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UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

WILLIAM DESENA, an individual,
SANDRA W. DUNHAM, an individual,

Plaintiffs,

v.

STATE OF MAINE; PAUL LEPAGE, in
his official capacity as Governor of the
State of Maine; KEVIN RAYE, in his
capacity as President of the Maine Senate;
ROBERT NUTTING, in his official
capacity as Speaker of the Maine House of
Representatives; CHARLES E.
SUMMERS, JR., in his official capacity as
Secretary of the State of Maine, and
BUREAU OF CORPORATIONS,
ELECTIONS & COMMISSIONS of the
State of Maine,

Defendants.

Case No.

**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

**THREE-JUDGE DISTRICT COURT
REQUESTED**

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

William DeSena and Sandra W. Dunham, by and through their undersigned counsel, for
their Complaint for Declaratory and Injunctive Relief, state as follows:

INTRODUCTION

1. This suit is brought to remedy violations of the Plaintiffs’ right to vote as secured
by the United States Constitution. Under current practice in the State of Maine, the voting
districts for seats in the United States House of Representatives (the “Congressional Districts”)
are drawn based on census figures determined every ten years. The two current Congressional
Districts (“Congressional District 1” and “Congressional District 2,” respectively) were
determined using census data from the 2000 census. In 2000, the State of Maine had a total
population of 1,274,923. Data from the year 2010 census shows that the State’s population has

1 grown to approximately 1,328,361 residents, 668,515 in Congressional District 1 and 659,846 in
2 Congressional District 2.

3 2. As a result of this population growth, Plaintiffs now reside in Congressional
4 Districts in which the right to vote is improperly diluted. This vote dilution can be solved only by
5 redrawing the Congressional Districts.

6 3. The regular session of the Maine Legislature is convened, and is scheduled to end
7 on June 15, 2011. The Maine Legislature has the ability and authority to redraw the
8 Congressional Districts to remedy the voting rights violations at issue here, but the Maine
9 Legislature is not required to pass, and there is no plan for the Maine Legislature to pass, a
10 redistricting plan before the scheduled end of the session.

11 4. Pursuant to Title 21-A, Section 1206 of the Maine Revised Statutes, and Article
12 IV, Part Third, Section 1-A of the Constitution of the State of Maine, the Maine Legislature is
13 scheduled to review the existing Congressional Districts in the year 2013. As a result, new
14 Congressional Districts will not be drawn in time to meet the filing deadline for the 2012 election
15 cycle. Should new Congressional Districts not be speedily drawn, the Plaintiffs and many Maine
16 citizens will suffer dilution of their votes in congressional elections held in 2012.

17 5. Plaintiffs therefore request that the Court take jurisdiction of this matter and
18 declare that the Congressional Districts, as currently drawn, violate the United States
19 Constitution. Plaintiffs also request that the Court establish a schedule by which the Maine
20 Legislature must act to redress the violations caused by malapportioned districts, and that the
21 Court itself undertake to redraw the districts in question if no acceptable plan is produced by the
22 Maine Legislature.

23 **JURISDICTION AND VENUE**

24 6. Jurisdiction in this action is proper pursuant to 28 U.S.C. §§ 1331, 1343(a)(3)-(4),
25 2201, and 2202, and 42 U.S.C. §§ 1983 and 1988.

26 7. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) because the changes
27 and shifts in population resulting in the violations complained of herein occurred in this district.
28

1 17. All of the Defendants are sued in their official capacities only.
2

3 **BACKGROUND FACTS**

4 18. The 125th Session of the Maine Legislature faces the task of redrawing districts for
5 the Maine delegation to the U.S. House of Representatives. In redrawing the Congressional
6 Districts, the Maine Legislature will have to address a number of different issues, including the
7 growth of population in the State and shifts in population within the State.

8 19. According to the 2000 census, the State's total population was 1,274,923. Using
9 this figure, Maine was accorded two seats in the U.S. House of Representatives.

10 20. Data from the 2010 census substantially alters these figures.

11 21. It is clear that new Congressional Districts will not be drawn in time to meet the
12 filing deadline for the 2012 election cycle. The Constitution of the State of Maine does not
13 require the Maine Legislature to consider reapportionment of the Congressional Districts until
14 2013. Even if the Maine Legislature does review the Congressional Districts during its current
15 session, which ends on June 15, 2011, it is highly likely that it will not redraw the Congressional
16 Districts and enact a valid redistricting plan before the congressional elections in 2012.

17 22. Upon information and belief, either the Maine Legislature will not successfully
18 redraw the Congressional Districts in time to meet the filing deadline for the 2012 election cycle,
19 or even if successfully redrawn, the new Congressional Districts will not be signed into law by
20 the Governor of the State of Maine. If no new redistricting plan is enacted in time for the 2012
21 elections, the task of redrawing the Congressional Districts will fall to the courts.

22 23. At this time, Maine's Congressional Districts contain significant population
23 variances due to both growth in the population of the State and shifts in State population. The
24 2010 census data shows that the population of Congressional District 1 is 668,515 residents. The
25 population of Congressional District 2 is 659,846 residents. These districts are not nearly as
26 equal in population as practicable as required by the U.S. Constitution.
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- d. Enjoin Defendants from using the Congressional Districts in any future primary or general election(s);
- e. Redraw the Congressional Districts;
- f. Grant Plaintiffs reasonable attorney's fees and costs in this action, including but not limited to attorney's fees, expert witness fees, and other costs and expenses recoverable pursuant to 42 U.S.C. § 1988(b); and
- g. Provide such other and further relief as the Court may deem proper.

DATED this 28th day of March, 2011.

PLAINTIFFS WILLIAM DESENA AND
SANDRA W. DUNHAM,

/s/ Timothy C. Woodcock, Esq.

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