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202.

14. Venue is proper under 28 U.S.C. § 1391(b).

PARTIES

15. Plaintiff Jamila Johnson is an African-American citizen of the United States and of the State of Louisiana. Ms. Johnson moved to New Orleans, Louisiana in April 2017, and as a

result, is a new resident of Orleans Parish. Ms. Johnson is registered to vote in Orleans Parish in CD 2 and will vote for a candidate for the U.S. House of Representatives in CD 2 for the first time in the November 2018 general election. Because she is packed in CD 2, where her vote is of lesser value because African-American voters are concentrated there, Ms. Johnson will be denied an equal opportunity to vote for candidates for the U.S. House of Representatives in the upcoming election.

16. Plaintiff Norris Henderson is an African-American citizen of the United States and of the State of Louisiana. Mr. Henderson is a life-long resident of Orleans Parish and is registered to vote in CD 2. Mr. Henderson has been a registered voter in Orleans since 2005, when he had his voting rights restored. Mr. Henderson is denied an equal opportunity to vote for candidates for the U.S. House of Representatives because he is packed in CD 2, where his vote is of lesser value because African-American voters are concentrated there.

17. Plaintiff Renard Thomas is an African-American citizen of the United States and of the State of Louisiana. Mr. Thomas is a life-long resident of Orleans Parish and is registered to vote in CD 2. Mr. Thomas has been a registered voter in Orleans since his voting rights were restored in 2004. Mr. Thomas is denied an equal opportunity to vote for candidates for the U.S. House of Representatives because he is packed in CD 2, where his vote is of lesser value because African-American voters are concentrated there.

18. Plaintiff Tramelle Howard is an African-American citizen of the United States and of the State of Louisiana. Mr. Howard is a life-long resident of East Baton Rouge Parish and is registered to vote in CD 2. Mr. Howard has been a registered voter in East Baton Rouge since he turned eighteen. Mr. Howard is denied an equal opportunity to vote for candidates for the U.S. House of Representatives because he is packed in CD 2, where his vote is of lesser value because

African-American voters are concentrated there.

19. Plaintiff Allan Rogers is an African-American citizen of the United States and of the State of Louisiana. He is a resident of East Feliciana Parish and is a registered voter in CD 5. Mr. Rogers has resided in East Feliciana since June 2014 and has been a registered voter in CD 5 since October 2016. In the 2016 election Mr. Rogers, who votes Democratic, was given no opportunity to elect his candidate of choice because both CD 5 candidates were Republican. Mr. Rogers is denied the equal opportunity to vote for a candidate of his choice to the U.S. House of Representatives because African-American voters in East Feliciana are cracked among multiple congressional districts. An additional majority-minority district could be drawn incorporating East Feliciana Parish, in its entirety, providing a remedy for the existing Section 2 violation in the area where Mr. Rogers resides.

20. Plaintiff Mildred Armstrong is an African-American citizen of the United States and of the State of Louisiana. She is a lifelong resident of West Feliciana Parish and is a registered voter in CD 5. Ms. Armstrong has been registered to vote in West Feliciana since she was of legal age to register. Ms. Armstrong has been unable to elect the candidates of her choice to the U.S. House of Representatives despite strong electoral support for those candidates from other African-American voters in her community. In the 2016 election, Ms. Armstrong, who votes Democratic, was given no opportunity to elect her candidate of choice because both CD 5 candidates were Republican. An additional majority-minority district could be drawn incorporating West Feliciana, in its entirety, providing a remedy for the existing Section 2 violation in the area where Ms. Armstrong resides.

21. Plaintiff Kristen Smith is an African-American citizen of the United States and of the State of Louisiana. She is a resident of East Baton Rouge Parish and a registered voter in CD

6. Ms. Smith has resided in CD 6 since July 2014, and has been a registered voter in CD 6 since October 2015. In election after election, Ms. Smith has been unable to elect the candidates of her choice to the U.S. House of Representatives despite strong electoral support for those candidates from other African-American voters in her community. An additional majority-minority district could be drawn incorporating East Baton Rouge Parish, including the area where Ms. Smith resides, to provide a remedy for the existing Section 2 violation.

22. Plaintiff Ciara Hart is an African-American citizen of the United States and of the State of Louisiana. She is a resident of East Baton Rouge Parish and a registered voter in CD 6. Ms. Hart has resided in CD 6 since June 2017, and has been a registered voter in CD 6 since October 2017. Ms. Hart will vote for a candidate for the U.S. House of Representatives in CD 6 for the first time in the November 2018 general election; however, because African-American voters are cracked in CD 6, she likely will be unable to elect the candidate of her choice to the U.S. House of Representatives despite strong electoral support for those candidates from other African-American voters in her community. An additional majority-minority district could be drawn incorporating East Baton Rouge Parish, including the area where Ms. Smith resides, to provide a remedy for the existing Section 2 violation.

23. Plaintiff Dadrius Lanus is an African-American citizen of the United States and of the State of Louisiana. He is a life-long resident of East Baton Rouge Parish and a registered voter in CD 6. Mr. Lanus has been registered to vote in East Baton Rouge Parish since he was eighteen. In election after election, Mr. Lanus has been unable to elect the candidates of his choice to the U.S. House of Representatives despite strong electoral support for those candidates from other African-American voters in his community. An additional majority-minority district could be drawn incorporating East Baton Rouge Parish, including the area where Mr. Lanus resides, to

provide a remedy for the existing Section 2 violation.

24. Plaintiff Patricia Chaney is an African-American citizen of the United States and of the State of Louisiana. She has been a resident of St. Helena Parish for thirty-two years and is a registered voter in CD 5. Ms. Chaney has been unable to elect the candidates of her choice to the U.S. House of Representatives despite strong electoral support for those candidates from other African-American voters in her community. In the 2016 election, Ms. Chaney, who votes Democratic, was given no opportunity to elect her candidate of choice because both CD 5 candidates were Republican. An additional majority-minority district could be drawn incorporating St. Helena, in its entirety, providing a remedy for the existing Section 2 violation in the area where Ms. Chaney resides.

25. Plaintiff Edward Galmon, Sr. is an African-American citizen of the United States and of the State of Louisiana. He is a resident of St. Helena Parish and a registered voter in CD 6. Mr. Galmon has resided in CD 6 since 1994, and has been a registered voter in St. Helena since then. In election after election, Mr. Galmon has been unable to elect the candidates of his choice to the U.S. House of Representatives despite strong electoral support for those candidates from other African-American voters in his community. An additional majority-minority district could be drawn incorporating St. Helena, in its entirety, to provide a remedy for the existing Section 2 violation in the area where Mr. Galmon resides.

26. Defendant Kyle Ardoin is the Acting Secretary of State of Louisiana and is sued in his official capacity. The Secretary of State is the State's chief election officer. LA Const. art. 4, § 7. In that capacity, he is responsible for preparing and certifying the ballots for all elections, including elections for the U.S. House of Representatives, promulgating all election returns, and administering the election laws. *Id.* As part of his duties, the Secretary of State also qualifies

candidates for U.S. House of Representatives. La. R.S. §§ 18:452, 18:462.

LEGAL BACKGROUND

27. Section 2 of the Voting Rights Act, 52 U.S.C. § 10301(a), prohibits any “standard, practice, or procedure” that “results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color[.]” Thus, in addition to prohibiting practices that deny the exercise of the right to vote, Section 2 prohibits vote dilution. A violation of Section 2 is established if “it is shown that the political processes leading to nomination or election” in the jurisdiction “are not equally open to participation by members of a [minority group] in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” *Id.* § 10301(b).

28. The dilution of African-American voting strength “may be caused by the dispersal of blacks into districts in which they constitute an ineffective minority of voters or from the concentration of blacks into districts where they constitute an excessive majority.” *Thornburg v. Gingles*, 478 U.S. 30, 46 n.11 (1986).

29. The United States Supreme Court, in *Thornburg v. Gingles*, identified three necessary preconditions for a claim of vote dilution under Section 2 of the Voting Rights Act: (1) the minority group must be “sufficiently large and geographically compact to constitute a majority in a single-member district”; (2) the minority group must be “politically cohesive”; and (3) the majority must vote “sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.” *Gingles*, 478 U.S. at 50-51.

30. Once all three preconditions are established, the statute directs courts to consider whether, under the totality of the circumstances, members of a racial group have less opportunity than other members of the electorate to participate in the political process and to elect

representatives of their choice. 52 U.S.C. § 10301(b). The Senate Report on the 1982 amendments to the Voting Rights Act identifies several non-exclusive factors that courts should consider when determining if, under the totality of the circumstances in a jurisdiction, the operation of the electoral device being challenged results in a violation of Section 2.

31. These Senate Factors include: (1) the history of official voting-related discrimination in the state or political subdivision; (2) the extent to which voting in the elections of the state or political subdivision is racially polarized; (3) the extent to which the state or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group, such as unusually large election districts, majority-vote requirements, and prohibitions against bullet-voting; (4) the exclusion of members of the minority group from candidate slating processes; (5) the extent to which minority group members bear the effects of discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process; (6) the use of overt or subtle racial appeals in political campaigns; and (7) the extent to which members of the minority group have been elected to public office in the jurisdiction.

32. The Senate Report itself and the cases interpreting it have made clear that “there is no requirement that any particular number of factors be proved, or that a majority of them point one way or the other.” *United States v. Marengo Cty. Comm’n*, 731 F.2d 1546, 1566 n.33 (11th Cir. 1984) (quoting S. Rep. No. 97-417, at 29 (1982)); *see id.* at 1566 (“The statute explicitly calls for a ‘totality-of-the circumstances’ approach and the Senate Report indicates that no particular factor is an indispensable element of a dilution claim.”).

FACTUAL BACKGROUND

33. On April 13, 2011, the Legislature established Louisiana’s six Congressional districts with the passage of Act 2, the 2011 Congressional Plan. The Louisiana State Senate voted 25 to 13

to approve the 2011 Congressional Plan, and the House voted in favor of it 63 to 56. The vast majority of African-American legislators voted against the Plan. The 2011 Congressional Plan was signed into law as La. Rev. Stat. § 18:1276.1 by then-Governor Bobby Jindal on April 14, 2011.

34. Prior to the 2011 Congressional Plan's passage, multiple maps were proposed, including maps containing an additional African-American opportunity district. Specifically, African-American Senator Lydia Jackson proposed SB 3, a congressional map which contained two horizontal districts for North Louisiana, one of which—proposed CD 4—contained approximately 36% African-American voting age population. It was anticipated that this district would be one in which African-American voters would have the ability to exert greater influence over congressional elections and demand greater responsiveness to minority interests from congressional representatives. While this plan initially passed through the Senate, it was eventually killed in the House Committee when then-Governor Jindal publicly threatened to veto it if it made it to his desk. A similar minority-opportunity district was proposed in the House by Representative Rick Gallot. Representative Gallot's proposed plan gained even less traction, dying in committee and never reaching the House floor.

35. African-American Senate President Pro Tempore Sharon Weston Broome and Representative Michael Jackson each introduced amendments to the 2011 Congressional Plan which would have created two majority-minority districts, one in CD 2 and one in CD 5. The amended CD 5 would have included, among other parishes, East Feliciana, West Feliciana, and St. Helena parishes, in their entirety, as well as the bulk of East Baton Rouge Parish's African-American voting age population. The respective BVAPs for these proposed districts was 55.276%

(CD2) and 51.445% (CD 5).² Both amendments were rejected, by votes of 23 to 14 (Broome) and 71 to 20 (Jackson), respectively. All African-American members of the Senate voted in favor of the amendments as did the overwhelming majority of African-American members of the House.

36. In the end, the only majority-minority district to remain intact under the 2011 Congressional Plan was CD 2, which has a total African-American population of 62.9% and a BVAP of 59.7%; 61.6% of the District's registered voters are African-American. The next highest BVAP in the 2011 Congressional Plan are CDs 4 and 5, at 32.7% and 33.7%, respectively.

37. As described above, CD 2 includes parts of New Orleans, excluding the western suburbs, and weaves around to Baton Rouge, capturing its western and northern neighborhoods. The shape of CD 2, as redrawn in 2011, is significantly more contorted than it had been under the prior congressional districting plan, adopted in 2001 ("Benchmark CD 2"). Benchmark CD 2 was relatively more compact and did not stretch west of Kenner or Jefferson Parish. Instead, it represented primarily one community: New Orleans.

38. Benchmark CD 2 had a total African-American population of 64.8% and a BVAP of 60.3%. At that time, 60.7% of registered voters were African-American.

39. The 2011 Congressional Plan as a whole violates Section 2 of the Voting Rights Act by cracking African-American voters among CDs 5 and 6 and packing them in CD 2, rather than including an additional majority-minority district. Indeed, at the time of the 2011 Congressional Plan's passage, the Legislative Black Caucus "raised serious questions about the intentions of the authors and the results of the various maps presented." After the plan was signed,

² The population distribution of Louisiana would also permit for the creation of majority-minority districts even more compact by both qualitative and quantitative measures than those proposed in Senator Broome and Representative Jackson's proposed amendments to the 2011 Congressional Plan.

the Legislative Black Caucus announced that the plan did not adequately protect the voting strength of non-white voters, who as of 2010, accounted for 32.6% percent of Louisiana's registered voters, stating that: "We have worked hard to ensure that the state's citizens' voting power was not diluted Despite our efforts, we believe the process was conducted in a manner that diminished minority voters' ability to select a candidate of their choice."

Racial Polarization

40. Louisiana has a long history of racially polarized voting that has been well-recognized by federal courts and continues today. *See, e.g., Terrebonne Par. Branch NAACP v. Jindal*, 274 F. Supp. 3d 395, 436-37 (M.D. La. 2017) (recognizing racially polarized voting in Terrebonne Parish); *St. Bernard Citizens For Better Gov't v. St. Bernard Par. Sch. Bd.*, No. CIV.A. 02-2209, 2002 WL 2022589, at *9 (E.D. La. Aug. 26, 2002) (recognizing racially polarized voting in St. Bernard Parish); *Clark v. Edwards*, 725 F. Supp. 285, 298 (M.D. La. 1988) (finding racially polarized voting "across Louisiana" in family court, district court, and appeals court districts), *modified sub nom., Clark v. Roemer*, 777 F. Supp. 445 (M.D. La. 1990), *vacated*, 750 F. Supp. 200 (M.D. La. 1990), *cert. granted before judgment, order vacated*, 501 U.S. 1246 (1991), *supplemented*, 777 F. Supp. 471 (M.D. La. 1991); *Citizens for a Better Gretna v. City of Gretna*, 636 F. Supp. 1113, 1124 (E.D. La. 1986) (recognizing racially polarized voting in Gretna), *aff'd*, 834 F.2d 496 (5th Cir. 1987); *Major v. Treen*, 574 F. Supp. 325, 337 (E.D. La. 1983) (recognizing racial polarization in Orleans Parish).

41. African-American voters in Louisiana are politically cohesive and overwhelmingly support Democratic candidates.

42. The white majority, which overwhelmingly supports Republican candidates, votes as a bloc usually to defeat African-American voters' candidates of choice.

43. For example, in the 2016 presidential election, the vast majority of African Americans in Louisiana voted for the Democratic candidate, but fewer than 35% of white voters voted for the Democratic candidate. African-American voters' candidate of choice lost the statewide vote by a margin of 20 percentage points.

History of Official Voting-Related Discrimination

44. Louisiana has a long, deep rooted history of voting-related discrimination—one so deeply ingrained that “it would take a multi-volumed treatise to properly describe the persistent, and often violent, intimidation visited by white citizens upon black efforts to participate in Louisiana’s political process.” *Citizens for a Better Gretna*, 636 F. Supp. at 1116. This history directly resulted in Louisiana becoming a covered jurisdiction subject to federal preclearance for any change to its voting laws under Section 5 of the Voting Rights Act—and has continued through the present day.

45. From its inception until the State was forced to allow African Americans to vote during Reconstruction, Louisiana’s state constitution limited the right to vote to white males, wholly excluding African Americans from the franchise. In 1898, as African-American voter registration began to increase, Louisiana called a constitutional convention with the purpose of, in the words of the Chairman of the Judiciary Committee of the Convention, “establish[ing] the supremacy of the white race.” To that end, the delegates enacted several constitutional provisions that specifically targeted African-American voters.

46. For example, Louisiana expanded its felon disenfranchisement policy to include all individuals convicted of “any crime punishable by imprisonment, and not afterwards pardoned with express restoration of the franchise” as well as all individuals “actually confined in any public prison.” This was a drastic expansion from the policy in place in Louisiana when only white men

could vote, which had limited disenfranchisement only to four crimes (bribery, forgery, perjury, high crimes and misdemeanors), and it was directly aimed at disenfranchising African Americans.

47. Further, Louisiana became one of the first states to implement the “Grandfather Clause,” a constitutional provision requiring that registrants whose fathers or grandfathers had not been registered to vote before 1867 comply with additional property and education requirements to register. As the president of the state constitutional convention explained, the Clause was implemented specifically to “let the white man vote” and “stop the negro from voting.”

48. After the Convention, then-Governor Murphy J. Foster stated of all of the new provisions that “[t]he white supremacy for which we have so long struggled at the cost of so much precious blood and treasure, is now crystallized into the Constitution as a fundamental part and parcel of that organic instrument.” Indeed, the effect of the 1898 constitutional changes was profound. African-American voter registration was reduced from approximately 45% to a mere 4% by 1900. The Clause remained in place until it was struck down by the United States Supreme Court in 1915. *See Guinn v. United States*, 238 U.S. 347 (1915). As discussed *infra*, versions of Louisiana’s felon disenfranchisement policy, which disproportionately disenfranchises African Americans, have remained a part of Louisiana’s laws governing access to the franchise. The most recent iteration of this policy is currently the subject of on-going litigation before the Louisiana Supreme Court.

49. After the 1898 Convention, Louisiana continued to develop alternative ways to ensure that its African-American citizens could not participate in the political process. For example, it implemented an “understanding” clause requiring citizens to “give a reasonable interpretation of any section of the federal or state constitution in order to vote.” *Bossier Par. Sch. Bd. v. Reno*, 907 F. Supp. 434, 455 (D.D.C. 1995) (Kessler, J., concurring in part and dissenting

in part) (internal quotation marks and citation omitted), *vacated on other grounds*, 520 U.S. 471 (1997). This law was enforced until 1965, when it was invalidated by the Supreme Court. *See Louisiana v. United States*, 380 U.S. 145 (1965).

50. Moreover, during this time white mobs employed lynchings and massacres of African Americans to intimidate and prevent them from exercising their rights under the newly ratified 15th Amendment. This systemic violence took place with either the tacit or explicit collusion of state actors, and was almost never punished by state law enforcement. In 1868, for example, in St. Landry Parish, white Democrats, “angered by growing black support for white Republican candidates,” murdered over 100 African Americans over a two-week period. In 1873, in what is known as the “Colfax Massacre,” a white mob massacred approximately 150 African Americans in Colfax, Louisiana, after a close gubernatorial race. No one was ever prosecuted for these murders. Ultimately, Louisiana parishes comprised four out of five local jurisdictions in the United States that had the most lynchings between Reconstruction and the 1950s, including 540 documented lynchings in that time period.

51. In the early 1900s Louisiana also levied poll taxes, which prohibited African Americans from voting as they often could not pay the tax, and purged African-American voters from registration rolls. In 1923, the state authorized an all-white Democratic Primary, which “functioned to deny [African Americans] access to the determinative elections, inasmuch as Republican opposition to the Democratic [P]arty in the general elections was nonexistent.” *Major*, 574 F. Supp. at 340. The all-white primaries remained in place until 1944, when they were also invalidated by the Supreme Court. *See Smith v. Allwright*, 321 U.S. 649 (1944).

52. In the 1950s Louisiana continued its discriminatory voting tactics by implementing a citizenship test and prohibiting single shot voting provisions. The elimination of the latter was

particularly detrimental to African-American participation, as single shot voting had given members of minority communities the ability to aggregate their votes behind one candidate in multi-member elections. In 1959, the Legislature established a majority-vote requirement to be elected to party committees, and “from 1940 to 1964, the States Rights Party spearheaded a strong movement against black enfranchisement and judicially-directed desegregation.” *Major*, 574 F. Supp. at 340.

53. In 1965, Congress passed the Voting Rights Act, and Louisiana was immediately declared a “covered” jurisdiction under Section 4(b) of the Voting Rights Act due to its maintenance of a literacy test, as well as its low-level of minority voter registration (below 50%). *See South Carolina v. Katzenbach*, 383 U.S. 301, 312-13 (1966). As a covered jurisdiction, Louisiana was required to have any changes to its election practices or procedures “precleared” by either the U.S. Department of Justice or a federal court.

54. Even after coming under federal oversight, however, Louisiana persisted in its efforts to limit African-American voting power, with Section 5 of the Voting Rights Act often serving as the lone backstop preventing Louisiana from further excluding African Americans from the franchise. Indeed, between 1965 and 2013, when the Voting Rights Act’s coverage formula was invalidated by *Shelby County v. Holder*, 133 S. Ct. 2612 (2013), the Department of Justice effectively blocked or altered nearly 150 voting related changes in Louisiana pursuant to Section 5 of the Voting Rights Act, with many of the Department of Justice’s objections aimed at attempts to dilute minority voting strength in the state as a whole or in local jurisdictions. *See* U.S. Dep’t of Justice, Civil Rights Division, Voting Section, Louisiana Voting Determination Letters, <https://www.justice.gov/crt/voting-determination-letters-louisiana>.

55. For example, in 1968, in an effort to minimize and dilute African-American voting

strength, the Legislature passed Acts 561 and 445, which allowed parish school boards and police juries, respectively, to switch to at-large election systems. Only objections from the Department of Justice prevented the laws from being implemented. And indeed, between 1971 and 1972, at least fourteen Louisiana Parishes—St. Helena, Jefferson Davis, Tangipahoa, Franklin, St. Charles, Assumption, Ascension, Bossier, De Soto, East Feliciana, Natchitoches, Caddo, St. James, and St. Mary—attempted to switch to at-large election systems under the nullified laws.

56. Undeterred, in 1973, the Legislature passed Act 106, which provided for the use of divisions or numbered posts for multi-member bodies in all districts, parishes, municipalities, and wards in Louisiana. This would have significantly reduced the potential for minority candidates to win elections to multi-member offices in localities with a pattern of racial bloc voting. Again, the act was blocked by a Department of Justice objection.

57. In 1975, the Legislature again attempted to prevent single shot voting in school board elections with the passage of Act 432. Again, the act was blocked by a Department of Justice objection.

58. Since 1981, much of Louisiana’s voting-related discrimination has been perpetrated via discriminatory redistricting schemes which pack African Americans into one voting district, or crack them among many districts, limiting their influence overall. These discriminatory redistrictings have been carried out at the state and local level.

59. Notably, in 1981, the Legislature and then-Governor attempted to limit African-American influence in Congress by implementing a congressional redistricting plan—Act 20—that “cracked” the African-American majority in Orleans Parish between two congressional districts. At the time of the redistricting, African Americans represented 55% of the total population in Orleans, and the African-American population was highly concentrated. Despite

having multiple plans available that produced a majority African-American district, the Governor threatened to veto them stating that plans with majority African-American districts “smacked of racism.” *Major*, 574 F. Supp. at 331. The result was a plan with only majority-white districts that fractured the African-American population in Orleans while leaving white concentrations intact. African-American state legislators, moreover, were excluded from the process of developing the plan. The plan was challenged under Section 2 of the Voting Rights Act in *Major v. Treen*, with plaintiffs asserting that it diluted African-American voting strength. The Eastern District of Louisiana agreed, enjoining implementation of the plan and requiring that a new map be drawn. The resulting map gave rise to CD 2.

60. In 1981 the Legislature also attempted to limit African American influence at the state level via the Louisiana House of Representatives apportionment plan, Act 1. Specifically, the Legislature approved a plan which reduced the number of majority-minority State House of Representatives districts throughout the state, including Orleans Parish and East Baton Rouge Parish. The Department of Justice objected to the plan, citing unsatisfactory explanations for the configuration of districts in Orleans, East Baton Rouge, East Feliciana, St. Helena, West Feliciana, and Rapides Parishes, and noting that, overall, Act 1 “impact[ed] adversely upon black voting strength.”

61. A similar practice was observed in the next two redistricting cycles—1991 and 2001—when the Legislature again enacted discriminatory State House redistricting plans. In 1991, the Department of Justice objected to the State House redistricting plan, noting that in at least seven areas the proposed plan minimized African-American voting strength. The Department of Justice explained that “the state has not consistently applied its own [redistricting] criteria, but it does appear that the decision to deviate from the criteria in each instance tended to result in the

plan's not providing black voters with a district in which they can elect a candidate of their choice."

62. In 2001, the Legislature again sought to eliminate an African-American opportunity district in Orleans. Louisiana sought preclearance in the D.C. District Court in *Louisiana House of Representatives v. Ashcroft*, No. 1:02-cv-00062 (D.D.C. Jan. 14, 2002). Both the Department of Justice and the NAACP Legal Defense Fund opposed Louisiana's preclearance submission. The case settled on the eve of trial, with the State withdrawing the plan and restoring the African-American opportunity district.

63. In addition to the State's efforts to minimize minority representation through congressional and legislative redistricting, the Legislature and local jurisdictions have also taken a number of other actions to discriminate against Louisiana's African-American citizens. In 1994, Louisiana attempted to impose a photo ID requirement for first-time voters who voted by mail. The Department of Justice found that this law would adversely impact the state's African-American population. Moreover, throughout the 1980s and '90s Louisiana continued its attempts to expand and reinforce at-large voting for judges, school boards, and boards of alderman, despite repeated warnings of the detrimental impact of these at-large systems on African-American voters.

64. Indeed, in 1969, 1989, 1990, 1991, 1992, and 1994, Louisiana attempted to add at-large or multimember judicial seats, blatantly ignoring the objections and requests for more information posed by the Department of Justice in response to these acts. Louisiana's actions were so egregious, that in 1990, a court in this district reprimanded Louisiana in *Clark v. Roemer*, 751 F. Supp. 586, 589 n.10 (M.D. La 1990), *reversed on other grounds*, 500 U.S. 646 (1991), stating that Louisiana had "absolutely no excuse for its failure" to obtain preclearance.

65. In 1998, the Legislature attempted to facilitate local governments' resistance to drawing additional majority-minority districts when it passed a law freezing local voting precinct

lines through 2003, which included the three years following the 2000 census. The Department of Justice objected, preventing the law from being implemented. Nevertheless, in 2009, the Legislature again tried to freeze precinct lines with the passage of Act 136. The Department of Justice again objected. Additionally, in 2001, the Legislature adopted a plan which allowed electors in St. Bernard Parish to reduce the size of the school board from eleven single-member districts to five single member districts and two at-large seats, eliminating the sole majority-minority voting district in the parish. A federal court later found that this new plan violated Section 2 of the VRA. *St. Bernard Citizens For Better Gov't v. St. Bernard Par. Sch. Bd.*, No. CIV.A. 02-2209, 2002 WL 2022589, at *10 (E.D. La. Aug. 26, 2002).

66. In addition to these actions at the state level, Louisiana localities have also repeatedly discriminated against African Americans through changes to their voting rules. At least forty-four of Louisiana's sixty-five parishes—over 67%—received objections from the Department of Justice during the time that Louisiana was a covered jurisdiction, including, among others, Ascension, Assumption, Avoyelles, East Baton Rouge, East Feliciana, East Carroll, Iberia, Iberville, Madison, Orleans, Pointe Coupee, St. Mary, St. Landry, St. Charles, St. James, St. Helena, St. Martin, Tensas, West Feliciana, and West Baton Rouge. The majority of these objections have been for redistricting changes.

67. Louisiana's history of voter discrimination is far from ancient history. Louisiana continues to implement voting practices that have hindered the ability of African Americans to participate equally in the political process.

68. For example, as recently as 2012, controversy ensued as the Louisiana Supreme Court refused to seat Justice Bernette Johnson, Louisiana's only African-American Supreme Court Justice, as chief justice. Justice Johnson had joined the Louisiana Supreme Court in 1991 as part

of a consent decree entered in a Section 2 case challenging the Louisiana Supreme Court’s use of at-large districts. Justice Victory and some members of the Louisiana Supreme Court argued that the nature of Justice Johnson’s original appointment to the bench meant that she did not have the requisite seniority to serve as chief justice under the Louisiana Constitution. Only after a federal court found that Justice Johnson should be seated did the Louisiana Supreme Court agree to seat Justice Johnson as chief justice.

69. The Department of Justice has authorized sending observers to more than eleven Louisiana parishes—including Orleans Parish as recently as 2016—to ensure compliance with federal voting laws.

70. As recently as 2017, a court in this district found that the Legislature had intentionally discriminated against African Americans in Terrebonne Parish by maintaining—despite persistent opposition by the African-American community—at-large electoral schemes for the 32nd judicial district. *See Terrebonne Par. Branch NAACP*, 274 F. Supp. 3d at 454.

71. Moreover, as discussed *supra*, Louisiana law continues to disenfranchise felons. Although voters approved a 1974 constitutional provision that makes a suspension of voting rights permissive for people “under order of imprisonment for conviction of a felony,” the legislature decided in 1976-77 to make this suspension mandatory, and define the phrase to include all people in prison, on probation, and on parole. The result being that as of 2016, Louisiana had over 108,000 disenfranchised individuals as a result of this policy, 63% of whom are African-American. While the recent change in Louisiana law—the passage of Act 636—will carve out approximately 43,000 people from the disenfranchised population if implemented correctly, over 65,000 individuals will remain disenfranchised under Louisiana’s felon disenfranchisement policy, with African Americans remaining the majority of individuals disenfranchised by this policy.

Use of Racial Appeals in Political Campaigns

72. In addition to Louisiana's history of voting-related discrimination against African Americans, Louisiana political campaigns have also been the subject of both overt and subtle racial appeals.

73. In 1989, Louisiana made national headlines when David Duke—former grand wizard of the Ku Klux Klan—was elected to the Louisiana State House of Representatives. Duke, who claimed to be the spokesman for the “white majority,” went on to run for U.S. Senate in 1990, Louisiana governor in 1991, and U.S. Senate again in 2016. During his primary campaign for governor, Duke urged voters to vote for him, stating that his opponent, then-incumbent Governor Roemer, was “an NAACP member who supports reverse discrimination. . . .” Duke beat Governor Roemer in the primary with 32% of the vote.

74. During the run-off election, Duke equated affirmative action with “racist” and “intolerant organizations,” and his campaign was characterized by rhetoric promising to save Louisiana by giving poor African Americans “tough love.” Duke stated, “If you are white these days you are a second-class citizen in your own country.” While Duke lost the election, he garnered more than 670,000 votes—nearly 40%—in the run-off, and ultimately claimed a moral victory saying, “I won my constituency. I won 55% of the white vote.” When asked why he voted for Duke, one of Duke's supporters explained, “I feel like the blacks get too much their own way. You don't see white people spitting out babies like they do.”

75. In 2016, Duke again ran for U.S. Senate. In explaining why Duke joined the race, his campaign manager stated, “He became very concerned in regards to the Obama administration and the unhealthy way the mainstream media was affecting the racial climate in this country, with this bias toward African Americans against the police officers.”

76. Even moderate Republican candidates in Louisiana have made subtle racial appeals. In particular, former-Governor Mike Foster, in his 1995 race against African-American U.S. Representative Cleo Fields—the first African-American candidate for governor in Louisiana in over 100 years—ran on a platform of repealing affirmative action, support for a judicial challenge to a second majority-minority congressional district in Louisiana, and opposition to the National Voter Registration Act, which was widely viewed as a way to increase African-American voter registration.

77. Indeed, during his race Governor Foster did not repudiate an endorsement he received from a white nationalist group associated with Duke, and at one point stated that Jefferson Parish was “right next to the jungle in New Orleans and has a very low crime rate.” Governor Foster won with 64% of the vote as compared to 36% for Cleo Fields, with reports indicating that only 4% of African Americans voted for Foster, while all but 2% of Fields’ votes were from African Americans.

78. As another example of race-based appeals in Louisiana campaigns, in 2014, it was revealed that current U.S. Representative Steve Scalise (CD 1) spoke to a white supremacist gathering while serving as a Louisiana State Representative in 2002.

Ongoing Effects of Louisiana’s History of Discrimination

79. In the late Nineteenth Century, in a direct repudiation of political gains made by African Americans during Reconstruction, Louisiana began enacting “Black Codes” and Jim Crow laws that enforced official segregation—and restricted the liberty of African Americans—in nearly every sphere of life including transportation, housing, education, business ownership, contracting, criminal justice, and public accommodations. Louisiana’s African-American citizens bear the effects of the State’s official history of discrimination in a number of these spheres. These socio-

economic disadvantages born of discrimination hinder African Americans' ability to participate effectively in the political process.

80. “*De facto* racial segregation remains in education in Louisiana. About 74% of all black elementary and secondary students attend majority-minority schools. Only thirteen states have higher percentages of black students in these majority-minority schools.” *Terrebonne Par. Branch NAACP*, 274 F. Supp. 3d at 442-43. African Americans in Louisiana are ten percent less likely to graduate high school than whites and at least twelve percent less likely to hold a bachelor's degree.

81. In addition to a lower level of educational attainment, continued racial segregation in Louisiana contributes to lower employment rates for African Americans and correspondingly high levels of poverty. According to the U.S. Census Bureau's 2012-2016 American Community Survey 5-Year Estimates, African Americans in Louisiana were unemployed at a rate of 12.2%, compared to just 5.6% for whites. Likewise, African American poverty rates in Louisiana exceeded the white poverty rate for that same time period. Indeed, in 2016, 33.1% of African Americans were below the poverty level, compared to just 12.7% of whites.

82. As of the 2010 census, Whites were also more than three times more likely than African Americans to own a home in Louisiana.

83. The effects of Louisiana's long history of discrimination are also evident in persistent health disparities. According to the Louisiana Department of Health and Hospitals, “[f]rom 2000–2005, Black or African American Louisiana residents had the highest death rate from all causes, approximately 1-2 times higher than White residents.” Similarly, during that same time period the infant mortality rate—a key indicator of overall health status—was 13.9% for African Americans, compared to 7.6% for whites. Unsurprisingly, African Americans were 2.7

times more likely than white residents of Louisiana to be uninsured.

84. As of 2015, not only did Louisiana rank number one in its statewide imprisonment rate, but African Americans were also overrepresented in Louisiana jails while whites are underrepresented. Indeed, as of 2014, African Americans were four times as likely to be imprisoned than whites.

Extent to Which African Americans Have Been Elected to Public Office

85. African Americans are still underrepresented in Louisiana public offices. None of the current statewide elected officials are African American. Louisiana has not had an African-American Governor since Reconstruction—though African Americans ran for the office in 1995 and 1999—and Louisiana has never had an African-American Senator.

86. African-American candidates have experienced some success in localized races; however, this is predominantly in areas where the district's voting-age population is majority African-American. For example, Louisiana only has one African-American State Supreme Court Justice, who was elected in a majority-minority district created initially as a result of a consent decree issued from a Section 2 challenge to Louisiana's at-large judicial electoral scheme. Likewise, Louisiana has only twenty-five African-American State Representatives (of 105 total seats, approximately 23%) and only eight African-American State Senators (of thirty-nine total seats, 20.5%), all of whom were elected from majority-minority districts. These numbers are hardly representative of the total African-American population in Louisiana.

87. "Statewide, [African Americans] have also been underrepresented in the trial and appellate courts. While the black population comprises about 30.5% of the voting age population in Louisiana, black people only account for about 17.5% of the judges in Louisiana." *Terrebonne Par. Branch NAACP*, 274 F. Supp. 3d at 445.

88. As noted, the only African-American U.S. Representative is from CD 2, a majority-minority district created as a result of a Section 2 challenge to Louisiana's congressional scheme.

89. Severe racial bloc voting continues to cement these ongoing disparities.

CAUSE OF ACTION

The 2011 Congressional Plan violates Section 2 of the Voting Rights Act

90. Plaintiffs re-allege and incorporate by reference all prior paragraphs of this Complaint as though fully set forth herein.

91. Section 2 of the Voting Rights Act prohibits the enforcement of any voting qualification or prerequisite to voting or any standard, practice, or procedure that results in the denial or abridgement of the right of any U.S. citizen to vote on account of race, color, or membership in a language minority group. 52 U.S.C. § 10301(a).

92. The current district boundaries of CDs 2, 5 and 6 combine to "crack" and "pack" African Americans, resulting in the dilution of the electoral strength of African-American residents of Louisiana, in violation of Section 2 of the Voting Rights Act.

93. African Americans in Louisiana, including African Americans in the areas where Plaintiffs reside, are sufficiently numerous and geographically compact to constitute a majority of eligible voters in two congressional districts.

94. Under Section 2 of the Voting Rights Act, the Legislature was required to create a second majority-minority district in which African Americans have the opportunity to elect their candidates of choice.

95. African-American voters in Louisiana are politically cohesive, and elections in this area reveal a clear pattern of racially polarized voting that allows the bloc of White voters usually to defeat African Americans' preferred candidates.

96. The totality of the circumstances establishes that the current congressional map has the effect of denying African-American voters an equal opportunity to participate in the political process and to elect candidates of their choice, in violation of Section 2 of the Voting Rights Act, 52 U.S.C. § 10301.

97. By engaging in the acts and omissions alleged herein, Defendant has acted and continues to act to deny Plaintiffs rights guaranteed to them by Section 2 of the Voting Rights Act. Defendant will continue to violate those rights absent relief granted by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court:

A. Declare that the 2011 Congressional Plan violates Section 2 of the Voting Rights Act.

B. Issue a permanent injunction enjoining Defendant, along with his agents and successors in office, from enforcing or giving any effect to the boundaries of the congressional districts as drawn in the 2011 Congressional Plan, including an injunction barring Defendant from conducting any further congressional elections under the current map.

C. Hold hearings, consider briefing and evidence, and otherwise take actions necessary to order the adoption of a valid congressional redistricting plan for Louisiana that includes two majority-minority districts.

D. Grant such other or further relief the Court deems appropriate, including but not limited to an award of Plaintiffs' attorneys' fees and reasonable costs.

Dated: August 21, 2018

Respectfully submitted,

By attorneys:

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CERTIFICATE OF SERVICE

I hereby certify that on August 21, 2018, the Amended Complaint was filed electronically with the Clerk of Court using the CM/ECF system.

s/ Jennifer Wise Moroux
Jennifer Wise Moroux

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF LOUISIANA

JAMILA JOHNSON, *et al.*

Plaintiffs,

v.

KYLE ARDOIN, IN HIS OFFICIAL
CAPACITY AS LOUISIANA SECRETARY
OF STATE,

Defendant.

Case No.: 3:18-cv-00625-SDD-EWD

**ORIGINAL ANSWER TO PLAINTIFFS' AMENDED COMPLAINT AND
AFFIRMATIVE DEFENSES**

NOW INTO COURT, through undersigned counsel, comes Defendant, Kyle Ardoin, in his official capacity as Louisiana Secretary of State, who responds to the Plaintiffs' Amended Complaint filed on August 21, 2018 by denying each and every allegation contained in those pleadings, except as specifically admitted below. Furthermore, Plaintiffs' Original Complaint, ECF No. 1, has been wholly superseded by the Amended Complaint. To the extent that the Original Complaint has not been superseded, the Secretary denies each and every allegation contained therein.

The State of Louisiana does not deny its past. That is why, for at least the past 25 years, the Secretary of State and other Louisiana election officials have implemented and operated programs and practices that ensure that all Louisiana citizens have an opportunity to participate in elections and to vote for the candidates of their choice. With respect to this litigation, the U.S. Department of Justice reviewed the congressional redistricting plan that the Plaintiffs now challenge and found the plan both unobjectionable and authorized the State to proceed with elections under the pre-cleared plan. Subsequently, the United States Supreme Court in *Shelby*

County v. Holder, determined that the coverage formula for jurisdictions under Section 4 of the Voting Rights Act of 1965 was unconstitutional because it was unsupported and unjustified by recent history. 570 U.S. 529, 551 (2013). With this background in mind, the Secretary of State Answers as follows:

ANSWERS TO PLAINTIFFS' AMENDED COMPLAINT

1. The allegations in Paragraph 1 are legal conclusions, therefore no response is required.
To the extent a response is required, the allegations are denied.
2. The allegations in Paragraph 2 are admitted to the extent that the population of Louisiana increased from 2000 to 2010 and the State of Louisiana lost one congressional seat after the 2010 census. The remainder of the allegations in Paragraph 2 contain various census figures that speak for themselves and are the best evidence of their contents; to the extent a response is required, these allegations are denied
3. The allegations in Paragraph 3 are denied.
4. The allegations in Paragraph 4 are admitted to the extent that Louisiana's Second Congressional District was at the time of filing, and is currently, represented by Cedric Richmond. The remainder of the allegations in Paragraph 4 are legal conclusions, which require no response. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 4 that reference legal jurisprudence are denied as they are legal conclusions and the text of the jurisprudence is the best evidence of its contents.
5. The allegations in Paragraph 5 contain legal conclusions to which no response is required. To the extent a response is required, the allegations are denied. Furthermore, the current

redistricting plan for congressional elections speaks for itself and requires no admission or denial.

6. The allegations in Paragraph 6 are denied
7. The allegations in Paragraph 7 are denied.
8. The census and underlying demographic information are the best evidence of its contents; to the extent a response is required these allegations are denied.
9. The allegations in Paragraph 9 are legal conclusions to which no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 9 footnote 1 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
10. The allegations in Paragraph 10 are denied.
11. The allegations in Paragraph 11 essentially contain a prayer for relief and no answer is required. To the extent a response is required, the Secretary of State denies that Plaintiffs are entitled to any of the relief they seek.
12. The allegations in Paragraph 12 are denied, as this Court sitting alone does not has jurisdiction over Plaintiffs' claims. A three-judge court is required to hear these claims pursuant to 28 U.S.C. § 2284.
13. The allegations in Paragraph 13 are admitted to the extent that federal courts in general have jurisdiction to grant injunctive and declaratory relief. However, the Secretary of State denies that this Court sitting alone has jurisdiction over Plaintiffs' claims. A three-judge court is required to hear these claims pursuant to 28 U.S.C. § 2284.
14. The allegations in paragraph 14 are admitted.

15. The allegations in Paragraph 15 are denied for lack of knowledge sufficient to form a response thereto.
16. The allegations in Paragraph 16 are denied for lack of knowledge sufficient to form a response thereto.
17. The allegations in Paragraph 17 are denied for lack of knowledge sufficient to form a response thereto.
18. The allegations in Paragraph 18 are denied for lack of knowledge sufficient to form a response thereto.
19. The allegations in Paragraph 19 are denied for lack of knowledge sufficient to form a response thereto.
20. The allegations in Paragraph 20 are denied for lack of knowledge sufficient to form a response thereto.
21. The allegations in Paragraph 21 are denied for lack of knowledge sufficient to form a response thereto.
22. The allegations in Paragraph 22 are denied for lack of knowledge sufficient to form a response thereto.
23. The allegations in Paragraph 23 are denied for lack of knowledge sufficient to form a response thereto.
24. The allegations in Paragraph 24 are denied for lack of knowledge sufficient to form a response thereto.
25. The allegations in Paragraph 25 are denied for lack of knowledge sufficient to form a response thereto.

26. The allegations in Paragraph 26 are denied as Kyle Ardoin is not the “acting” Secretary of State of Louisiana. It is admitted that Kyle Ardoin is the duly elected Louisiana Secretary of State. The remainder of the allegations in Paragraph 26 are denied as the laws and Constitution of Louisiana are the best evidence of their contents.
27. The allegations in Paragraph 27 contain legal conclusions to which no response is required. To the extent a response is required, the allegations are denied, as the statute is the best evidence of its contents.
28. The allegations in Paragraph 28 contain legal conclusions to which no response is required. The allegations in Paragraph 28 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
29. The allegations in Paragraph 29 contain legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 29 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
30. The allegations in Paragraph 30 contain legal conclusions to which no response is required. To the extent a response is required, the allegations are denied, as the statute is the best evidence of its contents.
31. The allegations in Paragraph 31 contain legal conclusions to which no response is required. To the extent a response is required, the allegations are denied, as the statute is the best evidence of its contents.
32. The allegations in Paragraph 32 contain legal conclusions to which no response is required. To the extent a response is required, the allegations are denied. Furthermore, the

allegations in Paragraph 32 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.

33. The allegations relative to the passage of Act 2 in Paragraph 33 are denied as written. The legislative records are the best evidence of their contents. Further, the allegation that the “vast majority of African-American legislators voted against the Plan” is denied.
34. The allegations in Paragraph 34 are denied for lack of knowledge sufficient to form an opinion. Further, the allegations in Paragraph 34 that reference legislative history are denied as the text of the legislative records are the best evidence of their contents.
35. The allegations in Paragraph 35 are denied for lack of knowledge sufficient to form an opinion. Further, the allegations in Paragraph 35 that reference legislative history are denied as the text of the legislative records are the best evidence of its contents. Furthermore, the allegations in footnote 2 are denied.
36. The allegations in Paragraph 36 contain legal conclusions to which no response is required. To the extent a response is required, the allegations are denied. The current redistricting plan for congressional elections as well as the demographics of that plan speaks for itself and requires no admission or denial.
37. The allegations in Paragraph 37 contain legal conclusions to which no response is required. To the extent a response is required, the allegations are denied. Furthermore, the current redistricting plan for congressional elections speaks for itself and requires no admission or denial.
38. The allegations in Paragraph 38 contain legal conclusions to which no response is required. To the extent a response is required, the allegations are denied. The

demographics of the congressional districts speaks for itself and requires no admission or denial.

39. The allegations in Paragraph 39 are denied.
40. The allegations in Paragraph 40 are denied.
41. The allegations in Paragraph 41 contain legal conclusions to which no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 41 that reference African American voting practices are denied as the voting practices of various demographic groups speak for themselves.
42. The allegations in Paragraph 42 contain legal conclusions to which no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 42 that reference white voting practices are denied as the voting practices of various demographic groups speak for themselves.
43. The allegations in Paragraph 43 referencing specific demographic voting patterns are denied as the voting patterns of various demographic groups speak for themselves.
44. The allegations in Paragraph 44 are denied. The allegations in Paragraph 44 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
45. The Secretary of State has insufficient knowledge as to the source of the history quoted and referenced, therefore no response is required. To the extent a response is required, the allegations in Paragraph 45 are denied.
46. The Secretary of State has insufficient knowledge as to the source of the history quoted and referenced, therefore no response is required. To the extent a response is required, the allegations in Paragraph 46 are denied.

47. The Secretary of State has insufficient knowledge as to the source of the history quoted and referenced, therefore no response is required. To the extent a response is required, the allegations in Paragraph 47 are denied.
48. The Secretary of State has insufficient knowledge as to the source of the history quoted and referenced, therefore no response is required. To the extent a response is required, the allegations in Paragraph 48 are denied. Furthermore, the allegations in Paragraph 48 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
49. The Secretary of State has insufficient knowledge as to the source of the history quoted and referenced, therefore no response is required. To the extent a response is required, the allegations in Paragraph 49 are denied. Furthermore, the allegations in Paragraph 49 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
50. The Secretary of State has insufficient knowledge as to the source of the history quoted and referenced, therefore no response is required. To the extent a response is required, the allegations in Paragraph 50 are denied.
51. The Secretary of State has insufficient knowledge as to the source of the history quoted and referenced, therefore no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 51 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
52. The Secretary of State has insufficient knowledge as to the source of the history referenced, therefore no response is required. To the extent a response is required, the

allegations are denied. Furthermore, the allegations in Paragraph 52 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.

53. The allegations in Paragraph 53 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied, as the text of both the statutes and jurisprudence referenced are the best evidence of their contents.
54. The Secretary of State has insufficient knowledge as to the source of the history referenced, therefore no response is required. To the extent a response is required, the allegations in Paragraph 54 are denied. Furthermore, the allegations in Paragraph 54 that reference legal jurisprudence are denied as the jurisprudence is the best evidence of its contents.
55. The Secretary of State has insufficient knowledge as to the source of the history referenced, therefore no response is required. The allegations in Paragraph 55 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations are denied as the text of the laws of Louisiana are the best evidence of their contents.
56. The Secretary of State has insufficient knowledge as to the source of the history referenced, therefore no response is required. The allegations in Paragraph 56 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied as the text of the laws of Louisiana are the best evidence of their contents.
57. The Secretary of State has insufficient knowledge as to the source of the history referenced, therefore no response is required. The allegations in Paragraph 57 are legal

conclusions, therefore no response is required. To the extent a response is required, the allegations are denied as the text of the statute is the best evidence of its contents.

58. The allegations in Paragraph 58 are denied.
59. The Secretary of State has insufficient knowledge as to the source of the history referenced, therefore no response is required. The allegations in Paragraph 59 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 59 that reference legal jurisprudence and statutes are denied as the text of the jurisprudence and the statutes are the best evidence of their contents.
60. The Secretary of State has insufficient knowledge as to the source of the history quoted, therefore no response is required. To the extent a response is required, the allegations are denied.
61. The Secretary of State has insufficient knowledge as to the source of the history quoted, therefore no response is required. To the extent a response is required, the allegations are denied.
62. The allegations in Paragraph 62 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 62 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
63. The allegations in Paragraph 63 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied. Also, the Secretary has insufficient knowledge as to the source of the Department of Justice findings, therefore

no response is required. Furthermore, the allegations in Paragraph 73 that reference statutes are denied as the text of the statute is the best evidence of its contents.

64. The Secretary of State has insufficient knowledge as to the source of the history quoted, therefore no response is required. The allegations in Paragraph 64 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 64 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
65. The Secretary of State has insufficient knowledge as to the source of the history referenced, therefore no response is required. The allegations in Paragraph 65 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 65 that reference legal jurisprudence and/or the laws of Louisiana are denied as the text of the jurisprudence and laws are the best evidence of their contents
66. The Secretary of State has insufficient knowledge as to the source of the history referenced, therefore no response is required. The allegations in Paragraph 66 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 66 are denied for lack of knowledge sufficient to form an opinion.
67. The allegations in Paragraph 67 are denied.
68. The allegations in Paragraph 68 are denied.
69. The allegations in Paragraph 69 are denied for lack of knowledge sufficient to form an opinion.

70. The allegations in Paragraph 70 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 70 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
71. The allegations in Paragraph 71 are legal conclusions, therefore no response is required. To the extent a response is required, the allegations are denied. Furthermore, the allegations in Paragraph 71 that reference statutes are denied as the text of the statutes are the best evidence of its contents.
72. The Secretary of State has insufficient knowledge as to the source quoted, therefore no response is required. To the extent a response is required, the allegations in Paragraph 72 are denied for lack of knowledge sufficient to form an opinion.
73. The Secretary of State has insufficient knowledge as to the source quoted, therefore no response is required. To the extent a response is required, the allegations in Paragraph 73 are denied for lack of knowledge sufficient to form an opinion.
74. The Secretary of State has insufficient knowledge as to the source quoted, therefore no response is required. To the extent a response is required, the allegations in Paragraph 74 are also denied for lack of knowledge sufficient to form an opinion.
75. The Secretary of State has insufficient knowledge as to the source quoted, therefore no response is required. To the extent a response is required, the allegations in Paragraph 75 are denied for lack of knowledge sufficient to form an opinion.
76. The Secretary of State has insufficient knowledge as to the source of the history referenced, therefore no response is required. To the extent a response is required, the

allegations in Paragraph 76 are denied for lack of knowledge sufficient to form an opinion.

77. The Secretary of State has insufficient knowledge as to the source of the history quoted, therefore no response is required. To the extent a response is required, the allegations in Paragraph 77 are denied for lack of knowledge sufficient to form an opinion. Furthermore, the allegations in Paragraph 77 that reference elections outcomes are denied as the election returns kept by Louisiana are the best evidence of its contents.
78. The Secretary of State has insufficient knowledge as to the source of the history referenced, therefore no response is required. To the extent a response is required, the allegations in Paragraph 78 are denied for lack of knowledge sufficient to form an opinion.
79. The Secretary of State has insufficient knowledge as to the source of the history quoted, therefore no response is required. To the extent a response is required, the allegations in Paragraph 79 are denied Furthermore, the allegations in Paragraph 86 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
80. The allegations in Paragraph 80 are legal conclusions, therefore no response is required. Furthermore, the allegations in Paragraph 80 that reference legal jurisprudence are denied as the text of the jurisprudence is the best evidence of its contents.
81. The allegations in Paragraph 81 are denied.
82. The Secretary of State has insufficient knowledge as to the source quoted, therefore no response is required. Further, the census figures that speak for themselves and are the best

evidence of their contents. To the extent a response is required, the allegations in Paragraph 82 are denied for lack of knowledge sufficient to form an opinion.

83. The allegations in Paragraph 83 are denied.
84. The Secretary of State has insufficient knowledge as to the source quoted, therefore no response is required. To the extent a response is required, the allegations in Paragraph 84 are denied for lack of knowledge sufficient to form an opinion.
85. The allegations in Paragraph 85 are denied.
86. The allegations in Paragraph 86 are denied.
87. The allegations in Paragraph 87 are denied.
88. The allegations in Paragraph 88 are denied.
89. The allegations in Paragraph 89 are denied.
90. The Secretary of State hereby re-asserts and incorporates by reference all previous answers given in all previous paragraphs.
91. The allegations in Paragraph 91 are legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.
92. The allegations in Paragraph 92 are denied.
93. The allegations in Paragraph 93 are denied.
94. The allegations in Paragraph 94 are denied.
95. The allegations in Paragraph 95 are denied.
96. The allegations in Paragraph 96 are denied.
97. The allegations in Paragraph 97 are denied.

The allegations in the next paragraph consist of a prayer for relief and no answer is required. To the extent a response is required, the Secretary of State denies that Plaintiffs are entitled to any of the relief they seek.

IN FURTHER ANSWER, THE SECRETARY OF STATE SUBMITS THE FOLLOWING DEFENSES:

98. The Plaintiffs have failed to state a claim against the Secretary upon which relief can be granted.
99. The Plaintiffs lack standing to bring this action.
100. This Court lacks jurisdiction without a court of three judges. *See* 28 U.S.C. § 2284.
101. The equitable doctrine of laches bars Plaintiffs claims that were brought seven years and three (now four) election cycles after implementation of the 2011 congressional reapportionment plan.
102. The Fourteenth and Fifteenth Amendments of the United States Constitution barred the State of Louisiana from drawing two majority-minority districts in Louisiana. *See, e.g., Hays v. State of Louisiana*, 839 F. Supp. 1188 (W.D. La. 1993).
103. The equal protection component of the Fifth Amendment's due process clause, *see, e.g., Bolling v. Sharpe*, 347 U.S. 497, 498-500 (1954) (holding that the rights against discrimination enshrined by the Fourteenth Amendment against the states are binding against the federal government under the due process clause of the Fifth Amendment) prevents this Court from implementing any reapportionment plan that the State Legislature could not legally implement.
104. The Plaintiffs' claims and requests for relief are barred, in whole or in part, by waiver.
105. The Plaintiffs' claims and request for relief are barred, in whole or in part, by the doctrine of estoppel.

106. Additional defenses may not be alleged herein due to the unavailability of all the facts, after reasonable inquiry, necessary to determine what additional defenses may be available, and therefore the Secretary reserves the right to amend his Answer to allege additional defenses, if subsequent investigation so warrants.
107. The Secretary specifically denies those allegations in the Amended Complaint which are not specifically admitted herein.

WHEREFORE, the Secretary of State prays as follows:

- 1) That this Answer be deemed good and sufficient;
- 2) That, after all proceedings are had, there be judgment rendered in his favor, dismissing Plaintiffs' claims with prejudice and at their costs;
- 3) For all general and equitable relief that justice requires, including but not limited to an award of Defendant's attorneys' fees and reasonable costs.

Dated: September 23, 2019

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that, on this 23rd day of September 2019, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which gives notice of filing to all counsel of record.

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