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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DAVID TANGIPA, *et al.*,
Plaintiffs,
and
UNITED STATES OF AMERICA,
Plaintiff-Intervenor,
v.
GAVIN NEWSOM, in his official
capacity as the Governor of California,
et al.,
Defendants,

Case No. 2:25-cv-10616-JLS-KES
Three-Judge Court

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF UNITED
STATES' MOTION FOR PRELIMINARY
INJUNCTION**

Honorable Josephine L. Staton
United States District Judge

Hearing Date: December 5, 2025
Time: 10:30 am
Courtroom: 8A

* Assistant Attorney General Harmeet K. Dhillon is recused from this matter.

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INTRODUCTION

Last week, California passed Proposition 50, which amended its constitution to replace the congressional voting districts created by an independent districting commission with those created by an outside map drawer, and endorsed by the California State Legislature, to sort voters by race.¹ Proposition 50 results in a mandate that requires the use of a new, racially gerrymandered congressional map in 2026-2030 federal elections. The Constitution does not tolerate such racial sorting. Yet absent an injunction, California primary efforts, obstructed by unlawful discrimination, will officially begin next month. Accordingly, the United States respectfully moves under Federal Rule of Civil Procedure 65(a) to preliminarily enjoin Defendants from implementing Proposition 50's congressional-district map and to require Defendants to use the 2021 map (used in the 2022 and 2024 congressional elections) for the 2026 congressional election.

In recent years, on several occasions, district courts have enjoined the use of congressional maps because they violated the Equal Protection Clause of the Fourteenth Amendment to the Constitution or Section 2 of the Voting Rights Act ("VRA"). *See Callais v. Landry*, 732 F. Supp. 3d 574, 614 (W.D. La. 2024) (holding that Louisiana's congressional map violated the Fourteenth Amendment's Equal Protection Clause "as an impermissible racial gerrymander" and entering an injunction prohibiting Louisiana from using the map "for any election"), *appeal pending sub nom. Louisiana v. Callais*, No. 24-109 (U.S. reargued Oct. 15, 2025); *Singleton v. Merrill*, 582 F. Supp. 3d 924, 936 (N.D. Ala. 2022) (per curiam) (holding that plaintiffs were substantially likely to establish that Alabama's congressional map was racially gerrymandered in violation of Section 2 and preliminarily enjoining the Alabama Secretary of State from "from conducting any congressional elections according to the Plan"), *aff'd sub nom. Allen v. Milligan*, 599 U.S.

¹ The enactment of the Proposition 50 map (Assembly Bill 604) was paired with a constitutional amendment authorizing the temporary use of the legislature-enacted congressional map through 2030 (Assembly Constitutional Amendment 8) and a bill calling for the special election, appropriating funds, and making conforming calendar changes (Senate Bill 280). *See* Assembly Bill 604, 2025-26 Reg. Sess. (Cal. 2025).

1 1 (2023); *Alpha Phi Alpha Fraternity Inc. v. Raffensperger*, 700 F. Supp. 3d 1136, 1181
2 (N.D. Ga. 2023) (holding that Georgia’s congressional and legislative maps violated
3 Section 2 of the VRA because “in certain areas of the State, the political process is not
4 equally open to Black voters” and enjoining “their use in any future elections”), *appeals*
5 *pending*, Nos. 23-13916, 23-13914, 23-13921 (filed Nov. 28, 2023); *Harris v. McCrory*,
6 159 F. Supp. 3d 600, 604 (M.D.N.C. 2016) (holding that race predominated in North
7 Carolina’s congressional redistricting plan in violation of the Equal Protection Clause and
8 “requir[ing] that new congressional districts be drawn forthwith to remedy the
9 unconstitutional districts”), *aff’d sub nom. Cooper v. Harris*, 581 U.S. 285 (2017). The
10 same result is appropriate here.

11 I. BACKGROUND

12 This case arises out of a new congressional district map created by California’s
13 legislature and adopted by California’s voters in a November 2025 referendum
14 (“Proposition 50”). Before 2010, the California legislature drew the State’s congressional
15 district maps. In 2010, California voters transferred this authority from the legislature to
16 an independent California Citizens Redistricting Commission (CCRC) that would “adjust
17 the boundary lines of the congressional ... districts” every ten years in “the year following
18 the year in which the national census is taken.” Cal. Const. art. XXI, § 1.

19 In 2011, the Commission redrew four congressional districts “to comply with the
20 Voting Rights Act.” Maureen Riordan Decl. in Support of U.S. Mot. for Preliminary
21 Injunction Ex. 1 at 1. The Commission submitted the maps to the United States
22 Department of Justice for preclearance, as was then required by Section 5 of the VRA. 52
23 U.S.C. § 10304. The Commission explained that it “maintained or increased the Latino^[2]

24
25 ² “The terms [Hispanic and Latino] are often used interchangeably, though the
26 words can convey slightly different connotations.” Britannica, *What’s the Difference*
27 *Between Hispanic and Latino?*, <https://tinyurl.com/49mcy9xk> (last visited Nov. 13, 2025).
28 “Latino” “refers to (almost) anyone born in or with ancestors from Latin America and
living in the U.S., including Brazilians.” *Ibid.* “‘Hispanic’ is generally accepted as a
narrower term that includes people only from Spanish-speaking Latin America, including
those countries/territories of the Caribbean or from Spain itself.” *Ibid.* The United States
will use these terms as they appear in the documents being cited.

1 Voting Age Population in each district” and “complied with the requirements of Section
2 5.” Riordan Decl. Ex. 1 at 1. The Department of Justice did “not impose any objection to
3 the specified changes” or otherwise indicate concerns about the 2011 map’s compliance
4 with the VRA. Riordan Decl. Ex. 2. The Commission revised its map in 2021, following
5 the 2020 census. According to Paul Mitchell, the head of the demography firm
6 Redistricting Partners, which has worked with state and local governments on redistricting
7 efforts, the 2021 map also complied with the VRA. Hamill Decl. in Support of United
8 States’ Complaint (Doc. 28-2) Ex. B at 26:14–21.

9 In summer 2025, Texas began a redistricting process and California decided to
10 retaliate. They retained Mitchell to draft a new map ostensibly intended to “negate the
11 five Republican seats drawn by Texas” by adding “up to 5 [Democrat] seats in the U.S.
12 House of Representatives.” CADEM, *Yes On Prop 50: FAQ*,
13 <https://tinyurl.com/4nwm69mt> (last visited Nov. 13, 2025). In the press, California’s
14 legislators and governor sold a plan to promote the interests of Democrats in the upcoming
15 midterm elections. But amongst themselves and on the debate floor, the focus was not
16 partisanship, but race.

17 One of Mitchell’s stated goals in drafting the new map was to increase Latino
18 political power. Mitchell discussed the new map during a presentation with advocacy
19 group Hispanas Organized for Political Equality (“HOPE”), a self-described “nonprofit,
20 nonpartisan organization committed to ensuring political and economic parity for
21 Latinas.” HOPE, *About HOPE*, <https://tinyurl.com/4umns8x5> (last visited Nov. 13, 2025).
22 He explained that when asked to draw the new map, he “sent a text to [his] little chat [to]
23 all [his] Redistricting Partners staff ... And [he] started listing out this concept of drawing
24 a replacement Latino majority/minority district in the middle of Los Angeles.” Doc. 28-
25 2, Ex. B at 23:18–24:1. Creating this “Latino majority/minority district” “was the *number*
26 *one thing* [he] first started thinking about.” *Id.* at 24:2—5 (emphasis added). Specifically,
27 Mitchell lamented the “disappear[ance]” of “the most Latino district in the country” and
28 decided to “put that district back.” *Id.* at 24:13–15; 25:14. The result, according to

1 Mitchell, was a map that “will be great for the Latino community” in that it “bolster[s]”
2 “Latino districts ... in order to make them most effective.” *Id.* at 30:6–10.

3 The California Legislature enacted a series of statutes to codify the new map. The
4 Legislature approved the new map (Assembly Bill 604) alongside a constitutional
5 amendment authorizing the temporary use of the legislature-enacted congressional map
6 through the 2030 election (Assembly Constitutional Amendment 8) and a bill establishing
7 the necessary referendum, known as “Proposition 50.” (Senate Bill 280).

8 During the Legislature’s consideration and debate of Proposition 50, several
9 legislators gave racial—not political—reasons in favor of their votes for the new map.
10 They described other states’ redistricting efforts as efforts that were meant to suppress
11 minority voters. Assembly member Mark González framed the Texas redistricting as
12 “racism” “shield[ed] ... with [the] party line.” Doc. 28-2, Ex. C at 38:9–11; *see also* Doc.
13 28-2, Ex. D. at 158:11–13 (State Senator Sabrina Cervantes) (“They want to silence the
14 voices of Latino voters, Black voters, API voters, and LGBTQ voters.”). Or, as Assembly
15 member Isaac G. Bryan put it, “[a] Latino voice in Texas is worth one third of the
16 representation as a white voice” and “[a] black voter in Texas is worth one fifth of the
17 representation of a white voter in Texas.” Doc. 28-2, Ex. C at 49:6–9; Doc. 28-2, Ex. E at
18 149:22–150:1 (State Senator Lola Smallwood-Cuevas) (“In Texas, what this looks like is
19 that black Texans will lose much of their power, being reduced to about a fifth of what
20 their power was before this gross attack.”).

21 California legislators expressed additional concerns that other states’ proposed new
22 maps threatened the ability of racial minorities to elect candidates of their choice. State
23 Senator Lola Smallwood-Cuevas accused Texas of “sliding back” to the pre–VRA era in
24 which “black Codes, and Jim Crow, and racial terror, poll taxes, [and] white-only
25 primaries ... cut black voter rolls in Texas from over 100,000 to just a few thousand.”
26 Doc. 28-2, Ex. E at 150:22–25. According to Assembly member González, “[t]his is about
27 whether a Latino child in Texas, a black family in Florida, or an immigrant community in
28 California has a voice in their own democracy.” Doc. 28-2, Ex. C at 40:2–5.

1 Assemblyman Mike Gipson spoke similarly: “It’s about the next generation that we may
2 not even have any black people serving in office to have representation. It’s about 10
3 African American members of Congress that could be wiped away in Congress if we don’t
4 stand up and be counted.” *Id.* at 53:12–17. The Proposition 50 map therefore would serve
5 as a “shield” to combat “racist maps” elsewhere. *Id.* at 40:9–11 (González); *see also id.*
6 at 39:21–22 (González) (“If Florida wants to silence voters of color, we will not sit
7 quietly.”).

8 State Senator and Senate President pro Tempore Mike McGuire echoed Mitchell’s
9 desire to increase Latino voting strength. In a press release, he boasted that the Proposition
10 50 map would “retain[] and expand[] Voting Rights Act districts that empower Latino
11 voters to elect their candidates of choice.” Legislative Democrats Announce Plan
12 Empowering Voters to Protect California (Aug. 19, 2025), <https://tinyurl.com/4ppfwns6>.

13 On November 4, California’s voters passed Proposition 50. On November 5, the
14 California Republican Party and several California residents (collectively, “Plaintiffs”)
15 filed this lawsuit challenging the new map under the Fourteenth and Fifteenth
16 Amendments.

17 Statistical evidence suggests that Mitchell, McGuire, and the legislators were
18 successful in their efforts to increase Latino voting power. A detailed study concluded
19 that “the proposed Proposition 50 map [would] further increase Latino voting power over
20 the current Commission map” and “likely increase Latino voting power, given its creation
21 of two new Latino community influence districts and the expansion of the Latino
22 electorate in other districts.” Dr. Raquel Centeno & Dr. Jarred Cuellar, *Latino Voters and*
23 *the November 2025 Special Election: Redistricting and Representation* at 1,
24 <https://tinyurl.com/5pjj9x7r> (emphasis omitted) [hereinafter Centeno & Cuellar Report];
25 *see id.* at 9–10 (explaining how Latino voting power was increased in districts that were
26 majority-Latino under the prior map by shifting Latino voters across district lines). The
27 study further explained that District 13, in the Central Valley between San Jose and Fresno,
28 “increases from 50.2% Latino CVAP” (citizen voting-age population) “to about 54%

1 Latino CVAP ... allowing greater opportunity for Latino voters to choose the winning
2 candidate.” *Id.* at 12.

3 Plaintiffs’ expert Sean Trende also determined that District 13 increases Hispanic
4 voting power. Trende’s report concludes that the new map’s “boundaries between districts
5 5, 9 and 13 [near Los Angeles] appear to have been crafted to enhance the Hispanic Voting
6 Age Population and Hispanic Citizen Voting Age Population in the district.” Doc. 16-5,
7 at 3. According to Trende, the District’s “twisted shapes cannot be explained by traditional
8 redistricting principles, nor can they be explained by politics. Race predominated in these
9 lines.” *Ibid.*

10 II. ARGUMENT

11 When deciding whether to issue a preliminary injunction, courts consider four
12 factors: whether the requesting party has shown “[1] that he is likely to succeed on the
13 merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief,
14 [3] that the balance of equities tips in his favor, and [4] that an injunction is in the public
15 interest.” *Environmental Prot. Info. Ctr. v. Carlson*, 968 F.3d 985, 989 (9th Cir. 2020)
16 (quoting *Winter v. Natural Res. Def. Council*, 555 U.S. 7, 20 (2008)).

17 A. The United States is Likely to Succeed on the Merits

18 “Likelihood of success on the merits is a threshold inquiry and is the most important
19 factor.” *Environmental Prot. Info. Ctr.*, 968 F.3d at 989. At the threshold, the United
20 States has standing to vindicate its own sovereign interests in this case. It is “beyond
21 doubt” that the United States suffers “an injury to ... its sovereignty” when a State violates
22 federal law, *Vermont Agency of Nat. Res. v. United States ex rel. Stevens*, 529 U.S. 765,
23 771 (2000), including the United States Constitution, *see Pasadena City Bd. of Educ. v.*
24 *Spangler*, 427 U.S. 424, 430-431 (1976). There is similarly no “doubt[]” that “the United
25 States” may “represent[its’ citizens] as *parens patriae*” to “enforce their [federal] rights”
26 in court, *Massachusetts v. Mellon*, 262 U.S. 447, 485-486 (1923) (emphasis added),
27 including the sacred right to vote, *see United States v. Raines*, 362 U.S. 17, 27 (1960).
28 Additionally, the United States, as plaintiff-intervenor, seeks the exact same relief as the

1 original plaintiffs. When the United States intervenes in an equal-protection case under
2 Section 902 of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000h-2, it, at a
3 minimum, has standing to seek the same relief as the original plaintiffs. *See L.W. ex rel.*
4 *Williams v. Skrmetti*, No. 3:23-cv-00376, 2023 WL 3513302, at *1–3 (M.D. Tenn. May
5 16, 2023).

6 Proposition 50 constitutes a racial gerrymander in violation of the Fourteenth
7 Amendment’s Equal Protection Clause and the VRA. An equal-protection claim that a
8 redistricting map unlawfully uses “race-based lines ... call[s] for a two-step analysis.”
9 *Cooper v. Harris*, 581 U.S. 285, 291 (2017). “First, the plaintiff must prove that ‘race was
10 the predominant factor motivating the legislature’s decision to place a significant number
11 of voters within or without a particular district.” *Ibid.* (quoting *Miller v. Johnson*, 515
12 U.S. 900, 916 (1995)). “Second, if racial considerations predominated over others,” then
13 the burden shifts to the State to satisfy “strict scrutiny.” *Id.* at 292. Because race
14 predominated in drawing the Proposition 50 map, and California cannot satisfy strict
15 scrutiny, the United States is likely to prevail on its equal-protection claim.

16 The VRA likewise prohibits intentionally dividing voters up by race. *Democratic*
17 *Nat’l Comm. v. Hobbs*, 948 F.3d 989, 1037-1038 (9th Cir. 2020) (en banc), *rev’d on other*
18 *grounds sub nom. Brnovich v. Democratic Nat’l Comm.*, 594 U.S. 647 (2021). Although
19 a plaintiff “need not prove a discriminatory purpose ... to establish a violation” of the
20 VRA, “intent” to discriminate is sufficient to establish a violation. *Chisom v. Roemer*, 501
21 U.S. 380, 394 n.21 (1991) (citation omitted); *see Allen v. Milligan*, 599 U.S. 1, 11 (2023)
22 (“The Fifteenth Amendment—and thus § 2—prohibits States from acting with a ‘racially
23 discriminatory motivation’ or an ‘invidious purpose’ to discriminate.” (citation omitted)).
24 Because the same showing of intentional racial discrimination that is “sufficient to
25 constitute a violation of the fourteenth amendment” “is sufficient to constitute a violation
26 of section 2,” *McMillan v. Escambia Cnty.*, 748 F.2d 1037, 1046 (5th Cir. 1984), the
27 United States addresses jointly the equal-protection and VRA claims in discussing why
28

1 race was a predominant factor in the drawing of the Proposition 50 map.³

2 One slight distinction between the two claims is that, for the VRA, once an intent
3 to discriminate is shown, “the burden shifts to the [State] to demonstrate that the [map]
4 would have been enacted without this factor.” *Hobbs*, 948 F.3d at 1038 (quoting *Hunter*
5 *v. Underwood*, 471 U.S. 222, 228 (1985)). Trende’s analysis shows that, had California
6 not taken race into account and focused primarily on partisan goals (its purported mission),
7 it would have enacted a different map. p. 6, *supra*; see also Doc. 16-5.

8 **1. Race Predominated in Drawing the Proposition 50 Map**

9 Race is the predominant factor when the legislature has “‘subordinated’ other
10 factors—compactness, respect for political subdivisions, partisan advantage, [etc.]—to
11 ‘racial considerations.’” *Cooper*, 581 U.S. at 291 (quoting *Miller*, 515 U.S. at 916).
12 Importantly, nothing changes if race is “use[d] . . . as a proxy” to advance political goals.
13 *Id.* at 291 n.1 (citing *Bush v. Vera*, 517 U.S. 952, 968-970 (1996) (plurality opinion);
14 *Miller*, 515 U.S. at 914). A plaintiff may rely on “‘direct evidence’ of legislative intent,
15 ‘circumstantial evidence of a district’s shape and demographics,’ or a mix of both.” *Id.* at
16 291 (quoting *Miller*, 515 U.S. at 916).

17 In a presentation to HOPE, Mitchell, the author of the Proposition 50 map, left no
18 doubt that race was at the forefront of his mind when creating certain districts. *See Cooper*,
19 581 U.S. at 299 (focusing on evidence that “the State’s mapmakers . . . established a racial
20 target”). The “number one thing that [he] first started thinking about” when creating the
21 map was “drawing a replacement Latino majority/minority district in the middle of Los
22 Angeles.” Doc. 28-2, Ex. B at 23:24–24:5. Stated differently, the “first thing” he and his
23 team did in “drawing the new map” was to “reverse[]” a move by the CCRC that had
24 eliminated a prior “Latino district from LA” and “put that district back.” *Id.* at 25:6–14;
25 see also pp. 3-4, *supra*.

26
27 ³ Notably, though plaintiffs in an equal-protection challenge must show that “race
28 was *the predominant* factor motivating the legislature’s decision,” *Miller*, 515 U.S. at 916,
plaintiffs in a VRA challenge need only show that race was “*a motivating factor*,” *Hobbs*,
948 F.3d at 1038 (citation omitted; emphasis altered).

1 Mitchell's racial aims went beyond resurrecting a Latino-majority district
2 eliminated by California's independent and nonpartisan redistricting commission. He told
3 HOPE that the "[t]he Prop. 50 maps [would] be great for the Latino community in ... that
4 they [would] ensure that the Latino districts that are the VRA seats are *bolstered* in order
5 to make them *most* effective, particularly in the Central Valley." Doc. 28-2, Ex. B at 30:6–
6 11 (emphasis added). Mitchell also emphasized in the same presentation to HOPE that he
7 had redrawn another district to create a "Latino-influenced district at 35 percent Latino by
8 voting age population." *Id.* at 24:25–25:5.

9 When California legislators considered Proposition 50, race also played a
10 predominant role in their discussions. *See Cooper*, 581 U.S. at 299–300 (examining
11 statements made in legislative debate). Legislators viewed the Proposition 50 map as
12 necessary to protect racial minorities' political power against perceived threats posed by
13 other states' maps. pp. 4-5, *supra*. Analyses of the resulting map confirm that race
14 predominated. *See Cooper*, 581 U.S. at 291 (explaining that "circumstantial evidence"
15 that race predominated may include "a district's shape and demographics" (citation
16 omitted)). The Public Policy Institute of California (PPIC) concluded that "the proposed
17 plan matche[d]" the pre-existing map in terms of compliance with the VRA "almost
18 exactly" but "add[ed] one more Latino influence district." PPIC, *How Would the Prop 50*
19 *Redistricting Plan Affect Racial and Geographic Representation?* (Oct. 8, 2025),
20 <https://tinyurl.com/33j8fjwe>; *see* Doc. 28-2, Ex. B 26:22–25 (referencing the PPIC
21 analysis). Drs. Centeno and Cuellar concluded in their own report that "the proposed map
22 [would] likely increase Latino voting power, given its creation of two new Latino
23 community influence districts and the expansion of the Latino electorate in other districts."
24 Centeno & Cuellar Report 1 (emphasis omitted).

25 The subordination of other districting criteria to considerations of race is evidenced
26 by District 13. District 13 is made up of parts of five counties: part of San Joaquin County,
27 southwestern Stanislaus County, all of Merced County, western Madera County, and part
28 of Fresno County. Doc. 16-5, at 20; *see* California State Assembly, Committee on

1 Elections, *Proposed Congressional Map*, <https://tinyurl.com/yfpbj2zv> (last visited Nov.
2 11, 2025).

3 Judged by either total population or citizen voting age population (“CVAP”),
4 District 13 contains a notably higher percentage of Hispanic individuals than the counties
5 within the District. Looking at total population, the 2020 census indicates that three of
6 these counties are majority-Hispanic by total population (Fresno at 53.6%, Madera at
7 60.5%, and Merced at 61.9%). Doc. 16-7, at 28-29 (tbl. 1). In the two other counties,
8 Hispanic individuals are a plurality of the total population (Stanislaus at 48.1% and San
9 Joaquin at 41.8%). *Id.* at 29 (tbl. 1). As drawn, District 13 is made up of 64.8% Latinos.
10 California State Assembly, Committee on Elections, *AB 604 Districts Atlas 3*,
11 <https://tinyurl.com/5fbnr5bh> (last visited Nov. 11, 2025) [hereinafter *AB 604 Districts*
12 *Atlas*]. Looking at CVAP, Hispanic individuals are a majority in one of these counties
13 (Merced at 51.1%), a plurality in two (Fresno at 45.5% and Madera at 46.8%), and a
14 sizable minority in two (San Joaquin at 33.5% and Stanislaus at 39%). Doc. 16-7, at 31
15 (tbl. 3). As drawn, District 13 is made up of 53.8% Latino CVAP. *AB 604 Districts Atlas*
16 3.

17 The borders of District 13 do not make sense as a partisan gerrymander. District 13
18 “bulges out” near Ceres and Modesto—two cities in Stanislaus County—in the northern
19 part of the District, “splits Modesto,” “keeps Ceres intact,” and “captures some areas
20 outside of Ceres.” Doc. 16-5, at 26. The map “leaves a significant Democratic population
21 on the table in Modesto, to the north of the district boundary. In addition, it captures a
22 large Republican population in and around Ceres.” *Ibid.* When one “examine[s the map]
23 from a racial angle, the motivation for the split appears more obvious. Most of the
24 Democratic territory left in Modesto is White. More importantly, the Republican territory
25 captured around Ceres is heavily Hispanic. If partisanship were really the motivating
26 factor for this division, the district would drop some of the Republican areas in Ceres and
27 pick up Democratic areas in Modesto.” *Id.* at 28.

28 Similarly, the “northern split” of District 13, near Stockton—a city in San Joaquin

1 County—“leaves a lot of Democrats on the table. In particular, areas to the west of the
2 District are heavily Democratic, more so than some of the precincts at the District’s
3 northern boundary.” Doc. 16-5, at 31. “What differentiates them is that the portion at the
4 northern end of the district [is] heavily Hispanic, while the areas left out to the west of the
5 district are more heavily White. In other words, this appendage bypasses white
6 Democrats, making the district less compact, to gain Hispanic areas that are less heavily
7 compact. From a [partisan] gerrymandering perspective, this makes little sense.” *Id.* at
8 34.

9 “One, often highly persuasive way to disprove a State’s contention that politics
10 drove a district’s lines is to show that the legislature had the capacity to accomplish all its
11 partisan goals without moving so many members of a minority group into the district.”
12 *Cooper*, 581 U.S. at 317. As shown in Trende’s analysis, at least three alternative maps
13 “demonstrate that it is possible to achieve the political goals of the map”—purportedly to
14 increase Democratic representation in the Congress—“with a more regular configuration
15 that does not target race.” Doc. 16-5, at 37. Indeed, each of these alternative maps show
16 *better* projected Democratic performance than the Proposition 50 map and is more in line
17 with traditional districting principles. *Id.* at 38-42. These alternative designs demonstrate
18 that the Proposition 50 map would have differed but for the predominance of race as a
19 factor, which both shows that the Proposition 50 map violates the VRA, *see Hobbs*, 948
20 F.3d at 1038, and resolves any doubt that Defendants must satisfy strict scrutiny under the
21 Equal Protection Clause, *see Cooper*, 581 U.S. at 292.

22 **2. Defendants cannot satisfy strict scrutiny**

23 Although statutes cannot supply an interest for violating the Constitution, the
24 Supreme Court “has long assumed that one compelling interest is complying with
25 operative provisions of the [VRA].” *Cooper*, 581 U.S. at 292; *see* 52 U.S.C. § 10301, *et*
26 *seq.* Defendants have no plausible claim that the Proposition 50 map was necessary to
27 comply with the VRA.

28 Mitchell explained that he had reviewed a VRA analysis confirming that the 2021

1 map complied with the VRA. Doc. 28-2, Ex. B at 26:14–21. The PPIC analysis, also
2 referenced by Mitchell (*see* p. 9, *supra*), likewise acknowledged that the 2021 map
3 complied with the VRA. Drs. Centeno and Cuellar explained that the 2021 map had
4 already increased Hispanic voting power even before the Proposition 50 map. Centeno &
5 Cuellar Report 1. And a former member of the CCRC explained in California Senate
6 testimony that the CCRC’s work beginning in 2010 had already resulted in “significant
7 changes to the [State] Legislature over the last two Commissions, including the percentage
8 of women in the Legislature doubled, AAPI representation tripled, Black representation
9 nearly doubled, and Latinos increased by 8[] percent.” Doc. 28-2, Ex. D at 47:24–48:4.
10 (Jeanne Raya).

11 Moreover, Hispanic voters in California do not satisfy the third element of the three-
12 part test laid out *Thornburgh v. Gingles*, 478 U.S. 30 (1986) to establish a vote-dilution
13 claim under Section 2 of the VRA. Under *Gingles*, “a ‘minority group’ must be
14 ‘sufficiently large and geographically compact to constitute a majority’ in some
15 reasonably configured legislative district.” *Cooper*, 581 U.S. at 301 (quoting *Gingles*, 478
16 U.S. at 50). “Second, the minority group must be ‘politically cohesive.’” *Id.* at 301-302
17 (quoting *Gingles*, 478 U.S. at 51). “And third, a district’s white majority must ‘vote []
18 sufficiently as a bloc’ to usually ‘defeat the minority’s preferred candidate.’” *Id.* at 302
19 (quoting *Gingles*, 478 U.S. at 51 (alteration in original)).

20 Hispanic individuals are the largest racial group in California. *See* U.S. Census
21 Bureau, California: 2020 Census, <https://tinyurl.com/kc5rknhj> (last visited Nov. 10, 2025).
22 They make up 31.9% of the CVAP, compared to whites’ 43.5% of the CVAP, statewide.
23 Doc. 16-7, at 31 (tbl. 3). And they are “increasingly flexing [their] voting power.”
24 Centeno & Cuellar Report 1. Recent statewide elections show that “Hispanics are not
25 struggling to win these elections.” *Ibid.* In multiple races in the 2018 and 2022 elections,
26 Hispanic Democrats beat white Republicans. *Id.* at 31-32. The margin of victory for
27 Hispanic Democrats in these statewide elections against white Republicans has mirrored
28 the margin of victory for non-Hispanic Democrats against non-Hispanic Republicans. *See*

1 Doc. 28-2 ¶¶ 23-29. This shows that Californians cast their votes based on candidates’
2 political party, not candidates’ race. And an analysis from Plaintiffs’ expert Tom Brunell
3 shows that vote totals for Democratic candidates in California are stable “across all kinds
4 of offices with all kinds of candidates.” Doc. 16-7, at 38. There is no evidence that “white
5 majorit[ies]” in the counties affected by the Proposition 50 map (or anywhere else) “‘vote
6 [] sufficiently as a bloc’ to usually ‘defeat the [Hispanics’] preferred candidate.’” *Cooper*,
7 581 U.S. at 302 (quoting *Gingles*, 478 U.S. at 51 (alteration in original)). Rather,
8 “estimates indicate that majorities of Non-Hispanic Whites, Hispanics, Non-Hispanic
9 Blacks, and Non-Hispanic Asians, all vote Democratic” with “high levels of partisan
10 straight ticket voting.” Doc. 16-7, at 46.

11 As the Supreme Court has stated: “If a State has good reason to think that all the
12 ‘*Gingles* preconditions’ are met, then so too it has good reason to believe that § 2 [of the
13 VRA] requires drawing a majority-minority district. But if not, then not.” *Cooper*, 581
14 U.S. at 302 (citation omitted). California had no good reason to think the VRA required
15 race-based districting in 2025 and accordingly had no good reason to discriminate on the
16 basis of race.

17 **B. Absent an Injunction, the Proposition 50 Map Will Cause Irreparable**
18 **Harm**

19 Irreparable harm is “harm for which there is no adequate legal remedy, such as an
20 award of damages.” *Arizona Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1068 (9th Cir.
21 2014). “[T]he deprivation of constitutional rights ‘unquestionably constitutes irreparable
22 injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*,
23 427 U.S. 347, 373 (1976)). Merely “alleg[ing] constitutional infringement will often alone
24 constitute irreparable harm” where government “classifies by ethnicity.” *Monterey Mech.*
25 *Co. v. Wilson*, 125 F.3d 702, 715 (9th Cir. 1997) (citation omitted).

26 Because the United States is likely to succeed on the merits of its equal-protection
27 and VRA claims, *see* pp. 6-13, *supra*, “it follows inexorably” that it has “carried [its]
28 burden as to irreparable harm.” *Hecox v. Little*, 104 F.4th 1061, 1088 (9th Cir. 2024),

(citation omitted), *cert. granted*, No. 24-38 (oral argument scheduled for Jan. 13, 2026). No ex post monetary damages or other legal remedy can compensate Californians for being forced to vote in a certain district—and denied the opportunity to participate in other congressional elections—on account of their race. *See, e.g., League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014) (“[O]nce the election occurs, there can be no do-over and no redress. The injury to these voters is real and completely irreparable if nothing is done to enjoin this law.”); *Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012) (“A restriction on the fundamental right to vote therefore constitutes irreparable injury.”); *cf. Montana Pub. Int. Rsch. Grp. v. Jacobson*, No. 24-2811, 2024 WL 4023781, at *4 (9th Cir. Sept. 3, 2024) (mem.) (“[D]iscourag[ing] individuals from registering to vote in Montana by threatening criminal penalties for doing so ... carries the risk of irreparable harm.”).

This injury to California voters satisfies the irreparable-harm factor. Whether as plaintiff or intervenor, the United States need only show that “the holding of an upcoming election in a manner that will violate the Voting Rights Act constitutes irreparable harm to voters.” *United States v. Berks Cnty.*, 250 F. Supp. 2d 525, 540–541 (E.D. Pa. 2003) (“The impact of the discouragement of equal participation in the democratic system cannot be redressed by money, or any other remedy, following trial.”); *see also United States v. Village of Port Chester*, 704 F. Supp. 2d 411, 416 (S.D.N.Y. 2010) (irreparable harm from at-large districts in violation of the Voting Rights Act); *United States v. Charleston Cnty.*, 318 F. Supp. 2d 302, 326 (D.S.C. 2002) (same); *cf. United States v. Town of Thornapple*, 143 F.4th 793, 799–800 (7th Cir. 2025) (finding that the United States suffered irreparable harm where a town functionally deprived disabled people of the right to vote, in violation of the Help America Vote Act). Proposition 50 discriminates against American citizens on the basis of race and harms the United States by undermining its overwhelming interest in enforcing the Fourteenth Amendment and the VRA and in protecting Americans from racial discrimination at the ballot box. *See* 42 U.S.C. § 2000h-2; *Raines*, 362 U.S. at 27.

Without a preliminary injunction, starting next month, unlawful racial sorting and

1 uncertainty regarding district boundaries could stunt political involvement, burden
2 candidates with unnecessary expenses, and ultimately affect election outcomes.⁴ The
3 public interest accordingly favors an injunction.

4 **C. The Balance of Equities and the Public Interest Favor an Injunction**

5 “When, like here, the nonmovant is the government,” the third and fourth factors—
6 the balance of equities and public interest— “merge.” *Baird v. Bonta*, 81 F.4th 1036, 1040
7 (9th Cir. 2023) (citation omitted). And “it is always in the public interest to prevent the
8 violation of a party’s constitutional rights.” *Fellowship of Christian Athletes v. San Jose*
9 *Unified Sch. Dist. Bd. of Educ.*, 82 F.4th 664, 695 (9th Cir. 2023) (citation omitted). So
10 “by establishing a likelihood that [a state’s] policy violates the U.S. Constitution, [a
11 plaintiff] . . . also establishe[s] that both the public interest and the balance of the equities
12 favor a preliminary injunction.” *Arizona Dream Act Coal.*, 757 F.3d at 1069. After all,
13 “it would not be equitable or in the public’s interest to allow the state to violate the
14 requirements of federal law, especially when there are no adequate remedies available.”
15 *Ibid.* (quoting *Valle del Sol Inc v. Whiting*, 732 F.3d 1006, 1029 (9th Cir. 2013))
16 (alterations adopted). As already established, the United States is likely to succeed on the
17 merits. *See* pp. 6-13, *supra*. The balance of equities and the public interest therefore favor
18 an injunction too.

19 Moreover, *Purcell v. Gonzalez*, 549 U.S. 1 (2006) (per curiam), does not prohibit
20 preliminary relief. *Purcell* “reflects a bedrock tenet of election law: When an election is
21 close at hand, the rules of the road must be clear and settled.” *Merrill v. Milligan*, 142 S.
22 Ct. 879, 880–881 (2022) (Kavanaugh, J., concurring in grant of applications for stays).
23 That is because “[c]ourt orders affecting elections ... can themselves result in voter
24 confusion and consequent incentive to remain away from the polls.” *Purcell*, 549 U.S. at
25 4-5. The risk of voter confusion “will increase” “[a]s an election draws closer.” *Id.* at 4-
26

27 ⁴ California Secretary of State, Key Dates and Deadlines: *Primary Election—June*
28 *2, 2026*, <https://tinyurl.com/y7dvfdtu> (last visited Nov. 10, 2025); *see also* Cal. Elec. Code
§ 8162(a) (West 2025).

1 6 (declining to “enjoin operation of voter identification procedures just weeks before an
2 election”).

3 “[T]he Supreme Court has never specified precisely what it means to be ‘on the eve
4 of an election’ for *Purcell* purposes.” *League of Women Voters of Fla., Inc. v. Florida*
5 *Sec’y of State*, 32 F.4th 1363, 1371 (11th Cir. 2022) (per curiam) (quoting *Republican*
6 *Nat’l Comm. v. Democratic Nat’l Comm.*, 589 U.S. 423, 424 (2020) (per curiam)). A key
7 consideration is whether intervention would “lead to disruption and to unanticipated and
8 unfair consequences for candidates, political parties, and voters, among others.” *Merrill*,
9 142 S. Ct. at 881 & n.1 (Kavanaugh, J., concurring in grant of applications for stays); *see*
10 *Republican Nat’l Comm.*, 589 U.S. at 424-425 (highlighting the complications in election
11 administration caused by the district court’s order and the necessity to issue further orders
12 to mitigate the complications as “further underscor[ing] the wisdom of the *Purcell*
13 principle”); *American Encore v. Fontes*, 152 F.4th 1097, 1121 (9th Cir. 2025). The Ninth
14 Circuit therefore has explained that “[o]nly ‘under certain circumstances, such as where
15 an impending election is imminent and a State’s election machinery is already in progress’
16 is *Purcell* implicated.” *Ibid.* (quoting *Reynolds v. Sims*, 377 U.S. 533, 585 (1964)).

17 Here, the challenged map was approved just over a week ago and was challenged
18 the very next day. The “State’s election machinery is [not yet] in progress.” *American*
19 *Encore*, 152 F.4th at 1121. The United States’ requested relief would require California
20 to return to a map that has represented the status quo for four years. Voting is nearly a
21 year away, so there is minimal risk of voter confusion from immediate preliminary relief.
22 Nor would prompt relief prejudice potential congressional candidates, who did not know
23 until last week that the Proposition 50 map would pass. Because the map was challenged
24 in this Court the very next day, these potential candidates can only have placed relatively
25 minimal reliance on that map since the Special Election.

26 Enjoining California’s new map poses at most a minimal risk of voter confusion.
27 The next congressional election will be held on November 3, 2026, approximately one
28 year from now, so granting the United States’ motion for a preliminary injunction would

1 not impermissibly “alter the election rules on the eve of an election.” *Republican Nat’l*
2 *Comm.*, 589 U.S. at 424.

3 In contrast, leaving the Proposition 50 map in place until a resolution on the merits
4 risks precisely the dangers that the *Purcell* principle is meant to avoid. Because the United
5 States is likely to succeed on the merits, waiting until closer to the 2026 election to do the
6 inevitable—enjoin the use of the new map and require returning to the 2021 map—poses
7 a substantial risk of confusing voters on the eve of the election.

8 The contrary conclusion—that *Purcell* counsels *against* preliminary relief here—
9 would create perverse incentives for States. California created a new electoral map the
10 month before individuals could begin qualifying as candidates for the next election.
11 Plaintiffs filed suit the next day (Doc. 1), and the United States filed suit just over one
12 week after that. Were the Court to determine that litigation, which began the day after the
13 Special Election, resulting in an injunction concerning the results of the Special Election
14 was too close in time to the 2026 election to be entered, it would necessarily mean that the
15 results of the Special Election itself should not implemented under the same legal
16 framework for the 2026 election. “[R]elying on a standalone *Purcell* principle to leave
17 maps in place under circumstances like this permits legislatures to insulate themselves
18 from judicial review—and subvert federal courts’ role in ensuring that states comply with
19 the Voting Rights Act—by waiting until the last minute to enact new maps. We cannot
20 let one of our country’s most important pieces of civil rights legislation be nullified by
21 clever timing.” *Pierce v. North Carolina State Bd. of Elections*, 97 F.4th 194, 248 (4th
22 Cir. 2024) (Gregory, J., dissenting).

23 CONCLUSION

24 For the foregoing reasons, the Court should grant the United States’ motion for a
25 preliminary injunction.

26
27
28 DATED: November 13, 2025

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CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for the United States of America certifies that this brief contains 6,094 words, which complies with the word limit of L.R. 11-6.1.

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