

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

SHANNON PEREZ, et al.,	§	
Plaintiffs,	§	
	§	
v.	§	CIVIL ACTION NO.
	§	11-CA-360-OLG-JES-XR
STATE OF TEXAS, et al.,	§	[Lead Case]
Defendants.	§	

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MEXICAN AMERICAN	§	
LEGISLATIVE CAUCUS, TEXAS	§	
HOUSE OF REPRESENTATIVES,	§	
Plaintiffs,	§	CIVIL ACTION NO.
v.	§	SA-11-CA-361-OLG-JES-XR
	§	[Consolidated Case]
STATE OF TEXAS, et al.,	§	
Defendants.	§	

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TEXAS LATINO REDISTRICTING	§	
TASK FORCE, et al.,	§	
Plaintiffs,	§	CIVIL ACTION NO.
v.	§	SA-11-CA-490-OLG-JES-XR
	§	[Consolidated Case]
RICK PERRY,	§	
Defendant.	§	

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MARGARITA V. QUESADA, et al.,	§	
Plaintiffs,	§	
v.	§	CIVIL ACTION NO.
	§	SA-11-CA-592-OLG-JES-XR
RICK PERRY, et al.,	§	[Consolidated Case]
Defendants.	§	

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EDDIE RODRIGUEZ, et al.,	§	
Plaintiffs,	§	
v.	§	CIVIL ACTION NO.
	§	SA-11-CA-635-OLG-JES-XR
RICK PERRY, et al.,	§	[Consolidated Case]
Defendants.	§	

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## SECOND AMENDED COMPLAINT

The Rodriguez plaintiffs—Eddie Rodriguez, Milton Gerard Washington, Bruce Elfant, Balakumar Pandian, Alex Serna, Sandra Serna, Betty F. Lopez, David Gonzalez, Beatrice Saloma, Lionor Sorola-Pohlman, Eliza Alvarado, Juanita Valdez-Cox, Josie Martinez, Nina Jo Baker, Travis County, and the City of Austin—supplement and amend their First Amended Complaint and, in doing so, adopt their allegations that the 2011 congressional redistricting was based on intentional race-based actions violating the United States Constitution’s Fourteenth and Fifteenth Amendments. Through this amended complaint, the Rodriguez plaintiffs challenge both the legislatively-adopted 2011 Plan C185 and the legislative-adopted Plan C235 and request injunctive relief under Section 3(c) of the Voting Rights Act deriving from each of these sets of challenges.

### Introduction

1. In its first called special session, the 83<sup>rd</sup> Texas Legislature passed Senate Bill 4 (“SB 4”), redistricting Texas congressional districts in a plan denominated Plan C235. SB 4 also repealed the congressional redistricting plan, denominated Plan C185, enacted and signed into law

in 2011. The Governor signed SB 4 on June 26, 2013; under the Texas Constitution, it becomes effective as a matter of state law on September 24, 2013.

Plaintiffs allege that Plan C185 Plan C235 violate rights guaranteed by the Fourteenth and Fifteenth Amendments to the United States Constitution and by Section 2 of the federal Voting Rights Act. Accordingly, plaintiffs seek a declaration that the congressional districts in Plan C185 and in Plan C235 are invalid and an injunction prohibiting defendants from calling, holding, supervising, or taking any action concerning primary or general elections for Texas members of the United States House of Representatives based on Plan C235.

In addition, in order to enforce the voting guarantees of the Fourteenth and Fifteenth Amendments to the United States Constitution, plaintiffs seek equitable relief under Section 3(c) of the Voting Rights Act whereby the Court would retain jurisdiction for an appropriate period during which no state-level change in districting and, as appropriate, other electoral standards and practices from those in force or effect in 2011 when this case commenced may be enforced unless and until this Court or the United States Attorney General determines that such change has neither the purpose nor the effect of denying or abridging the voting rights of minority voters.

### **Parties**

2. The following plaintiffs bring this suit in their personal capacities, as registered voters in the State of Texas:

- a. Eddie Rodriguez, who is Hispanic, resides at 1910 Haskell Street, Austin, Texas 78702, in former Congressional District (“CD”) 25,<sup>\*</sup> and Plan C185’s CD 35, and Plan C235’s CD 35.
- b. Milton Gerard Washington, who is African-American, resides at 11500 Oak Trail, Austin, Texas 78753, in former CD 10, Plan C185’s CD 10, and Plan C235’s CD 10.
- c. Bruce Elfant, who is Anglo, resides at 4522 Avenue F, Austin, Texas 78751, in former CD 25, Plan C185’s CD 10, and Plan C235’s CD 10.
- d. Balakumar Pandian, who is Asian-American, resides at 2001 East 21st Street, Austin, Texas 78722, in former CD 25, Plan C185’s CD 25, and Plan C235’s CD 25.
- e. Alex Serna and Sandra Serna, who are Hispanic, reside at 5448 La Estancia, El Paso, Texas 79932, in former CD 16, Plan C185’s CD 16, and Plan C235’s CD 16.
- f. Betty F. Lopez, who is Hispanic, resides at 305 S. Nueces Street, San Antonio, Texas 78207, in former CD 20, Plan C185’s CD 35, and Plan C235’s CD 35.
- g. David Gonzalez, who is Hispanic, resides at 618 Cobble Drive, San Antonio, Texas 78216, in former CD 21, Plan C185’s CD 20, and Plan C235’s CD 20.
- h. Beatrice Saloma, who is Hispanic, resides at 277 West Wildwood Drive, San Antonio, Texas 78212, in former CD 20, Plan C185’s CD 20, and Plan C235’s CD 20.
- i. Lionor Sorola-Pohlman, who is Hispanic, resides at 2314 Tannehill Drive, Houston, Texas 77008, in former CD 18, Plan C185’s CD 2, and Plan C235’s CD 2.
- j. Eliza Alvarado, who is Hispanic, resides at 1306 W. Kiwi, #4, Pharr, Texas 78577, in former CD 15, Plan C185’s CD 15, and Plan C235’s CD 15.

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<sup>\*</sup> “Former,” when used in connection with a specified congressional district, refers to the congressional districts in effect immediately preceding the 2011 enactment adopting Plan C185. The plan for these former districts was denominated Plan C100.

- k. Juanita Valdez-Cox, who is Hispanic, resides at 302 N. Valley View, Donna, Texas 78537, in former CD 15, Plan C185's CD 34, and Plan C235's CD 34
- l. Josie Martinez, who is Hispanic, resides at 317 East Drew Street, Fort Worth, Texas 76110, in former CD 12, Plan C185's CD 26, and Plan C235's CD 33.
- m. Nina Jo Baker, who is African-American, resides at 1002 East 2<sup>nd</sup> Street, Fort Worth, Texas 76102, in former CD 12, Plan C185's CD 26, and Plan C235's CD 12.

3. Plaintiff Travis County, a political subdivision of the State of Texas under Article I, Section 1, of the Texas Constitution, is charged by the Texas Legislature with principal local responsibility for the conduct of elections, including elections for congressional office. *See, e.g.*, Tex. Elec. Code, ch. 31, subch. B & ch. 32, subch. A. Under Section 42.001(a) of the Election Code, the County's Commissioners Court is responsible for establishing election precincts within its territory and, in redistricting years, is directed in Section 42.032 of the Election Code to complete the process by October 1<sup>st</sup>. As a geographically compact and contiguous political subdivision with many residents sharing similar concerns, and with a population of 1,024,266 under the 2010 census, 325,778 people in excess of the ideal population size for a congressional district, Travis County forms a distinct community of interest under traditional districting principles.

4. Plaintiff the City of Austin, a political subdivision of the State of Texas, is a home rule municipality under Article XI, Section 5, of the Texas Constitution, with full power of local self-government under Texas Local Government Code § 51.072(a), and is authorized by Article I, § 3, of its charter to take such actions as its governing body deems necessary to advance the interests of its residents. As a geographically compact and contiguous political subdivision with many residents sharing similar concerns, and with a population of 790,390 under the 2010 census, 91,902

people in excess of the ideal population size for a congressional district, Austin forms a distinct community of interest under traditional districting principles.

5. Defendants are the Governor of Texas, the Lieutenant Governor of Texas, the Speaker of the Texas House of Representatives, the Secretary of State of Texas, the State of Texas itself, the Chair of the Texas Democratic Party, and the Chair of the Republican Party of Texas. All of the defendant officials are sued in their official capacity only. The Chairs of the two political parties are made defendants only for purposes of remedy, and no recovery of attorney fees is sought as to them. The residences of the state officials, in their official capacity, are all in Travis County, as the seat of government of the State of Texas is in the City of Austin. *See* Tex. Const. art. III, § 58. All the defendants, through their counsel, have entered appearances in this case.

### **Jurisdiction and venue**

6. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343(a)(3), 1343(a)(4), 1357, 2201, 2202, and 2284. Venue is proper in this district under 28 U.S.C. § 1391(b) and in this division under 28 U.S.C. § 124(d)(4).

### **Factual background**

7. Until this Court's adoption of an interim congressional plan for purposes of the 2012 elections, the last legally operative congressional districting plan for Texas, containing thirty-two districts, was known as Plan C100. It had been in effect since an order issued on August 4, 2006, by the United States District Court for the Eastern District of Texas in *LULAC v. Perry*, No. 2:03CV158. It had three districts—CDs 9, 18, and 30—that the state has classified as African-American opportunity districts within the meaning of Section 2 of the Voting Rights Act of 1965, as amended (“VRA”), 42 U.S.C. § 1973 (generally referred to as “Section 2”). It also had seven

districts—CDs 15, 16, 20, 23, 27, 28, and 29—that the state classified as Hispanic opportunity districts under Section 2 of the VRA. One of these districts was in Harris County. The other six were in an arc generally running from El Paso, along the Rio Grande River to Brownsville, up to Corpus Christi, and over to San Antonio (termed elsewhere in this pleading the “South Texas Region”).

8. The official results of the 2010 census were released on December 21, 2010. On January 5, 2011, the President of the United States, pursuant to 2 U.S.C. § 2a(a), transmitted to Congress a statement showing the population of each of the fifty states, including the defendant State of Texas, as reported in the 2010 census. These population figures show that the State of Texas contains 25,145,561 persons and was entitled to 36 congressional representatives, an increase of four since the reapportionment after the 2000 census.

9. Texas’s total population growth in the decade between the 2000 census and the 2010 census was 4,293,741. Of these additional residents: 2,791,255 were Hispanic; 522,570 were African-American; 464,032 were Anglo; and 401,144 were Asian-American. These tabulations mean that: Hispanics accounted for 65.0% of the state’s growth; African-Americans for 12.2%; Anglos for 10.8%; and Asian-Americans for 9.3%. Anglos are now 45.3% of the state’s population; Hispanics, 37.6%; African-Americans, 11.5%; and Asian-Americans, 3.8%. According to calculations of the Texas Legislative Council, Hispanics account for approximately 24.7 % of the citizen voting age population of the state. Had the overall Texas population grown at the same rate as its Anglo population, the state would not have gained four additional congressional seats.

10. As required by the Texas Constitution, the 82<sup>nd</sup> Texas Legislature convened in regular session on January 11, 2011. On or about February 17, 2011, the Governor and the Texas Legisla-

ture received the official 2010 census population numbers for the State of Texas, sufficient to perform the task of congressional redistricting during the now-concluded regular legislative session. The legislature adjourned its regular session *sine die* on May 30, 2011, without enacting a new congressional redistricting plan.

11. The Governor called a special session of the 82<sup>nd</sup> Texas Legislature and included congressional redistricting as an item in the special session call. The special session convened on May 31, 2011, and adjourned *sine die* on June 29, 2011.

12. Legislation establishing new congressional district lines was passed during the first called special session of the 82<sup>nd</sup> Texas Legislature. Article II of the new legislation established a redistricting plan—designated Plan C185—for Texas congressional seats. This redistricting plan was designed to cover primary and general elections to federal congressional seats beginning with the 113<sup>th</sup> United States Congress, which convened in January 2013. The Governor signed the bill into law in July 2011.

13. At the time, the State of Texas by virtue of the coverage formula in Section 4 of the VRA, was a covered jurisdiction under Section 5 of the VRA, 42 U.S.C. § 1973c (generally referred to as “Section 5”). The Supreme Court subsequently declared Section 4 unconstitutional on June 25, 2013, in *Shelby County v. Holder*, No. 12-96, saying it can no longer be used.

14. Plan C185 never became operative as a matter of federal law. A three-judge federal district court in the District of Columbia—in the case of *Texas v. United States*, Civ. Action No. 1:11cv1303—issued an opinion and judgment on August 28, 2012 (with errata corrections on August 30, 2012) denying Section 5 preclearance to Plan C185 on grounds of intentional racial discrimination and retrogression.

15. The state appealed the District of Columbia judgment and preclearance denial to the Supreme Court of the United States, but neither sought nor obtained a stay of the judgment. Before June 27, 2013, when the Supreme Court acted on the state's appeal, the 83<sup>rd</sup> Texas Legislature enacted, and the Governor signed into law on June 26, 2013, a new redistricting plan for Texas congressional districts denominated Plan C235. This legislation, enacted during the first called session after the 2013 regular session, also repealed the statute enacting Plan C185.

16. Due to Plan C185 not being operative as law, this Court had to fill the legal vacuum by adopting an interim redistricting plan. This court-ordered interim plan—Plan C235—was for use only in the 2012 election cycle.

17. In calling the first special session of the 83<sup>rd</sup> Texas legislature, the Governor expressly confined the legislature to considering enactment of only one plan concerning Congressional districts: interim Plan C235. The legislature acceded to the Governor's limited call by enacting Plan C235 without any changes whatever. Because it did not receive two-thirds favorable vote in the legislature, the enacted congressional plan will not be effective as state law until September 24, 2013, nor will the repeal of Plan C185 be effective until then

18. Plan C185 fails to satisfy the requirements of the equal protection component of Section 1 of the Fourteenth Amendment to the United States Constitution and Section 1 of the Fifteenth Amendment to the United States Constitution in at least the following particulars:

- a. Plan C185 purposefully fragments Hispanic and African-Americans in all regions of the state, dispersing them among numerous districts without regard to traditional and neutral redistricting principles, to reduce and lessen their electoral opportunities in congressional election significantly below the level of opportunities that would be available

to Hispanics were traditional and neutral redistricting principles followed. This fragmentation is done for the purpose of providing undue voting advantages and weight to Anglo voters across the state. In contrast, Plan C185 is intentionally crafted to allow Anglo voters to dominate districts beyond what their voting power and geographic distribution would otherwise suggest using traditional and neutral redistricting principles even as the legislature actively worked to disregard traditional and neutral redistricting principles to ensure that minority voters could not dominate or even be meaningful voting participants in any district not otherwise formally recognized as a minority opportunity district.

- b. Plan C185 purposefully fragments a politically cohesive coalition of African-American and Hispanic voters in the Dallas-Fort Worth Metroplex, in disregard of traditional and neutral redistricting principles, to reduce and lessen the electoral opportunities of minority voters in the area in congressional election and to give undue advantage to Anglo voters.
- c. Plan C185 isolates the Hispanic voting community in Nueces County, which is 60.6 Hispanic, in an overwhelmingly Anglo district stretching to the outskirts of Travis County and which is characterized by significant levels of racially polarized voting. This action was intended to sever the large Hispanic voting community of Nueces County from other significant groups of Hispanic voters in the South Texas Region to keep from forming an additional Hispanic opportunity district and to provide undue advantages and weight to Anglo voters in Nueces County and other parts of CD 27 and to maintain

the Anglo incumbent, who was not elected as the candidate of choice of Hispanic voters, in office.

- d. Plan C185, for no compelling reason, uses race as a tool to purposely dismantle and destroy an existing crossover district—former CD 25—anchored in Travis County and the City of Austin and the tri-ethnic voting coalition there. The overriding purpose of this racially-based dismantlement was to fragment the existing and operative tri-ethnic coalition so that a cohesive minority voting community of African-Americans and Hispanics could not vote together with a community of Anglos crossing over to vote for the candidate of choice of the African-American and Hispanic voting coalition in order to continue electing their candidate of choice in congressional elections. In so carving up the residents of Travis County and Austin, the legislature disregarded traditional and neutral redistricting principles, which, if followed, would have included at least one, and possibly more, districts firmly anchored in the city and county.
- e. Plan C185 purposely continues in place a race-based redrawing of the historic CD 20, along held by Hispanic incumbents elected as the candidate of choice of Hispanic voters, so that iconic elements of the district, such as the Alamo, and significant economic institutions are removed from the district in disregard of traditional and neutral redistricting principles.

19. Plan C235 fails to satisfy the requirements of the equal protection component of Section 1 of the Fourteenth Amendment to the United States Constitution and Section 1 of the Fifteenth Amendment to the United States Constitution in at least the following particulars:

- a. Plan C235 purposefully fragments Hispanics and African-Americans in all regions of the state, dispersing them among numerous districts without regard to traditional and neutral redistricting principles, to reduce and lessen their electoral opportunities in congressional election significantly below the level of opportunities that would be available to Hispanics were traditional and neutral redistricting principles followed. This fragmentation is done for the purpose of providing undue voting advantages and weight to Anglo voters across the state. In contrast, Plan C235 is intentionally crafted to allow Anglo voters to dominate districts beyond what their voting power and geographic distribution would otherwise suggest using traditional and neutral redistricting principles even as the legislature actively worked to disregard traditional and neutral redistricting principles to ensure that minority voters could not dominate or even be meaningful voting participants in any district not otherwise formally recognized as a minority opportunity district.
- b. Plan C235, even with its inclusion of CD 33, continues to purposefully fragment a politically cohesive coalition of African-American and Hispanic voters in the Dallas-Fort Worth Metroplex, in disregard of traditional and neutral redistricting principles, to reduce and lessen the electoral opportunities of minority voters in the area in congressional election and to give undue advantage to Anglo voters.
- c. Plan C235 isolates the Hispanic voting community in Nueces County, which is 60.6 Hispanic, in an overwhelmingly Anglo district stretching to the outskirts of Travis County and which is characterized by significant levels of racially polarized voting. This action was intended to sever the large Hispanic voting community of Nueces County

from other significant groups of Hispanic voters in the South Texas Region to keep from forming an additional Hispanic opportunity district and to provide undue advantages and weight to Anglo voters in Nueces County and other parts of CD 27 and to maintain the Anglo incumbent, who was not elected as the candidate of choice of Hispanic voters, in office.

- d. Plan C235, for no compelling reason, uses race as a tool to purposely dismantle and destroy an existing crossover district—former CD 25—anchored in Travis County and the City of Austin and the tri-ethnic voting coalition there. The overriding purpose of this racially-based dismantlement was to fragment the existing and operative tri-ethnic coalition so that a cohesive minority voting community of African-Americans and Hispanics could not vote together with a community of Anglos crossing over to vote for the candidate of choice of the African-American and Hispanic voting coalition in order to continue electing their candidate of choice in congressional elections. In so carving up the residents of Travis County and Austin, the legislature disregarded traditional and neutral redistricting principles, which, if followed, would have included at least one, and possibly more, districts firmly anchored in the city and county.
- e. Plan C235 purposely continues in place a race-based redrawing of the historic CD 20, along held by Hispanic incumbents elected as the candidate of choice of Hispanic voters, so that iconic elements of the district, such as the Alamo, and significant economic institutions are removed from the district in disregard of traditional and neutral redistricting principles.

20. Plan C185 fails to satisfy the requirements of the VRA's Section 2 in its intentional actions as described in ¶ 18, above, and in at least the following additional particulars:

- a. In the South Texas Region, while still honoring the requirements of the Fourteenth and Fifteenth Amendments, at least one, and possibly two, congressional districts could have been formed, and solidly anchored there, that would have contained a reasonably compact population of Hispanics who are citizens of voting age who would constitute at least 50% of the citizen voting age population of the district. In this area, the Hispanic voters are politically cohesive and the majority Anglo voters vote sufficiently as a bloc to enable them, in the absence of special circumstances, usually to defeat the preferred candidate of the Hispanic voters. These facts coexist with other circumstances in the area—including a history of official discrimination with respect to the opportunity of Hispanics to exercise the right to vote, a lack of responsiveness on the part of elected officials to the particularized needs of Hispanics, and the tenuous nature of the justification for the congressional district lines drawn in the area—to provide a less than equal opportunity for the Hispanics there to participate in the political process and to elect congressional representatives of their choice.
- b. Still in the South Texas Region—specifically, the geographic area roughly encompassed by former CD 23—Plan C1855 fails to establish a reasonably performing Hispanic opportunity district. While creating an additional Hispanic opportunity district as addressed in ¶ 18.d, the legislature had available to it a reasonably compact population of Hispanics who are citizens of voting age who would constitute at least 50% of the citizen voting age population of the district. In this area, the Hispanic voters are politically co-

hesive and the majority Anglo voters vote sufficiently as a bloc to enable them, in the absence of special circumstances, usually to defeat the preferred candidate of the Hispanic voters. These facts coexist with other circumstances in the area—including a history of official discrimination with respect to the opportunity of Hispanics to exercise the right to vote, a lack of responsiveness on the part of elected officials to the particularized needs of Hispanics, and the tenuous nature of the justification for the congressional district lines drawn in the area—to provide a less than equal opportunity for the Hispanics there to participate in the political process and to elect congressional representatives of their choice.

- c. Plan C185 fails to create in the Dallas-Forth Worth Metroplex a minority opportunity district composed of an operative and cohesive coalition of African-American and Hispanic voters. The legislature had available to it a reasonably compact population of African-Americans and Hispanics who are citizens of voting age who would constitute at least 50% of the citizen voting age population of the district. In this area, the African-American and Hispanic voters are politically cohesive and the majority Anglo voters vote sufficiently as a bloc to enable them, in the absence of special circumstances, usually to defeat the preferred candidate of the coalition of African-American and Hispanic voters. These facts coexist with other circumstances in the area—including a history of official discrimination with respect to the opportunity of African-Americans and Hispanics to exercise the right to vote, a lack of responsiveness on the part of elected officials to the particularized needs of African-Americans and Hispanics, and the tenuous nature of the justification for the congressional district lines drawn in the area—to pro-

vide a less than equal opportunity for the coalition of African-Americans and Hispanics there to participate in the political process and to elect congressional representatives of their choice.

21. Plan C235 fails to satisfy the requirements of the VRA's Section 2 in its intentional actions as described in ¶ 19, above, and in at least the following additional particulars:

- a. In the South Texas Region, while still honoring the requirements of the Fourteenth and Fifteenth Amendments, at least one, and possibly two, congressional districts could have been formed, and solidly anchored there, that would have contained a reasonably compact population of Hispanics who are citizens of voting age who would constitute at least 50% of the citizen voting age population of the district. In this area, the Hispanic voters are politically cohesive and the majority Anglo voters vote sufficiently as a bloc to enable them, in the absence of special circumstances, usually to defeat the preferred candidate of the Hispanic voters. These facts coexist with other circumstances in the area—including a history of official discrimination with respect to the opportunity of Hispanics to exercise the right to vote, a lack of responsiveness on the part of elected officials to the particularized needs of Hispanics, and the tenuous nature of the justification for the congressional district lines drawn in the area—to provide a less than equal opportunity for the Hispanics there to participate in the political process and to elect congressional representatives of their choice.
- b. Still in the South Texas Region—specifically, the geographic area roughly encompassed by former CD 23 and Plan C235's CD 23—Plan C235 fails to establish CD 23 as a reasonably performing Hispanic opportunity district. While honoring the basic geographic

contours embraced by current CD 23, and still creating an additional Hispanic opportunity district as addressed in ¶ 19.d, the legislature had available to it a reasonably compact population of Hispanics who are citizens of voting age who would constitute at least 50% of the citizen voting age population of the district. In this area, the Hispanic voters are politically cohesive and the majority Anglo voters vote sufficiently as a bloc to enable them, in the absence of special circumstances, usually to defeat the preferred candidate of the Hispanic voters. These facts coexist with other circumstances in the area—including a history of official discrimination with respect to the opportunity of Hispanics to exercise the right to vote, a lack of responsiveness on the part of elected officials to the particularized needs of Hispanics, and the tenuous nature of the justification for the congressional district lines drawn in the area—to provide a less than equal opportunity for the Hispanics there to participate in the political process and to elect congressional representatives of their choice.

- c. Plan C235 fails to create in the Dallas-Forth Worth Metroplex an additional minority opportunity district composed of an operative and cohesive coalition of African-American and Hispanic voters. The legislature had available to it a reasonably compact population of African-Americans and Hispanics who are citizens of voting age who would constitute at least 50% of the citizen voting age population of the district. In this area, the African-American and Hispanic voters are politically cohesive and the majority Anglo voters vote sufficiently as a bloc to enable them, in the absence of special circumstances, usually to defeat the preferred candidate of the coalition of African-American and Hispanic voters. These facts coexist with other circumstances in the area—

including a history of official discrimination with respect to the opportunity of African-Americans and Hispanics to exercise the right to vote, a lack of responsiveness on the part of elected officials to the particularized needs of African-Americans and Hispanics, and the tenuous nature of the justification for the congressional district lines drawn in the area—to provide a less than equal opportunity for the coalition of African-Americans and Hispanics there to participate in the political process and to elect congressional representatives of their choice.

22. Plan C235, as does Plan C185, continues the State of Texas’s consistent and repeated practice of engaging in intentional discrimination on the basis of race in its design of electoral districts and other statewide electoral actions. These violations, including one or more of those alleged in paragraphs 18 and 19, above, reflect intentional racial discrimination and violations of the Fourteenth and Fifteenth Amendments in derogation of the current conditions for minority voters in the state. Therefore, they justify the imposition of equitable relief authorized by the VRA’s Section 3(c), with regard to the violations in both Plan C185 and Plan C235.

### **Causes of action**

#### ***Count 1: VRA Section 2***

23. The facts alleged herein constitute a denial or abridgement of the plaintiffs’ right to vote for their representative to the United States House of Representatives, in violation of Section 2 of the Voting Rights Act, 42 U.S.C. § 1973.

***Count 2: Equal protection***

24. The facts alleged herein constitute a denial to the plaintiffs of rights guaranteed by the Equal Protection Clause of Section 1 of the Fourteenth Amendment to the United States Constitution.

***Count 3: Constitutional right to vote***

25. The facts alleged herein constitute a deprivation of the plaintiffs' rights under the Fifteenth Amendment to the United States Constitution.

***Count 4: Section 3(c) injunction***

26. The facts alleged herein establish that the Court should grant equitable relief authorized by the VRA's Section 3(c), 42 U.S.C. § 1973a(c).

**Prayer for relief**

27. Based upon the foregoing matters, the plaintiffs pray that this Court:
- a. Continue to assume jurisdiction over this action as a three-judge District Court pursuant to 28 U.S.C. § 2284;
  - b. Enter a declaratory judgment that the Texas congressional districts in Plan C185 and in Plan C235 violate the plaintiffs' rights under the United States Constitution and federal law, as alleged under ¶¶ 18-19 and 24-25, above;
  - c. Enter an injunction that the State of Texas is required for not less than the next ten years to obtain preclearance, before implementation, from either this Court or the Attorney General of the United States for any state-level redistricting changes, and such other state-level electoral changes as the Court adjudges appropriate, from electoral practices and standards in force or effect as of May 9, 2011;

- d. Grant plaintiffs appropriate injunctive relief enjoining the defendants, their officers, agents, employees, attorneys, successors in office, and all persons in active concert or participation with them, from any implementation or use of Plan C235 in primary and general elections until and unless the injunction sought in paragraph 27.c is satisfied and the legal violations found with respect to Plan C235 are remedied by the Texas Legislature by a date certain or by this Court :
- e. Grant the plaintiffs their reasonable attorney fees, litigation expenses, and costs in maintaining this action; and
- f. Grant the plaintiffs such further relief as may be necessary, appropriate, and equitable.

Respectfully submitted,

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