

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Louis Agre, William Ewing,)
Floyd Montgomery, Joy Montgomery,)
and Rayman Solomon,)

Plaintiffs,)

v.)

Thomas W. Wolf, Governor of Pennsylvania,)
Pedro Cortes, Secretary of State of)
Pennsylvania, and Jonathan Marks,)
Commissioner of the Bureau of Elections,)
in their official capacities,)

Defendants.)

and)

Michael Turzai, Speaker of the Pennsylvania)
House, and Joseph Scarnati, President)
Pro Tem of the Pennsylvania Senate, in their)
Official capacities)

Defendant-Intervenors

Civil Action No. 17-4392

PLAINTIFFS' STATEMENT OF THE ELEMENTS THEY MUST PROVE

A. Intent

To find a violation of the Elections Clause in a redistricting case, Plaintiffs must prove that those who created the map manipulated the district boundaries of one or more Congressional districts, intending to generate an expected number of winning seats for the party controlling the process that is greater than the expected number of winning seats that would be determined by the voters if the districts were drawn using even-handed criteria.

B. Standard for Level of Intent

Plaintiffs must prove that the map-drawers' discriminatory intent was a substantial motivating factor in their line-drawing decisions, even if they also considered other factors.

C. Effect

Plaintiffs must prove that the drafters of the map achieved their intended goal, in that the map resulted in a Congressional delegation composition that even a majority of the people could not substantially change.

D. Required Extent of the Effect

Plaintiffs may prevail by showing that the composition of the state's Congressional delegation as a whole resulted from the use of partisan data, such that the map itself, rather than the voters, solidified that composition. It is no defense that a few districts remained competitive, or that some districts were designed to protect incumbents of the disfavored party.

Respectfully submitted,

/S/

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