

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

ROBYN RENEE ESSEX,	)	
	)	
Plaintiff,	)	
	)	CASE NO.: 12-4046-KHV-DJW
FRANK BEER,	)	
	)	
Intervenor	)	
Plaintiff	)	
	)	
v.	)	

KRIS W. KOBACH,  
Kansas Secretary of State,  
  
Defendant.

**FIRST AMENDED INTERVENOR COMPLAINT OF FRANK BEER  
FOR DECLARATORY AND INJUNCTIVE RELIEF**

Intervenor Plaintiff Frank Beer, for his causes of action against Defendant Kris W. Kobach, Kansas Secretary of State, states and alleges as follows:

1. Frank Beer is a citizen and registered and qualified voter of the United States of America residing at 1411 Deep Creek Lane, Manhattan, Riley County, Kansas 66502. Beer is a registered voter and votes in the Kansas Second Congressional District.

2. Defendant Kris W. Kobach is the Secretary of State for the State of Kansas and is responsible under the laws of Kansas for the conduct of elections. Defendant is sued solely in his official capacity.

3. Jurisdiction is proper in this action pursuant to 28 U.S.C. §§ 1331, 1343(a)(3), 2201, and 2201. A three-judge panel is requested for hearing in this matter pursuant to 28 U.S.C. § 2284.

4. The Kansas Legislature has failed to pass and the Governor has been unable to sign necessary and appropriate legislation to re-apportion Kansas congressional districts based on the 2010 Federal Census. As a result, the congressional districts are unbalanced and the Beer is being denied Equal Protection of Law and Due Process of laws under the United State and Kansas Constitutions.

**COUNT I – CONGRESSIONAL REDISTRICTING**

5. Beer re-states and re-alleges the preceding paragraph herein.

6. This case arises under Article I, Section 2 of the United States Constitution, which requires reapportionment of congressional seats.

7. This case also arises under the Fourteenth Amendment, Section 1, to the United States Constitution, the provisions of which guarantee equal and effective rights and privileges as a voter.

8. The current Kansas congressional districts violate the United State Constitution by denying Beer the right to have an equal vote due to the population of the current voting districts.

9. Beer and similarly situated citizens and voters have the right to have all members of the United States House of Representatives from the State of Kansas apportioned and elected on the basis of the 2010 Federal Census.

10. Unless lawfully restrained by this Court, inaction by the Legislature will lead to the actual or attempted conduct of the 2012 elections based on the existing congressional districts, thereby violating Beer's constitutional rights and similarly situated citizens and voters.

11. A justiciable controversy exists because the State of Kansas has failed, through the legislative process, to reapportion the congressional districts in a constitutional manner, thus violating Beer's constitutional rights.

WHEREFORE, Intervenor Plaintiff Frank Beer respectfully prays for the Order of this Court as follows:

1. Pursuant to 28 U.S.C. § 2284(a) the Court convene a three-judge panel to adjudicate this matter;
2. Declare that the present congressional apportionment of the State of Kansas violates the rights of the Frank Beer under the United States and Kansas Constitutions;
3. Issue a permanent injunction and decree that the existing congressional districts may not be utilized for purposes of any 2012 primary or general election and permanently restraining defendant from accepting nominations, issuing certificates of nominations and elections and from any other acts necessary to the holding of election for members of the Kansas delegation to the United States House of Representatives until such time as the Legislature and the Governor adopts a constitutionally sound reapportionment plan or a Court of final jurisdiction has ordered such a plan, all in accordance with the United States Constitution;
4. Award reasonable attorney's fees and expenses, costs, and other expenses incurred in prosecuting this action pursuant to 42 U.S.C. § 1988; and,
5. Award such other and further relief as deemed equitable and just

Respectfully submitted,

POLSINELLI SHUGHART PC

By: /s/ Greg L. Musil

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ATTORNEYS FOR FRANK BEER

**CERTIFICATE OF SERVICE**

I hereby certify that on this 23<sup>rd</sup> day of May, 2012 the foregoing was filed electronically with the United States District Court for the District of Kansas, which sent notification of same, to:

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