

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

ROBYN RENEE ESSEX,)	
)	
Plaintiff,)	
)	
)	
L. FRANKLIN TAYLOR,)	
)	
Proposed Intervenor,)	
vs.)	Case No. 12-4046
)	
KRIS W. KOBACH,)	
Secretary of State)	
)	
)	
Defendant.)	

INTERVENOR’S COMPLAINT

COMES NOW Proposed Intervenor L. Franklin Taylor (“Taylor”), by and through his attorneys, and for his cause of action states as follows:

1. Taylor is a citizen and registered and qualified voter of the United States of America residing at 26391 West Cedar Niles Circle, Olathe, Kansas 66061, Johnson County, Kansas. Taylor is a registered voter and votes in Kansas’ 3rd Congressional District, the 9th State Senate District, 38th State House District, and 3rd State Board of Education District. Proposed Intervenor Taylor is an active member of the business and civic community in the Olathe, Kansas area, served as the president and CEO of the Olathe Chamber of Commerce from August 1999 to March 2011, and has voted and plans to vote in the upcoming election(s).

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 within the State of Kansas. Defendant is sued solely in his official capacity.

3. This Court has subject-matter jurisdiction over this dispute pursuant to 28 U.S.C. §§ 1331, 1343(a)(3), 2201, and 2202. A three-judge panel is required 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 the necessary and appropriate legislation to re-apportion Kansas congressional and state voting districts based upon the 2010 Federal Census. As a result, voting districts are unbalanced, causing Taylor to be deprived of or threatened with the imminent deprivation of Equal Protection of Law and denial of Due Process of the Law in violation of, among others, the United States Constitution.

5. The United States Constitution grants each citizen the right to enjoy representative democracy. Article 1, Section 2 of the United States Constitution requires reapportionment of congressional districts. Section 1 of the Fourteenth Amendment to the United States Constitution guarantees equal and effective voting rights and privileges to all voters.

6. The current congressional districts violate the United States Constitution by denying Taylor the right to have and enjoy an equal vote due to the population of the current voting districts.

7. Taylor 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.

8. 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 Taylor's constitutional rights and those of similarly-situated citizens and voters.

9. 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 denying Taylor his constitutional rights.

WHEREFORE, Proposed Intervenor L. Franklin Taylor respectfully prays for the Order of this Court as follows:

1. Pursuant to 28 U.S.C. § 2284, the Court convene a three-judge panel to adjudicate this matter;

2. Pursuant to 28 U.S.C. § 2201, this Court declare:

- a. That the present legislative apportionment of the State of Kansas as established in 2002 by the Kansas Legislature in Chapter 4 of the Kansas Statutes has deprived and continues to deprive Taylor of rights under the Fourteenth Amendment to the Constitution of the United States;
- b. That the present plan of congressional apportionment as established in 2002 by the Kansas Legislature Chapter 4 of the Kansas Statutes deprives Taylor of his rights under Article 1, Section 2, and the Fourteenth Amendment to the Constitution of the United States.
- c. That the present Senate and Kansas State Board of Education apportionment of the State of Kansas as established in 2002 by the Kansas Legislature in Chapter 4 of the Kansas Statutes has deprived and continues to deprive Taylor of his rights under the Fourteenth Amendment to the Constitution of the United States.

3. The Court issue a permanent injunction and judgment decreeing that the plan of the legislative apportionment established in 2002 by the Kansas Legislature in Chapter 4 of the Kansas Statutes may not hereafter be used as a valid plan of legislative apportionment.

4. The Court permanently restrain Defendant from receiving nominations and petitions for legislative office, from issuing certificates of nominations and elections, and from all further acts necessary to the holding of elections for members of the Kansas Legislature in

the districts established in 2002 by the Kansas Legislature in Chapter 4 of the Kansas Statutes until such time as the State Legislature passes and the Governor approves legislation reapportioning the state legislative districts in accordance with the United States Constitution.

5. The Court issue a permanent injunction and judgment decreeing that the plan of congressional apportionment established in 2002 by the Kansas Legislature in Chapter 4 of the Kansas Statutes may not hereafter be used by Defendant as a valid plan and scheme of congressional apportionment.

6. The Court permanently restrain Defendant from receiving nominations and petitions for congressional office, from issuing certificates of nomination and elections, and from all further acts necessary to the holding of elections for members of Congress in the districts established in 2002 by the Kansas Legislature in Chapter 4 of the Kansas Statutes until such time as the State Legislature passes and the Governor approves legislation reapportioning the four Kansas Congressional districts in accordance with the United States Constitution.

7. The Court issue a permanent injunction and judgment decreeing that the State Board of Education district apportionments established in 2002 by the Kansas Legislature in Chapter 4 of the Kansas Statutes may not hereafter be used as a valid plan of apportionment for State Board of Education districts.

8. The Court permanently restrain Defendant from receiving nominations and petitions for membership on the State Board of Education, from issuing certificates of nominations and elections, and from all further acts necessary to the holding of elections for members of the Kansas State Board of Education in the districts established in 2002 by the Kansas Legislature in Chapter 4 of the Kansas Statutes until such time as the Kansas

Legislature passes and the Governor approves legislation reapportioning the State Board of Education districts in accordance with the United States Constitution.

9. That this Court notify the Governor and Legislature of the State of Kansas that it will retain jurisdiction of this action and, upon the failure to adopt constitutionally valid plans of congressional redistricting, legislative reapportionment, and State Board of Education reapportionment prior to the end of the current legislative session, the Court will issue an Order requesting that the parties hereto submit proposed plans of congressional redistricting, legislative reapportionment, and State Board of Education reapportionment for the Court's consideration.

10. The Court order Defendant to pay to Taylor, pursuant to 42 U.S.C. § 1988, his reasonable attorney's fees and expenses, expert fees, costs, and other expenses incurred in prosecuting this action; and

11. Award such other and further relief as deemed equitable and just.

Respectfully submitted,

SPENCER FANE BRITT & BROWNE LLP

/s/Lindsay Todd Perkins

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ATTORNEYS FOR INTERVENOR TAYLOR

CERTIFICATE OF SERVICE

This will certify that the foregoing pleading was filed this 24th day of May, 2012, via the Court's CM/ECF filing system which will in turn serve all counsel of record.

/s/ Lindsay Todd Perkins

Attorney for Intervenor Taylor