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UNITED STATES OF AMERICA

**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.*,

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

**UNITED STATES' REPLY TO  
OPPOSITION OF INTERVENOR-  
DEFENDANT DCCC TO MOTION  
FOR PRELIMINARY INJUNCTION**

Hon. Josephine L. Staton  
Hon. Wesley L. Hsu  
Hon. Kenneth K. Lee

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

*Defendants,*

Hearing Date: December 15, 2025

Time: 9 a.m.

Courtroom: One

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## **INTRODUCTION**

Defendant-Intervenor Democratic Congressional Campaign Committee’s (“DCCC”) response to Plaintiffs’ and Plaintiff-Intervenor’s motions for a preliminary injunction emphasizes Plaintiffs’ concession that the California legislature and voters demonstrated partisan intent in enacting AB 604 and amending the California constitution through Proposition 50. This is true, in part. But this does not doom Plaintiffs’ and Plaintiff-Intervenor’s claims under Section 2 of the Voting Rights and the Equal Protection Clause.

Under *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252, 266-68 (1977), plaintiffs must show that race was a motivating factor for the challenged governmental action. They do not have to show “that the challenged action rested solely on racially discriminatory purposes” or even that the discriminatory purpose “was the ‘dominant’ or ‘primary’ one.” *Id.* at 265; *see also Allen v. Milligan*, 599 U.S. 1, 37 (2023) (rejecting the contention that plaintiffs must show that a challenged districting plan “rested *solely* on racially discriminatory purpose” (quoting *Arlington Heights*, 429 U.S. at 265)). Here, the California legislature prioritized race-based redistricting in what was also a partially partisan-motivated gerrymander.

The DCCC disregards this reality, incorrectly alleges that Plaintiffs and Plaintiff-Intervenor failed to engage in a “district-by-district” analysis of the race-based map, DCCC Opp. 14, and asks the Court to ignore the direct evidence of intentional race-based map drawing—including statements of race-based intent by the AB 604 mapmaker, Paul Mitchell. DCCC Opp. 15-18. Neither argument holds water. First, expert analysis of the statewide redistricting plan demonstrates that the new map bears all the hallmarks of a racial gerrymander when the districts are viewed together. Second, the United States and Plaintiffs do analyze particular districts, including District 13, that demonstrate race-based elements.

1 The DCCC’s reliance on the recent *LULAC v. Abbott* decision, 2025 WL 3215715  
2 (W.D. Tex. Nov. 18, 2025), is likewise erroneous. That decision—which the Supreme  
3 Court stayed, No. 25A608, 2025 WL 3484863 (U.S. Dec. 4, 2025)—does not conflict with  
4 the United States’ claims here. The Supreme Court’s opinion in *Abbott* followed a lengthy  
5 hearing before a three-judge panel, followed by the entry of a preliminary injunction, *see*  
6 *LULAC v. Abbott*, 2025 WL 3215715 at \*69. The conclusions drawn by the Supreme  
7 Court were thus made with the benefit of evidence provided to the Texas three-judge  
8 panel. That has yet to happen in this case, and the Court does not yet have the benefit of  
9 the evidence of racial bias in the creation of the map in AB 604. Moreover, as the Supreme  
10 Court noted in *Abbott*, the central flaw in the challenge to the Texas redistricting was the  
11 lack of an alternate map. *Abbott*, 2025 WL 3484863 at \*3. Plaintiffs’ expert has created  
12 an alternate map. Finally, the timing concerns noted by Defendants can still be avoided in  
13 this case unlike in Texas should this Court enter an injunction by December 18. *See* Doc.  
14 113-2 at 7.

15 As Defendants concede, *see* Def. Opp. 12, n.7, the Ninth Circuit has adopted “a  
16 sliding scale variant of the *Winter* test—under which a party is entitled to a preliminary  
17 injunction if it demonstrates (1) serious questions going to the merits, (2) a likelihood of  
18 irreparable injury, (3) a balance of hardships that tips sharply towards the plaintiff, and (4)  
19 the injunction is in the public interest.” *Flathead-Lolo-Bitterroot Citizen Task Force v.*  
20 *Montana*, 98 F.4th 1180, 1190 (9th Cir. 2024) (quotation marks omitted). “[T]he serious  
21 questions standard is ‘a lesser showing than likelihood of success on the merits,’” *id.*, a  
22 burden that the United States has met. “Any racial discrimination in voting is too much,”  
23 *Shelby County v. Holder*, 570 U.S. 529, 557 (2013), and “[t]he federal interest in  
24 protecting voting rights is a serious one,” *Harris v. Ariz. Indep. Redistricting Comm’n*,  
25 993 F. Supp. 2d 1042, 1071 (D. Ariz. 2014); *see also* *Badham v. U.S. Dist. Ct. for N. Dist.*  
26 *of Cal.*, 721 F.2d 1170, 1173 (9th Cir. 1983) (“The right to vote is fundamental ‘because  
27 it is preservative of all rights.’” (alteration adopted and citation omitted)). Likewise, the  
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1 right to be free from discrimination on the basis of race is a vital constitutional right: “At  
2 the heart of the Constitution’s guarantee of equal protection lies the simple command that  
3 the Government must treat citizens as individuals, not as simply components of a racial,  
4 religious, sexual or national class.” *Miller v. Johnson*, 515 U.S. 900, 911 (1995) (internal  
5 quotation marks and citation omitted). The Proposition 50 map, including District 13, was  
6 purposefully drawn, using race-based considerations, to bolster Latino voting power in  
7 California politics, thereby diminishing the political power of all other races.

8 **A. DCCC Misconstrues Plaintiff-Intervenor’s Claim**

9 According to DCCC, Plaintiffs and the United States “must prove ‘the legislature  
10 subordinated traditional race-neutral districting principles, including but not limited to  
11 compactness, contiguity, and respect for political subdivisions or communities defined by  
12 actual shared interests, to racial considerations,’” DCCC Opp. 13 (citing *Miller*, 515 U.S.  
13 at 916), and “must make this showing as to *each* ‘individual district’ they challenge, rather  
14 than ‘with respect to the State as an undifferentiated whole.’” DCCC Opp. 13-14  
15 (citing *Alabama Legis. Black Caucus v. Alabama*, 575 U.S. 254, 262, (2015)). But DCCC  
16 misconstrues the United States’ claims. The United States is not alleging that California  
17 has *accidentally* enacted a map that improperly concentrates or dilutes voters of a  
18 particular demographic or race and thus violates the Voting Rights Act. Its claims are  
19 based on intentional discrimination by the California legislature, as evidenced by the  
20 statements of the mapmaker and the legislators who enacted AB 604. The AB 604 map  
21 drawing and enactment process, later ratified by a citizen vote in Proposition 50, was  
22 imbued with invidious race-based considerations from the beginning. The mapmaker, Paul  
23 Mitchell, intended—in violation of Section 2 of the Voting Rights Act and the Equal  
24 Protection Clause—to increase Latino voting power statewide. There is ample evidence  
25 that the redistricting process began with, and was predominated by, race-based  
26 considerations.

1 In fact, *Miller v. Johnson* is inapposite to the DCCC’s argument. In *Miller*, Georgia  
2 residents brought an Equal Protection Clause action challenging the constitutionality of  
3 redistricting legislation and sought an injunction against its further use in congressional  
4 elections. *Miller*, 515 U.S. at 905-10. The Supreme Court held that allegations of a  
5 “bizarre shape” were not a threshold requirement for a claim of racial gerrymandering, *id.*  
6 at 915, and that an allegation that race was the legislature’s rationale in drawing district  
7 lines was sufficient to state a claim, *id.* at 917. “In sum,” the Court “ma[de] clear that  
8 parties alleging that a State has assigned voters on the basis of race are neither confined  
9 in their proof to evidence regarding the district’s geometry and makeup nor required to  
10 make a threshold showing of bizarreness.” *Id.* at 915. In *Miller*, the Georgia General  
11 assembly redrew districts in Georgia, in part, for race-based purposes. As the Court noted:  
12 “the General Assembly set out to create three majority-minority districts to gain  
13 preclearance.” *Id.* at 907.

14 Here, racial motivation is similarly easy to spot. State Senator and Senate President  
15 pro Tempore Mike McGuire expressed the same desire articulated in *Miller* with regard  
16 to the Voting Rights Act: to “retain[] and expand[] Voting Rights Act districts that  
17 empower Latino voters to elect their candidates of choice.” Legislative Democrats  
18 Announce Plan Empowering Voters to Protect California (Aug. 19, 2025),  
19 <https://tinyurl.com/4ppfwns6>. Mitchell discussed the new map during a presentation with  
20 advocacy group Hispanas Organized for Political Equality (“HOPE”), a self-described  
21 “nonprofit, nonpartisan organization committed to ensuring political and economic parity  
22 for Latinas.” HOPE, *About HOPE*, <https://tinyurl.com/4umns8x5> (last visited Nov. 13,  
23 2025). He explained that when asked to draw the new map, he “sent a text to [his] little  
24 chat [to] all [his] Redistricting Partners staff ... And [he] started listing out this concept  
25 of drawing a replacement Latino majority/minority district in the middle of Los Angeles.”  
26 42-3 at 24-25. Indeed, creating this “Latino majority/minority district” “was the *number*  
27 *one thing* [he] first started thinking about.” *Id.* at 23 (emphasis added).

1        *Alabama Legislative Black Caucus* similarly does not support DCCC’s argument  
2 that Plaintiffs have failed to show legislative intent to redistrict using race-based  
3 prerogatives. There, the Supreme Court reiterated the well-founded principle that “a claim  
4 of racial gerrymandering [is] a claim that race was improperly used in the drawing of the  
5 boundaries of one or more *specific electoral districts*.” *See Ala. Legis. Black Caucus*, 575  
6 U.S. at 262-63. The United States maintains that the voting districts drawn by Mitchell  
7 and enacted by California voters in AB 604 were drawn with an impermissible race-based  
8 purpose. Indeed, Plaintiffs’ expert Sean Trende determined that District 13 increases  
9 Hispanic voting power, precisely as Mitchell intended. Doc. 16-5 at 3. His report  
10 concludes that the new map’s “boundaries between districts 5, 9 and 13 appear to have  
11 been crafted to enhance the Hispanic Voting Age Population and Hispanic Citizen Voting  
12 Age Population in the district.” Doc. 16-5, at 3. According to Trende, District 13’s  
13 “twisted shapes cannot be explained by traditional redistricting principles, nor can they be  
14 explained by politics. Race predominated in these lines.” *Id.*

15        By intentionally expanding Latino voting power, California has diminished the  
16 voting power and opportunity of other demographic groups and violated both the Voting  
17 Rights Act and the Equal Protection Clause. Even if California had no animus towards  
18 other races when in racially discriminating in favor of Latinos, the Proposition 50 map  
19 remains an illegal racial gerrymander. Supposedly “benign” racial classifications are held  
20 to the same strict scrutiny as “invidious” ones. *Adarand Constructions, Inc. v. Pena*, 515  
21 U.S. 200, 229-30 (1995). That is because in “zero-sum” contexts such as electoral politics,  
22 a “benefit provided to some” racial groups “but not to others necessarily advantages the  
23 former group at the expense of the latter.” *Students for Fair Admissions, Inc. v. President*  
24 *and Fellows of Harvard College*, 600 U.S. 181, 218-19 (2023). There is no “special  
25 category of ‘benign’ racial classification” when voting rights are at stake. *Shaw v. Reno*,  
26 509 U.S. 630, 653 (1993). California’s “benign” discrimination in favor of Latinos has  
27 resulted in a corresponding decrease in the political power of other racial groups.  
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**B. Mitchell's Intent is Relevant to the United States' Claims**

Unable to rebut the evidence that Mitchell improperly used race when drawing the new map, the DCCC seeks to exclude him as a witness altogether.<sup>1</sup> DCCC claims that the “the bulk of [Plaintiffs’] so-called ‘direct evidence’ of racial gerrymandering comes from an individual—independent mapmaker Paul Mitchell—who the complaint admits was not directed by the Legislature.” DCCC Op. 2. “As a matter of law,” DCCC continues, “Movants cannot impute his alleged motivations to the Legislature.” *Id.* (citing *Abbott v. Perez*, 585 U.S. 579, 603 (2018)).

But *Abbott v. Perez* does not stand for the proposition that a mapmaker’s motivations cannot be imputed to the legislature. There, the Court considered the legality of Texas’s 2013 congressional redistricting plan. *Perez*, 585 U.S. at 584-85. The plans were drawn (with some minor modifications) by a three-judge district court in response to a challenge to plans passed by the Texas Legislature in 2011. *See id.* The plaintiffs alleged, and the three-judge panel agreed, that Texas had failed to completely remove the discriminatory taint from their 2011 plans by simply repealing them and enacting the map drawn by the court. *See id.* The Supreme Court held “the 2013 Legislature was not obligated to show that it had ‘cured’ the unlawful intent that the court attributed to

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<sup>1</sup> DCCC’s allegations that Mitchell was “independent” are at direct odds with Mitchell’s attempt to assert legislative privilege over his communications with California legislators. *See App. A. Corresp. from Kimon Manolius re: Mitchell Resp. and Obj. to Non-Party* at 1. At 1:17 a.m. PST on December 10, 2025, on the day of his deposition, Mitchell’s counsel notified Plaintiffs that he would be objecting to “to deposition inquiries that relate to the mapping work Mr. Mitchell undertook after July 2, the first date he was in conversation with the legislature about drawing the map that would become the Proposition 50 map.” *Id.* Specifically, he objects to requesting discovery from Mitchell because: “it would reveal legislators’ deliberations and/or information relied on by legislators within the legislative process and as such is protected by the legislative and/or deliberative process privileges.” *Id.* at 6. Defendants cannot have it both ways; Mitchell is either independent, or he is not.



1 the 2011 Legislature.” *Id.* Texas could not be held to have invidious intent when it adopted  
2 the court-drawn plans, because “the Texas court had adopted those plans, and no one  
3 would claim that the court acted with invidious intent when it did so.” *Id.* at 610.

4 *Abbott* is simply inapposite here. The maps adopted by California in AB 604 do not  
5 materially differ from the maps drawn by Paul Mitchell.<sup>2</sup> Courts routinely consider the  
6 factors used by the mapmaker in assessing whether race predominated over other  
7 redistricting criteria in the map adopted by the legislature. *See, e.g., Alexander v. South*  
8 *Carolina State Conf. of the NAACP*, 602 U.S. 1, 22-23 (2024); *Cooper v. Harris*, 581 U.S.  
9 285, 299 (2017). In this case, based on the lack of changes from the legislature to the maps  
10 drawn by Mitchell, his intent is the best evidence available.<sup>3</sup>

11 **C. *LULAC v. Abbott* Does Not Undermine the United States’ Claims**

12 The recent district court opinion in *LULAC v. Abbott*, 2025 WL 3215715, does not  
13 undermine the United States’ claims. That decision, of course, was stayed by the Supreme  
14 Court, which faulted the district court for its “serious errors.” *Abbott v. League of United*  
15 *Latin American Citizens*, No. 25A608, 2025 WL 3484863, at \*1 (U.S. Dec. 4, 2025).

16 The Supreme Court’s stay notwithstanding, it is simply false that “Movants’  
17 evidence pales in comparison to *LULAC*.” DCCC Opp. 29. The *LULAC* plaintiffs provided  
18 scant “direct and detailed evidence of race discrimination” by the Texas Legislature. *Id.*  
19 at 30. Much of their so-called “evidence” consisted of statements by Governor Abbott,  
20 whose intent was irrelevant because he neither drew Texas’s map nor voted to adopt it.  
21 *Id.*; *Cooper*, 581 U.S. at 299 (finding a racial gerrymander by examining evidence from  
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23 <sup>2</sup> Mitchell testified to this at his deposition on December 10, 2025. The United States  
24 will supplement this brief with the deposition transcript when it is available.

25 <sup>3</sup> While Defendants and Defendant-Intervenors combined have designated four  
26 expert witnesses in this case, not one has personal knowledge of Mitchell’s intent and  
27 processes when drafting the Proposition 50 map. *See App. B Deposition of Grofman* at  
28 34:10-25; *App. C Deposition of Palmer* at 19:20-20:21; *App. D Deposition of Rodden* at  
14:16-18; *App. E Deposition of Fairfax* at 101:14-22.

1 the “State’s mapmakers”). The *LULAC* plaintiffs did cite *some* allegedly race-motivated  
2 statements by Texas legislators—just as Plaintiffs and Plaintiff-Intervenor have evidence  
3 that certain California legislators, including Senate President pro Tempore Mike McGuire,  
4 were motivated by race when voting in favor of AB 604. *Compare* DCCC Opp. 29 (“The  
5 Texas House Speaker described the map’s purpose as ‘to address concerns raised by the  
6 Department of Justice.’”) and *supra* at 4 (Speaker McGuire wanted to “retain[] and  
7 expand[] Voting Rights Act districts that empower Latino voters to elect their candidates  
8 of choice.”).

9 DCCC’s claim that Plaintiffs and Plaintiff-Intervenor, unlike the *LULAC* plaintiffs,  
10 have not “challenged the drawing of specific districts” is likewise categorically false.  
11 DCCC Opp. 29. As discussed repeatedly above, *supra* at 2-3, both Plaintiffs and Plaintiff-  
12 Intervenor have argued that District 13 is an illegal racial gerrymander.

13 As a final matter, *Purcell v. Gonzalez*, 549 U.S. 1 (2006), poses no obstacles to the  
14 issuance of an injunction. *Purcell* instructs “that federal courts ordinarily should not alter  
15 state election laws in the period close to an election.” *Democratic Nat’l Comm. v. Wis.*  
16 *State Legislature*, 141 S. Ct. 28, 30 (Kavanaugh, J., concurring in denial of application to  
17 vacate stay). The congressional elections are approximately eleven months in the future,  
18 and no processes relating to the elections begin until December 19—the date candidates  
19 may begin collecting signatures. *See* Doc. 113-2 at 6. Accordingly, an injunction would  
20 present minimal risks of the “voter confusion and consequent incentive to remain away  
21 from the polls” that *Purcell* sought to prevent. *Purcell*, 549 U.S. at 4-5.

22 DCCC raises no other new arguments not raised by Defendants or Defendant-  
23 Intervenor LULAC. Accordingly, Plaintiff-Intervenor refers the Court to, and incorporates  
24 the United States’ Reply to Defendants Opposition, Doc. 140, and United States’ Reply  
25 to LULAC Opposition, Doc. 141.

**CONCLUSION**

For the foregoing reasons and those in the United States' memorandum in support of its motion for a preliminary injunction, the Court should grant the United States' motion.

DATED: December 10, 2025

Respectfully submitted:

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

**CERTIFICATE OF COMPLIANCE**

The undersigned, counsel of record for the United States of America certifies that this brief contains 2732 words, which complies with the word limit required by the court.

Dated: December 10, 2025

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