



membership consists primarily of African American citizens and many registered voters throughout Wayne County, Mississippi, including Supervisor Districts 1, 2, 3, 4, and 5 in Wayne County, Mississippi.

4. Plaintiff, Leah Parson, is a registered African-American voter in Supervisor District 1 in Wayne County, Mississippi.

5. Plaintiff, Jimmie Green, is a registered African-American voter in Supervisor District 2 in Wayne County, Mississippi.

6. Plaintiff, David Jones, is a registered African-American voter in Supervisor District 3 in Wayne County, Mississippi.

7. Plaintiffs bring this action individually and, pursuant to *Fed. R. Civ. P. 23(a), (b)(2)*, and ©, on behalf of themselves and all others similarly situated as a class action with the class defined as “all African-American citizens and voters in Wayne County, Mississippi.”

8. With respect to the class, (a) the class is so numerous that joinder of all members is impracticable, (b) there are questions of law and fact common to the class, © the claims of the representative parties are typical of the claims of the class, (d) the representative parties will fairly and adequately protect the interests of the class, and (e) the parties opposing the class have acted and refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive and declaratory relief with respect to the class as a whole.

9. Defendant, the Wayne County, Mississippi Board of Supervisors, is a local governmental body of the State of Mississippi responsible for conducting primary, special, and general elections for the office of supervisor, constable, and justice court judge for Wayne County, Mississippi. This defendant may be served with the process of this Court by serving the Chancery

Clerk, Malcolm West, whose address is Waynesboro, Mississippi 39367.

10. Defendant, the Wayne County, Mississippi Democratic Executive Committee (“WCDEC”), is a political party and quasi-governmental entity responsible for conducting primary elections for the Democratic Party in Wayne County, Mississippi. This defendant may be served with the process of this Court by serving its Chairperson, Susie McDonald, whose address is Waynesboro, Mississippi 39367.

\_\_\_\_\_ 11. Defendant, the Wayne County, Mississippi Republican Executive Committee (“WCREC”), is a political party and quasi-governmental entity responsible for conducting primary elections for the Republican Party in Wayne County, Mississippi. This defendant may be served with the process of this Court by serving its Chairperson, Arnie Henderson, Mississippi State republican Headquarters Jackson, Mississippi 39201.

12. Defendant, the Wayne County, Mississippi Board of Election Commissioners, is a local governmental body of the State of Mississippi responsible for conducting special and general elections for the office of supervisor, constable, and justice court judge for Wayne County, Mississippi. This defendant may be served with the process of this Court by serving its Chairperson, Sybil Taylor, whose address is Waynesboro, Mississippi 39367.

13. Defendant, Rose Bingham, is a local governmental official and Circuit Clerk for Wayne County, Mississippi who, pursuant to § 23-15-299, Miss. Code Ann. (1972), is responsible for conducting elections for supervisor, justice court judge, and constable for Wayne County, Mississippi. This defendant’s address is Waynesboro, Mississippi 39367.

### **FACTS**

\_\_\_\_\_ 14. The population for Wayne County, Mississippi according to the 2010 federal

decennial census is 20,747 persons of whom 8,071 (or 38.90%) are African-American.

15. Wayne County, Mississippi is governed by a five (5) member board of supervisors elected from single member districts.

\_\_\_\_\_ 16. Members of the Wayne County, Mississippi Board of Supervisors are elected by popular vote to four year terms of office.

17. The terms of office for current members of the Wayne County, Mississippi Board of Supervisors expire December 31, 2015.

18. Political party primary nomination elections for the current term of office for members of the Wayne County, Mississippi Board of Supervisors were held on Tuesday, August 2, 2011.

19. The qualification deadline for candidates for supervisor was March 1, 2011.

20. A majority vote is required for political party nomination elections in Mississippi.

21. Political party second primary nomination or run-off elections for the current term of office for members of the Wayne County, Mississippi Board of Supervisors were held on Tuesday, August 23, 2011.

22. A general election was held on Tuesday, November 8, 2011.

\_\_\_\_\_ 23. The ideal population for each supervisor district for Wayne County, Mississippi is 4,149 persons according to the 2010 federal decennial census.

24. The total population for each supervisor district, the black population for each supervisor district, and the percentage of black population for each supervisor district in Wayne County, Mississippi according to the 2010 federal decennial census is as follows:

Supervisor District	Total Population	Black Population	Black Pop. %
1	3,769	1,993	52.88%
2	4,997	2,701	54.05%
3	3,744	1,473	39.34%
4	3,958	1,206	30.47%
5	4,279	698	16.31%

25. The supervisor districts for Wayne County, Mississippi have a total population deviation of 1,253 persons according to the 2010 federal decennial census with a maximum deviation percentage of 30.20%.

26. The Wayne County, Mississippi Branch of the NAACP, is a civil rights organization whose members include and which represents citizens and registered voters Supervisor Districts 2 and 5 which are overpopulated and under represented, and the plaintiff is aggrieved by that under representation.

27. Plaintiff, Leah Parson, is a citizen and voter in Supervisor District 1, which has a substantial black population, and plaintiff, Leah Parson, does not want the black voting strength in Wayne County, Mississippi diluted.

28. Plaintiff, Jimmie Green, is a citizen and voter in Supervisor District 2, which is overpopulated and underrepresented and which has a substantial black population, and plaintiff, Jimmie Green, is injured by that underrepresentation and she does not want the black voting strength in Wayne County, Mississippi diluted.

29. Plaintiff, David Jones, is a citizen and voter in Supervisor District 3, which has a substantial black population, and plaintiff, David Jones, does not want the black voting strength in

Wayne County, Mississippi diluted.

30. Wayne County, Mississippi is a jurisdiction covered by the preclearance requirements of § 5 of the Voting Rights Act of 1975, as amended and extended, 42 U. S. C. § 1973c, that has a long and official history of racial discrimination against African-American citizens and voters that has affected their right to register, vote, and participate in the political process.

31. Voting in elections in Wayne County, Mississippi is racially polarized.

32. White bloc voting in Wayne County, Mississippi is statistically significant.

33. The Wayne County, Mississippi Board of Supervisors failed to redistrict the county's supervisor districts to comply with the one-person one-vote principle of the Equal Protection Clause of the 14<sup>th</sup> amendment to the United States Constitution and obtain preclearance of any new redistricting plan prior to the March 1, 2011 candidate qualification deadline, the August, 2011 political party primary nominations, and the November, 2011 general election.

34. The existing apportionment scheme for Wayne County, Mississippi results in discrimination against African-American voters in violation of rights secured to plaintiffs by Section 2 of the Voting Rights Act of 1965, as amended, 42 U. S. C. § 1973.

35. The present supervisor districts are grossly malapportioned.

36. The plaintiffs have been aggrieved because the 2011 elections were held under the grossly malapportioned existing apportionment scheme with the candidates elected being allowed to hold office for a full four-year term under the malapportioned districts.

37. Plaintiffs will continue to be aggrieved if the supervisors elected under the existing apportionment scheme are allowed to hold office for the full four year term of office.

38. African-American voters in Wayne County, Mississippi are politically cohesive in

Mississippi.

39. The African-American population in Wayne County, Mississippi is geographically large and insular such that several black majority supervisor districts could be maintained or created.

40. African-American citizens and voters in Wayne County, Mississippi suffer from the lingering effects of gross disparities in socioeconomic factors that adversely affect their ability to effectively participate in the political process and elect candidates of their choice to elective office.

41. African-American voters in Wayne County, Mississippi have been denied equal opportunity to participate in the political process and to elect representatives of their choice under the totality of the circumstances.

42. All of the actions and inactions of the defendants, as mentioned above, have been intentional and deliberate or have resulted in impermissible discrimination against the plaintiffs.

43. As a proximate results of the actions and inactions of the defendants, as mentioned above, the plaintiffs have suffered a violation of their constitutional and statutory rights.

### **CAUSES OF ACTION**

#### **COUNT I - 14<sup>th</sup> AMENDMENT EQUAL PROTECTION ONE PERSON ONE VOTE**

44. The existing redistricting plan for Wayne County, Mississippi is unconstitutionally malapportioned and violate rights secured to plaintiffs by the Equal Protection Clause of the 14<sup>th</sup> Amendment to the United States Constitution and 42 U. S. C. § 1983.

#### **COUNT II - VOTE DILUTION CLAIM -§ 2 of the VOTING RIGHTS ACT OF (1965)**

45. The existing redistricting plan for Wayne County, Mississippi results in discrimination against African-American voters in violation of rights secured to plaintiffs by Section 2 of the Voting Rights Act of 1965, as amended, 42 U. S. C. § 1973.

**CAUSATION, INJURY, AND REMEDY**

46. As a proximate result of the actions and inactions of the defendants, as mentioned above, plaintiffs have suffered a violation of their federal constitutional rights, and plaintiffs have incurred expenses, attorney fees, and court costs.

**EQUITABLE RELIEF**

47. Plaintiffs request the a declaratory judgment, pursuant to 28 U. S. C. §§ 2201 and 2202, that the defendants have violated rights secured to plaintiffs by the 14<sup>th</sup> amendment to the United States Constitution and Section 2 of the Voting Rights Act of 1965, as amended, 42 U. S. C. § 1973, and plaintiffs requested pre-election injunctive relief and now request post-election injunctive relief of setting aside the 2011 elections and ordering special elections with shortened terms of office for members of the Board of Supervisors.

48. And, plaintiffs request an award of court costs and attorney fees and litigation expenses pursuant to 42 U. S. C. §§ 1973[e] and 1988.

**WHEREFORE, PREMISES CONSIDERED**, plaintiffs respectfully request the following legal and equitable relief:

a. A declaratory judgment, pursuant to 28 U. S. C. §§ 2201 and 2202, that the present apportionment scheme and the actions and inactions of the defendants violate rights secured to plaintiffs by the 14<sup>th</sup> amendment to the United States Constitution and Section 2 of the Voting Rights Act of 1965, as amended, 42 U. S. C. § 1973;

b. A temporary restraining order, preliminary injunction, and/or a permanent injunction enjoining the defendants from conducting elections under the existing redistricting plans for supervisor in Wayne County, Mississippi;



- c. An Order setting aside the 2011 elections for Supervisor and ordering a special election for Supervisor for Wayne County, Mississippi;
- d. A temporary restraining order, preliminary injunction, and/or a permanent injunction requiring that any new redistricting plan for supervisors for Wayne County, Mississippi comply with the 14<sup>th</sup> and 15<sup>th</sup> amendments to the United States Constitution, 42 U. S. C. § 1983, and §§ 2 and 5 of the Voting Rights Act of 1965, as amended and extended, 42 U. S. C. §§ 1973 and 1973c;
- e. Award plaintiffs court costs and a reasonable attorney's fee pursuant to 42 U. S. C. §§ 1973l(e), and 1988; and
- f. Grant plaintiffs general relief.

This the 5<sup>th</sup> day of November, 2012.

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Respectfully submitted,  
WAYNE COUNTY, MISSISSIPPI BRANCH OF THE  
NAACP, LEAH PARSON, JIMMIE GREEN, and  
DAVID JONES  
on behalf of themselves and all others similarly situated

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*/s/ Carroll Rhodes*

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*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

\_\_\_\_\_, I, CARROLL RHODES, hereby certify that I have this day electronically filed using the Court's ECF filing system a true and correct copy of the above and foregoing Amended Complaint, and the Court has electronically served a copy of the motion upon the following:

Justin L. Matheny, Esq.  
Special Assistant Attorney General  
Post Office Box 220  
Jackson, Mississippi 39205

Benjamin E. Griffith, Esq.  
Griffith & Griffith  
Post Office Drawer 1680  
Cleveland, Mississippi 38732

This the 5<sup>th</sup> day of November, 2012.

\_\_\_\_\_  
*/s/ Carroll Rhodes*

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CARROLL RHODES