

[ORAL ARGUMENT NOT YET SCHEDULED]

No. 23-5140

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

CITIZENS FOR CONSTITUTIONAL INTEGRITY,

Plaintiff-Appellant,

v.

THE CENSUS BUREAU, *et al.*,

Defendants-Appellees.

On Appeal from the United States District Court
for the District of Columbia

No. 1:21-cv-3045-CJN-JRW-FYP

The Honorable Judges Justin R. Walker, Florence Y. Pan, and
Carl J. Nichols

APPENDIX

JARED S. PETTINATO
THE PETTINATO FIRM
3416 13th St. NW, #1
Washington, DC 20010
(406) 314-3247
Jared@JaredPettinato.com

TABLE OF CONTENTS

ECF Number	Document Name	Appendix Page Number
	Docket Report	App-1
1-2	Letter from Ron S. Jarmin, Acting Director, Census Bureau, to Jared Pettinato (Oct. 1, 2021)	App-11
14-3	Table I, Population of the United States, U.S. Department of the Interior (1870)	App-13
14-20	Press Release, Census Bureau, 2020 Presidential Election Voting and Registration Tables Now Available (Apr. 29, 2021)	App-21
14-21	Press Release, Census Bureau, U.S. Census Bureau Today Delivers State Population Totals for Congressional Apportionment (Apr. 26, 2021)	App-24
14-22	Sarah Banks Declaration	App-35
14-23	Androniki Lagos Declaration	App-39
20-3	Ayush Sharma Declaration	App-43
20-4	Table 1. Apportionment Population and Number of Representatives by State: 2020 Census, Census Bureau (Apr. 26, 2021)	App-55
20-5	Priority Values for 2020 Census Apportionment, Census Bureau (Apr. 26, 2021)	App-57
20-6	Table 4a. Reported Voting and Registration States, Census Bureau (Nov. 2020)	App-67
20-9	Sharma Decl. Ex. 6, Scenario 1 priority values based on the basis-of-representation and compared to the Census Bureau's priority values from Exhibit 2	App-68
20-10	Sharma Decl. Ex. 7, Scenario 2 basis-of-representation value calculations	App-77
20-11	Sharma Decl., Ex. 8, Scenario 2 priority values based on the basis-of-representation	App-80

20-12	Sharma Decl., Ex. 9, Scenario 3 basis-of-representation value calculations	App-89
20-13	Sharma Decl., Ex. 10, Scenario 3 priority values based on the basis-of-representation	App-92
20-14	Sharma Decl., Ex. 11, Scenario 5 priority values based on the basis-of-representation	App-101
20-16	Sharma Decl., Ex. 13, Scenario 4 basis-of-representation value calculations	App-111
20-17	Sharma Decl., Ex. 14, Scenario 4 priority values based on the basis-of-representation	App-114
26-1	Kristin Keeling Declaration	App-124
33	Second Amended Complaint	App-125
36	Order	App-150
37	Memorandum Opinion	App-151
38	Plaintiff's Notice of Appeal	App-163
40-1	Letter from Gina Raimondo, Secretary of Commerce, to the President (Apr. 26, 2021) and Apportionment Population and Number of Representatives by State: 2020 Census	App-165
	Transcript of Oral Argument Before U.S. Circuit Judges Justin Walker and Florence Pan and U.S. District Judge Carl J. Nichols (Dec. 19, 2022)	App-167

3JUD-PANEL,APPEAL,CLOSED,TYPE-L

U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:21-cv-03045-CJN-JRW-FYP

CITIZENS FOR CONSTITUTIONAL INTEGRITY v. CENSUS
BUREAU et al

Panel: Judge Carl J. Nichols

Circuit Judge Justin R. Walker

Circuit Judge Florence Y. Pan

Case in other court: USCA, 23-05140

Cause: 05:551 Administrative Procedure Act

Date Filed: 11/17/2021

Date Terminated: 04/18/2023

Jury Demand: None

Nature of Suit: 441 Voting

Jurisdiction: Federal Question

Plaintiff

**CITIZENS FOR CONSTITUTIONAL
INTEGRITY**

represented by **Jared Pettinato**

THE PETTINATO FIRM

3416 13th St. NW, #1

Washington, DC 20010

406-314-3247

Email: jared@jaredpettinato.com

ATTORNEY TO BE NOTICED

V.

Defendant

CENSUS BUREAU

represented by **Alexander V. Sverdlov**

U.S. DEPARTMENT OF JUSTICE

P.O. Box 386

Washington, DC 20044

(202) 308-8550

Email: alexander.v.sverdlov@usdoj.gov

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Stephen Ehrlich

U.S. DEPARTMENT OF JUSTICE

Civil Division, Federal Programs Branch

1100 L Street, NW

Washington, DC 20005

202-305-9803

Email: Stephen.Ehrlich@usdoj.gov

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Defendant

DEPARTMENT OF COMMERCE

represented by **Alexander V. Sverdlov**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Stephen Ehrlich
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant**GINA M. RAIMONDO**

Secretary of Commerce, in her official capacity

represented by **Alexander V. Sverdlov**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Stephen Ehrlich
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant**RON JARMIN**

Acting Census Bureau Director, in his official capacity
TERMINATED: 03/21/2022

represented by **Alexander V. Sverdlov**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Stephen Ehrlich
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant**ROBERT SANTOS**

Census Bureau Director, in his official capacity

represented by **Alexander V. Sverdlov**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Stephen Ehrlich
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/17/2021	<u>1</u>	COMPLAINT against CENSUS BUREAU, THE, DEPARTMENT OF COMMERCE, THE, RON JARMIN, GINA RAIMONDO (Filing fee \$ 402 receipt number ADCDC-8871861) filed by CITIZENS FOR CONSTITUTIONAL INTEGRITY. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Ex. 1: Letter from Ron S. Jarmin, Acting Director of the Census Bureau, to Jared Pettinato, The Pettinato Firm (Oct. 1, 2021), # <u>3</u> Summons to

		the Census Bureau, # 4 Summons to the Department of Commerce, # 5 Summons to Secretary of Commerce Gina Raimondo, # 6 Summons to Acting Census Bureau Director Ron Jarmin)(Pettinato, Jared) (Attachment 1 replaced on 11/17/2021) (adh,). (Entered: 11/17/2021)
11/17/2021	2	LCvR 26.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by CITIZENS FOR CONSTITUTIONAL INTEGRITY (Pettinato, Jared) (Entered: 11/17/2021)
11/17/2021		Case Assigned to Judge Carl J. Nichols. (adh,) (Entered: 11/17/2021)
11/17/2021	3	SUMMONS (4) Issued Electronically as to CENSUS BUREAU, THE, DEPARTMENT OF COMMERCE, THE, RON JARMIN, GINA RAIMONDO. (Attachments: # 1 Notice and Consent)(adh,) (Entered: 11/17/2021)
11/17/2021	4	MOTION to Convene Three-Judge Court <i>and Memorandum of Points and Authorities in Support</i> from Plaintiffs. (Pettinato, Jared) Modified docket event/text on 11/22/2021 (zeg). (Entered: 11/17/2021)
11/19/2021	5	CERTIFICATE OF SERVICE by CITIZENS FOR CONSTITUTIONAL INTEGRITY re 4 Civil Statement, 2 LCvR 26.1 Certificate of Disclosure - Corporate Affiliations/Financial Interests . (Pettinato, Jared) (Entered: 11/19/2021)
11/24/2021	6	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. CENSUS BUREAU served on 11/22/2021 (Attachments: # 1 Census Bureau Certified Mail Receipt, # 2 Census Bureau Certified Mail Tracking, # 3 Attorney General Certified Mail Receipt, # 4 Attorney General Certified Mail Tracking, # 5 U.S. Attorney Certified Mail Receipt, # 6 U.S. Attorney Certified Mail Tracking)(Pettinato, Jared) Modified serve date on 12/6/2021 (zeg). (Entered: 11/24/2021)
11/24/2021	7	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. DEPARTMENT OF COMMERCE served on 11/22/2021 (Attachments: # 1 Department of Commerce Certified Mail Receipt, # 2 Department of Commerce Certified Mail Tracking, # 3 Attorney General Certified Mail Receipt, # 4 Attorney General Certified Mail Tracking, # 5 U.S. Attorney Certified Mail Receipt, # 6 U.S. Attorney Certified Mail Tracking)(Pettinato, Jared) Modified serve date on 12/6/2021 (zeg). (Entered: 11/24/2021)
11/24/2021	8	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. GINA RAIMONDO served on 11/22/2021 (Attachments: # 1 Secretary of Commerce Gina Raimondo Certified Mail Receipt, # 2 Secretary of Commerce Gina Raimondo Certified Mail Tracking, # 3 Attorney General Certified Mail Receipt, # 4 Attorney General Certified Mail Tracking, # 5 U.S. Attorney Certified Mail Receipt, # 6 U.S. Attorney Certified Mail Tracking)(Pettinato, Jared) Modified serve date on 12/6/2021 (zeg). (Entered: 11/24/2021)
11/24/2021	9	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. RON JARMIN served on 11/22/2021 (Attachments: # 1 Acting Census Bureau Director Ron Jarmin Certified Mail Receipt, # 2 Acting Census Bureau Director Ron Jarmin Certified Mail Tracking, # 3 Attorney General Certified Mail Receipt, # 4 Attorney General Certified Mail Tracking, # 5 U.S. Attorney Certified Mail Receipt, # 6 U.S. Attorney Certified Mail Tracking)(Pettinato, Jared) Modified serve date on 12/6/2021 (zeg). (Entered: 11/24/2021)

11/29/2021	10	NOTICE of Appearance by Alexander V. Sverdlov on behalf of All Defendants (Sverdlov, Alexander) (Entered: 11/29/2021)
11/30/2021	11	NOTICE of Appearance by Stephen Ehrlich on behalf of All Defendants (Ehrlich, Stephen) (Entered: 11/30/2021)
12/07/2021	12	RESPONSE re 4 MOTION to Convene Three-Judge Court filed by CENSUS BUREAU, DEPARTMENT OF COMMERCE, RON JARMIN, GINA RAIMONDO. (Sverdlov, Alexander) (Entered: 12/07/2021)
12/13/2021		MINUTE ORDER. Upon review of Plaintiff's 4 Motion for a three-judge panel under 28 U.S.C. § 2284(a) and the Government's 12 Response, it is ORDERED that the Motion is GRANTED. As required under 28 U.S.C. § 2284(b)(1), the Clerk of Court shall, on behalf of this Court, notify the Chief Judge of the U.S. Court of Appeals for the District of Columbia for assignment of this matter to a three-judge district court. Signed by Judge Carl J. Nichols on December 13, 2021. (lccjn2) (Entered: 12/13/2021)
12/16/2021	13	USCA ORDER filed in USCA on December 16, 2021 FOR DESIGNATION OF JUDGES TO SERVE ON THREE-JUDGE DISTRICT COURT; designating Circuit Judge Justin R. Walker and Judge Florence Y. Pan to hear and determine this case. The U.S. Circuit Court Judge to preside over this case. (ztnr) (Entered: 12/16/2021)
01/14/2022	14	MOTION for Summary Judgment by CITIZENS FOR CONSTITUTIONAL INTEGRITY. (Attachments: # 1 Memorandum in Support, # 2 Exhibit Index, # 3 Exhibit A: Census Bureau, Population of the U.S., Table 1 (June 1, 1870), # 4 Exhibit B: Census Office Superintendent Francis A. Walker, Report of the Superintendent of the Ninth Census (Nov. 21, 1871), # 5 Exhibit C: Ayush Sharma Declaration, # 6 Exhibit (C) 1: Census Bureau, Table 1, Apportionment Population and Number of Representatives by State: 2020 Census., # 7 Exhibit (C) 2: Census Bureau, Priority Values for 2020 Census Apportionment, # 8 Exhibit (C) 3: Census Bureau, Table 4a, Reported Voting and Registration for States: November 2020, # 9 Exhibit (C) 4: Census Bureau, Current Population Survey, November 2020, Voting and Registration Supplement, Technical Documentation, # 10 (C) 5: Sentencing Project, Locked Out 2020: Estimates of People Denied Voting Rights Due to a Felony Conviction (Oct. 15, 2020, updated Oct. 30, 2020), # 11 Exhibit (C) 6: Ayush Sharma, Scenario 1 priority values based on the basis-of-representation and compared to the Census Bureaus priority values from Exhibit 2, # 12 Exhibit (C) 7: Ayush Sharma, Scenario 2 basis-of-representation value calculations, # 13 Exhibit (C) 8: Ayush Sharma, Scenario 2 priority values based on the basis-of-representation, # 14 Exhibit (C) 9: Ayush Sharma, Scenario 3 basis-of-representation value calculations, # 15 Exhibit (C) 10: Ayush Sharma, Scenario 3 priority values based on the basis-of-representation, # 16 Exhibit (C) 11: Ayush Sharma, Scenario 5 priority values based on the basis-of-representation, # 17 Exhibit (C) 12: Election Data Services, Final Census Apportionment Counts Surprises Many Observers; Raising Questions of Why? (Apr. 28, 2021), # 18 Exhibit (C) 13: Ayush Sharma, Scenario 4 basis-of-representation value calculations, # 19 Exhibit (C) 14: Ayush Sharma, Scenario 4 priority values based on the basis-of-representation, # 20 Exhibit D: Census Bureau, Press Release, 2020 Presidential Election Voting and Registration Tables Now Available (Apr. 29, 2021), # 21 Exhibit E: Census Bureau, Press Release, U.S. Census Bureau Today Delivers State Population Totals for Congressional Apportionment (Apr. 26, 2021), # 22 Exhibit F: Sarah Banks Declaration, # 23 Exhibit G: Androniki Lagos Declaration, # 24 Exhibit H: Isabel Magnus Declaration, # 25 Exhibit I: Michael Carr Declaration, # 26 Exhibit J: U.S. Commn on Civil Rights, Political Participation (1968), # 27 Exhibit K: NOAH

		WEBSTER ET AL., AM. DICTIONARY OF THE ENGLISH LANGUAGE 6 (Springfield, Mass. G. & C. Merriam 1865))(Pettinato, Jared) (Entered: 01/14/2022)
01/20/2022	15	Joint MOTION for Scheduling Order by CITIZENS FOR CONSTITUTIONAL INTEGRITY. (Attachments: # 1 Text of Proposed Order)(Pettinato, Jared) (Entered: 01/20/2022)
01/25/2022		MINUTE ORDER. Upon review of the 15 Joint Motion for a Scheduling Order, it is ORDERED that the Motion is GRANTED. It is further ORDERED that Defendants' Response to Plaintiff's Motion for Summary Judgment and any Dispositive Motion of their own is due on or before February 25, 2022, Plaintiff's Reply in Support of its Motion for Summary Judgment and in Opposition to Defendants' Dispositive Motion is due on or before April 8, 2022, Defendants' Reply in Support of their Motions is due on or before May 6, 2022, and the Parties shall file (a) four hard copies of a joint appendix that includes their exhibits or other relevant documents, and (b) four hard copies of a single, consolidated, double-sided, spiral bound set of the Parties four briefs on or before May 20, 2022. Signed by Judge Carl J. Nichols on January 25, 2022. (lccjn2) (Entered: 01/25/2022)
01/25/2022		Set/Reset Deadlines: Response to Motion for Summary Judgment due by 2/25/2022. Reply to Motion for Summary Judgment due by 4/8/2022. Dispositive Motions due by 2/25/2022. Response due by 4/8/2022. Reply due by 5/6/2022. Appendix due by 5/20/2022. (zcal) (Entered: 01/26/2022)
02/15/2022	16	Consent MOTION for Extension of Time to <i>Respond to Plaintiff's Complaint and Summary-Judgment Motion</i> by CENSUS BUREAU, DEPARTMENT OF COMMERCE, RON JARMIN, GINA RAIMONDO. (Attachments: # 1 Text of Proposed Order)(Ehrlich, Stephen) (Entered: 02/15/2022)
02/16/2022		MINUTE ORDER. Upon review of 16 Defendants' Motion for an Extension of Time, it is ORDERED that the Motion is GRANTED. Defendants shall respond to Plaintiff's Motion for Summary Judgment and file any Dispositive Motion on or before March 11, 2022. Signed by Judge Carl J. Nichols on February 16, 2022. (lccjn2) (Entered: 02/16/2022)
02/16/2022		Set/Reset Deadlines: Dispositive Motions due by 3/11/2022. Response to Motion for Summary Judgment due by 3/11/2022. (zcal) (Entered: 02/16/2022)
03/11/2022	17	MOTION in Limine <i>and Rule 56(d) Motion</i> by CENSUS BUREAU, DEPARTMENT OF COMMERCE, RON JARMIN, GINA RAIMONDO. (Attachments: # 1 Sverdlov Declaration)(Ehrlich, Stephen) (Entered: 03/11/2022)
03/11/2022	18	MOTION to Dismiss by CENSUS BUREAU, DEPARTMENT OF COMMERCE, RON JARMIN, GINA RAIMONDO. (Attachments: # 1 Text of Proposed Order)(Sverdlov, Alexander) (Entered: 03/11/2022)
03/11/2022	19	RESPONSE re 14 MOTION for Summary Judgment filed by CENSUS BUREAU, DEPARTMENT OF COMMERCE, RON JARMIN, GINA RAIMONDO. (See Docket Entry 17 to view document). (zeg) (Entered: 03/17/2022)
03/21/2022	20	AMENDED COMPLAINT against CENSUS BUREAU, DEPARTMENT OF COMMERCE, RON JARMIN, GINA RAIMONDO, Robert Santos filed by CITIZENS FOR CONSTITUTIONAL INTEGRITY. (Attachments: # 1 Exhibit 1: Letter from Ron S. Jarmin, Acting Director of the Census Bureau, to Jared Pettinato, The Pettinato Firm (Oct. 1, 2021), # 2 Exhibit 2: U.S. Commission on Civil Rights, Political Participation

		(1968), # 3 Exhibit 3: Ayush Sharma Declaration, # 4 Exhibit (3) 1: Census Bureau, Table 1, Apportionment Population and Number of Representatives by State: 2020 Census, # 5 Exhibit (3) 2: Census Bureau, Priority Values for 2020 Census Apportionment, # 6 Exhibit (3) 3: Census Bureau, Table 4a, Reported Voting and Registration for States: November 2020, # 7 Exhibit (3) 4: Census Bureau, Current Population Survey, November 2020, Voting and Registration Supplement, Technical Documentation, # 8 Exhibit (3) 5: Sentencing Project, Locked Out 2020: Estimates of People Denied Voting Rights Due to a Felony Conviction (Oct. 15, 2020, updated Oct. 30, 2020), # 9 Exhibit (3) 6: Ayush Sharma, Scenario 1 priority values based on the basis-of-representation and compared to the Census Bureaus priority values from Exhibit 2, # 10 Exhibit (3) 7: Ayush Sharma, Scenario 2 basis-of-representation value calculations, # 11 Exhibit (3) 8: Ayush Sharma, Scenario 2 priority values based on the basis-of-representation, # 12 Exhibit (3) 9: Ayush Sharma, Scenario 3 basis-of-representation value calculations, # 13 Exhibit (3) 10: Ayush Sharma, Scenario 3 priority values based on the basis-of-representation, # 14 Exhibit (3) 11: Ayush Sharma, Scenario 5 priority values based on the basis-of-representation, # 15 Exhibit (3) 12: Election Data Services, Final Census Apportionment Counts Surprises Many Observers; Raising Questions of Why? (Apr. 28, 2021), # 16 Exhibit (3) 13: Ayush Sharma, Scenario 4 basis-of-representation value calculations, # 17 Exhibit (3) 14: Ayush Sharma, Scenario 4 priority values based on the basis-of-representation)(Pettinato, Jared) (Entered: 03/21/2022)
03/30/2022	21	Joint MOTION for Scheduling Order by CENSUS BUREAU, DEPARTMENT OF COMMERCE, RON JARMIN, GINA RAIMONDO, ROBERT SANTOS. (Attachments: # 1 Text of Proposed Order)(Sverdlov, Alexander) (Entered: 03/30/2022)
04/01/2022		MINUTE ORDER. Upon review of the 21 Joint Motion for a Scheduling Order, it is ORDERED that the Motion is GRANTED. It is further ORDERED that Plaintiff shall file a motion for summary judgment on or before April 1, 2022; Defendants' (a) response to the amended complaint, including any motion under Federal Rule of Civil Procedure 12, and (b) response to Plaintiffs' motion for summary judgment, shall be filed on or before April 19, 2022; Plaintiff's (a) response to any motion under Rule 12, and (b) any reply to Defendants' response to Plaintiff's summary-judgment motion, shall be due on or before May 27, 2022; and Defendants' replies in support of any of its motions shall be due 14 days after Plaintiff submits its responses. It is further ORDERED that the 14 Motion for Summary Judgment; the 18 Motion to Dismiss; and the 17 Motion in Limine, are all DENIED as MOOT. Signed by Judge Carl J. Nichols on April 1, 2022. (lccjn2) (Entered: 04/01/2022)
04/01/2022	22	MOTION for Summary Judgment , <i>Renewed</i> , by CITIZENS FOR CONSTITUTIONAL INTEGRITY. (Attachments: # 1 Memorandum in Support)(Pettinato, Jared) (Entered: 04/01/2022)
04/01/2022		Set/Reset Deadlines: Answer due by 4/19/2022, Summary Judgment motions due by 4/1/2022. Response to Motion for Summary Judgment due by 4/19/2022. Reply to Motion for Summary Judgment due by 5/27/2022. (zcal) (Entered: 04/04/2022)
04/19/2022	23	RESPONSE re 22 MOTION for Summary Judgment , <i>Renewed</i> , filed by CENSUS BUREAU, DEPARTMENT OF COMMERCE, GINA RAIMONDO, ROBERT SANTOS. (Attachments: # 1 Sverdlov Declaration)(Ehrlich, Stephen) (Entered: 04/19/2022)

04/19/2022	24	MOTION to Dismiss <i>Amended Complaint</i> by CENSUS BUREAU, DEPARTMENT OF COMMERCE, RON JARMIN, GINA RAIMONDO, ROBERT SANTOS. (Attachments: # 1 Memorandum in Support, # 2 Text of Proposed Order)(Sverdlov, Alexander) (Entered: 04/19/2022)
04/19/2022	25	MOTION in Limine by CENSUS BUREAU, DEPARTMENT OF COMMERCE, GINA RAIMONDO, ROBERT SANTOS. (See Docket Entry 23 to view document). (zeg) (Entered: 04/28/2022)
05/27/2022	26	Memorandum in opposition to re 25 MOTION in Limine filed by CITIZENS FOR CONSTITUTIONAL INTEGRITY. (Attachments: # 1 Exhibit 1: Kristin Keeling Declaration)(Pettinato, Jared) (Entered: 05/27/2022)
05/27/2022	27	Memorandum in opposition to re 24 MOTION to Dismiss <i>Amended Complaint</i> filed by CITIZENS FOR CONSTITUTIONAL INTEGRITY. (Pettinato, Jared) (Entered: 05/27/2022)
06/03/2022	28	Consent MOTION for Extension of Time to File Response/Reply by CENSUS BUREAU, DEPARTMENT OF COMMERCE, RON JARMIN, GINA RAIMONDO, ROBERT SANTOS. (Attachments: # 1 Text of Proposed Order)(Sverdlov, Alexander) (Entered: 06/03/2022)
06/06/2022		MINUTE ORDER. Upon review of the 28 Consent Motion for an Extension of Time, it is ORDERED that Defendants shall file their reply in support of the motion to dismiss and their reply in support of the motion in limine on or before June 24, 2022. Signed by Judge Carl J. Nichols on June 6, 2022. (lccjn2) (Entered: 06/06/2022)
06/06/2022		Set/Reset Deadlines: Replies due by 6/24/2022. (zcal) (Entered: 06/10/2022)
06/24/2022	29	REPLY to opposition to motion re 24 MOTION to Dismiss <i>Amended Complaint</i> filed by CENSUS BUREAU, DEPARTMENT OF COMMERCE, RON JARMIN, GINA RAIMONDO, ROBERT SANTOS. (Sverdlov, Alexander) (Entered: 06/24/2022)
06/24/2022	30	REPLY to opposition to motion re 25 MOTION in Limine filed by CENSUS BUREAU, DEPARTMENT OF COMMERCE, RON JARMIN, GINA RAIMONDO, ROBERT SANTOS. (Sverdlov, Alexander) (Entered: 06/24/2022)
07/13/2022		MINUTE ORDER. Upon review of 22 Motion for Summary Judgment and the 24 and the Motion to Dismiss the Amended Complaint, it is ORDERED that the Parties shall appear for oral argument on Monday, December 19, 2022 at 2:00pm in Courtroom 31. Signed by Judge Carl J. Nichols on July 13, 2022. (lccjn2) (Entered: 07/13/2022)
07/13/2022		Set/Reset Hearings: Motion Hearing set for 12/19/2022 at 02:00 PM in Courtroom 31, on the 5th Floor. (zcal) (Entered: 07/14/2022)
11/03/2022		NOTICE of Hearing: Motion Hearing RESET for 12/19/2022 at 10:00 AM in Courtroom 31A- In Person. Note Time Change. (zcal) (Entered: 11/03/2022)
11/24/2022	31	NOTICE of <i>Isabel Magnus Changed Residence</i> by CITIZENS FOR CONSTITUTIONAL INTEGRITY (Pettinato, Jared) (Entered: 11/24/2022)
12/19/2022		Minute Entry for proceedings held before Judge Justin Walker, Judge Florence Pan, and Judge Carl J. Nichols: Motion Hearing held on 12/19/2022 re Motions 22 , 24 , and 25 . Motions taken under advisement. Court Reporter: Lorraine Herman. (zcam) (Entered: 12/19/2022)

12/25/2022	32	SUPPLEMENTAL MEMORANDUM to re Motion Hearing, <i>Plaintiff's, on Applying the Zone-of-Interest Test to Organizations</i> filed by CITIZENS FOR CONSTITUTIONAL INTEGRITY. (Pettinato, Jared) (Entered: 12/25/2022)
02/13/2023	33	AMENDED COMPLAINT , <i>Second</i> , against CENSUS BUREAU, DEPARTMENT OF COMMERCE, GINA RAIMONDO, ROBERT SANTOS filed by CITIZENS FOR CONSTITUTIONAL INTEGRITY. (Attachments: # 1 Second Amended Complaint Redline)(Pettinato, Jared) (Entered: 02/13/2023)
02/13/2023	34	Joint MOTION to Deem Filed Motions to Apply to the Second Amended Complaint re 33 Amended Complaint by CITIZENS FOR CONSTITUTIONAL INTEGRITY. (Attachments: # 1 Text of Proposed Order)(Pettinato, Jared) (Entered: 02/13/2023)
02/23/2023		MINUTE ORDER. Upon review of the 34 Joint Motion to Deem Already Filed Motions Applicable to the Second Amended Complaint, it is ORDERED that the Motion is GRANTED. It is further ORDERED that the existing motions for summary judgment, to dismiss, and in limine, and the briefs in support, shall apply as if made based on the Second Amended Complaint. Signed by Judge Carl J. Nichols on February 23, 2023. (lccjn2) (Entered: 02/23/2023)
03/29/2023	35	NOTICE OF SUPPLEMENTAL AUTHORITY by CITIZENS FOR CONSTITUTIONAL INTEGRITY (Attachments: # 1 Exhibit 1: Bartenwerfer v. Buckley, No. 21-908, Slip Op. (Feb. 22, 2023))(Pettinato, Jared) (Entered: 03/29/2023)
04/18/2023	36	ORDER granting 24 Motion to Dismiss. Signed by Judge Carl J. Nichols on April 18, 2023. (lccjn2) (Entered: 04/18/2023)
04/18/2023	37	MEMORANDUM OPINION. Signed by Judge Carl J. Nichols on April 18, 2023. (lccjn2) (Entered: 04/18/2023)
06/19/2023	38	NOTICE OF APPEAL TO DC CIRCUIT COURT as to 36 Order on Motion for Summary Judgment, Order on Motion to Dismiss, Order on Motion in Limine, 37 Memorandum & Opinion by CITIZENS FOR CONSTITUTIONAL INTEGRITY. Filing fee \$ 505, receipt number ADCDC-10149243. Fee Status: Fee Paid. Parties have been notified. (Attachments: # 1 Representation Statement)(Pettinato, Jared) (Entered: 06/19/2023)
06/20/2023	39	Transmission of the Notice of Appeal, Order Appealed (Memorandum Opinion), and Docket Sheet to US Court of Appeals. The Court of Appeals fee was paid re 38 Notice of Appeal to DC Circuit Court. (zed) (Entered: 06/20/2023)
06/26/2023		USCA Case Number 23-5140 for 38 Notice of Appeal to DC Circuit Court, filed by CITIZENS FOR CONSTITUTIONAL INTEGRITY. (znmw) (Entered: 06/26/2023)
08/13/2023	40	NOTICE of Filing of the U.S. Secretary of Commerce's Report to the President by CITIZENS FOR CONSTITUTIONAL INTEGRITY (Attachments: # 1 Ex. 1: Report from U.S. Secretary of Commerce Gina Raimondo to President Joe Biden (Apr. 26, 2021))(Pettinato, Jared) (Entered: 08/13/2023)

PACER Service Center

Transaction Receipt

10/17/2023 01:23:40

PACER Login:	jaredpettinato	Client Code:	05-14th Amendment
Description:	Docket Report	Search Criteria:	1:21-cv-03045-CJN-JRW-FYP
Billable Pages:	8	Cost:	0.80

EXHIBIT

1



UNITED STATES DEPARTMENT OF COMMERCE
U.S. Census Bureau
Office of the Director
Washington, DC 20233-0001

October 1, 2021

Mr. Jared Pettinato
The Pettinato Firm
3416 13th Street, NW, #1
Washington, DC 20010

Dear Mr. Pettinato:

Thank you for your inquiry regarding the apportionment of seats in the U.S. House of Representatives and concerns regarding the Fourteenth Amendment.

Title 13, United States Code (U.S.C.), Section 141 requires the Secretary of Commerce to conduct a census of population and housing every ten years and deliver to the President a tabulation of total population by state based on that decennial census. Title 2, U.S.C., Section 2a requires the President to transmit to the Congress a statement showing the total population of each state, as enumerated in the decennial census, and the number of Representatives to which each state would be entitled under the apportionment of the seats in the House of Representatives. This process is self-executing and provides for the finality of the decennial census enumeration and the resulting apportionment.

Congress has legislated the Method of Equal Proportions as the method for calculating the apportionment of seats in the House of Representatives among the states. 2 U.S.C. § 2a. In recent decades, the U.S. Census Bureau has applied the Method of Equal Proportions to the apportionment population counts from the decennial census, and the Secretary of Commerce has provided the apportionment results to the President when delivering the legally-required state population totals.

Because the congressionally mandated processes in 13 U.S.C. § 141 and 2 U.S.C. § 2a are complete, the U.S. Secretary of Commerce does not have the authority to alter or withdraw the statements showing the total population by states or the apportionment. Additionally, the U.S. Department of Commerce does not have the authority to investigate whether states have violated voting rights laws. Violations of civil rights or voting rights laws are within the purview of the U.S. Department of Justice. Therefore, we suggest that you reach out to the Civil Rights Division of the Department of Justice regarding enforcement of the Fourteenth Amendment or any civil or voting rights law. Also, you can use their webpage to report your concerns about the potential violation of civil rights.

Sincerely,

A handwritten signature in blue ink, appearing to read "RJ", is written over a horizontal line.

Ron S. Jarmin
Acting Director



[census.gov](https://www.census.gov)

EXHIBIT

A

TABLE I.

POPULATION OF THE UNITED STATES,

(BY STATES AND TERRITORIES,)

IN

THE AGGREGATE,

AND AS

WHITE, COLORED, FREE COLORED, SLAVE, CHINESE, AND INDIAN,
AT EACH CENSUS.

POPULATION BY STATES AND TERRITORIES—1790-1870.

3

TABLE I.—THE UNITED STATES.

STATES AND TERRITORIES.	AGGREGATE.									
	1870	1860	1850	1840	1830	1820	1810	1800	1790	
Total of the United States...	38,558,371	31,443,321	23,191,876	17,060,453	12,866,020	9,633,832 ^{*4,631}	7,230,881	5,308,483	3,920,214	
Variances from former official totals.	Amount. Details in Table II.					(b) + 254 Ark., Tenn., and Vt.	- 22 Va.	(c) + 3,001 N. Y.	- 112 Del. and Vt.	
Total of the States.....	38,115,641	31,183,744	23,067,262	17,019,641	12,820,868	9,600,783 ^{*4,631}	7,215,858	5,294,390	3,920,214	
Alabama.....	16 996,992	13 964,201	12 771,623	12 590,756	15 309,527	19 127,901 ^{*18}				
Arkansas.....	26 484,471	25 435,450	26 209,897	25 97,574	27 30,388	25 14,255				
California.....	24 560,247	26 379,994	29 92,597							
Connecticut.....	25 537,454	24 460,147	21 370,792	20 309,978	16 297,675	14 275,148 ^{*100}	9 261,942	8 251,002	8 237,946	
Delaware.....	34 125,015	32 112,216	30 91,532	26 78,085	24 76,748	22 72,749	19 72,674	17 64,273	16 50,096	
Florida.....	33 187,748	31 140,424	31 87,445	27 54,477	25 34,730					
Georgia.....	12 1,184,100	11 1,057,286	9 906,185	9 691,392	10 516,823	11 340,985 ^{*4}	11 252,433	12 162,686	13 82,518	
Illinois.....	4 2,539,891	4 1,711,951	11 851,470	14 476,183	20 157,445	24 55,162 ^{*49}	23 12,282			
Indiana.....	6 1,680,637	6 1,350,428	7 988,416	10 685,866	13 343,031	18 147,178	21 24,520	20 5,641		
Iowa.....	11 1,194,020	20 674,913	27 192,214	28 43,112						
Kansas.....	29 364,399	33 107,206								
Kentucky.....	8 1,321,011	9 1,155,684	8 982,405	6 770,828	6 687,917	6 564,135 ^{*182}	7 406,511	9 220,955	14 73,677	
Louisiana.....	21 726,915	17 708,002	18 517,762	19 352,411	19 215,739	17 152,923 ^{*481}	18 76,556			
Maine.....	23 626,915	22 628,270	16 583,169	13 501,793	12 399,453	12 298,269 ^{*66}	14 228,765	14 151,719	11 96,540	
Maryland.....	20 780,294	19 687,049	17 583,034	15 470,019	11 447,040	10 407,350	8 380,546	7 341,548	6 319,728	
Massachusetts.....	7 1,457,351	7 1,231,066	6 994,514	8 737,699	8 610,408	7 523,159 ^{*128}	5 472,040	5 422,845	4 378,787	
Michigan.....	13 1,184,059	16 749,113	20 397,654	23 212,267	26 31,639	26 8,765 ^{*131}	24 4,762			
Minnesota.....	28 439,706	30 172,023	33 6,077							
Mississippi.....	18 827,922	14 791,305	15 606,526	17 375,651	22 136,624	21 75,448 ^{*29}	20 40,352	19 8,550		
Missouri.....	5 1,721,295	8 1,182,012	13 682,044	16 383,702	21 140,455	23 66,557	22 20,845			
Nebraska.....	35 122,993	35 28,841								
Nevada.....	37 42,491	36 6,857								
New Hampshire.....	31 318,300	27 326,073	22 317,976	22 284,574	18 269,328	15 244,022 ^{*129}	16 214,460	11 183,858	10 141,885	
New Jersey.....	17 906,096	21 672,035	19 489,555	18 373,300	14 320,823	13 277,426 ^{*149}	12 245,562	10 211,149	9 184,139	
New York.....	1 4,382,759	1 3,880,735	1 3,097,394	1 2,498,921	1 1,918,608	1 1,372,111 ^{*701}	2 959,049	3 589,051	5 340,120	
North Carolina.....	14 1,071,361	12 992,623	10 869,039	7 753,419	5 737,987	4 638,829	4 555,500	4 478,103	3 393,751	
Ohio.....	3 2,665,260	3 2,339,511	3 1,980,320	3 1,519,467	4 937,903	5 581,295 ^{*139}	13 230,760	18 45,365		
Oregon.....	36 90,923	34 52,465	32 13,294							
Pennsylvania.....	2 3,521,951	2 2,906,215	2 2,311,786	2 1,724,033	2 1,348,233	3 1,047,507 ^{*1,061}	3 810,091	2 602,365	2 434,373	
Rhode Island.....	32 217,353	29 174,620	28 147,545	24 108,839	23 97,199	20 83,015 ^{*44}	17 76,931	16 69,122	15 68,825	
South Carolina.....	22 705,006	18 703,708	14 668,507	11 594,398	9 581,185	8 502,741	6 415,115	6 345,591	7 249,073	
Tennessee.....	9 1,258,520	10 1,109,801	5 1,002,717	5 829,210	7 681,904	9 422,771 ^{*52}	10 261,727	15 105,602	17 35,691	
Texas.....	19 818,579	23 604,215	25 212,592							
Vermont.....	30 330,551	28 315,098	23 314,120	21 291,948	17 280,652	16 235,966 ^{*15}	15 217,895	13 154,465	12 85,425	
Virginia.....	10 1,225,163	5 1,596,318	4 1,421,061	4 1,239,797	3 1,211,405	2 1,065,116 ^{*250}	1 974,600	1 880,200	1 747,610	
West Virginia.....	27 442,014									
Wisconsin.....	15 1,054,070	15 775,881	24 305,391	29 30,945						
Total of the Territories.....	442,730	259,577	124,614	43,712	39,834	33,039	24,023	14,093		
Arizona.....	9 9,658									
Colorado.....	4 39,864	4 34,277								
Dakota.....	8 14,181	6 4,837								
District of Columbia.....	1 131,700	2 75,080	2 51,687	1 43,712	1 39,834	1 33,039	1 24,023	1 14,093		
Idaho.....	7 14,999									
Montana.....	6 20,595									
New Mexico.....	2 91,874	1 93,516	1 61,547							
Utah.....	3 86,786	3 40,273	3 11,380							
Washington.....	5 23,955	5 11,594								
Wyoming.....	10 9,118									
On public ships in service of the United States.....				6,100	5,318					

NOTE.—The narrow column under each census year shows the order of the States and Territories when arranged according to magnitude of population in the aggregate or in each class.

(*) "All other persons, except Indians not taxed." In the form of Schedule I, transmitted by the Secretary of State to the marshals, and in the tables of the official census of 1820, this heading was printed without a comma. Yet it was printed with a comma after the word "persons" in the schedule which was made a part of the census act of 1820, and the thirty-third interrogatory prescribed by the Secretary of State to be put by an assistant marshal to a head of a family was: "How many other persons, EXCEPT INDIANS NOT TAXED?" This interrogatory follows the punctuation of the schedule in the census act, and the care taken to emphasize the last clause by capital letters relieves the meaning of the interrogatory from doubt. A few Indians taxed were included in this column, as were also persons in the military and naval service of the United States, inmates of prisons, alms and poor houses, and generally such persons as assistant marshals could not locate in a family. The quantities marked with an asterisk (*), as well as all others in Tables I and II, which are interlined above another, are not included in the lower quantity, but the two are additive.

(a) To obtain the total population of the United States at the census of 1840, it is necessary to add to the printed total of the aggregate table 787, being the increase of the second enumeration of the county of Montgomery, Maryland, over the first enumeration.

(b) In the aggregate table of the census of 1820, the total of the State of Tennessee is printed 422,613 instead of 422,813, as given by the tables of Tennessee in the same census. This error of the total column of the aggregate table having been corrected, the above variance applies.

(c) In the aggregate table of the census of 1800 the total of Kentucky is printed 220,959. The table for Kentucky in the same census has it 220,955; also the total of the eastern district of Pennsylvania is printed 327,979 instead of 327,799. These errors of the total column of the aggregate table having been corrected, the above variance applies. See note (d), page 4.

4

POPULATION BY STATES AND TERRITORIES—1790—1870.

TABLE I.—THE UNITED STATES—Continued.

STATES AND TERRITORIES.	WHITE.									
	1870	1860	1850	1840	1830	1820	1810	1800	1790	
Total of the United States..	33,589,377	26,922,537	19,553,068	14,195,805	10,537,378	7,862,166	5,862,073	4,306,446	3,172,006	
Variances from former official totals.		Fla. — 1		+ 110 Va.		(b) + 256 Ark., Md., Vt., and Va.	— 20 Va.	(c & d) + 2,517 Ky., and N. Y.	— 114 Vt.	
Total of the States.....	33,203,128	26,690,780	19,442,272	14,159,048	10,504,497	7,839,552	5,843,994	4,296,380	3,172,006	
Alabama.....	21 521,384	18 526,271	15 426,514	14 335,185	18 190,406	18 85,451				
Arkansas.....	26 362,115	25 324,143	26 162,189	25 77,174	26 25,671	25 12,579				
California.....	22 490,424	26 323,177	29 91,635							
Connecticut.....	20 527,549	20 451,504	18 363,099	17 301,856	14 289,603	10 267,181	7 255,179	6 244,721	6 232,374	
Delaware.....	34 102,221	32 90,589	30 71,169	26 58,561	24 57,601	22 55,282	18 55,361	17 49,852	16 46,310	
Florida.....	35 96,057	33 77,746	31 47,203	29 27,943	27 18,385					
Georgia.....	16 633,026	17 591,550	13 521,572	12 407,095	12 296,806	16 189,506	16 145,414	14 102,261	15 59,886	
Illinois.....	4 2,511,096	4 1,704,291	7 846,034	11 472,254	19 155,061	23 53,788	23 11,501			
Indiana.....	5 1,650,837	5 1,336,710	5 977,154	6 678,698	10 339,399	17 145,758	20 23,890	19 5,343		
Iowa.....	8 1,188,297	13 673,779	25 191,881	27 42,924						
Kansas.....	28 340,377	31 106,300								
Kentucky.....	10 1,002,692	9 919,484	8 761,413	8 590,253	7 517,787	6 434,044	6 324,237	11 179,873	14 61,133	
Louisiana.....	27 362,065	22 357,456	24 255,491	23 158,457	22 89,441	20 73,383	19 34,311			
Maine.....	17 624,309	16 636,947	11 581,813	9 500,438	9 398,263	9 297,340	10 227,736	13 150,901	11 96,002	
Maryland.....	12 603,497	19 515,918	16 417,943	16 318,294	13 291,108	11 200,223	8 235,117	7 216,326	7 208,649	
Massachusetts.....	7 1,443,156	6 1,221,432	4 985,450	5 739,030	5 603,359	5 516,419	4 465,303	4 416,393	3 373,324	
Michigan.....	9 1,167,282	12 736,142	17 395,071	21 211,560	25 31,346	26 8,591	24 4,618			
Minnesota.....	23 432,257	30 169,395	33 6,038							
Mississippi.....	25 382,896	23 352,899	22 295,718	22 179,074	23 70,443	24 42,176	21 23,024	20 5,179		
Missouri.....	6 1,603,146	7 1,063,489	10 592,004	15 323,888	20 114,795	21 55,988	22 17,227			
Nebraska.....	33 122,117	35 28,696								
Nevada.....	27 32,059	36 6,812								
New Hampshire.....	30 317,697	24 325,579	19 317,456	19 284,036	16 268,721	13 243,236	15 213,400	10 182,908	9 141,097	
New Jersey.....	13 875,407	14 646,699	14 465,509	13 351,588	11 300,266	12 257,409	11 226,868	9 194,325	8 169,954	
New York.....	1 4,330,210	1 3,831,590	1 3,048,325	1 2,378,890	1 1,873,663	1 1,332,744	1 912,690	2 557,731	4 314,142	
North Carolina.....	15 675,470	15 629,042	12 553,028	10 484,870	8 472,843	7 419,200	5 376,410	5 337,764	5 288,204	
Ohio.....	3 2,601,946	3 2,302,803	3 1,953,050	3 1,502,122	3 928,329	4 576,572	9 232,861	18 45,028		
Oregon.....	36 80,929	34 52,100	32 13,057							
Pennsylvania.....	3 4,566,000	2 2,840,259	2 2,258,100	2 1,676,115	2 1,360,000	2 1,017,094	2 786,804	1 526,095	2 424,099	
Rhode Island.....	32 212,210	29 170,649	28 143,575	24 105,587	21 93,631	19 79,413	17 73,214	16 65,438	13 64,470	
South Carolina.....	31 259,667	28 291,300	23 274,563	20 250,084	17 257,863	14 237,440	14 214,166	8 196,255	10 140,178	
Tennessee.....	12 936,119	10 826,722	9 756,836	7 640,627	6 535,746	8 339,927	13 215,675	15 91,709	17 31,913	
Texas.....	19 564,700	21 420,691	27 154,034							
Vermont.....	29 329,613	27 314,369	20 313,402	12 291,218	15 279,771	15 235,063	12 217,145	12 153,008	12 85,154	
Virginia.....	14 712,089	8 1,047,299	6 894,800	4 740,965	4 694,300	3 603,085	3 551,514	3 514,280	1 442,117	
West Virginia.....	24 424,033									
Wisconsin.....	11 1,051,351	11 773,693	21 304,750	28 30,749						
Total of the Territories.....	326,249	231,757	110,796	30,657	27,563	22,614	16,079	10,066		
Arizona.....	9 9,551									
Colorado.....	4 30,221	4 34,231								
Dakota.....	7 12,827	6 2,576								
District of Columbia.....	2 28,278	2 60,763	2 37,941	1 30,657	1 27,563	1 22,614	1 16,079	1 10,066		
Idaho.....	8 10,618									
Montana.....	6 18,308									
New Mexico.....	1 90,393	1 82,924	1 61,525							
Utah.....	3 26,044	3 40,125	3 11,330							
Washington.....	5 22,195	5 11,138								
Wyoming.....	10 8,726									
On public ships in service of the United States.....				6,100	5,318					

(a) To obtain the total white at the census of 1840, care must be taken to include 6,100 persons on board public ships, and 457, being the increase in the white of the second enumeration of the county of Montgomery, Maryland, over the white at the first enumeration.

(b) In the aggregate table of the census of 1830, at Tennessee, "White males to 45" are printed 27,549 instead of 27,549, as rightly given in the tables of the State of Tennessee. This error in the white column of the aggregate table having been corrected, and consequently the total white having been made 200 more than there printed, the above variance applies.

(c) In the aggregate table of the census of 1800, at New Jersey, "White males under 10" are printed 33,980 instead of 33,980; at District of Columbia, in the same column, 889 should be 689; at Kentucky, "White males 65 and upwards," printed 9,238, should be 9,233; at Western District of Virginia, "White females 25 and under 45," printed 8,632, should be 15,169; and column "White females, 45 and upwards," printed 15,169, should be 8,632; and at "Indian Territory" add 766 to the total of the items for the columns of the White, in order to balance "766 persons" added to the total of the Territory in the table under correction, but not then placed in any of the classes of the population of the Territory. These "persons" are thus assumed to be whites, but cannot be distributed among the Age and Sex columns of the whites in that table. These errors of the White columns of the aggregate table having been corrected, the above variance applies.

(d) In the columns of Table I, devoted to the Second Census, the sum of the variances in the classes of population does not equal the variance at the aggregate. In explanation of this apparent inconsistency, it is necessary to state that the table showing the aggregate population at the Second Census, as originally published, had no complete summary line, and that the official totals of that census have been established in the following manner. After correcting the indigenous errors of that table, in accordance with notes (c), pages 3 and 4 of this volume, and striking out the lines of the table for Maryland and "Baltimore County," and inserting in their stead the line of "Maryland, corrected," the columns have been added, and the total white afterwards obtained by adding the totals of the ten Age and Sex columns. The result held to be the official totals of the Second Census appears in the second line of the following tabular statement, which, with the subsequent annotation, is an explanation of the failure of the variances of the above table for the Second Census to form an equation:

The Second Census as published at the Ninth Census.....	White.	Free colored.	Slave.	Aggregate.
The Second Census as originally published.....	4,306,466	+ 108,435	+ 893,602	= 5,308,483
Variances of the former from the latter publication.....	4,303,929	+ 109,294	+ 893,605	= 5,306,828
Variances of the latter publication from a balanced total line (assuming its "Aggregate" to be correct as it was, disregarding the 3,001, found after the publication).....	+ 2,517	— 859	— 3	< + 3,001
Variances of the former publication from the balanced totals of the latter.....	+ 151	+ 902	+ 293	> 0
	+ 2,668	+ 43	+ 290	> 3,001

The first line of this statement is an equation; the second an inequation, whose second member is correct, and whose first member is in each term too large to permit that member to equal the second member; consequently the third line of the statement, obtained by subtracting the second line from the first, must be in an inequation, whose second member is correct, and whose first member is in every term too small as a member of an equation. The third line is the series of variances inserted in Table I of this volume, and expresses the differences between official totals, as originally and now published. The fourth line of the statement furnishes the numbers which, by enlarging each term of its first member, change this inequation to an equation, and produce the fifth line of the statement, which expresses the additional population discovered by the recount at the Ninth Census of the original returns of the Second Census for the State of New York. (See note (a), page 52.)

POPULATION BY STATES AND TERRITORIES—1790—1870.

5

TABLE I.—THE UNITED STATES—Continued.

STATES AND TERRITORIES.	COLORED.									
	1870.	1860	1850	1840	1830	1820	1810	1800	1790	
Total of the United States..	4,880,009	4,441,830	3,638,808	2,873,648	2,328,642	1,771,656	1,377,808	1,002,037	757,208	
Variances from former official totals.	Amount (a) States.			—110 Va.		Md., N. C., Tenn., and Va. —2	Va. —2	Ga., Ky., and N. Y. +38		
Total of the States.....	4,835,106	4,427,204	3,624,990	2,860,593	2,316,371	1,761,231	1,369,864	998,010	757,208	
Alabama.....	3 475,510	3 437,770	4 345,109	5 255,571	9 119,121	9 42,450				
Arkansas.....	12 128,169	13 111,259	15 47,708	16 20,400	20 4,717	20 1,676				
California (b).....	29 4,272	25 4,086	27 9,662	30 8,122	18 8,072	16 7,967	14 6,763	13 6,851	11 5,573	
Connecticut.....	26 9,668	22 8,627	27 7,693	20 8,122	18 8,072	16 7,967	14 6,763	13 6,851	11 5,573	
Delaware.....	21 29,794	19 21,627	19 20,363	17 19,524	15 19,147	14 17,467	13 17,313	10 14,421	8 12,766	
Florida.....	14 91,680	14 62,677	16 40,242	14 26,534	16 16,345					
Georgia.....	1 545,142	2 465,698	3 384,613	3 283,697	4 220,017	4 151,419	5 107,019	5 60,425	5 29,662	
Illinois.....	19 28,762	23 7,638	23 5,436	22 3,929	23 2,384	22 1,374	21 781			
Indiana.....	20 24,560	20 11,423	20 11,262	21 7,168	21 3,632	21 1,420	23 630	20 298		
Iowa.....	27 5,762	20 1,069	31 333	29 188						
Kansas.....	23 17,108	31 627								
Kentucky.....	10 222,910	9 236,167	9 220,992	8 189,575	5 170,130	6 129,491	6 82,274	6 41,082	9 12,544	
Louisiana.....	7 364,210	7 350,373	7 262,271	7 193,954	8 126,298	8 79,540	8 42,245			
Maine.....	31 1,606	27 1,327	26 1,356	24 1,355	24 1,192	23 929	20 818	17 818	16 538	
Maryland.....	11 175,391	11 171,131	10 165,091	10 151,815	6 155,932	5 147,127	4 145,429	4 126,222	2 111,070	
Massachusetts.....	24 13,947	21 9,602	21 9,064	19 8,669	10 7,049	17 6,740	15 6,737	12 6,452	12 5,463	
Michigan.....	25 11,549	24 6,799	25 2,583	26 707	27 293	26 174	24 144			
Minnesota.....	34 4,444,201	33 437,404	33 310,808	6 196,577	10 66,178	11 33,272	12 17,388	15 3,671		
Mississippi.....	13 118,071	12 118,503	11 90,640	11 50,814	13 25,600	15 10,569	17 3,618			
Missouri.....	33 760	35 82								
Nebraska.....	36 357	36 45								
Nevada.....	35 580	32 494	30 530	27 538	26 607	25 786	19 970	16 860	15 788	
New Hampshire.....	18 30,653	18 25,336	18 24,046	15 21,718	14 20,557	13 20,017	11 18,694	8 16,824	7 14,185	
New Jersey.....	17 52,081	16 49,005	14 49,069	12 50,031	11 44,945	10 39,367	9 40,350	7 31,320	6 25,978	
New York.....	6 361,650	6 361,522	5 316,011	4 268,549	3 265,144	3 219,629	3 179,090	3 140,330	4 103,547	
North Carolina.....	16 63,213	17 36,673	17 25,270	18 17,345	17 9,574	18 4,723	18 1,899	19 337		
Ohio.....	37 346	34 128	32 207							
Oregon.....	15 65,294	15 56,949	13 53,626	13 47,918	12 33,333	12 30,413	10 23,287	9 16,270	10 10,274	
Pennsylvania.....	28 4,980	26 3,952	24 3,470	23 3,243	22 3,578	19 3,602	16 3,717	14 3,684	13 4,355	
Rhode Island.....	5 415,814	5 412,320	2 393,944	2 335,314	2 323,322	2 265,301	2 200,919	2 149,336	3 108,895	
South Carolina.....	8 322,321	8 223,019	8 245,881	9 188,583	7 146,158	7 82,244	7 45,853	11 13,893	14 3,778	
Tennessee.....	9 253,475	10 182,921	12 58,558							
Texas.....	32 924	30 700	28 713	25 730	25 881	24 903	23 750	18 557	17 271	
Vermont.....	2 512,841	1 548,907	1 526,861	1 408,629	1 517,105	1 462,031	1 423,686	1 365,920	1 305,493	
Virginia.....	22 17,980									
West Virginia.....	30 2,113	28 1,171	29 635	28 196						
Wisconsin.....										
Total of the Territories.....	44,603	14,536	13,818	13,055	12,271	10,425	7,944	4,027		
Arizona.....	9 26									
Colorado.....	2 456	4 46								
Dakota.....	7 94									
District of Columbia.....	1 43,404	1 14,316	1 13,740	1 13,055	1 12,271	1 10,425	1 7,944	1 4,027		
Idaho.....	8 60									
Montana.....	4 183									
New Mexico.....	5 172	2 85	3 22							
Utah.....	6 118	3 59	2 50							
Washington.....	3 207	5 30								
Wyoming.....	4 183									
On public ships in service of the United States.....										

(a) Heretofore no combination of the slave and the free colored population has been published in the recapitulation table of any official census. Indeed, a careful research has failed, with one exception, to discover in any previous census any table showing the total colored population. There having been no previous publication of this kind, the several variances on this page, instead of being strictly "Variances from former official totals," are rather the combined effect of variances shown on the pages of the table devoted respectively to the free colored and the slave population.

(b) CALIFORNIA, GENERAL NOTE.—At the census of 1850 the returns for Contra Costa and Santa Clara Counties were lost on the way to the Census Office, and those for San Francisco County were destroyed by fire. The State census of California for the year 1852 which, pursuant to a joint resolution of Congress, was appended to the official census of the United States for 1850, gives the population of these counties as follows: Contra Costa, white, 2,487; free colored, 21; Indian, 278; aggregate, 2,766. Santa Clara, white, 6,153; free colored, 56; Indians, 550; aggregate, 6,764. San Francisco, white, 35,531; colored, 494; Indians, 159; aggregate, 36,184. Aggregate of the three counties, 45,704: constituted of white, 44,176; free colored, 541; Indian, 987. The population of the State at 1852, as given by the above authority, was: white, 171,841; free black, 1,678; free mulatto, 538; Chinese, 9,809; and Indian, (domesticated and nomadic,) 31,266; aggregate, 215,122. To this was added an estimate for El Dorado County, from which there were no returns in that census, of 40,000 not distributed among the races, which increased the aggregate of the State to 255,122.

POPULATION BY STATES AND TERRITORIES—1790—1870.

TABLE I.—THE UNITED STATES—Continued.

STATES AND TERRITORIES.	FREE COLORED.									
	1870	1860	1850	1840	1830	1820	1810	1800	1790	
Total of the United States..	4,880,009	488,070	434,495	438,293	319,599	233,634	186,446	108,435	59,527	
Variances from } Amount.. former official } Details in totals. } Table II.				—10 Va.		+104 N. C., Tenn., and Va.		—859 Ga., Ky., and N. Y.	+16 Vt.	
Total of the States.....	4,835,106	476,748	424,390	377,932	313,447	229,586	183,897	107,652	59,527	
Alabama.....	3 475,510	22 2,690	21 2,265	19 2,039	19 1,572	21 571				
Arkansas.....	12 122,160	33 144	22 608	27 465	27 141	26 59				
California.....	20 4,272	18 4,086	23 962							
Connecticut.....	26 9,668	14 8,627	14 7,693	12 8,105	10 8,047	9 7,870	10 6,453	8 5,330	9 2,808	
Delaware.....	21 22,794	8 19,829	8 18,073	9 16,919	8 15,855	6 12,958	5 13,136	5 8,268	7 3,899	
Florida.....	14 91,689	26 932	24 932	23 817	22 844					
Georgia.....	1 545,142	21 3,500	18 2,931	18 2,753	17 2,486	16 1,763	14 1,801	12 1,019	14 398	
Illinois.....	10 28,763	15 7,628	16 5,436	16 3,598	13 1,637	23 437	20 613			
Indiana.....	20 24,560	10 11,428	10 11,262	14 7,165	15 3,689	17 1,230	22 393	20 163		
Iowa.....	27 5,762	25 1,069	31 323	20 172						
Kansas.....	23 17,108	29 625								
Kentucky.....	10 222,210	11 10,684	11 10,011	13 7,317	13 4,917	14 2,759	15 1,713	15 739	17 114	
Louisiana.....	7 364,210	9 18,647	9 17,462	5 25,592	7 16,710	8 13,476	8 7,585			
Maine.....	31 1,606	23 1,327	22 1,356	22 1,355	20 1,190	18 929	18 969	14 818	13 538	
Maryland.....	11 175,391	1 83,942	1 74,723	1 62,078	1 52,938	1 39,730	1 33,927	2 19,587	2 8,043	
Massachusetts.....	24 13,947	13 9,602	12 9,064	10 8,669	12 7,048	11 6,740	9 6,737	7 6,452	4 5,463	
Michigan.....	25 11,849	17 6,799	20 2,583	25 707	26 261	25 174	24 120			
Minnesota.....	34 759	33 259	33 30							
Mississippi.....	4 444,201	27 773	25 930	21 1,366	25 519	22 458	23 240	19 182		
Missouri.....	13 118,071	20 3,572	19 2,618	20 1,574	24 569	24 347	21 607			
Nebraska.....	33 789	35 67								
Nevada.....	36 357	36 45								
New Hampshire.....	35 580	30 494	29 520	26 537	23 604	20 786	17 970	13 852	12 630	
New Jersey.....	18 30,658	7 25,318	7 23,810	7 21,044	6 18,333	7 12,460	7 7,843	9 4,402	10 2,762	
New York.....	17 52,081	4 49,005	4 49,069	2 50,027	3 44,870	4 29,279	3 25,333	4 10,417	6 4,654	
North Carolina.....	6 301,650	6 30,463	5 27,463	6 22,732	5 19,543	5 14,712	6 10,266	6 7,043	5 4,975	
Ohio.....	16 63,213	5 36,673	6 25,279	8 17,342	9 9,568	12 4,723	13 1,899	17 337		
Oregon.....	37 346	34 128	32 207							
Pennsylvania.....	15 65,294	3 56,949	3 53,626	4 47,854	4 37,930	3 30,292	4 22,492	3 14,564	3 6,531	
Rhode Island.....	28 4,980	19 3,952	17 3,670	17 3,298	16 3,561	13 3,554	12 3,609	10 3,304	8 3,407	
South Carolina.....	5 415,814	12 9,914	13 8,960	11 8,276	11 7,921	10 6,826	11 4,554	11 3,185	11 1,801	
Tennessee.....	8 322,331	16 7,300	15 6,422	15 5,524	14 4,555	15 2,737	16 1,317	12 309	15 361	
Texas.....	9 253,475	31 355	30 397							
Vermont.....	32 924	23 709	26 718	24 730	21 881	19 903	19 750	16 557	16 271	
Virginia.....	2 512,841	2 58,042	2 54,333	3 49,842	2 47,348	2 36,883	2 30,570	1 20,124	1 12,866	
West Virginia.....	22 17,980									
Wisconsin.....	30 2,113	24 1,171	27 635	28 185						
Total of the Territories	44,903	11,322	10,105	8,361	6,152	4,048	2,549	783		
Arizona.....	9 26									
Colorado.....	2 456	3 46								
Dakota.....	7 94									
District of Columbia.....	1 43,404	1 11,131	1 10,059	1 8,361	1 6,152	1 4,048	1 2,549	1 783		
Idaho.....	8 60									
Montana.....	4 183									
New Mexico.....	5 172	2 85	3 22							
Utah.....	6 118	4 30	2 24							
Washington.....	3 207	4 30								
Wyoming.....	4 183									
On public ships in service of the United States.....										

(a) To obtain the total "free colored" at the census of 1840, it is necessary to add to the printed total of the aggregate table 58, being the increase in the free colored of the second enumeration of the county of Montgomery, Maryland, over the free colored at the first enumeration.

POPULATION BY STATES AND TERRITORIES—1790—1870.

TABLE I.—THE UNITED STATES—Continued.

STATES AND TERRITORIES.	SLAVE.									
	1870	1860	1850	1840	1830	1820	1810	1800	1790	
Total of the United States..		3,953,760	3,204,313	2,487,355	2,009,043	1,538,022	1,101,362	893,002	697,681	
Variances from } Amount.. former official } Details in totals. } Table II.				—100 Va.		—106 Md., N. C., and Va.	—2 Va.	—3 Ga. and N. Y.	—16 Vt.	
Total of the States.....		3,950,546	3,200,600	2,482,661	2,002,924	1,531,645	1,185,967	890,358	697,681	
Alabama.....	4	435,080	4	342,844	4	253,532	7	117,549	9	41,879
Arkansas.....	12	111,115	13	47,100	13	19,935	13	4,576	15	1,617
California.....										
Connecticut.....										
Delaware.....	15	1,798	15	2,290	14	2,605	14	3,292	14	4,509
Florida.....	14	61,745	14	39,310	12	25,717	12	15,507
Georgia.....	2	462,198	3	381,682	3	280,944	4	217,531	4	149,656
Illinois.....					16	331	16	747	16	917
Indiana.....					23	3	23	3	18	190
Iowa.....					19	16			16	237
Kansas.....	18	2								
Kentucky.....	9	225,483	9	210,981	8	182,258	5	165,213	5	126,732
Louisiana.....	6	331,726	7	244,809	9	108,452	8	109,588	8	69,064
Maine.....					24	2				
Maryland.....	13	87,189	10	90,308	10	89,737	9	102,994	6	107,397
Massachusetts.....					25	1			4	111,502
Michigan.....					19	32			19	24
Minnesota.....										
Mississippi.....	3	436,631	5	309,878	6	195,211	10	65,659	10	32,814
Missouri.....	11	114,931	11	87,422	11	58,240	11	25,091	11	10,222
Nebraska.....	17	15							13	3,011
Nevada.....										
New Hampshire.....					24	1			16	8
New Jersey.....	16	618	16	236	15	674	15	2,254	13	7,557
New York.....					22	4	18	75	12	10,088
North Carolina.....	7	331,039	6	288,548	5	245,817	3	245,601	3	204,917
Ohio.....					23	3	22	6		
Oregon.....										
Pennsylvania.....					17	64	17	493	17	211
Rhode Island.....					21	5	21	17	20	48
South Carolina.....	5	402,406	2	384,984	2	337,038	2	315,401	2	258,475
Tennessee.....	8	275,719	8	239,459	7	183,059	6	141,603	7	80,107
Texas.....	10	182,566	12	58,161						
Vermont.....										
Virginia.....	1	490,865	1	472,538	1	448,987	1	469,757	1	425,148
West Virginia.....									1	392,516
Wisconsin.....					20	11				
Total of the Territories.....		3,214	3,713	4,694	6,119	6,377	5,395	3,244		
Arizona.....										
Colorado.....										
Dakota.....										
District of Columbia.....	1	3,185	1	3,687	1	4,694	1	6,119	1	6,377
Idaho.....									1	5,395
Montana.....									1	3,244
New Mexico.....										
Utah.....	2	29	2	226						
Washington.....										
Wyoming.....										
On public ships in service of the United States.....										

(a) To obtain the total slave at the census of 1840, care must be taken to add to the printed total of slave in the aggregate table 242, being the excess in slave of the second enumeration of the county of Montgomery, Maryland, over the slave of the first enumeration.

(b) Colored apprentices for life, by the act to abolish slavery, passed April 18, 1846.

(c) Returned as on the way to California.

POPULATION BY STATES AND TERRITORIES—1790—1870.

TABLE I.—THE UNITED STATES—Continued.

STATES AND TERRITORIES.	CHINESE.										INDIAN.									
	1870	1860	1850	1840	1830	1820	1810	1800	1790	1870	1860	1850	1840	1830	1820	1810	1800	1790		
Total of the United States..	663,254	34,933								25,731	44,021									
Variances from } Amount. former official } Details in totals. } Table II.											+ 1 Fla.									
Total of the States.....	656,179	34,933								21,228	30,737									
Alabama.....										21	98	11	160							
Arkansas.....	4	98								22	89	18	48							
California.....	1	649,310	1	34,933						1	7,241	1	17,798							
Connecticut.....	14	2								14	235	25	16							
Delaware.....																				
Florida.....										34	2	20	1							
Georgia.....	15	1								27	40	19	38							
Illinois.....	15	1								29	32	21	32							
Indiana.....										13	240	7	290							
Iowa.....	13	3								26	48	15	65							
Kansas.....										5	914	8	189							
Kentucky.....	15	1								19	108	20	33							
Louisiana.....	6	71								8	569	10	173							
Maine.....	15	1								9	499	27	5							
Maryland.....	14	2								33	4									
Massachusetts.....	5	697								17	151	21	32							
Michigan.....	14	214								2	4,926	2	6,172							
Minnesota.....										7	690	3	2,369							
Mississippi.....	9	16								6	809	28	2							
Missouri.....	13	3								24	75	23	20							
Nebraska.....										23	87	16	63							
Nevada.....	3	3,152								30	23									
New Hampshire.....										30	23									
New Jersey.....	10	615								31	16									
New York.....	7	29								10	439	12	140							
North Carolina.....										3	1,241	4	1,158							
Ohio.....	15	1								20	100	22	30							
Oregon.....	2	3,330								12	318	9	177							
Pennsylvania.....	11	214								28	34	26	7							
Rhode Island.....										16	154	24	19							
South Carolina.....	15	1								18	124	14	88							
Tennessee.....										25	70	17	60							
Texas.....	8	25								11	379	6	403							
Vermont.....										32	14	23	20							
Virginia.....	12	4								15	229	13	112							
West Virginia.....										35	1									
Wisconsin.....										4	1,206	5	1,017							
Total of the Territories.....	7,075									4,503	13,284									
Arizona.....	6	20								9	31									
Colorado.....	7	7								4	180									
Dakota.....										3	1,200	2	2,261							
District of Columbia.....	8	3								10	15	5	1							
Idaho.....	1	4,274								8	47									
Montana.....	2	1,949								6	157									
New Mexico.....										2	1,309	1	10,507							
Utah.....	3	445								5	179	4	89							
Washington.....	4	234								1	1,319	3	426							
Wyoming.....	5	143								7	66									
On public ships in service of the United States.....																				

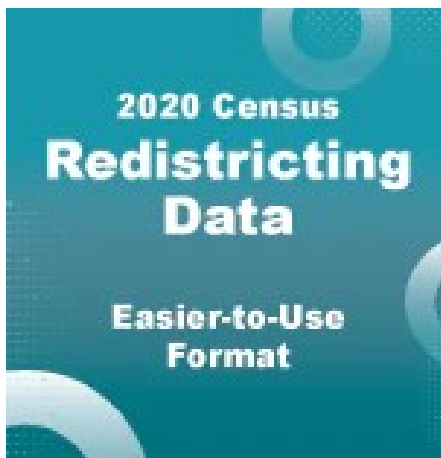
(a) Includes 55 Japanese.

(b) Includes 33 Japanese.

(c) Includes 10 Japanese.

(d) Includes 1 Japanese.

EXHIBIT D



[/newsroom/press-releases/2021/2020-census-redistricting-data-easier-to-use-format.html]
[/newsroom/press-releases/2021/2020-census-redistricting-data-easier-to-use-format.html]

FOR IMMEDIATE RELEASE: THURSDAY, APRIL 29, 2021

2020 Presidential Election Voting and Registration Tables Now Available

APRIL 29, 2021
RELEASE NUMBER CB21-TPS.49

APRIL 29, 2021 — The 2020 presidential election had the highest voter turnout of the 21st century, with 66.8% of citizens 18 years and older voting in the election, according to new voting and registration tables released today by the U.S. Census Bureau. These data come from the 2020 Current Population Survey Voting and Registration Supplement [/data/tables/time-series/demo/voting-and-registration/p20-585.html] for the November 2020 presidential election, which surveyed the civilian noninstitutionalized population in the United States.

The table package shows patterns of voter turnout by race, Hispanic origin, age and other characteristics such as educational attainment and family income. Asian voter turnout was at an all-time high of 59.7% for the 2020 presidential election. As with past elections, a higher share of women (68.4%) than men (65.0%) turned out to vote. Voter turnout also increased as age, educational attainment and income increased. Voter turnout was highest among those ages 65 to 74 at 76.0%, while the percentage was lowest among those ages 18 to 24 at 51.4%. Overall, voter turnout increased as age increased, with the exception of 75-plus which had a turnout rate that was below 65-74 year-olds and not significantly different than the turnout for 55 to 64 year-olds. High school graduate turnout was 55.5%, while turnout for those with a bachelor's degree was 77.9%. Overall, voter turnout increased as income increased, with the exception of those in the income ranges \$10,000-\$14,999 and \$15,000-\$19,999, which had turnouts that were not significantly different. For people whose income was \$100,000-\$149,999, turnout was 81.0%, while for people whose income was \$30,000-\$39,999, turnout was 63.6%.

Despite COVID-19 concerns, 155 million people turned out for the 2020 presidential election. However, 4% (552,500) of registered nonvoters reported not voting due to their concerns about the COVID-19 pandemic.

Other highlights from the table package include:

- People registered to vote in various ways, the most common being at a department of motor vehicles (27.7%).
- Veterans voted at a higher rate (74.1%) than nonveterans (66.1%).
- The most common reason for not voting among registered nonvoters was they were not interested in the election (17.6%). Other reasons included not liking the candidates or campaign issues, being too busy and forgetting to vote.

The Census Bureau has collected voting and registration data since 1964 and has fielded the Voting and Registration Supplement to the Current Population Survey every two years. This survey is the most

2020 Presidential Election Voting & Registration Tables Now Available <https://www.census.gov/newsroom/press-releases/2021/2020-presidential...>
comprehensive data source available on U.S. social and demographic composition. For more information on the 2020 Presidential Election, visit <https://www.census.gov/programs-surveys/cps/techdocs/cpsnov20.pdf> [https://www2.census.gov/programs-surveys/cps/techdocs/cpsnov20.pdf] >.

The estimates presented in this table package may differ from those based on administrative data or exit polls due to factors such as survey nonresponse, vote misreporting and methodological issues related to question wording and survey administration.

For data from previous presidential election years, visit the Voting and Registration [/topics/public-sector/voting.html] page. To learn more about how citizens chose to participate in the presidential election and about the general turnout, read our “What Methods Did People Use to Vote in the 2020 Election? [/library/stories/2021/04/what-methods-did-people-use-to-vote-in-2020-election.html]” and “Record High Turnout in 2020 General Election [/library/stories/2021/04/record-high-turnout-in-2020-general-election.html]” America Counts articles.

No news release associated with this product. Tip sheet only

###

Contact

Jewel Jordan
Public Information Office
301-763-3030
pio@census.gov [mailto:pio@census.gov]

Last Revised: October 8, 2021

EXHIBIT E

First 2020 Census Data Release Shows U.S. Resident Population of 331,449,281

Population

</library/stories/2021/04/2020-census-data-release.html>

U.S. Census Bureau Today Delivers State Population Totals for Congressional Apportionment

BRYNN EPSTEIN AND DAPHNE LOFQUIST | APRIL 26, 2021

The U.S. Census Bureau today released </newsroom/press-kits/2021/2020-census-apportionment-counts.html> the first population counts from the 2020 Census.

At the same time, Secretary of Commerce Gina Raimondo delivered to the President population counts used for apportionment </topics/public-sector/congressional-apportionment.html>, along with the number of seats in the U.S. House of Representatives that will be allocated to each state based on the 2020 Census.

The population counts used for apportionment include the total resident population for each of the 50 states, plus a count of U.S. military and federal civilian employees living overseas (and their dependents living with them) who could be allocated to a home state.

The 2020 Census shows that the resident population of the United States, including the 50 states and the District of Columbia, was 331,449,281 as of April 1, 2020, an increase of 7.4% since the 2010 Census.

Apportionment calculations based on the 2020 Census show that Texas, Colorado, Florida, Montana, North Carolina, and Oregon will gain seats, while California, Illinois, Michigan, New York, Ohio, Pennsylvania, and West Virginia will lose seats.

What is Apportionment?

Apportionment is the process of distributing the 435 seats in the U.S. House of Representatives among the 50 states. Article 1, Section 2 of the U.S. Constitution requires that apportionment happen every 10 years based on population counts from the decennial census.

The District of Columbia and Puerto Rico are not included in the apportionment process because they do not have voting seats in Congress, but population counts for those areas were also released today.

The populations of the U.S. Island Areas — American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands—will not be included in this release, but resident population counts for those areas will be released later.

For more details on who was counted (and where they were counted), see the Residence Criteria and Residence Situations for the 2020 Census </content/dam/Census/programs-surveys/decennial/2020-census/2020-Census-Residence-Criteria.pdf>.

An Apportionment Fact Sheet </library/fact-sheets/2021/apportionment-101.html> is available that provides easily accessible and sharable information about apportionment in a one-page document.

Calculating Apportionment

The population counts used for apportionment include the total resident population for each of the 50 states, plus a count of U.S. military and federal civilian employees living overseas (and their dependents living with them) who could

be allocated to a home state.

For more information about who is included in the apportionment population counts, visit our [Frequently Asked Questions \(FAQs\)](#) [/topics/public-sector/congressional-apportionment/about/faqs.html] .

When calculating apportionment, each of the 50 states gets one seat in the U.S. House of Representatives. The rest of the seats are distributed based on each state's apportionment population.

Following the 1940 Census, Congress adopted the Method of Equal Proportions [/topics/public-sector/congressional-apportionment/about/computing.html] for calculating how the rest of the seats are distributed. It has been used every decade since. [/topics/public-sector/congressional-apportionment/about/computing.html]

The method first calculates values based on each state's total population and the number of potential seats each state could receive. It then ranks those values to determine how many additional seats each state gets.

A recently published blog [/newsroom/blogs/random-samplings/2021/04/how-apportionment-is-calculated.html] describes the calculation process in more detail.

The video below describes the purpose and importance of apportionment. It also explains the apportionment process and how it's calculated to ensure equal representation for all.

2020 Census Apportionment Results

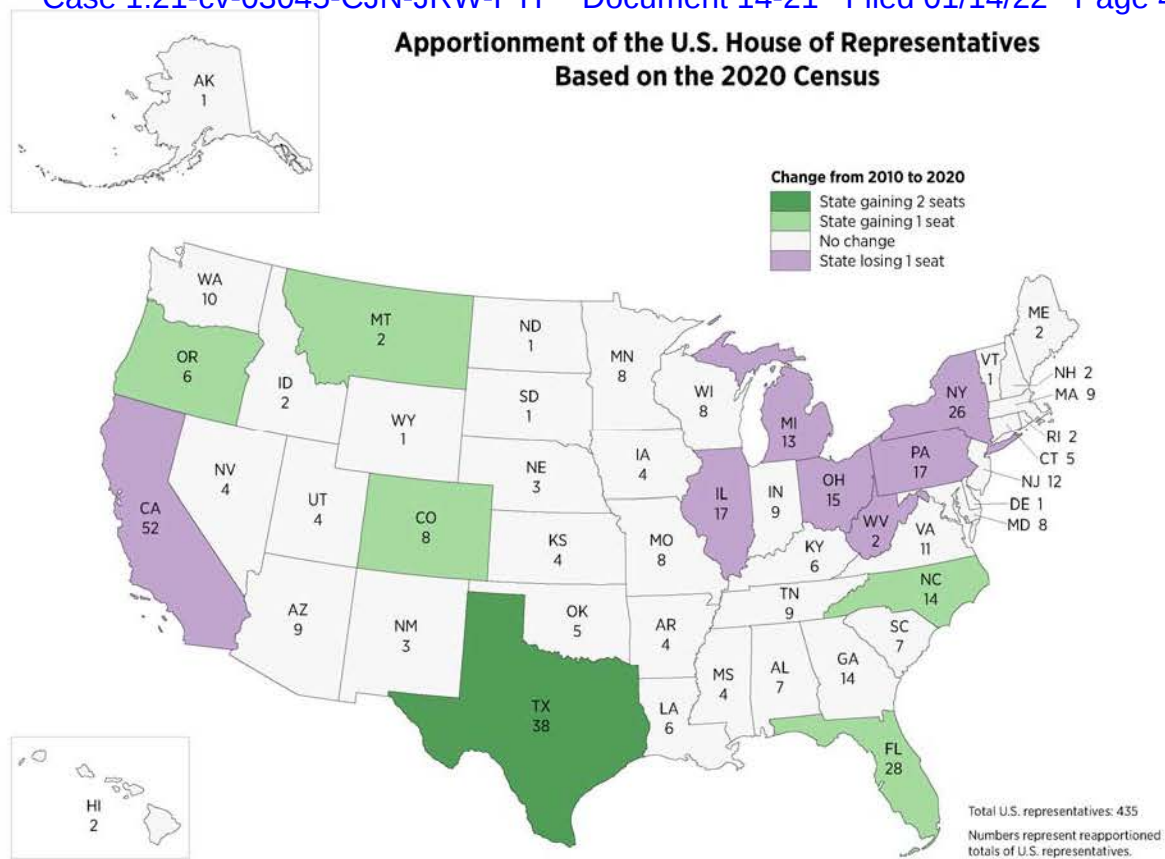
The 2020 Census apportionment population for the 50 states is 331,108,434. The apportionment population is the sum of the resident population for the 50 states (330,759,736) and the overseas population for the 50 states (348,698).

Apportionment Population = Resident Population + Overseas Population

331,108,434	330,759,736	348,698
-------------	-------------	---------

Based on the 2020 Census apportionment population counts, 7 House seats will shift among 13 states. One state will gain two seats (Texas), and 5 states will gain one seat (Colorado, Florida, Montana, North Carolina, and Oregon). Seven states will lose one seat (California, Illinois, Michigan, New York, Ohio, Pennsylvania, and West Virginia).

California, Texas, Florida, and New York are the four states that will have the largest number of representatives, and Alaska, Delaware, North Dakota, South Dakota, Vermont, and Wyoming are the states that will have only one representative each.



United States[®]
Census
Bureau

U.S. Department of Commerce
U.S. CENSUS BUREAU
census.gov

United States[®]
Census
2020

The average congressional district population size will increase. Each member of the House of Representatives will represent an average of 761,169 people based on the 2020 Census. This will be an increase of 50,402 (7.1% increase) compared with the average of 710,767 people per representative based on the 2010 Census.

Delaware will have the largest average district size (990,837), while Montana will have the smallest average district size (542,704).

2020 Census Resident Population

The 2020 Census resident population of 331,449,281 includes all people living in the 50 states and the District of Columbia as of April 1, 2020.

Of the U.S. resident population, 37.2% (123,425,864) lived in the five most populous states in 2020 and over a quarter (27.2%) were in the three largest states: California, Texas, and Florida (Table 1).

Table 1.

States with the Largest and Smallest Resident Population: 2020 Census

State	Population
Largest Population	
California	39,538,223
Texas	29,145,505
Florida	21,538,187
New York	20,201,249
Pennsylvania	13,002,700
Smallest Population	
Wyoming	576,851
Vermont	643,077
Alaska	733,391
North Dakota	779,094
South Dakota	886,667

Source: U.S. Census Bureau, 2020 Census

[/content/dam/Census/library/stories/2021/04/apportionment-table-1-resident-population.jpg](#)

The five least-populous states had a combined resident population of 3,619,080. Those five states – Wyoming, Vermont, Alaska, North Dakota, and South Dakota – made up 1.0% of the U.S. resident population.

Table 2.

States with the Fastest and Slowest Growth in Resident Population: 2010 to 2020

State	Population		Change	
	2010	2020	Number	Percent
Fastest Growing				
Utah	2,763,885	3,271,616	507,731	18.4
Idaho	1,567,582	1,839,106	271,524	17.3
Texas	25,145,561	29,145,505	3,999,944	15.9
North Dakota	672,591	779,094	106,503	15.8
Nevada	2,700,551	3,104,614	404,063	15.0
Slowest Growing				
Connecticut	3,574,097	3,605,944	31,847	0.9
Michigan	9,883,640	10,077,331	193,691	2.0
Ohio	11,536,504	11,799,448	262,944	2.3
Wyoming	563,626	576,851	13,225	2.3
Pennsylvania	12,702,379	13,002,700	300,321	2.4

Source: U.S. Census Bureau, 2020 Census and 2010 Census

[/content/dam/Census/library/stories/2021/04/apportionment-table-2-population-change.jpg](#)

Utah was the fastest-growing state, followed by Idaho, Texas, North Dakota, Nevada (Table 2). The five states with the slowest population growth, all under 2.5%, were: Connecticut, Michigan, Ohio, Wyoming, and Pennsylvania. North Dakota, with one of the smallest resident populations (779,094), had one of the largest percent increases in population size (15.8%). Illinois, Mississippi, and West Virginia were the states that lost population.

2020 Census Overseas Population

The 2020 Census overseas population for the United States, including the 50 states and the District of Columbia, was 350,686. This included military or civilian employees of the U.S. government who were stationed or assigned outside the United States on April 1, 2020, as well as their dependents living with them outside the United States.

U.S. government agencies and departments provided the Census Bureau with counts of their employees and their dependents living overseas by the employees' home state listed in agency administrative records.

Table 3.
States with the Largest and Smallest Overseas
Population: 2020 Census

State	Population
Largest Population	
California	38,534
Texas	37,785
Florida	32,340
Virginia	23,149
North Carolina	14,560
Smallest Population	
Vermont	426
North Dakota	608
Rhode Island	784
Wyoming	868
Delaware	889

Source: U.S. Census Bureau, 2020 Census

[/content/dam/Census/library/stories/2021/04/apportionment-table-3-overseas-population.jpg]

The five states with the largest overseas populations had a combined 41.7% (146,368) of the total overseas population. Three of the states with the largest overseas population were also the states with the largest resident population: California, Texas, and Florida (Table 3).

The five states with the smallest overseas population had a combined overseas population of 3,575, or 1.0% of the total overseas population. Three of the states with the smallest overseas population, Vermont, North Dakota, and Wyoming, were also some of the states with the smallest resident population.

More 2020 Census Apportionment Data

The 2020 Census apportionment data tables were published on the apportionment press kit webpage [</newsroom/press-kits/2021/2020-census-apportionment-counts.html>] today, along with many other resources for information about apportionment.

A few days after the apportionment release, a set of supplemental tables will be published on a new 2020 Census Apportionment Results webpage that will be linked to the apportionment press kit webpage.

These tables will include additional data on the apportionment population and its components, as well as historical changes in the number of seats each state has in the U.S. House of Representatives.

Brynn Epstein is a statistician and an apportionment project analyst at the Census Bureau.

Daphne Lofquist is a statistician and an apportionment project analyst at the Census Bureau.

Story Ideas and Statistics

Directors Blog | July 28, 2021 | BY Dr. Ron Jarmin, Acting Director

Redistricting Data: What to Expect and When

Since releasing the apportionment results in April, we've had several teams working hard on the next set of 2020 Census data — the redistricting data.

[</newsroom/blogs/director/2021/07/redistricting-data.html>]

Directors Blog | April 26, 2021 | Written By: Dr. Ron Jarmin, Acting Director

The 2020 Census: Our Growing Nation

The U.S. Census Bureau released results from the 2020 Census, marking the 24th time the nation's population has been counted.

[</newsroom/blogs/director/2021/04/2020-census-our-growing-nation.html>]

Subscribe to America Counts

Our email newsletter is sent out on the day we publish a story. Get an alert directly in your inbox to read, share and blog about our newest stories.

SIGN UP TODAY [[HTTPS://PUBLIC.GOVDEL...](https://public.govdel...)]

About

America Counts tells the stories behind the numbers in a new inviting way. We feature stories on various topics such as families [<https://www.census.gov/library/stories/all.html/category/Topic/Families>], housing [<https://www.census.gov/library/stories/all.html/category/Topic/Housing>], employment [<https://www.census.gov/library/stories/all.html/category/Topic/Employment>], business [<https://www.census.gov/library/stories/all.html/category/Topic/business-economy>], education [<https://www.census.gov/library/stories/all.html/category/Topic/Education>], the economy [<https://www.census.gov/library/stories/all.html/category/Topic/business-economy>], emergency management [<https://www.census.gov/library/stories/all.html/category/Topic/Government/Emergency-Preparedness>], health [<https://www.census.gov/library/stories/all.html>]

[Case 1:21-cv-03045-GJM-JRW-FYP Document 14-21 Filed 01/14/22 Page 9 of 11](#)
[/category/Topic/Health](#), [population](#) [<https://www.census.gov/library/stories/all.html/category/Topic/ThePopulation>],
[income and poverty](#) [<https://www.census.gov/library/stories/all.html/category/Topic/Income-Poverty>] .

Contact our Public Information Office [[/newsroom/about.html](#)] for media inquiries or interviews.

Census.gov > Topics > Population

The U.S. Census Bureau is the leading source of statistical information about the nation's people. Our population statistics come from decennial censuses, which count the entire U.S. population every ten years, along with several other surveys.

Newsroom

Press Release | January 28, 2021

Data on Minority-Owned, Veteran-Owned and Women-Owned Businesses

Approximately 18.3% (1.0 million) of all U.S. businesses were minority-owned and about 19.9% (1.1 million) of all businesses were owned by women.

[\[/newsroom/press-releases/2021/annual-business-survey.html\]](#)

Press Release | July 27, 2021

New Vintage 2020 Population Evaluation Estimates Available

The U.S. Census Bureau today released Vintage 2020 evaluation estimates updated to include April 1, 2020, resident population and housing unit estimates.

[\[/newsroom/press-releases/2021/vintage-2020-population-evaluation-estimates.html\]](#)

Press Release | April 21, 2021

Computer and Internet Use in the United States: 2018

The U.S. Census Bureau today released a report that examines trends in computer and Internet use in 2018.

[\[/newsroom/press-releases/2021/computer-internet-use.html\]](#)

Videos



[\[/library/video/2021/accessing-2020-census-redistricting-data-from-legacy-format-summary-files.html\]](#)



[\[/library/video/2021/2020-census-stakeholder-briefing-july-22-2021.html\]](#)



[\[/library/video/2021/data-about-race-ethnicity-and-ancestry.html\]](#)

Data Tables

Table | April 25, 2012

Hispanic Origin and Race of Coupled Households (CPH-T-4)

This CPH-T-4 table is from the 2010 Decennial Census.

[\[/data/tables/time-series/dec/cph-series/cph-t/cph-t-4.html\]](#)

Table | 2011

A Child's Day: 2011 - Detailed Tables

Source: Survey of Income and Program Participation (SIPP), 2008 Panel, Wave 10

</data/tables/2008/demo/2011-childs-day.html>

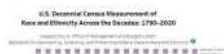
Table | 2011

Dynamics of Economic Well-Being: Poverty, 2005-2011

These data tables describe patterns of poverty using measures with different time horizons.

</data/tables/time-series/demo/income-poverty/p70-137.html>

Visualizations



</library/visualizations/interactive/decennial-census-measurement-of-race-and-ethnicity-across-the-decades-1790-2020.html>



</library/visualizations/interactive/household-pulse-survey-covid-19-vaccination-tracker.html>



</library/visualizations/2021/comm/fourth-of-july.html>

Publications

Publication | April 22, 2021 | Yefra Mayol-García, Benjamin Gurrentz, And Rose M. Kreidler

Number, Timing, and Duration of Marriages and Divorces: 2016

This report uses data from major U.S. Census Bureau demographic surveys to provide a comprehensive look at current and earlier marital patterns in the U.S.

</library/publications/2021/demo/p70-167.html>

Publication | April 21, 2021 | Michael Martin

Computer and Internet Use in the United States, 2018

This report highlights computer and internet use data for various demographic and geographic characteristics using estimates from the 2018 ACS.

</library/publications/2021/acs/acs-49.html>

Publication | November 10, 2020 | Clayton Gumber And Jonathan Vespa

The Employment, Earnings, and Occupations of Post-9/11 Veterans

This report describes the employment, earnings, and occupations of Post-9/11 Veterans during the period between 2014 and 2018.

</library/publications/2020/demo/acs-46.html>

Fact Sheets



</library/fact-sheets/2021/redistricting-data-101.html>



</library/fact-sheets/2021/differential-privacy-and-the-2020-census.html>



</library/fact-sheets/2021/what-are-synthetic-data.html>

This story was posted in: Population </library/stories/all.html/category/Topic/ThePopulation>



**First 2020 Census Population
Counts Will Be Released Today**

[<https://www.census.gov/library/stories/2021/04/first-2020-census-population-counts-will-soon-be-released.html>]



**Demographic Analysis Produces
Range of U.S. Population
Estimates as of April 1, 2020**

[<https://www.census.gov/library/stories/2020/12/demographic-analysis-produces-range-of-population-estimates.html>]



**2020 Census Is Critical for Your
Community**

[<https://www.census.gov/library/stories/2020/05/2020-census-is-critical-for-your-community.html>]

Last Revised: May 3, 2021

EXHIBIT F

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF THE DISTRICT OF COLUMBIA**

CITIZENS FOR CONSTITUTIONAL
INTEGRITY,

Plaintiff,

v.

THE CENSUS BUREAU, *et al.*,

Defendants.

No. 1:21-cv-3045

SARAH BANKS DECLARATION

1. My name is Sarah Banks, and I reside in Lancaster, Pennsylvania. I am a member of Citizens for Constitutional Integrity. Although I had lived in Pennsylvania for almost three months before the November 2020 election, Pennsylvania would not permit me to register to vote. I felt devastated when I could not vote in that election, and I felt frustrated that Pennsylvania law disenfranchised me. I understand that because the Census Bureau did not complete the analysis the Fourteenth Amendment requires, Pennsylvania lost a seat in the U.S. House of Representatives. The Census Bureau harmed me by diluting my vote.

2. As a United States citizen, I enjoy the freedom to move between states, and my husband, and I had spent so little time outside of Montana that I wanted to live somewhere else with new opportunities. I did not expect that would come with the price of losing my ability to vote in an election.

3. When my husband and I moved to Pennsylvania, on or about August 3, we first lived with a friend for about a week. Starting on August 9, I rented a place on Airbnb in the town of Bird in Hand, Pennsylvania. I started working at an animal hospital. In early September, my husband and I moved in with friends in York, Pennsylvania. In the meantime, we searched eagerly for a

house to buy. We ultimately put a contract on a house in Lancaster with a target closing date on October 13. We continued staying with our friends in York while waiting for the closing date.

4. After closing, I knew the election was almost upon me, and I was running out of time to register. Everyone in my life was discussing it, and I felt compelled to make my voice heard. When I went to the Lancaster County voter registration office to register to vote, the elections officials gave me a form to complete.

5. To my surprise, the directions on the form prohibited me from registering to vote for the November 2020 elections. *See Pennsylvania Voter Registration Application, Ex. 1.* I had not resided in the election district for thirty days before the election. I had just closed on my house on October 13, and I had lived at a different address until then. I moved too close to the November election. Therefore, when I tried to register, I had lived in Pennsylvania for three months, but Pennsylvania would not allow me to vote because I had moved too close to the election. I felt powerless, and I deserved to be able to vote.

6. I could not vote in Montana because I did not live there anymore. I could not vote in my friend's place's district because I did not live there anymore and because it was not in the same district as where I lived now. And I could not vote where I lived now because I had resided there eight days too few.

7. I had no choice. I did not vote in 2020. I believe I deserved to vote as a United States citizen who has lived in this country my whole life, and I felt frustrated that the laws of my new state made it impossible.

8. Since the November 2020 election, I have registered, and I look forward to voting in November 2022 and into the future. My frustrating experience in 2020 only reinforces my deep believe in the importance of voting.

9. Ultimately, the Census Bureau has injured me by failing to implement the Fourteenth Amendment. I understand that other states have denied their citizens' rights to vote by failing to register them to vote, and the Census Bureau and Department of Commerce have not discounted those states' populations when distributing seats in the U.S. House of Representatives. I understand that the Fourteenth Amendment and a federal statute require those discounts.

10. If the Census Bureau and the Secretary of Commerce do not complete the calculations for their reports and statements, they will cause Pennsylvania to lose a representative seat in the U.S. House of Representatives—even as other states deny their citizens' rights to vote. With one fewer representative for Pennsylvania, the Census Bureau's report and the Department of Commerce's statement dilute my vote. I want the Census Bureau to complete the analysis the Fourteenth Amendment requires.

11. Implementing the Fourteenth Amendment will likely make my voter registration easier when I next move election districts in Pennsylvania. I understand that, if the Census Bureau implements the Fourteenth Amendment, Section 2, to discount those states' basis of representation, those states will make registration easier. And if other states make registration easier, Pennsylvania will want to make registration easier, so its basis for representation does not decrease. Then, if I move districts again within thirty days before an election, Pennsylvania may allow me to register in my new election district.

12. I declare under penalty of perjury that the foregoing is true and correct.

Executed on 12/7/21.


SARAH BANKS

EXHIBIT G

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF THE DISTRICT OF COLUMBIA**

CITIZENS FOR CONSTITUTIONAL
INTEGRITY,

Plaintiff,

v.

THE CENSUS BUREAU, *et al.*,

Defendants.

No. 1:21-cv-3045

ANDRONIKI LAGOS DECLARATION

1. My name is Androniki Lagos, and I reside in the Brooklyn borough of New York City. I am a member of Citizens for Constitutional Integrity. The Census Bureau's 2021 Census injured me by resulting in the State of New York receiving one fewer seat in the U.S. House of Representatives (from 27 to 26 seats). Consequently, each representative will have more constituents. That injures me by diluting my vote and by making my vote less effective. It also injures me by making my congressperson harder to reach because I will be competing with more constituents for my congressperson's time and attention.

2. I am a native-born United States citizen, and I have lived in New York State for 6 years. I moved here to study urban planning at Columbia University in the City of New York, earning a Master's Degree in 2017. I have always wanted to impact public policy in pursuit of more equitable access to the American dream, and to foster resiliency—from individual resiliency to national resiliency.

3. As the child of immigrants, I was raised with the notion that our representative democracy is first among reasons why the United States is a place of possibility. I have lived in states ranging from Alaska to Florida, and I have personally witnessed both the effects of disparate

representation, and what is possible when laws and policies sufficiently account for local character and needs.

4. Currently, I work at Urbane Development Group LTD, a company that builds bridges to community wealth in traditionally underinvested neighborhoods. As an economic development consultant there, I design strategies to grow capacity and opportunity within low- and moderate-income (LMI) communities. I conduct primary community research, analyze market conditions, and design responsive economic interventions that bolster neighborhood anchors and individual residents.

5. My work largely aims to advance and uplift New Yorkers by identifying and marshalling federal resources from agencies that include the U.S. Department of Housing and Urban Development, the Small Business Administration, and the U.S. Department of Agriculture. Congressional actions impact my work through the allocation of federal subsidies that are the lifeblood of services and programs which the private market fails to provide. Federal policies shape incentives that enable my employer to develop affordable spaces for people to live, create and operate small businesses. For example, Community Development Block Grants are indispensable for my nonprofit clients to train people for in-demand jobs and to support seniors with healthy aging programs. Having fewer members in the House advocating for New York will likely result in the United States spending fewer resources on critical community investments in affordable housing, public infrastructure, education and workforce training, food access programs and micro and small business development, among many others. That potential loss of federal funding fundamentally jeopardizes the health and stability of New York and New Yorkers through a mismatch in size and type of investment in proportion to the population. Those funding allocations affect not only my work, but also the community where I live.

Lagos Decl.

Citizens for Constitutional Integrity v. Census Bureau, No. 1:21-cv-3045

2

6. Currently, Nydia M. Velázquez represents me. I voted for her. When I moved to New York after living for years in Washington, D.C., where I could not vote for U.S. Representatives or U.S. Senators, I felt grateful to have that opportunity in New York. I voted in the general election in 2020, and I intend to vote in New York in the general election in 2022 and beyond. I want to have a representative represent my interests more directly and more effectively.

7. I understand that the Secretary of Commerce Gina Raimondo, the Department of Commerce, Acting Census Bureau Director Ron S. Jarmin, and the Census Bureau have failed to comply with the Fourteenth Amendment and the United States Code by failing to account for voting abridgments in several states, and by failing to discount those states' populations when distributing seats in the U.S. House of Representatives. I understand that the Census Bureau's report and the Secretary of Commerce's statement will result in New York losing a representative seat in the U.S. House of Representatives, while other states abridge their citizens' rights to vote. With one fewer representative for the State of New York, the Census report and Commerce statement dilute my vote.

8. I declare under penalty of perjury that the foregoing is true and correct.

Executed on 11.20.2021.



ANDRONIKI LAGOS

EXHIBIT

3

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF THE DISTRICT OF COLUMBIA**

CITIZENS FOR CONSTITUTIONAL
INTEGRITY,

Plaintiff,

v.

THE CENSUS BUREAU, *et al.*,

Defendants.

No. 1:21-cv-3045

AYUSH SHARMA DECLARATION

1. My name is Ayush Sharma, and I am a Data Scientist. I analyzed the equation in the Fourteenth Amendment, Section 2. Under four different scenarios, I calculated various bases of representation and redistributed seats in the U.S. House of Representatives according to the method of equal proportions.

I. Educational and work background

2. In December 2015, I obtained my Master's Degree in Electrical and Computer Engineering from Georgia Institute of Technology. I graduated with a grade-point average (GPA) of 3.8. A lot of my graduate work related to machine learning and required me to apply statistical tests to infer the statistical significance of a specific hypothesis or algorithm.

3. One such instance was publishing a research paper titled "Deep emotion recognition using prosodic and spectral feature extraction and classification based on cross validation and bootstrap." A. Sharma and D. V. Anderson, *2015 IEEE Signal Processing and Signal Processing Education Workshop (SP/SPE)*, 2015, pp. 421-425, doi: 10.1109/DSP-SPE.2015.7369591. The paper gave me the opportunity to use my knowledge of audio signal processing and statistics to

prove that the methodology we designed improved the emotion recognition from the state-of-the-art techniques. A dataset where 8 actors voiced 15 different emotions was used as a basis for building the model. Emotions are classified on two scale – valence and activation. Valence deals with the positivity or negativity of the emotion. Activation deals with the intensity or pitch associated with the emotions. By building a model that differentiates emotions by plotting them on this coordinate scale of valence and activation, we were able to demonstrate a reliable way to classify a complex emotion among the 15 emotions.

4. In 2016, I joined Mogean, a geospatial analytics startup company as a data scientist, and I began working on several projects that required applying statistical analyses. My responsibilities as a data scientist include implementing applied statistics to the real-time data generated by our clients and finding actionable insights to help them make better business decisions. Among my tasks, I helped create a propensity scoring system for our clients that given their customers' patterns and behaviors ranks them in order of how likely they are to visit the clients' stores. I also designed marketing campaigns for digital brands to enable them to locate their ads to better measure the efficacy of their advertisement campaigns.

5. To gain more depth in my understanding of the theoretical concepts of statistics, I completed my second masters in Statistics and Analytics from Harrisburg University of Science and Technology. I graduated with a GPA of 3.8 in 2020.

6. In March 2020, I was promoted to the position of Chief Data Scientist. Some of the responsibilities include designing and evaluating statistical analyses for solving clients' problems and challenges. I lead and supervise a team of data analysts to ensure best practices are followed while using statistical tests.

II. Analysis

7. I conducted the four-scenario analysis of the Fourteenth Amendment, Section 2, in RStudio, an open source and professional software for data mining. To further elaborate the analysis, the four different scenarios will be explained in detail.

8. To distribute seats using the method of equal proportions, I relied on the Census Bureau's Computing Apportionment description of the method. Census Bureau, Computing Apportionment (Nov. 22, 2021), <https://www.census.gov/topics/public-sector/congressional-apportionment/about/computing.html>. That method requires distributing one seat to each state. For each additional seat, it calculates a set of priority values among all of the states and assigns each additional seat to the state with the next priority value.

A. Data Sources

9. For the Census Bureau's actually enumerated population statistics, I used data from the Census Bureau's website, 2020 Census Apportionment Results (Apr. 26, 2021), <https://www.census.gov/data/tables/2020/dec/2020-apportionment-data.html>. Specifically, I relied on Table 1, Apportionment Population and Number of Representatives by State: 2020 Census. Ex. 1. During my work, for comparison, I also referred to the Census Bureau's table of Priority Values for 2020 Census Apportionment, Ex. 2.

10. For voting registration rates and citizenship percentages, I used data from the Census Bureau's website, Voting and Registration in the Election of November 2020 (Apr. 2021), <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-585.html>. In particular, I relied on Table 4a, Reported Voting and Registration for States: November 2020, Ex. 3. I referenced the Census Bureau's description of its method to ensure I used the correct figures. Current Population Survey, November 2020, Voting and Registration Supplement, Technical Documentation, Ex. 4.

Sharma Decl.

Citizens for Constitutional Integrity v. Census Bureau, No. 1:21-cv-3045

2

11. I took the estimates of citizens who cannot vote because of a criminal conviction from the Sentencing Project's study, *Locked Out 2020: Estimates of People Denied Voting Rights Due to a Felony Conviction* (October 15, 2020, updated October 30, 2020), Ex. 5.

12. I used 300,000 as the number of registered voters disenfranchised by Wisconsin's photo voter ID law. *Frank v. Walker*, 17 F. Supp. 3d 837, 884 (E.D. Wis. 2014), *overturned on other grounds* by 768 F.3d 745, 746 (7th Cir. 2014), *r'hrq en banc denied*, 773 F.3d 783, 785 (2014).

B. Scenario Descriptions

13. In Scenario 1, I tested the accuracy of the algorithm I designed. I tested whether the algorithm would replicate the Census Bureau's results for apportioning seats in the U.S. House of Representatives among the states. Out of the total 435 seats to be distributed, the first 50 seats were given one to each state, and the remaining 385 were distributed according to the method of equal proportions algorithm. The results of the seat distribution are presented in the results section.

14. In Scenario 2, I replaced the actual enumerated population statistic in the method of equal proportions formula with "basis of representation," based on voter registration rates in each state. This "basis of representation" equation in the Fourteenth Amendment, Section 2, requires identifying, for each state, (1) the number of citizens, and (2) the number of citizens over 18 years of age who can vote, plus the Sentencing Project's estimated number of citizens who cannot vote because of a criminal conviction. To calculate the "basis of representation" figure for each state, the Fourteenth Amendment requires multiplying the proportion of citizens who can vote ((citizens who can vote plus citizens who cannot register because of criminal convictions) to the number of citizens) by the Census's actually enumerated population statistic. The results are presented in the next section.

15. Scenario 3 is similar to Scenario 1 in all respects, but one. Scenario 3 replaces Wisconsin’s actually enumerated apportionment statistic with Wisconsin’s “basis of representation.” For Wisconsin’s “basis of representation,” this scenario subtracts 300,000 people from Wisconsin’s citizens registered to vote, because those citizens were disenfranchised by Wisconsin’s photo voter identification (ID) law, and it adds the Sentencing Project’s estimated number of citizens who cannot vote because of criminal convictions. Again, to calculate the “basis of representation,” the Fourteenth Amendment requires multiplying the proportion of citizens who can vote ((citizens who can vote plus citizens who cannot register because of criminal convictions) to the number of citizens) by the actually enumerated population statistic.

16. Scenario 4 is similar to the methodology for Scenario 2 in all respects, but one. In addition to calculating each state’s basis of representation based on voter registration rates, Scenario 4 subtracts 300,000 people from the number of registered voters over 18 years of age in Wisconsin who were disenfranchised due to Wisconsin’s photo voter ID law. In other words, it calculates all states’ basis of representation after accounting both (1) for each state’s voter registration rates and (2) for registered voters disenfranchised due to Wisconsin’s photo voter ID law.

III. Results

17. This section presents the distribution of house seats as a result of applying the method of equal proportions algorithm to the four scenarios.

A. Scenario 1

18. In Scenario 1, my objective was to verify the accuracy of the algorithm developed and to determine whether the results match the seat distribution by the Census Bureau. Table 1 presents the results.

Sharma Decl.

Citizens for Constitutional Integrity v. Census Bureau, No. 1:21-cv-3045

4

State	Scenario 1 Seats	Census Bureau Seats	Change	State	Scenario 1 Seats	Census Bureau Seats	Change
Alabama	7	7	0	Montana	2	2	0
Alaska	1	1	0	Nebraska	3	3	0
Arizona	9	9	0	Nevada	4	4	0
Arkansas	4	4	0	New Hampshire	2	2	0
California	52	52	0	New Jersey	12	12	0
Colorado	8	8	0	New Mexico	3	3	0
Connecticut	5	5	0	New York	26	26	0
Delaware	1	1	0	North Carolina	14	14	0
Florida	28	28	0	North Dakota	1	1	0
Georgia	14	14	0	Ohio	15	15	0
Hawaii	2	2	0	Oklahoma	5	5	0
Idaho	2	2	0	Oregon	6	6	0
Illinois	17	17	0	Pennsylvania	17	17	0
Indiana	9	9	0	Rhode Island	2	2	0
Iowa	4	4	0	South Carolina	7	7	0
Kansas	4	4	0	South Dakota	1	1	0
Kentucky	6	6	0	Tennessee	9	9	0
Louisiana	6	6	0	Texas	38	38	0
Maine	2	2	0	Utah	4	4	0
Maryland	8	8	0	Vermont	1	1	0
Massachusetts	9	9	0	Virginia	11	11	0
Michigan	13	13	0	Washington	10	10	0
Minnesota	8	8	0	West Virginia	2	2	0
Mississippi	4	4	0	Wisconsin	8	8	0
Missouri	8	8	0	Wyoming	1	1	0

Table 1: Scenario 1 Results

19. Exhibit 6 shows the priority values I calculated and shows that they match almost exactly the Census Bureau's table of Priority Values for 2020 Census Apportionment.

20. After ascertaining the accuracy of the algorithm, I implemented Scenarios 2, 3, and 4.

Sharma Decl.

Citizens for Constitutional Integrity v. Census Bureau, No. 1:21-cv-3045

5

B. Scenario 2

21. Table 2 shows the results of Scenario 2, which calculates the “basis of representation”

figure based on voter registration rates.

State	Scenario 2 Seats	Census Bureau Seats	Change	State	Scenario 2 Seats	Census Bureau Seats	Change
Alabama	7	7	0	Montana	2	2	0
Alaska	1	1	0	Nebraska	3	3	0
Arizona	10	9	+1	Nevada	4	4	0
Arkansas	4	4	0	New Hampshire	2	2	0
California	49	52	-3	New Jersey	14	12	+2
Colorado	7	8	-1	New Mexico	3	3	0
Connecticut	5	5	0	New York	25	26	-1
Delaware	1	1	0	North Carolina	13	14	-1
Florida	28	28	0	North Dakota	1	1	0
Georgia	14	14	0	Ohio	16	15	+1
Hawaii	2	2	0	Oklahoma	5	5	0
Idaho	2	2	0	Oregon	6	6	0
Illinois	17	17	0	Pennsylvania	17	17	0
Indiana	8	9	-1	Rhode Island	2	2	0
Iowa	4	4	0	South Carolina	6	7	-1
Kansas	4	4	0	South Dakota	1	1	0
Kentucky	6	6	0	Tennessee	10	9	+1
Louisiana	6	6	0	Texas	38	38	0
Maine	2	2	0	Utah	4	4	0
Maryland	9	8	+1	Vermont	1	1	0
Massachusetts	9	9	0	Virginia	12	11	+1
Michigan	13	13	0	Washington	10	10	0
Minnesota	8	8	0	West Virginia	2	2	0
Mississippi	5	4	+1	Wisconsin	8	8	0
Missouri	8	8	0	Wyoming	1	1	0

Table 2: Scenario 2 Results

22. Exhibit 7 shows the calculations of each state’s basis of representation after accounting for registration rates. Exhibit 8 shows the resulting basis-of-representation priority values.

Sharma Decl.

Citizens for Constitutional Integrity v. Census Bureau, No. 1:21-cv-3045

6

C. Scenario 3

23. Table 3 shows the results of Scenario 3, which calculates the basis of representation only for Wisconsin. It loses a seat, and New York gains a seat.

State	Scenario 3 Seats	Census Bureau Seats	Change	State	Scenario 3 Seats	Census Bureau Seats	Change
Alabama	7	7	0	Montana	2	2	0
Alaska	1	1	0	Nebraska	3	3	0
Arizona	9	9	0	Nevada	4	4	0
Arkansas	4	4	0	New Hampshire	2	2	0
California	52	52	0	New Jersey	12	12	0
Colorado	8	8	0	New Mexico	3	3	0
Connecticut	5	5	0	New York	27	26	+1
Delaware	1	1	0	North Carolina	14	14	0
Florida	28	28	0	North Dakota	1	1	0
Georgia	14	14	0	Ohio	15	15	0
Hawaii	2	2	0	Oklahoma	5	5	0
Idaho	2	2	0	Oregon	6	6	0
Illinois	17	17	0	Pennsylvania	17	17	0
Indiana	9	9	0	Rhode Island	2	2	0
Iowa	4	4	0	South Carolina	7	7	0
Kansas	4	4	0	South Dakota	1	1	0
Kentucky	6	6	0	Tennessee	9	9	0
Louisiana	6	6	0	Texas	38	38	0
Maine	2	2	0	Utah	4	4	0
Maryland	8	8	0	Vermont	1	1	0
Massachusetts	9	9	0	Virginia	11	11	0
Michigan	13	13	0	Washington	10	10	0
Minnesota	8	8	0	West Virginia	2	2	0
Mississippi	4	4	0	Wisconsin	7	8	-1
Missouri	8	8	0	Wyoming	1	1	0

Table 3: Scenario 3 Results

24. Exhibit 9 shows the calculations for Wisconsin's basis-of-representation based on its voter registration rates and photo voter ID law. Exhibit 10 shows the resulting priority values.

25. Even removing 300,000 people who were disenfranchised from the apportionment population and recalculating the distribution of seats yields a loss of one seat for Wisconsin and New York gaining one as a result. The priority values calculated for this scenario are tabulated in Exhibit 11. *See also Final Census Apportionment Counts Surprises Many Observers; Raising Questions of Why?*, Table #1 (Apr. 28, 2021), electiondataservices.com/wp-content/uploads/2021/04/NR_Appor20wTablesMaps-20210428.pdf, Ex. 12.

D. Scenario 4

26. Table 4 shows the results of Scenario 4, which calculates basis-of-representation figures for all states based on voter registration rates. It also reflects voter disenfranchisement from Wisconsin's photo voter ID laws. Compared to Scenario 2, Wisconsin loses one seat and Pennsylvania gains one seat.

State	Scenario 4 Seats	Census Bureau Seats	Change	State	Scenario 4 Seats	Census Bureau Seats	Change
Alabama	7	7	0	Montana	2	2	0
Alaska	1	1	0	Nebraska	3	3	0
Arizona	10	9	+1	Nevada	4	4	0
Arkansas	4	4	0	New Hampshire	2	2	0
California	49	52	-3	New Jersey	14	12	+2
Colorado	7	8	-1	New Mexico	3	3	0
Connecticut	5	5	0	New York	25	26	-1
Delaware	1	1	0	North Carolina	13	14	-1
Florida	28	28	0	North Dakota	1	1	0
Georgia	14	14	0	Ohio	16	15	+1
Hawaii	2	2	0	Oklahoma	5	5	0
Idaho	2	2	0	Oregon	6	6	0
Illinois	17	17	0	Pennsylvania	18	17	+1
Indiana	8	9	-1	Rhode Island	2	2	0
Iowa	4	4	0	South Carolina	6	7	-1
Kansas	4	4	0	South Dakota	1	1	0
Kentucky	6	6	0	Tennessee	10	9	+1
Louisiana	6	6	0	Texas	38	38	0
Maine	2	2	0	Utah	4	4	0
Maryland	9	8	+1	Vermont	1	1	0
Massachusetts	9	9	0	Virginia	12	11	+1
Michigan	13	13	0	Washington	10	10	0
Minnesota	8	8	0	West Virginia	2	2	0
Mississippi	5	4	+1	Wisconsin	7	8	-1
Missouri	8	8	0	Wyoming	1	1	0

Table 4: Scenario 4 Results

27. Exhibit 13 shows the calculations for each state's basis of representation, which accounts for each state's voter registration rates and for Wisconsin's photo voter ID law. Exhibit 14 shows the resulting priority values.

Sharma Decl.

Citizens for Constitutional Integrity v. Census Bureau, No. 1:21-cv-3045

9

28. I declare under penalty of perjury that the foregoing is true and correct.

Executed on 01/12/22.



AYUSH SHARMA

EXHIBIT

1

U.S. Department of Commerce
U.S. Census Bureau

Table 1. APPORTIONMENT POPULATION AND NUMBER OF REPRESENTATIVES BY STATE: 2020 CENSUS

STATE	APPORTIONMENT POPULATION (APRIL 1, 2020)	NUMBER OF APPORTIONED REPRESENTATIVES BASED ON 2020 CENSUS ²	CHANGE FROM 2010 CENSUS APPORTIONMENT
Alabama	5,030,053	7	0
Alaska	736,081	1	0
Arizona	7,158,923	9	0
Arkansas	3,013,756	4	0
California	39,576,757	52	-1
Colorado	5,782,171	8	1
Connecticut	3,608,298	5	0
Delaware	990,837	1	0
Florida	21,570,527	28	1
Georgia	10,725,274	14	0
Hawaii	1,460,137	2	0
Idaho	1,841,377	2	0
Illinois	12,822,739	17	-1
Indiana	6,790,280	9	0
Iowa	3,192,406	4	0
Kansas	2,940,865	4	0
Kentucky	4,509,342	6	0
Louisiana	4,661,468	6	0
Maine	1,363,582	2	0
Maryland	6,185,278	8	0
Massachusetts	7,033,469	9	0
Michigan	10,084,442	13	-1
Minnesota	5,709,752	8	0
Mississippi	2,963,914	4	0
Missouri	6,160,281	8	0
Montana	1,085,407	2	1
Nebraska	1,963,333	3	0
Nevada	3,108,462	4	0
New Hampshire	1,379,089	2	0
New Jersey	9,294,493	12	0
New Mexico	2,120,220	3	0
New York	20,215,751	26	-1
North Carolina	10,453,948	14	1
North Dakota	779,702	1	0
Ohio	11,808,848	15	-1
Oklahoma	3,963,516	5	0
Oregon	4,241,500	6	1
Pennsylvania	13,011,844	17	-1
Rhode Island	1,098,163	2	0
South Carolina	5,124,712	7	0
South Dakota	887,770	1	0
Tennessee	6,916,897	9	0
Texas	29,183,290	38	2
Utah	3,275,252	4	0
Vermont	643,503	1	0
Virginia	8,654,542	11	0
Washington	7,715,946	10	0
West Virginia	1,795,045	2	-1
Wisconsin	5,897,473	8	0
Wyoming	577,719	1	0
TOTAL APPORTIONMENT POPULATION ¹	331,108,434	435	

¹ Includes the resident population for the 50 states, as ascertained by the Twenty-Fourth Decennial Census under Title 13, United States Code, and counts of U.S. military and federal civilian employees living overseas (and their dependents living with them overseas) allocated to their home state, as reported by the employing federal agencies. The apportionment population excludes the population of the District of Columbia. The counts of overseas personnel (and dependents) are used for apportionment purposes only.

² The U.S. Census Bureau prepared these calculations using the existing size of the U.S. House of Representatives (435 members) and the Method of Equal Proportions, as provided for in Title 2, United States Code, Sections 2a and 2b.

EXHIBIT

2

U.S. Department of Commerce
U.S. Census Bureau

Priority Values for 2020 Census Apportionment

State	House Seat	State Seat	Priority Value
California	51	2	27984993.2520723
Texas	52	2	20635702.2563336
California	53	3	16157143.3873536
Florida	54	2	15252665.9154676
New York	55	2	14294694.6188788
Texas	56	3	11914028.2526111
California	57	4	11424825.6538011
Pennsylvania	58	2	9200763.1281415
Illinois	59	2	9067045.7002852
California	60	5	8849631.8980991
Florida	61	3	8806130.7721545
Texas	62	4	8424490.1686694
Ohio	63	2	8350116.4988012
New York	64	3	8253045.7861931
Georgia	65	2	7583913.9754838
North Carolina	66	2	7392057.5209716
California	67	6	7225694.1872670
Michigan	68	2	7130777.3226825
New Jersey	69	2	6572199.0279909
Texas	70	5	6525582.0247090
Florida	71	4	6226874.7850060
Virginia	72	2	6119685.3362638
California	73	7	6106826.1857356
New York	74	4	5835784.6408602
Washington	75	2	5455997.7398692
Texas	76	6	5328115.4117384
Pennsylvania	77	3	5312063.0687824
California	78	8	5288666.6133430
Illinois	79	3	5234861.2758143
Arizona	80	2	5062122.9992924
Massachusetts	81	2	4973413.6251654
Tennessee	82	2	4890984.7734689
Florida	83	5	4823316.4682495
Ohio	84	3	4820942.0083476
Indiana	85	2	4801453.0341554
California	86	9	4664165.5420121
New York	87	5	4520379.3452210
Texas	88	7	4503079.4099152
Georgia	89	3	4378574.7752565
Maryland	90	2	4373652.0173240
Missouri	91	2	4355976.4691147
North Carolina	92	3	4267806.3995981
California	93	10	4171756.4841006
Wisconsin	94	2	4170143.1501646
Michigan	95	3	4116956.2067819

Priority Values for 2020 Census Apportionment (continued)

State	House Seat	State Seat	Priority Value
Colorado	96	2	4088612.3240802
Minnesota	97	2	4037404.3580935
Florida	98	6	3938221.4050582
Texas	99	8	3899781.1642452
New Jersey	100	3	3794460.8779783
California	101	11	3773495.7203164
Pennsylvania	102	4	3756195.8180267
Illinois	103	4	3701605.9066991
New York	104	6	3690874.2798693
South Carolina	105	2	3623718.6068281
Alabama	106	2	3556784.5860277
Virginia	107	3	3533201.9762477
California	108	12	3444714.5444442
Texas	109	9	3439283.7093890
Ohio	110	4	3408920.7858097
Florida	111	7	3328404.5765477
Louisiana	112	2	3296155.6330841
Kentucky	113	2	3188586.3068893
California	114	13	3168676.5160011
Washington	115	3	3150021.7638115
New York	116	7	3119358.1012995
Georgia	117	4	3096119.9155162
Texas	118	10	3076188.8672406
North Carolina	119	4	3017794.8459471
Oregon	120	2	2999193.4124028
California	121	14	2933624.4081912
Arizona	122	3	2922618.0763124
Michigan	123	4	2911127.6516636
Pennsylvania	124	5	2909536.7696623
Florida	125	8	2882482.9173627
Massachusetts	126	3	2871401.6952806
Illinois	127	5	2867251.6061738
Tennessee	128	3	2823811.3755646
Oklahoma	129	2	2802629.0409414
Texas	130	11	2782517.5246105
Indiana	131	3	2772120.2017709
California	132	15	2731055.6956163
New York	133	8	2701443.3592261
New Jersey	134	4	2683089.0177655
Ohio	135	5	2640538.6863963
California	136	16	2554668.6792983
Connecticut	137	2	2551451.9843419
Florida	138	9	2542110.9859113
Texas	139	12	2540079.3581377
Maryland	140	3	2525129.1695437
Missouri	141	3	2514924.1870270
Virginia	142	4	2498351.0767064
Wisconsin	143	3	2407633.2703068

Priority Values for 2020 Census Apportionment (continued)

State	House Seat	State Seat	Priority Value
California	144	17	2399693.3739764
Georgia	145	5	2398244.1741311
New York	146	9	2382449.1031465
Pennsylvania	147	6	2375626.8245128
Colorado	148	3	2360561.4259197
Illinois	149	6	2341101.1331005
North Carolina	150	5	2337573.8361248
Texas	151	13	2336533.1748291
Minnesota	152	3	2330996.4929726
Utah	153	2	2315952.8992948
Florida	154	10	2273733.1883387
California	155	18	2262452.6100095
Iowa	156	2	2257371.9309006
Michigan	157	5	2254949.7827154
Washington	158	4	2227401.7500763
Nevada	159	2	2198014.5592607
Texas	160	14	2163209.3770423
Ohio	161	6	2155990.8092500
California	162	19	2140065.9214290
Arkansas	163	2	2131047.3044417
New York	164	10	2130927.2590276
Mississippi	165	2	2095803.6882538
South Carolina	166	3	2092154.9131196
Kansas	167	2	2079505.5840542
New Jersey	168	5	2078311.8164396
Arizona	169	4	2066603.0605789
Florida	170	11	2056669.0524812
Alabama	171	3	2053510.5381926
Massachusetts	172	4	2030387.6102434
California	173	20	2030244.7963868
Texas	174	15	2013838.3337301
Pennsylvania	175	7	2007771.1183841
Tennessee	176	4	1996736.1724534
Illinois	177	7	1978591.5833895
Indiana	178	4	1960184.9929364
Georgia	179	6	1958158.1684079
Virginia	180	5	1935214.4226127
California	181	21	1931148.0021685
New York	182	11	1927496.2292004
North Carolina	183	6	1908621.0448621
Louisiana	184	3	1903036.3420520
Texas	185	16	1883773.2692923
Florida	186	12	1877473.3889446
California	187	22	1841277.3743637
Michigan	188	6	1841158.7877509
Kentucky	189	3	1840931.1626169
Ohio	190	7	1822144.8055931
Maryland	191	4	1785535.9591563
Missouri	192	4	1778319.9468169

Priority Values for 2020 Census Apportionment (continued)

State	House Seat	State Seat	Priority Value
Texas	193	17	1769496.8701915
New York	194	12	1759555.2737320
California	195	23	1759401.4515347
Pennsylvania	196	8	1738780.7935053
Oregon	197	3	1731585.1240025
Florida	198	13	1727024.3325563
Washington	199	5	1725337.9766718
Illinois	200	8	1713510.5749294
Wisconsin	201	4	1702453.8120443
New Jersey	202	6	1696934.4922247
California	203	24	1684498.6431252
Colorado	204	4	1669168.9916752
Texas	205	18	1668297.6482678
Georgia	206	7	1654945.7074613
Minnesota	207	4	1648263.4271030
New York	208	13	1618555.4427066
Oklahoma	209	3	1618098.6312262
California	210	25	1615714.3387355
North Carolina	211	7	1613079.1967295
Arizona	212	5	1600783.8473687
Florida	213	14	1598913.8398770
Virginia	214	6	1580095.9594253
Texas	215	19	1578051.5923571
Ohio	216	8	1578023.6910175
Massachusetts	217	5	1572731.4801638
Michigan	218	7	1556063.1830984
California	219	26	1552328.1248287
Tennessee	220	5	1546665.1885364
Pennsylvania	221	9	1533460.5213569
Indiana	222	5	1518352.7666257
Illinois	223	9	1511174.2833809
New Mexico	224	2	1499221.9396073
New York	225	14	1498491.1614541
Texas	226	20	1497071.1891312
California	227	27	1493728.4345674
Florida	228	15	1488507.7779565
South Carolina	229	4	1479376.9263596
Connecticut	230	3	1473081.4899842
Alabama	231	4	1452051.2267940
California	232	28	1439392.7358206
New Jersey	233	7	1434171.4060992
Georgia	234	8	1433225.0245455
Texas	235	21	1423998.7419940
Washington	236	6	1408732.5588973
North Carolina	237	8	1396967.5626839
New York	238	15	1395019.3521342
Florida	239	16	1392371.5306653
Ohio	240	9	1391686.0831336
California	241	29	1388871.8951648

Priority Values for 2020 Census Apportionment (continued)

State	House Seat	State Seat	Priority Value
Nebraska	242	2	1388286.0780273
Maryland	243	5	1383070.2067734
Missouri	244	5	1377480.7076500
Pennsylvania	245	10	1371568.7866266
Texas	246	22	1357729.5276239
Illinois	247	10	1351635.3693957
Michigan	248	8	1347590.2464569
Louisiana	249	4	1345649.9023094
California	250	30	1341777.7256685
Utah	251	3	1337116.0298383
Virginia	252	7	1335424.8229876
Wisconsin	253	5	1318715.0523470
Florida	254	17	1307905.3120770
Arizona	255	6	1307034.5381809
New York	256	16	1304921.1159013
Iowa	257	3	1303294.2919666
Idaho	258	2	1302050.1634209
Kentucky	259	4	1301734.9087840
California	260	31	1297772.9868573
Texas	261	23	1297355.4853562
Colorado	262	5	1292932.7413528
Massachusetts	263	6	1284129.8762711
Minnesota	264	5	1276739.3606665
West Virginia	265	2	1269288.4920350
Nevada	266	3	1269024.2974719
Georgia	267	9	1263985.6625807
Tennessee	268	6	1262846.8382800
California	269	32	1256563.2913140
Ohio	270	10	1244761.8740908
Texas	271	24	1242123.3100764
New Jersey	272	8	1242028.8710631
Pennsylvania	273	11	1240630.6471100
Indiana	274	6	1239729.8425921
Florida	275	18	1233104.9537594
North Carolina	276	9	1232009.5868286
Arkansas	277	3	1230360.7348752
New York	278	17	1225759.9510909
Oregon	279	4	1224415.5833839
Illinois	280	11	1222600.1928161
California	281	33	1217890.5068141
Mississippi	282	3	1210012.8235819
Kansas	283	3	1200603.1087350
Texas	284	25	1191402.8252612
Washington	285	7	1190596.3159266
Michigan	286	9	1188462.8871138
California	287	34	1181527.3411841
Florida	288	19	1166400.5148265
Virginia	289	8	1156511.8215516
New York	290	18	1155657.5646977

Priority Values for 2020 Census Apportionment (continued)

State	House Seat	State Seat	Priority Value
California	291	35	1147272.8696827
South Carolina	292	5	1145920.4397109
Texas	293	26	1144662.8090835
Oklahoma	294	4	1144168.5147687
Pennsylvania	295	12	1132535.6515906
Georgia	296	10	1130543.1456462
Maryland	297	6	1129272.0950135
Ohio	298	11	1125929.4790088
Alabama	299	5	1124754.0438427
Missouri	300	6	1124708.2880902
Illinois	301	12	1116076.1740259
California	302	36	1114948.8188969
Florida	303	20	1106544.6872535
Arizona	304	7	1104645.8010207
North Carolina	305	10	1101942.8740321
Texas	306	27	1101452.3015927
New Jersey	307	9	1095366.5046652
New York	308	19	1093142.6188153
Massachusetts	309	7	1085287.8285545
California	310	37	1084396.4619384
Wisconsin	311	6	1076726.3314592
Tennessee	312	7	1067300.3784427
Michigan	313	10	1062993.5217288
Texas	314	28	1061385.9956577
Colorado	315	6	1055675.1626841
California	316	38	1055474.0107487
Florida	317	21	1052533.9436420
Indiana	318	7	1047762.9511806
Minnesota	319	6	1042453.3227201
Louisiana	320	5	1042335.9322940
Pennsylvania	321	13	1041781.2786599
Connecticut	322	4	1041625.9108082
New York	323	20	1037046.1448572
Hawaii	324	2	1032472.7741614
Washington	325	8	1031086.6552446
California	326	39	1028054.4150589
Ohio	327	12	1027828.2896886
Illinois	328	13	1026640.7613972
Texas	329	29	1024132.7072212
Georgia	330	11	1022614.7518409
Virginia	331	9	1019947.5560440
Kentucky	332	5	1008319.5245795
Florida	333	22	1003551.7391736
California	334	40	1002023.4958850
North Carolina	335	11	996744.8327919
Texas	336	30	989406.1932291
New York	337	21	986427.6437805
New Jersey	338	10	979725.5858831
California	339	41	977278.3557077

Priority Values for 2020 Census Apportionment (continued)

State	House Seat	State Seat	Priority Value
New Hampshire	340	2	975163.1837598
Pennsylvania	341	14	964502.0473501
Maine	342	2	964198.0789039
Michigan	343	11	961513.8180417
Florida	344	23	958926.8901989
Texas	345	31	956957.7777588
Arizona	346	8	956651.3258677
Maryland	347	7	954409.1158468
California	348	42	953726.0186260
Missouri	349	7	950551.9950078
Illinois	350	14	950484.6521474
Oregon	351	5	948428.2326565
Utah	352	4	945483.8119319
Ohio	353	13	945464.5144024
New York	354	22	940521.8553423
Massachusetts	355	8	939886.8299463
South Carolina	356	6	935640.1210392
Georgia	357	12	933515.2787013
California	358	43	931282.2625944
Texas	359	32	926570.3840709
Tennessee	360	8	924309.2412001
Iowa	361	4	921568.2317313
Alabama	362	6	918357.8311822
Florida	363	24	918102.5990330
Virginia	364	10	912268.8275197
Wisconsin	365	7	909999.8402110
North Carolina	366	12	909899.3816614
California	367	44	909870.6128069
Washington	368	9	909332.9566449
Indiana	369	8	907389.3328665
New York	370	23	898699.7507973
Texas	371	33	898053.6694455
Pennsylvania	372	15	897902.5407936
Nevada	373	4	897335.6862329
Colorado	374	7	892208.3553536
California	375	45	889421.4708712
Oklahoma	376	5	886269.1205908
New Jersey	377	11	886195.1361505
Illinois	378	15	884853.0560337
Minnesota	379	7	881033.8610527
Florida	380	25	880613.0772155
Michigan	381	12	877738.0124906
Ohio	382	14	875330.0510555
Texas	383	34	871240.0321407
Arkansas	384	4	869996.4189359
California	385	46	869871.3588709
New Mexico	386	3	865576.1904073
New York	387	24	860439.5031472
Georgia	388	13	858709.1623368

Priority Values for 2020 Census Apportionment (continued)

State	House Seat	State Seat	Priority Value
Mississippi	389	4	855608.2728774
California	390	47	851162.2610052
Louisiana	391	6	851063.7248962
Kansas	392	4	848954.5997002
Florida	393	26	846065.6776268
Texas	394	35	845981.3133522
Arizona	395	9	843687.1665487
Pennsylvania	396	16	839910.9185908
North Carolina	397	13	836985.6966072
California	398	48	833241.0484282
Massachusetts	399	9	828902.2708609
Illinois	400	16	827704.2433294
Maryland	401	8	826542.5399268
New York	402	25	825304.5786194
Virginia	403	11	825178.2024055
Kentucky	404	6	823289.4443018
Missouri	405	8	823202.1752947
Texas	406	36	822146.0570159
California	407	49	816058.9752716
Tennessee	408	9	815164.1289115
Ohio	409	15	814887.9300309
Florida	410	27	814127.0778832
Washington	411	10	813332.1220956
New Jersey	412	12	808981.7773683
Michigan	413	13	807401.5398072
Connecticut	414	5	806839.9611077
Nebraska	415	3	801527.3408613
Indiana	416	9	800242.1723592
Texas	417	37	799617.2203731
California	418	50	799571.2357733
Georgia	419	14	795010.2023503
New York	420	26	792926.9910072
South Carolina	421	7	790760.2291909
Pennsylvania	422	17	788958.9293538
Wisconsin	423	8	788082.9790625
Florida	424	28	784512.4822032
California	425	51	783736.5740506
Texas	426	38	778290.2510972
Illinois	427	17	777492.7545106
Rhode Island	428	2	776518.5041482
Alabama	429	7	776154.0283869
North Carolina	430	14	774898.1811411
Oregon	431	6	774388.4092194
Colorado	432	8	772675.1012050
California	433	52	768516.9393465
Montana	434	2	767498.6500473
Minnesota	435	8	762997.7052660
New York	436	27	762994.3528429
Ohio	437	16	762257.8606982

Priority Values for 2020 Census Apportionment (continued)

State	House Seat	State Seat	Priority Value
Texas	438	39	758071.4642800
Florida	439	29	756977.0993160
Arizona	440	10	754616.7424589
California	441	53	753877.1806929
Virginia	442	12	753281.1923651
Idaho	443	3	751739.0123495
Michigan	444	14	747508.5741408
New Jersey	445	13	744155.0023221

EXHIBIT

3

Table 4a. Reported Voting and Registration for States: November 2020
(In thousands)

STATE	Total population	Total citizen population	Registered					Voted				
			Total registered	Percent registered (Total)	Margin of error ¹	Percent registered (Citizen)	Margin of error ¹	Total voted	Percent voted (Total)	Margin of error ¹	Percent voted (Citizen)	Margin of error ¹
UNITED STATES	252,274	231,593	168,308	66.7	0.4	72.7	0.4	154,628	61.3	0.4	66.8	0.4
ALABAMA	3,769	3,716	2,527	67.0	3.1	68.0	3.1	2,247	59.6	3.3	60.5	3.3
ALASKA	528	516	383	72.6	3.2	74.2	3.1	330	62.4	3.4	63.8	3.4
ARIZONA	5,638	5,075	3,878	68.8	2.5	76.4	2.5	3,649	64.7	2.6	71.9	2.6
ARKANSAS	2,283	2,195	1,361	59.6	3.4	62.0	3.4	1,186	51.9	3.4	54.0	3.5
CALIFORNIA	30,342	25,946	18,001	59.3	1.2	69.4	1.2	16,893	55.7	1.2	65.1	1.2
COLORADO	4,525	4,200	2,993	66.2	2.9	71.3	2.9	2,837	62.7	3.0	67.6	3.0
CONNECTICUT	2,777	2,524	1,850	66.6	3.2	73.3	3.2	1,681	60.5	3.3	66.6	3.4
DELAWARE	766	722	542	70.8	3.0	75.1	3.0	489	63.8	3.2	67.7	3.2
DISTRICT OF COLUMBIA	576	534	464	80.5	2.7	86.9	2.4	448	77.8	2.8	84.0	2.6
FLORIDA	17,244	15,645	10,495	60.9	1.5	67.1	1.5	9,720	56.4	1.5	62.1	1.6
GEORGIA	8,032	7,400	5,233	65.2	2.2	70.7	2.2	4,888	60.9	2.2	66.1	2.3
HAWAII	1,056	980	673	63.8	3.3	68.7	3.3	630	59.7	3.3	64.3	3.4
IDAHO	1,370	1,299	900	65.7	3.1	69.3	3.1	843	61.6	3.2	64.9	3.2
ILLINOIS	9,658	8,860	6,590	68.2	2.0	74.4	1.9	6,058	62.7	2.0	68.4	2.0
INDIANA	5,096	4,921	3,412	67.0	2.7	69.3	2.7	3,002	58.9	2.8	61.0	2.8
IOWA	2,361	2,293	1,742	73.8	3.1	76.0	3.0	1,618	68.5	3.2	70.5	3.2
KANSAS	2,157	1,975	1,398	64.8	3.5	70.8	3.5	1,297	60.1	3.6	65.7	3.7
KENTUCKY	3,384	3,227	2,450	72.4	3.2	75.9	3.1	2,210	65.3	3.4	68.5	3.4
LOUISIANA	3,438	3,299	2,286	66.5	3.2	69.3	3.2	2,041	59.4	3.3	61.9	3.3
MAINE	1,087	1,075	832	76.5	3.2	77.4	3.2	766	70.5	3.4	71.3	3.4
MARYLAND	4,606	4,303	3,383	73.4	2.7	78.6	2.6	3,166	68.7	2.9	73.6	2.8
MASSACHUSETTS	5,514	4,897	3,546	64.3	2.6	72.4	2.6	3,249	58.9	2.7	66.3	2.7
MICHIGAN	7,790	7,467	5,513	70.8	2.1	73.8	2.1	4,994	64.1	2.2	66.9	2.2
MINNESOTA	4,339	4,142	3,436	79.2	2.5	82.9	2.4	3,225	74.3	2.7	77.9	2.7
MISSISSIPPI	2,212	2,177	1,749	79.1	2.8	80.4	2.7	1,531	69.2	3.2	70.3	3.2
MISSOURI	4,637	4,475	3,388	73.1	2.7	75.7	2.7	2,990	64.5	2.9	66.8	2.9
MONTANA	836	827	641	76.6	2.6	77.5	2.6	607	72.6	2.8	73.5	2.8
NEBRASKA	1,435	1,369	971	67.7	3.4	70.9	3.4	892	62.2	3.5	65.2	3.5
NEVADA	2,402	2,198	1,455	60.6	3.2	66.2	3.3	1,351	56.3	3.3	61.5	3.4
NEW HAMPSHIRE	1,101	1,077	843	76.6	2.9	78.3	2.8	797	72.4	3.0	74.0	3.0
NEW JERSEY	6,801	5,921	5,008	73.6	2.2	84.6	1.9	4,638	68.2	2.3	78.3	2.2
NEW MEXICO	1,610	1,498	1,028	63.9	3.0	68.6	3.0	938	58.3	3.1	62.6	3.2
NEW YORK	15,105	13,298	9,370	62.0	1.6	70.5	1.7	8,609	57.0	1.7	64.7	1.7
NORTH CAROLINA	8,113	7,391	5,161	63.6	2.2	69.8	2.2	4,780	58.9	2.3	64.7	2.3
NORTH DAKOTA	571	556	429	75.2	2.9	77.3	2.9	373	65.3	3.2	67.1	3.2
OHIO	8,951	8,740	6,733	75.2	1.9	77.0	1.8	6,128	68.5	2.0	70.1	2.0
OKLAHOMA	2,942	2,800	1,884	64.0	3.5	67.3	3.5	1,631	55.5	3.6	58.3	3.7
OREGON	3,369	3,242	2,590	76.9	2.9	79.9	2.8	2,402	71.3	3.1	74.1	3.0
PENNSYLVANIA	9,902	9,621	7,337	74.1	1.8	76.3	1.8	6,756	68.2	1.9	70.2	1.9
RHODE ISLAND	840	776	575	68.5	3.2	74.1	3.2	515	61.3	3.4	66.3	3.4
SOUTH CAROLINA	4,010	3,878	2,713	67.7	3.0	70.0	3.0	2,459	61.3	3.1	63.4	3.1
SOUTH DAKOTA	659	649	437	66.3	3.4	67.4	3.4	380	57.7	3.5	58.5	3.5
TENNESSEE	5,283	5,038	3,742	70.8	2.6	74.3	2.5	3,346	63.3	2.7	66.4	2.7
TEXAS	21,485	18,581	13,343	62.1	1.4	71.8	1.4	11,874	55.3	1.4	63.9	1.5
UTAH	2,320	2,178	1,468	63.3	2.7	67.4	2.7	1,386	59.7	2.8	63.6	2.8
VERMONT	507	500	365	72.0	3.4	73.0	3.4	342	67.5	3.6	68.4	3.6
VIRGINIA	6,481	5,974	4,541	70.1	2.4	76.0	2.3	4,275	66.0	2.5	71.5	2.4
WASHINGTON	5,993	5,389	4,029	67.2	2.5	74.8	2.4	3,854	64.3	2.6	71.5	2.5
WEST VIRGINIA	1,397	1,379	928	66.4	3.4	67.3	3.4	773	55.3	3.6	56.1	3.6
WISCONSIN	4,538	4,421	3,391	74.7	2.7	76.7	2.6	3,253	71.7	2.8	73.6	2.7
WYOMING	436	427	296	67.9	3.4	69.3	3.4	280	64.1	3.5	65.5	3.5

¹ This figure added to or subtracted from the estimate provides the 90-percent confidence interval.

NOTES:

Estimates may not sum to totals due to rounding.

For information on confidentiality protection, sampling error, nonsampling error, and definitions, see <https://www.census.gov/programs-surveys/cps/technical-documentation/complete.2020.html>

Source: U.S. Census Bureau, Current Population Survey, November 2020

EXHIBIT 6

Scenario 1 priority values based on the basis-of-representation and compared to the Census Bureau's priority values from Exhibit 2

State	Seat number	Priority value	Census Bureau's priority values from Exhibit 2	Priority values subtracted
California	2	27984993.2521	27984993.2520723	-0.00003
Texas	2	20635702.2563	20635702.2563336	0.00005
California	3	16157143.3874	16157143.3873536	0.00003
Florida	2	15252665.9155	15252665.9154676	0.00002
New York	2	14294694.6189	14294694.6188788	-0.00001
Texas	3	11914028.2526	11914028.2526111	0.00000
California	4	11424825.6538	11424825.6538011	-0.00004
Pennsylvania	2	9200763.1281	9200763.1281415	0.00001
Illinois	2	9067045.7003	9067045.7002852	0.00000
California	5	8849631.8981	8849631.8980991	0.00005
Florida	3	8806130.7722	8806130.7721545	0.00003
Texas	4	8424490.1687	8424490.1686694	0.00000
Ohio	2	8350116.4988	8350116.4988012	0.00001
New York	3	8253045.7862	8253045.7861931	0.00002
Georgia	2	7583913.9755	7583913.9754838	0.00003
North Carolina	2	7392057.5210	7392057.5209716	0.00003
California	6	7225694.1873	7225694.1872670	0.00002
Michigan	2	7130777.3227	7130777.3226825	0.00001
New Jersey	2	6572199.0280	6572199.0279909	-0.00001
Texas	5	6525582.0247	6525582.0247090	-0.00001
Florida	4	6226874.7850	6226874.7850060	0.00004
Virginia	2	6119685.3363	6119685.3362638	-0.00004
California	7	6106826.1857	6106826.1857356	0.00004
New York	4	5835784.6409	5835784.6408602	0.00003
Washington	2	5455997.7399	5455997.7398692	-0.00004
Texas	6	5328115.4117	5328115.4117384	0.00002
Pennsylvania	3	5312063.0688	5312063.0687824	-0.00004
California	8	5288666.6133	5288666.6133430	-0.00001
Illinois	3	5234861.2758	5234861.2758143	0.00001
Arizona	2	5062122.9993	5062122.9992924	0.00003
Massachusetts	2	4973413.6252	4973413.6251654	0.00003
Tennessee	2	4890984.7735	4890984.7734689	-0.00005
Florida	5	4823316.4682	4823316.4682495	-0.00005
Ohio	3	4820942.0083	4820942.0083476	0.00004
Indiana	2	4801453.0342	4801453.0341554	-0.00001
California	9	4664165.5420	4664165.5420121	-0.00002
New York	5	4520379.3452	4520379.3452210	-0.00002
Texas	7	4503079.4099	4503079.4099152	0.00004

Georgia	3	4378574.7753	4378574.7752565	-0.00002
Maryland	2	4373652.0173	4373652.0173240	-0.00001
Missouri	2	4355976.4691	4355976.4691147	0.00000
North Carolina	3	4267806.3996	4267806.3995981	0.00000
California	10	4171756.4841	4171756.4841006	0.00004
Wisconsin	2	4170143.1502	4170143.1501646	0.00002
Michigan	3	4116956.2068	4116956.2067819	0.00002
Colorado	2	4088612.3241	4088612.3240802	0.00001
Minnesota	2	4037404.3581	4037404.3580935	0.00004
Florida	6	3938221.4051	3938221.4050582	-0.00005
Texas	8	3899781.1642	3899781.1642452	0.00002
New Jersey	3	3794460.8780	3794460.8779783	-0.00002
California	11	3773495.7203	3773495.7203164	-0.00003
Pennsylvania	4	3756195.8180	3756195.8180267	0.00000
Illinois	4	3701605.9067	3701605.9066991	0.00003
New York	6	3690874.2799	3690874.2798693	-0.00003
South Carolina	2	3623718.6068	3623718.6068281	-0.00003
Alabama	2	3556784.5860	3556784.5860277	-0.00005
Virginia	3	3533201.9762	3533201.9762477	-0.00004
California	12	3444714.5444	3444714.5444442	0.00001
Texas	9	3439283.7094	3439283.7093890	-0.00001
Ohio	4	3408920.7858	3408920.7858097	-0.00005
Florida	7	3328404.5765	3328404.5765477	0.00002
Louisiana	2	3296155.6331	3296155.6330841	0.00001
Kentucky	2	3188586.3069	3188586.3068893	0.00000
California	13	3168676.5160	3168676.5160011	-0.00001
Washington	3	3150021.7638	3150021.7638115	0.00000
New York	7	3119358.1013	3119358.1012995	-0.00002
Georgia	4	3096119.9155	3096119.9155162	-0.00004
Texas	10	3076188.8672	3076188.8672406	-0.00005
North Carolina	4	3017794.8459	3017794.8459471	0.00000
Oregon	2	2999193.4124	2999193.4124028	0.00001
California	14	2933624.4082	2933624.4081912	-0.00001
Arizona	3	2922618.0763	2922618.0763124	0.00004
Michigan	4	2911127.6517	2911127.6516636	0.00004
Pennsylvania	5	2909536.7697	2909536.7696623	0.00004
Florida	8	2882482.9174	2882482.9173627	0.00002
Massachusetts	3	2871401.6953	2871401.6952806	0.00003
Illinois	5	2867251.6062	2867251.6061738	0.00004
Tennessee	3	2823811.3756	2823811.3755646	-0.00004
Oklahoma	2	2802629.0409	2802629.0409414	-0.00001
Texas	11	2782517.5246	2782517.5246105	0.00003
Indiana	3	2772120.2018	2772120.2017709	-0.00002
California	15	2731055.6956	2731055.6956163	-0.00003
New York	8	2701443.3592	2701443.3592261	0.00003

New Jersey	4	2683089.0178	2683089.0177655	0.00000
Ohio	5	2640538.6864	2640538.6863963	0.00000
California	16	2554668.6793	2554668.6792983	-0.00004
Connecticut	2	2551451.9843	2551451.9843419	-0.00001
Florida	9	2542110.9859	2542110.9859113	-0.00004
Texas	12	2540079.3581	2540079.3581377	-0.00004
Maryland	3	2525129.1695	2525129.1695437	-0.00003
Missouri	3	2514924.1870	2514924.1870270	-0.00001
Virginia	4	2498351.0767	2498351.0767064	-0.00001
Wisconsin	3	2407633.2703	2407633.2703068	0.00002
California	17	2399693.3740	2399693.3739764	-0.00003
Georgia	5	2398244.1741	2398244.1741311	-0.00005
New York	9	2382449.1031	2382449.1031465	-0.00001
Pennsylvania	6	2375626.8245	2375626.8245128	-0.00002
Colorado	3	2360561.4259	2360561.4259197	0.00000
Illinois	6	2341101.1331	2341101.1331005	-0.00002
North Carolina	5	2337573.8361	2337573.8361248	-0.00003
Texas	13	2336533.1748	2336533.1748291	0.00003
Minnesota	3	2330996.4930	2330996.4929726	0.00001
Utah	2	2315952.8993	2315952.8992948	-0.00004
Florida	10	2273733.1883	2273733.1883387	-0.00001
California	18	2262452.6100	2262452.6100095	0.00000
Iowa	2	2257371.9309	2257371.9309006	-0.00002
Michigan	5	2254949.7827	2254949.7827154	0.00002
Washington	4	2227401.7501	2227401.7500763	0.00004
Nevada	2	2198014.5593	2198014.5592607	-0.00004
Texas	14	2163209.3770	2163209.3770423	-0.00005
Ohio	6	2155990.8092	2155990.8092500	-0.00003
California	19	2140065.9214	2140065.9214290	-0.00004
Arkansas	2	2131047.3044	2131047.3044417	-0.00003
New York	10	2130927.2590	2130927.2590276	0.00005
Mississippi	2	2095803.6883	2095803.6882538	-0.00002
South Carolina	3	2092154.9131	2092154.9131196	0.00005
Kansas	2	2079505.5841	2079505.5840542	-0.00004
New Jersey	5	2078311.8164	2078311.8164396	0.00002
Arizona	4	2066603.0606	2066603.0605789	0.00002
Florida	11	2056669.0525	2056669.0524812	0.00001
Alabama	3	2053510.5382	2053510.5381926	-0.00004
Massachusetts	4	2030387.6102	2030387.6102434	0.00001
California	20	2030244.7964	2030244.7963868	-0.00003
Texas	15	2013838.3337	2013838.3337301	0.00002
Pennsylvania	7	2007771.1184	2007771.1183841	0.00005
Tennessee	4	1996736.1725	1996736.1724534	0.00001
Illinois	7	1978591.5834	1978591.5833895	-0.00004
Indiana	4	1960184.9929	1960184.9929364	-0.00001

Georgia	6	1958158.1684	1958158.1684079	-0.00001
Virginia	5	1935214.4226	1935214.4226127	0.00003
California	21	1931148.0022	1931148.0021685	0.00000
New York	11	1927496.2292	1927496.2292004	0.00004
North Carolina	6	1908621.0449	1908621.0448621	0.00005
Louisiana	3	1903036.3421	1903036.3420520	0.00001
Texas	16	1883773.2693	1883773.2692923	-0.00004
Florida	12	1877473.3889	1877473.3889446	0.00004
California	22	1841277.3744	1841277.3743637	0.00005
Michigan	6	1841158.7878	1841158.7877509	-0.00002
Kentucky	3	1840931.1626	1840931.1626169	0.00001
Ohio	7	1822144.8056	1822144.8055931	0.00004
Maryland	4	1785535.9592	1785535.9591563	-0.00002
Missouri	4	1778319.9468	1778319.9468169	0.00001
Texas	17	1769496.8702	1769496.8701915	-0.00003
New York	12	1759555.2737	1759555.2737320	-0.00003
California	23	1759401.4515	1759401.4515347	-0.00001
Pennsylvania	8	1738780.7935	1738780.7935053	0.00000
Oregon	3	1731585.1240	1731585.1240025	0.00004
Florida	13	1727024.3326	1727024.3325563	0.00003
Washington	5	1725337.9767	1725337.9766718	-0.00003
Illinois	8	1713510.5749	1713510.5749294	-0.00004
Wisconsin	4	1702453.8120	1702453.8120443	-0.00002
New Jersey	6	1696934.4922	1696934.4922247	-0.00003
California	24	1684498.6431	1684498.6431252	0.00002
Colorado	4	1669168.9917	1669168.9916752	0.00003
Texas	18	1668297.6483	1668297.6482678	0.00004
Georgia	7	1654945.7075	1654945.7074613	0.00000
Minnesota	4	1648263.4271	1648263.4271030	-0.00001
New York	13	1618555.4427	1618555.4427066	-0.00003
Oklahoma	3	1618098.6312	1618098.6312262	-0.00004
California	25	1615714.3387	1615714.3387355	-0.00003
North Carolina	7	1613079.1967	1613079.1967295	0.00003
Arizona	5	1600783.8474	1600783.8473687	0.00002
Florida	14	1598913.8399	1598913.8398770	-0.00003
Virginia	6	1580095.9594	1580095.9594253	0.00004
Texas	19	1578051.5924	1578051.5923571	-0.00002
Ohio	8	1578023.6910	1578023.6910175	0.00004
Massachusetts	5	1572731.4802	1572731.4801638	0.00000
Michigan	7	1556063.1831	1556063.1830984	-0.00003
California	26	1552328.1248	1552328.1248287	-0.00004
Tennessee	5	1546665.1885	1546665.1885364	0.00004
Pennsylvania	9	1533460.5214	1533460.5213569	-0.00003
Indiana	5	1518352.7666	1518352.7666257	0.00002
Illinois	9	1511174.2834	1511174.2833809	-0.00001

New Mexico	2	1499221.9396	1499221.9396073	0.00005
New York	14	1498491.1615	1498491.1614541	-0.00003
Texas	20	1497071.1891	1497071.1891312	0.00003
California	27	1493728.4346	1493728.4345674	0.00004
Florida	15	1488507.7780	1488507.7779565	0.00004
South Carolina	4	1479376.9264	1479376.9263596	0.00002
Connecticut	3	1473081.4900	1473081.4899842	0.00001
Alabama	4	1452051.2268	1452051.2267940	-0.00002
California	28	1439392.7358	1439392.7358206	0.00000
New Jersey	7	1434171.4061	1434171.4060992	-0.00005
Georgia	8	1433225.0245	1433225.0245455	0.00001
Texas	21	1423998.7420	1423998.7419940	0.00000
Washington	6	1408732.5589	1408732.5588973	0.00002
North Carolina	8	1396967.5627	1396967.5626839	-0.00003
New York	15	1395019.3521	1395019.3521342	0.00003
Florida	16	1392371.5307	1392371.5306653	-0.00003
Ohio	9	1391686.0831	1391686.0831336	0.00004
California	29	1388871.8952	1388871.8951648	-0.00003
Nebraska	2	1388286.0780	1388286.0780273	0.00003
Maryland	5	1383070.2068	1383070.2067734	0.00005
Missouri	5	1377480.7077	1377480.7076500	-0.00003
Pennsylvania	10	1371568.7866	1371568.7866266	-0.00002
Texas	22	1357729.5276	1357729.5276239	0.00000
Illinois	10	1351635.3694	1351635.3693957	0.00004
Michigan	8	1347590.2465	1347590.2464569	-0.00001
Louisiana	4	1345649.9023	1345649.9023094	0.00003
California	30	1341777.7257	1341777.7256685	-0.00004
Utah	3	1337116.0298	1337116.0298383	0.00001
Virginia	7	1335424.8230	1335424.8229876	-0.00005
Wisconsin	5	1318715.0523	1318715.0523470	0.00002
Florida	17	1307905.3121	1307905.3120770	0.00002
Arizona	6	1307034.5382	1307034.5381809	0.00000
New York	16	1304921.1159	1304921.1159013	0.00003
Iowa	3	1303294.2920	1303294.2919666	-0.00002
Idaho	2	1302050.1634	1302050.1634209	0.00002
Kentucky	4	1301734.9088	1301734.9087840	0.00004
California	31	1297772.9869	1297772.9868573	0.00004
Texas	23	1297355.4854	1297355.4853562	0.00005
Colorado	5	1292932.7414	1292932.7413528	0.00003
Massachusetts	6	1284129.8763	1284129.8762711	0.00003
Minnesota	5	1276739.3607	1276739.3606665	-0.00003
West Virginia	2	1269288.4920	1269288.4920350	0.00003
Nevada	3	1269024.2975	1269024.2974719	0.00002
Georgia	9	1263985.6626	1263985.6625807	0.00002
Tennessee	6	1262846.8383	1262846.8382800	-0.00001

California	32	1256563.2913	1256563.2913140	0.00001
Ohio	10	1244761.8741	1244761.8740908	0.00002
Texas	24	1242123.3101	1242123.3100764	0.00004
New Jersey	8	1242028.8711	1242028.8710631	-0.00001
Pennsylvania	11	1240630.6471	1240630.6471100	0.00001
Indiana	6	1239729.8426	1239729.8425921	0.00004
Florida	18	1233104.9538	1233104.9537594	-0.00003
North Carolina	9	1232009.5868	1232009.5868286	0.00002
Arkansas	3	1230360.7349	1230360.7348752	0.00001
New York	17	1225759.9511	1225759.9510909	0.00002
Oregon	4	1224415.5834	1224415.5833839	-0.00002
Illinois	11	1222600.1928	1222600.1928161	-0.00001
California	33	1217890.5068	1217890.5068141	0.00002
Mississippi	3	1210012.8236	1210012.8235819	-0.00004
Kansas	3	1200603.1087	1200603.1087350	0.00004
Texas	25	1191402.8253	1191402.8252612	-0.00003
Washington	7	1190596.3159	1190596.3159266	-0.00001
Michigan	9	1188462.8871	1188462.8871138	0.00002
California	34	1181527.3412	1181527.3411841	-0.00003
Florida	19	1166400.5148	1166400.5148265	0.00005
Virginia	8	1156511.8216	1156511.8215516	0.00000
New York	18	1155657.5647	1155657.5646977	0.00002
California	35	1147272.8697	1147272.8696827	-0.00001
South Carolina	5	1145920.4397	1145920.4397109	0.00002
Texas	26	1144662.8091	1144662.8090835	0.00003
Oklahoma	4	1144168.5148	1144168.5147687	0.00001
Pennsylvania	12	1132535.6516	1132535.6515906	-0.00005
Georgia	10	1130543.1456	1130543.1456462	-0.00001
Maryland	6	1129272.0950	1129272.0950135	-0.00001
Ohio	11	1125929.4790	1125929.4790088	-0.00004
Alabama	5	1124754.0438	1124754.0438427	0.00001
Missouri	6	1124708.2881	1124708.2880902	-0.00003
Illinois	12	1116076.1740	1116076.1740259	0.00000
California	36	1114948.8189	1114948.8188969	0.00005
Florida	20	1106544.6873	1106544.6872535	-0.00002
Arizona	7	1104645.8010	1104645.8010207	-0.00003
North Carolina	10	1101942.8740	1101942.8740321	0.00001
Texas	27	1101452.3016	1101452.3015927	0.00003
New Jersey	9	1095366.5047	1095366.5046652	-0.00002
New York	19	1093142.6188	1093142.6188153	0.00005
Massachusetts	7	1085287.8286	1085287.8285545	-0.00004
California	37	1084396.4619	1084396.4619384	0.00004
Wisconsin	6	1076726.3315	1076726.3314592	-0.00004
Tennessee	7	1067300.3784	1067300.3784427	-0.00003
Michigan	10	1062993.5217	1062993.5217288	0.00004

Texas	28	1061385.9957	1061385.9956577	0.00002
Colorado	6	1055675.1627	1055675.1626841	-0.00005
California	38	1055474.0107	1055474.0107487	-0.00004
Florida	21	1052533.9436	1052533.9436420	0.00002
Indiana	7	1047762.9512	1047762.9511806	-0.00002
Minnesota	6	1042453.3227	1042453.3227201	0.00001
Louisiana	5	1042335.9323	1042335.9322940	0.00004
Pennsylvania	13	1041781.2787	1041781.2786599	-0.00001
Connecticut	4	1041625.9108	1041625.9108082	0.00004
New York	20	1037046.1449	1037046.1448572	0.00004
Hawaii	2	1032472.7742	1032472.7741614	-0.00004
Washington	8	1031086.6552	1031086.6552446	0.00004
California	39	1028054.4151	1028054.4150589	0.00001
Ohio	12	1027828.2897	1027828.2896886	0.00000
Illinois	13	1026640.7614	1026640.7613972	-0.00002
Texas	29	1024132.7072	1024132.7072212	-0.00004
Georgia	11	1022614.7518	1022614.7518409	-0.00004
Virginia	9	1019947.5560	1019947.5560440	0.00002
Kentucky	5	1008319.5246	1008319.5245795	0.00003
Florida	22	1003551.7392	1003551.7391736	0.00001
California	40	1002023.4959	1002023.4958850	0.00001
North Carolina	11	996744.8328	996744.8327919	-0.00003
Texas	30	989406.1932	989406.1932291	0.00002
New York	21	986427.6438	986427.6437805	0.00002
New Jersey	10	979725.5859	979725.5858831	-0.00001
California	41	977278.3557	977278.3557077	0.00004
New Hampshire	2	975163.1838	975163.1837598	0.00005
Pennsylvania	14	964502.0474	964502.0473501	0.00000
Maine	2	964198.0789	964198.0789039	-0.00004
Michigan	11	961513.8180	961513.8180417	0.00000
Florida	23	958926.8902	958926.8901989	0.00004
Texas	31	956957.7778	956957.7777588	0.00003
Arizona	8	956651.3259	956651.3258677	-0.00005
Maryland	7	954409.1158	954409.1158468	-0.00003
California	42	953726.0186	953726.0186260	-0.00001
Missouri	7	950551.9950	950551.9950078	-0.00005
Illinois	14	950484.6521	950484.6521474	0.00004
Oregon	5	948428.2327	948428.2326565	-0.00003
Utah	4	945483.8119	945483.8119319	0.00000
Ohio	13	945464.5144	945464.5144024	-0.00004
New York	22	940521.8553	940521.8553423	-0.00005
Massachusetts	8	939886.8299	939886.8299463	-0.00004
South Carolina	6	935640.1210	935640.1210392	0.00000
Georgia	12	933515.2787	933515.2787013	0.00001
California	43	931282.2626	931282.2625944	0.00003

Texas	32	926570.3841	926570.3840709	0.00000
Tennessee	8	924309.2412	924309.2412001	-0.00003
Iowa	4	921568.2317	921568.2317313	0.00002
Alabama	6	918357.8312	918357.8311822	-0.00003
Florida	24	918102.5990	918102.5990330	-0.00002
Virginia	10	912268.8275	912268.8275197	-0.00001
Wisconsin	7	909999.8402	909999.8402110	0.00004
North Carolina	12	909899.3817	909899.3816614	-0.00001
California	44	909870.6128	909870.6128069	-0.00004
Washington	9	909332.9566	909332.9566449	0.00003
Indiana	8	907389.3329	907389.3328665	0.00000
New York	23	898699.7508	898699.7507973	-0.00005
Texas	33	898053.6694	898053.6694455	0.00001
Pennsylvania	15	897902.5408	897902.5407936	-0.00003
Nevada	4	897335.6862	897335.6862329	0.00005
Colorado	7	892208.3554	892208.3553536	0.00003
California	45	889421.4709	889421.4708712	0.00001
Oklahoma	5	886269.1206	886269.1205908	0.00005
New Jersey	11	886195.1362	886195.1361505	-0.00003
Illinois	15	884853.0560	884853.0560337	0.00005
Minnesota	7	881033.8611	881033.8610527	-0.00002
Florida	25	880613.0772	880613.0772155	0.00001
Michigan	12	877738.0125	877738.0124906	0.00004
Ohio	14	875330.0511	875330.0510555	-0.00004
Texas	34	871240.0321	871240.0321407	-0.00004
Arkansas	4	869996.4189	869996.4189359	0.00003
California	46	869871.3589	869871.3588709	-0.00001
New Mexico	3	865576.1904	865576.1904073	-0.00005
New York	24	860439.5031	860439.5031472	-0.00004
Georgia	13	858709.1623	858709.1623368	0.00002
Mississippi	4	855608.2729	855608.2728774	-0.00001
California	47	851162.2610	851162.2610052	0.00000
Louisiana	6	851063.7249	851063.7248962	0.00000
Kansas	4	848954.5997	848954.5997002	-0.00003
Florida	26	846065.6776	846065.6776268	0.00005
Texas	35	845981.3134	845981.3133522	-0.00005
Arizona	9	843687.1665	843687.1665487	0.00001
Pennsylvania	16	839910.9186	839910.9185908	-0.00001
North Carolina	13	836985.6966	836985.6966072	-0.00003
California	48	833241.0484	833241.0484282	0.00004
Massachusetts	9	828902.2709	828902.2708609	-0.00003
Illinois	16	827704.2433	827704.2433294	-0.00003
Maryland	8	826542.5399	826542.5399268	-0.00002
New York	25	825304.5786	825304.5786194	-0.00001
Virginia	11	825178.2024	825178.2024055	0.00000

Kentucky	6	823289.4443	823289.4443018	0.00001
Missouri	8	823202.1753	823202.1752947	-0.00002
Texas	36	822146.0570	822146.0570159	0.00003
California	49	816058.9753	816058.9752716	-0.00001
Tennessee	9	815164.1289	815164.1289115	-0.00003
Ohio	15	814887.9300	814887.9300309	0.00002
Florida	27	814127.0779	814127.0778832	0.00000
Washington	10	813332.1221	813332.1220956	0.00003
New Jersey	12	808981.7774	808981.7773683	-0.00001
Michigan	13	807401.5398	807401.5398072	-0.00001
Connecticut	5	806839.9611	806839.9611077	0.00004
Nebraska	3	801527.3409	801527.3408613	0.00004
Indiana	9	800242.1724	800242.1723592	0.00003
Texas	37	799617.2204	799617.2203731	0.00003
California	50	799571.2358	799571.2357733	0.00005
Georgia	14	795010.2024	795010.2023503	-0.00001
New York	26	792926.9910	792926.9910072	0.00001
South Carolina	7	790760.2292	790760.2291909	0.00005
Pennsylvania	17	788958.9294	788958.9293538	0.00004
Wisconsin	8	788082.9791	788082.9790625	0.00000
Florida	28	784512.4822	784512.4822032	0.00005
California	51	783736.5741	783736.5740506	0.00000
Texas	38	778290.2511	778290.2510972	-0.00001
Illinois	17	777492.7545	777492.7545106	-0.00005
Rhode Island	2	776518.5041	776518.5041482	0.00001
Alabama	7	776154.0284	776154.0283869	-0.00004
North Carolina	14	774898.1811	774898.1811411	-0.00002
Oregon	6	774388.4092	774388.4092194	0.00000
Colorado	8	772675.1012	772675.1012050	-0.00005
California	52	768516.9393	768516.9393465	-0.00005
Montana	2	767498.6500	767498.6500473	0.00003
Minnesota	8	762997.7053	762997.7052660	0.00000

EXHIBIT 7

Scenario 2 basis-of-representation value calculations

State	Census enumerated population 1	Census citizenship population 2	Census citizen percentage registered to vote 3	Citizen population who can vote (2 * 3) 4	Sentencing Project citizens who cannot vote because of a criminal conviction 5	Total citizens who can vote plus citizens who cannot vote because of a criminal conviction (4 + 5) 6	Percentage of citizens who can vote plus citizens who cannot vote because of a criminal conviction (6 / 2) 7	Fourteenth Amendment basis of representation (1 * 7) 8
Alabama	5030053	3716000	0.680032293	2527000	328198	2855198	0.76835253	3864853.9
Alaska	736081	516000	0.742248062	383000	5541	388541	0.752986434	554259.0
Arizona	7158923	5075000	0.764137931	3878000	233816	4111816	0.810210049	5800231.4
Arkansas	3013756	2195000	0.620045558	1361000	87187	1448187	0.659766287	1988374.6
California	39576757	25946000	0.693787096	18001000	243181	18244181	0.703159678	27828779.7
Colorado	5782171	4200000	0.712619048	2993000	22607	3015607	0.718001667	4151608.4
Connecticut	3608298	2524000	0.73296355	1850000	20124	1870124	0.740936609	2673520.1
Delaware	990837	722000	0.750692521	542000	11524	553524	0.76665374	759628.9
Florida	21570527	15645000	0.670821349	10495000	1132493	11627493	0.743208245	16031393.5
Georgia	10725274	7400000	0.707162162	5233000	275089	5508089	0.744336351	7983211.3
Hawaii	1460137	980000	0.686734694	673000	4899	677899	0.691733673	1010025.9
Idaho	1841377	1299000	0.692840647	9.00E+05	32500	932500	0.717859892	1321850.7
Illinois	12822739	8860000	0.743792325	6590000	39005	6629005	0.748194695	9593905.3
Indiana	6790280	4921000	0.693355009	3412000	30659	3442659	0.699585247	4750379.7

Iowa	3192406	2293000	0.759703445	1742000	34227	1776227	0.774630179	2472934.0
Kansas	2940865	1975000	0.707848101	1398000	21256	1419256	0.718610633	2113336.9
Kentucky	4509342	3227000	0.759219089	2450000	197672	2647672	0.820474744	3699801.2
Louisiana	4661468	3299000	0.692937254	2286000	76924	2362924	0.716254623	3338798.0
Maine	1363582	1075000	0.773953488	832000	0	832000	0.773953488	1055349.0
Maryland	6185278	4303000	0.786195677	3383000	18778	3401778	0.79055961	4889831.0
Massachusetts	7033469	4897000	0.724116806	3546000	8956	3554956	0.725945681	5105916.4
Michigan	10084442	7467000	0.738315254	5513000	38819	5551819	0.743513995	7497923.8
Minnesota	5709752	4142000	0.829550942	3436000	64700	3500700	0.845171415	4825719.2
Mississippi	2963914	2177000	0.803399173	1749000	235152	1984152	0.91141571	2701357.8
Missouri	6160281	4475000	0.757094972	3388000	95485	3483485	0.778432402	4795362.3
Montana	1085407	827000	0.775090689	641000	4221	645221	0.78019468	846828.8
Nebraska	1963333	1369000	0.709276844	971000	22396	993396	0.725636231	1424665.6
Nevada	3108462	2198000	0.661965423	1455000	14397	1469397	0.668515469	2078054.9
New Hampshire	1379089	1077000	0.782729805	843000	2905	845905	0.785427112	1083173.9
New Jersey	9294493	5921000	0.845803074	5008000	19896	5027896	0.849163317	7892542.5
New Mexico	2120220	1498000	0.686248331	1028000	18451	1046451	0.698565421	1481112.4
New York	20215751	13298000	0.704617236	9370000	44343	9414343	0.707951797	14311777.3
North Carolina	10453948	7391000	0.698281694	5161000	83837	5244837	0.709624814	7418380.9
North Dakota	779702	556000	0.771582734	429000	1821	430821	0.774857914	604158.3
Ohio	11808848	8740000	0.770366133	6733000	50402	6783402	0.776132952	9165236.1
Oklahoma	3963516	2800000	0.672857143	1884000	56995	1940995	0.6932125	2747558.8
Oregon	4241500	3242000	0.798889574	2590000	15871	2605871	0.803785009	3409254.1
Pennsylvania	13011844	9621000	0.76260264	7337000	48823	7385823	0.767677268	9988896.9
Rhode Island	1098163	776000	0.740979381	575000	2588	577588	0.744314433	817378.6
South Carolina	5124712	3878000	0.699587416	2713000	44584	2757584	0.711084064	3644101.0
South Dakota	887770	649000	0.673343606	437000	13339	450339	0.693896764	616020.7
Tennessee	6916897	5038000	0.742755062	3742000	451227	4193227	0.83231977	5757070.1
Texas	29183290	18581000	0.718099134	13343000	500474	13843474	0.745033852	21742539.0

Utah	3275252	2178000	0.674012856	1468000	7987	1475987	0.677679982	2219572.7
Vermont	643503	500000	0.73	365000	0	365000	0.73	469757.2
Virginia	8654542	5974000	0.760127218	4541000	366065	4907065	0.821403582	7108871.8
Washington	7715946	5389000	0.747634069	4029000	45090	4074090	0.756001113	5833263.8
West Virginia	1795045	1379000	0.672951414	928000	17274	945274	0.685477883	1230463.6
Wisconsin	5897473	4421000	0.767021036	3391000	69344	3460344	0.782706175	4615988.5
Wyoming	577719	427000	0.693208431	296000	11403	307403	0.719913349	415907.6

EXHIBIT 8

Scenario 2 priority values based on the basis-of-representation

State	Seat Number	Priority Value
California	2	19677918.8
Texas	2	15374296.7
California	3	11361051.7
Florida	2	11335907.1
New York	2	10119954.7
Texas	3	8876354.4
California	4	8033476.7
Pennsylvania	2	7063216.7
Illinois	2	6783915.5
Florida	3	6544789.0
Ohio	2	6480800.6
Texas	4	6276530.4
California	5	6222704.3
New York	3	5842758.6
Georgia	2	5644982.9
New Jersey	2	5580870.3
Michigan	2	5301832.7
North Carolina	2	5245587.4
California	6	5080816.8
Virginia	2	5026731.5
Texas	5	4861779.5
Florida	4	4627864.7
California	7	4294073.9
New York	4	4131454.2
Washington	2	4124740.4
Arizona	2	4101382.9
Pennsylvania	3	4077950.1
Tennessee	2	4070863.3
Texas	6	3969626.3
Illinois	3	3916695.4
Ohio	3	3741692.0
California	8	3718777.1
Massachusetts	2	3610428.1
Florida	5	3584728.6
Maryland	2	3457632.6
Minnesota	2	3412298.8
Missouri	2	3390833.2
Indiana	2	3359025.7
Texas	7	3354946.6
California	9	3279653.1
Wisconsin	2	3263996.8

Georgia	3	3259132.4
New Jersey	3	3222117.0
New York	5	3200210.7
Michigan	3	3061014.6
North Carolina	3	3028541.3
Colorado	2	2935630.5
California	10	2933410.9
Florida	6	2926918.6
Texas	8	2905469.0
Virginia	3	2902184.8
Pennsylvania	4	2883546.1
Illinois	4	2769521.9
Alabama	2	2732864.4
California	11	2653370.0
Ohio	4	2645775.8
Kentucky	2	2616154.5
New York	6	2612961.1
South Carolina	2	2576768.6
Texas	9	2562382.8
Florida	7	2473697.7
California	12	2422184.4
Oregon	2	2410706.7
Washington	3	2381420.0
Arizona	3	2367934.5
Louisiana	2	2360886.7
Tennessee	3	2350314.0
Georgia	4	2304554.6
Texas	10	2291864.8
New Jersey	4	2278380.8
Pennsylvania	5	2233585.2
California	13	2228085.6
New York	7	2208355.2
Michigan	4	2164464.1
Illinois	5	2145262.4
Florida	8	2142285.1
North Carolina	4	2141502.1
Massachusetts	3	2084481.7
Texas	11	2073069.7
California	14	2062806.4
Virginia	4	2052154.5
Ohio	5	2049409.1
Maryland	3	1996265.1
Minnesota	3	1970091.6
Missouri	3	1957698.5
Oklahoma	2	1942817.5

Indiana	3	1939334.4
California	15	1920368.2
New York	8	1912491.7
Mississippi	2	1910148.4
Texas	12	1892445.1
Connecticut	2	1890464.2
Florida	9	1889317.8
Wisconsin	3	1884469.4
Pennsylvania	6	1823714.7
California	16	1796340.0
Georgia	5	1785100.3
New Jersey	5	1764826.2
Illinois	6	1751599.4
Iowa	2	1748628.4
Texas	13	1740796.3
Colorado	3	1694887.0
Florida	10	1689857.3
California	17	1687367.6
New York	9	1686659.1
Washington	4	1683918.2
Michigan	5	1676586.7
Arizona	4	1674382.6
Ohio	6	1673335.5
Tennessee	4	1661923.0
North Carolina	5	1658800.4
Texas	14	1611664.2
California	18	1590865.4
Virginia	5	1589592.1
Alabama	3	1577820.0
Utah	2	1569474.9
Pennsylvania	7	1541320.2
Florida	11	1528533.4
Kentucky	3	1510437.5
New York	10	1508593.8
California	19	1504808.1
Texas	15	1500377.7
Kansas	2	1494354.8
South Carolina	3	1487698.0
Illinois	7	1480371.7
Massachusetts	4	1473951.1
Nevada	2	1469406.7
Georgia	6	1457528.3
New Jersey	6	1440974.5
California	20	1427586.3
Ohio	7	1414226.6

Maryland	4	1411572.6
Arkansas	2	1405993.2
Texas	16	1403474.9
Florida	12	1395353.7
Minnesota	4	1393065.1
Oregon	3	1391822.2
Missouri	4	1384301.9
Indiana	4	1371316.5
Michigan	6	1368927.3
New York	11	1364574.4
Louisiana	3	1363058.6
California	21	1357905.4
North Carolina	6	1354404.9
Pennsylvania	8	1334822.5
Wisconsin	4	1332521.1
Texas	17	1318335.1
Washington	5	1304357.4
Virginia	6	1297896.5
Arizona	5	1296971.2
California	22	1294712.0
Tennessee	5	1287320.0
Florida	13	1283538.7
Illinois	8	1282039.5
New York	12	1245680.3
Texas	18	1242938.2
California	23	1237140.2
Georgia	7	1231836.2
Ohio	8	1224756.2
New Jersey	7	1217845.7
Colorado	4	1198466.1
Florida	14	1188325.9
California	24	1184471.5
Pennsylvania	9	1177202.8
Texas	19	1175701.9
Michigan	7	1156954.8
New York	13	1145859.2
North Carolina	7	1144681.0
Massachusetts	5	1141717.6
California	25	1136105.2
Illinois	9	1130652.6
Oklahoma	3	1121686.2
Alabama	4	1115687.2
Texas	20	1115368.7
Florida	15	1106271.3
Mississippi	3	1102824.7

Virginia	7	1096922.7
Maryland	5	1093399.4
California	26	1091534.5
Connecticut	3	1091460.0
Ohio	9	1080133.4
Minnesota	5	1079063.6
Missouri	5	1072275.6
Kentucky	4	1068040.6
Georgia	8	1066801.5
Washington	6	1065003.4
Indiana	5	1062217.2
Texas	21	1060927.3
New York	14	1060859.5
Arizona	6	1058972.5
New Jersey	8	1054685.4
Pennsylvania	10	1052922.2
South Carolina	4	1051961.4
Tennessee	6	1051092.4
California	27	1050329.6
New Mexico	2	1047304.6
Florida	16	1034822.0
Wisconsin	5	1032166.4
California	28	1012122.9
Texas	22	1011554.5
Illinois	10	1011286.4
Iowa	3	1009571.1
Nebraska	2	1007390.7
Michigan	8	1001952.2
North Carolina	8	991322.8
New York	15	987606.5
Oregon	4	984166.9
California	29	976598.7
Florida	17	972046.0
Texas	23	966573.8
Ohio	10	966100.7
Louisiana	4	963828.0
Pennsylvania	11	952403.9
Virginia	8	949963.0
California	30	943484.0
Georgia	9	940830.5
Idaho	2	934689.6
Massachusetts	6	932208.5
New Jersey	9	930145.1
Colorado	5	928327.9
Texas	24	925423.9

New York	16	923821.2
Florida	18	916453.8
Illinois	11	914743.0
California	31	912541.6
Utah	3	906136.8
Washington	7	900092.1
Arizona	7	894995.1
Maryland	6	892756.9
Tennessee	7	888335.2
Texas	25	887635.4
Michigan	9	883638.8
California	32	883564.6
Minnesota	6	881051.7
Missouri	6	875509.4
North Carolina	9	874264.6
Ohio	11	873871.0
West Virginia	2	870069.2
Pennsylvania	12	869421.9
New York	17	867779.0
Indiana	6	867296.7
Florida	19	866878.5
Alabama	5	864207.6
Kansas	3	862766.2
California	33	856371.5
Texas	26	852812.5
Nevada	3	848362.4
Wisconsin	6	842760.3
Georgia	10	841504.4
Virginia	9	837788.6
Illinois	12	835042.3
New Jersey	10	831947.0
California	34	830802.4
Kentucky	5	827300.7
Florida	20	822393.1
Texas	27	820619.3
New York	18	818149.8
South Carolina	5	814845.8
Arkansas	3	811750.5
California	35	806716.0
Pennsylvania	13	799751.8
Ohio	12	797731.4
Oklahoma	4	793151.9
Texas	28	790768.5
Michigan	10	790350.6
Massachusetts	7	787860.0

California	36	783987.1
Florida	21	782251.9
North Carolina	10	781966.0
Mississippi	4	779814.8
Washington	8	779502.7
Arizona	8	775088.5
New York	19	773892.3
Connecticut	4	771778.8
Tennessee	8	769320.9
Illinois	13	768127.2
New Hampshire	2	765919.6
Texas	29	763013.5
California	37	762503.9
Oregon	5	762332.4
Georgia	11	761169.3
Colorado	6	757976.5
Maryland	7	754517.3
New Jersey	11	752524.4
Virginia	10	749340.9
Louisiana	5	746577.9
Maine	2	746244.5
Florida	22	745847.9
Minnesota	7	744624.6
California	38	742166.8
Pennsylvania	14	740426.3
Missouri	7	739940.5
Texas	30	737141.1
New York	20	734178.7
Ohio	13	733806.2
Indiana	7	732999.5
California	39	722886.4
Michigan	11	714899.0
Hawaii	2	714196.2
Iowa	4	713874.6
Texas	31	712965.9
Florida	23	712682.4
Wisconsin	7	712262.5
Illinois	14	711147.6
North Carolina	11	707314.9
Alabama	6	705622.6
California	40	704582.5
New York	21	698343.2
Georgia	12	694849.4
Texas	32	690326.3
Pennsylvania	15	689299.4

Washington	9	687456.7
California	41	687182.7
New Jersey	12	686957.6
Arizona	9	683563.8
Florida	24	682341.4
Massachusetts	8	682306.8
Ohio	14	679372.5
Tennessee	9	678477.2
Virginia	11	677804.3
Kentucky	6	675488.2
California	42	670621.7
Texas	33	669080.4
New York	22	665844.1
South Carolina	6	665318.8
Illinois	15	662042.4
California	43	654840.1
Florida	25	654478.9
Maryland	8	653431.1
Michigan	12	652610.5
Texas	34	649103.3
North Carolina	12	645687.2
Minnesota	8	644863.9
Pennsylvania	16	644780.5
Missouri	8	640807.2
Utah	4	640735.5
Colorado	7	640607.1
California	44	639784.3
Georgia	13	639168.4
New York	23	636236.1
Indiana	8	634796.2
Ohio	15	632461.4
New Jersey	13	631909.1
Texas	35	630284.7
Florida	26	628803.0
California	45	625405.3
Oregon	6	622441.8
Illinois	16	619283.9
Virginia	12	618747.9
Wisconsin	8	616837.4
Washington	10	614880.0
Oklahoma	5	614372.8
Texas	36	612526.6
California	46	611658.5
Arizona	10	611398.1
Kansas	4	610067.8

Louisiana	6	609578.3
New York	24	609149.7
Tennessee	10	606848.5
Pennsylvania	17	605665.8
Florida	27	605066.0
New Mexico	3	604661.6
Mississippi	5	604042.0
Massachusetts	9	601738.0
Michigan	13	600314.3
Nevada	4	599882.8
Montana	2	598798.4
California	47	598503.0
Connecticut	5	597817.3
Alabama	7	596359.9
Texas	37	595741.9
North Carolina	13	593945.8
Georgia	14	591755.0
Ohio	16	591613.4
California	48	585901.5
New Jersey	14	585034.2
New York	25	584275.9
Florida	28	583056.1
Illinois	17	581716.0
Nebraska	3	581617.3
Texas	38	579852.6
Rhode Island	2	577973.9
Maryland	9	576272.1
Arkansas	4	573994.3
California	49	573819.8

EXHIBIT 9

Scenario 3 basis-of-representation value calculations

State	Census enumerated population 1	Census citizenship population 2	Census citizen percentage registered to vote 3	Citizen population who can vote (2 * 3) 4	Citizen population who cannot vote because of Wisconsin's photo voter ID law 5	Citizen population who can vote despite Wisconsin's photo voter ID law (4 – 5) 6	Sentencing Project Citizens who cannot vote because of a criminal conviction 7	Total citizens who can vote plus citizens who cannot vote because of a criminal conviction (6 + 7) 8	Percentage of citizens who can vote plus citizens who cannot vote because of a criminal conviction (8 / 2) 9	14th Amendment Basis of Representation (1 * 9) 10
Alabama	5030053									
Alaska	736081									
Arizona	7158923									
Arkansas	3013756									
California	39576757									
Colorado	5782171									
Connecticut	3608298									
Delaware	990837									
Florida	21570527									
Georgia	10725274									
Hawaii	1460137									
Idaho	1841377									
Illinois	12822739									
Indiana	6790280									
Iowa	3192406									

Kansas	2940865									
Kentucky	4509342									
Louisiana	4661468									
Maine	1363582									
Maryland	6185278									
Massachusetts	7033469									
Michigan	10084442									
Minnesota	5709752									
Mississippi	2963914									
Missouri	6160281									
Montana	1085407									
Nebraska	1963333									
Nevada	3108462									
New Hampshire	1379089									
New Jersey	9294493									
New Mexico	2120220									
New York	20215751									
North Carolina	10453948									
North Dakota	779702									
Ohio	11808848									
Oklahoma	3963516									
Oregon	4241500									
Pennsylvania	13011844									
Rhode Island	1098163									
South Carolina	5124712									
South Dakota	887770									
Tennessee	6916897									
Texas	29183290									
Utah	3275252									

Vermont	643503									
Virginia	8654542									
Washington	7715946									
West Virginia	1795045									
Wisconsin	5897473	4421000	0.767021036	3391000	300000	3091000	69344	3160344	0.7148482	4215798.1
Wyoming	577719									

EXHIBIT 10

Scenario 3 priority values based on the basis-of-representation

State	Seat Number	Priority Value
California	2	27984993.3
Texas	2	20635702.3
California	3	16157143.4
Florida	2	15252665.9
New York	2	14294694.6
Texas	3	11914028.3
California	4	11424825.7
Pennsylvania	2	9200763.1
Illinois	2	9067045.7
California	5	8849631.9
Florida	3	8806130.8
Texas	4	8424490.2
Ohio	2	8350116.5
New York	3	8253045.8
Georgia	2	7583914.0
North Carolina	2	7392057.5
California	6	7225694.2
Michigan	2	7130777.3
New Jersey	2	6572199.0
Texas	5	6525582.0
Florida	4	6226874.8
Virginia	2	6119685.3
California	7	6106826.2
New York	4	5835784.6
Washington	2	5455997.7
Texas	6	5328115.4
Pennsylvania	3	5312063.1
California	8	5288666.6
Illinois	3	5234861.3
Arizona	2	5062123.0
Massachusetts	2	4973413.6
Tennessee	2	4890984.8
Florida	5	4823316.5
Ohio	3	4820942.0
Indiana	2	4801453.0
California	9	4664165.5
New York	5	4520379.3
Texas	7	4503079.4
Georgia	3	4378574.8
Maryland	2	4373652.0
Missouri	2	4355976.5

North Carolina	3	4267806.4
California	10	4171756.5
Michigan	3	4116956.2
Colorado	2	4088612.3
Minnesota	2	4037404.4
Wisconsin	2	3952575.1
Florida	6	3938221.4
Texas	8	3899781.2
New Jersey	3	3794460.9
California	11	3773495.7
Pennsylvania	4	3756195.8
Illinois	4	3701605.9
New York	6	3690874.3
South Carolina	2	3623718.6
Alabama	2	3556784.6
Virginia	3	3533202.0
California	12	3444714.5
Texas	9	3439283.7
Ohio	4	3408920.8
Florida	7	3328404.6
Louisiana	2	3296155.6
Kentucky	2	3188586.3
California	13	3168676.5
Washington	3	3150021.8
New York	7	3119358.1
Georgia	4	3096119.9
Texas	10	3076188.9
North Carolina	4	3017794.8
Oregon	2	2999193.4
California	14	2933624.4
Arizona	3	2922618.1
Michigan	4	2911127.7
Pennsylvania	5	2909536.8
Florida	8	2882482.9
Massachusetts	3	2871401.7
Illinois	5	2867251.6
Tennessee	3	2823811.4
Oklahoma	2	2802629.0
Texas	11	2782517.5
Indiana	3	2772120.2
California	15	2731055.7
New York	8	2701443.4
New Jersey	4	2683089.0
Ohio	5	2640538.7
California	16	2554668.7

Connecticut	2	2551452.0
Florida	9	2542111.0
Texas	12	2540079.4
Maryland	3	2525129.2
Missouri	3	2514924.2
Virginia	4	2498351.1
California	17	2399693.4
Georgia	5	2398244.2
New York	9	2382449.1
Pennsylvania	6	2375626.8
Colorado	3	2360561.4
Illinois	6	2341101.1
North Carolina	5	2337573.8
Texas	13	2336533.2
Minnesota	3	2330996.5
Utah	2	2315952.9
Wisconsin	3	2282020.3
Florida	10	2273733.2
California	18	2262452.6
Iowa	2	2257371.9
Michigan	5	2254949.8
Washington	4	2227401.8
Nevada	2	2198014.6
Texas	14	2163209.4
Ohio	6	2155990.8
California	19	2140065.9
Arkansas	2	2131047.3
New York	10	2130927.3
Mississippi	2	2095803.7
South Carolina	3	2092154.9
Kansas	2	2079505.6
New Jersey	5	2078311.8
Arizona	4	2066603.1
Florida	11	2056669.1
Alabama	3	2053510.5
Massachusetts	4	2030387.6
California	20	2030244.8
Texas	15	2013838.3
Pennsylvania	7	2007771.1
Tennessee	4	1996736.2
Illinois	7	1978591.6
Indiana	4	1960185.0
Georgia	6	1958158.2
Virginia	5	1935214.4
California	21	1931148.0

New York	11	1927496.2
North Carolina	6	1908621.0
Louisiana	3	1903036.3
Texas	16	1883773.3
Florida	12	1877473.4
California	22	1841277.4
Michigan	6	1841158.8
Kentucky	3	1840931.2
Ohio	7	1822144.8
Maryland	4	1785536.0
Missouri	4	1778319.9
Texas	17	1769496.9
New York	12	1759555.3
California	23	1759401.5
Pennsylvania	8	1738780.8
Oregon	3	1731585.1
Florida	13	1727024.3
Washington	5	1725338.0
Illinois	8	1713510.6
New Jersey	6	1696934.5
California	24	1684498.6
Colorado	4	1669169.0
Texas	18	1668297.6
Georgia	7	1654945.7
Minnesota	4	1648263.4
New York	13	1618555.4
Oklahoma	3	1618098.6
California	25	1615714.3
Wisconsin	4	1613632.0
North Carolina	7	1613079.2
Arizona	5	1600783.8
Florida	14	1598913.8
Virginia	6	1580096.0
Texas	19	1578051.6
Ohio	8	1578023.7
Massachusetts	5	1572731.5
Michigan	7	1556063.2
California	26	1552328.1
Tennessee	5	1546665.2
Pennsylvania	9	1533460.5
Indiana	5	1518352.8
Illinois	9	1511174.3
New Mexico	2	1499221.9
New York	14	1498491.2
Texas	20	1497071.2

California	27	1493728.4
Florida	15	1488507.8
South Carolina	4	1479376.9
Connecticut	3	1473081.5
Alabama	4	1452051.2
California	28	1439392.7
New Jersey	7	1434171.4
Georgia	8	1433225.0
Texas	21	1423998.7
Washington	6	1408732.6
North Carolina	8	1396967.6
New York	15	1395019.4
Florida	16	1392371.5
Ohio	9	1391686.1
California	29	1388871.9
Nebraska	2	1388286.1
Maryland	5	1383070.2
Missouri	5	1377480.7
Pennsylvania	10	1371568.8
Texas	22	1357729.5
Illinois	10	1351635.4
Michigan	8	1347590.2
Louisiana	4	1345649.9
California	30	1341777.7
Utah	3	1337116.0
Virginia	7	1335424.8
Florida	17	1307905.3
Arizona	6	1307034.5
New York	16	1304921.1
Iowa	3	1303294.3
Idaho	2	1302050.2
Kentucky	4	1301734.9
California	31	1297773.0
Texas	23	1297355.5
Colorado	5	1292932.7
Massachusetts	6	1284129.9
Minnesota	5	1276739.4
West Virginia	2	1269288.5
Nevada	3	1269024.3
Georgia	9	1263985.7
Tennessee	6	1262846.8
California	32	1256563.3
Wisconsin	5	1249914.0
Ohio	10	1244761.9
Texas	24	1242123.3

New Jersey	8	1242028.9
Pennsylvania	11	1240630.6
Indiana	6	1239729.8
Florida	18	1233105.0
North Carolina	9	1232009.6
Arkansas	3	1230360.7
New York	17	1225760.0
Oregon	4	1224415.6
Illinois	11	1222600.2
California	33	1217890.5
Mississippi	3	1210012.8
Kansas	3	1200603.1
Texas	25	1191402.8
Washington	7	1190596.3
Michigan	9	1188462.9
California	34	1181527.3
Florida	19	1166400.5
Virginia	8	1156511.8
New York	18	1155657.6
California	35	1147272.9
South Carolina	5	1145920.4
Texas	26	1144662.8
Oklahoma	4	1144168.5
Pennsylvania	12	1132535.7
Georgia	10	1130543.1
Maryland	6	1129272.1
Ohio	11	1125929.5
Alabama	5	1124754.0
Missouri	6	1124708.3
Illinois	12	1116076.2
California	36	1114948.8
Florida	20	1106544.7
Arizona	7	1104645.8
North Carolina	10	1101942.9
Texas	27	1101452.3
New Jersey	9	1095366.5
New York	19	1093142.6
Massachusetts	7	1085287.8
California	37	1084396.5
Tennessee	7	1067300.4
Michigan	10	1062993.5
Texas	28	1061386.0
Colorado	6	1055675.2
California	38	1055474.0
Florida	21	1052533.9

Indiana	7	1047763.0
Minnesota	6	1042453.3
Louisiana	5	1042335.9
Pennsylvania	13	1041781.3
Connecticut	4	1041625.9
New York	20	1037046.1
Hawaii	2	1032472.8
Washington	8	1031086.7
California	39	1028054.4
Ohio	12	1027828.3
Illinois	13	1026640.8
Texas	29	1024132.7
Georgia	11	1022614.8
Wisconsin	6	1020550.5
Virginia	9	1019947.6
Kentucky	5	1008319.5
Florida	22	1003551.7
California	40	1002023.5
North Carolina	11	996744.8
Texas	30	989406.2
New York	21	986427.6
New Jersey	10	979725.6
California	41	977278.4
New Hampshire	2	975163.2
Pennsylvania	14	964502.0
Maine	2	964198.1
Michigan	11	961513.8
Florida	23	958926.9
Texas	31	956957.8
Arizona	8	956651.3
Maryland	7	954409.1
California	42	953726.0
Missouri	7	950552.0
Illinois	14	950484.7
Oregon	5	948428.2
Utah	4	945483.8
Ohio	13	945464.5
New York	22	940521.9
Massachusetts	8	939886.8
South Carolina	6	935640.1
Georgia	12	933515.3
California	43	931282.3
Texas	32	926570.4
Tennessee	8	924309.2
Iowa	4	921568.2

Alabama	6	918357.8
Florida	24	918102.6
Virginia	10	912268.8
North Carolina	12	909899.4
California	44	909870.6
Washington	9	909333.0
Indiana	8	907389.3
New York	23	898699.8
Texas	33	898053.7
Pennsylvania	15	897902.5
Nevada	4	897335.7
Colorado	7	892208.4
California	45	889421.5
Oklahoma	5	886269.1
New Jersey	11	886195.1
Illinois	15	884853.1
Minnesota	7	881033.9
Florida	25	880613.1
Michigan	12	877738.0
Ohio	14	875330.1
Texas	34	871240.0
Arkansas	4	869996.4
California	46	869871.4
New Mexico	3	865576.2
Wisconsin	7	862522.6
New York	24	860439.5
Georgia	13	858709.2
Mississippi	4	855608.3
California	47	851162.3
Louisiana	6	851063.7
Kansas	4	848954.6
Florida	26	846065.7
Texas	35	845981.3
Arizona	9	843687.2
Pennsylvania	16	839910.9
North Carolina	13	836985.7
California	48	833241.0
Massachusetts	9	828902.3
Illinois	16	827704.2
Maryland	8	826542.5
New York	25	825304.6
Virginia	11	825178.2
Kentucky	6	823289.4
Missouri	8	823202.2
Texas	36	822146.1

California	49	816059.0
Tennessee	9	815164.1
Ohio	15	814887.9
Florida	27	814127.1
Washington	10	813332.1
New Jersey	12	808981.8
Michigan	13	807401.5
Connecticut	5	806840.0
Nebraska	3	801527.3
Indiana	9	800242.2
Texas	37	799617.2
California	50	799571.2
Georgia	14	795010.2
New York	26	792927.0
South Carolina	7	790760.2
Pennsylvania	17	788958.9
Florida	28	784512.5
California	51	783736.6
Texas	38	778290.3
Illinois	17	777492.8
Rhode Island	2	776518.5
Alabama	7	776154.0
North Carolina	14	774898.2
Oregon	6	774388.4
Colorado	8	772675.1
California	52	768516.9
Montana	2	767498.7
Minnesota	8	762997.7
New York	27	762994.4

EXHIBIT 11

Scenario 5 priority values based on the basis-of-representation

State	Seat Number	Priority Number
California	2	27984993.25
Texas	2	20635702.26
California	3	16157143.39
Florida	2	15252665.92
New York	2	14294694.62
Texas	3	11914028.25
California	4	11424825.65
Pennsylvania	2	9200763.128
Illinois	2	9067045.7
California	5	8849631.898
Florida	3	8806130.772
Texas	4	8424490.169
Ohio	2	8350116.499
New York	3	8253045.786
Georgia	2	7583913.976
North Carolina	2	7392057.521
California	6	7225694.187
Michigan	2	7130777.323
New Jersey	2	6572199.028
Texas	5	6525582.025
Florida	4	6226874.785
Virginia	2	6119685.336
California	7	6106826.186
New York	4	5835784.641
Washington	2	5455997.74
Texas	6	5328115.412
Pennsylvania	3	5312063.069
California	8	5288666.613
Illinois	3	5234861.276
Arizona	2	5062122.999
Massachusetts	2	4973413.625
Tennessee	2	4890984.774
Florida	5	4823316.468
Ohio	3	4820942.008
Indiana	2	4801453.034

California	9	4664165.542
New York	5	4520379.345
Texas	7	4503079.41
Georgia	3	4378574.775
Maryland	2	4373652.017
Missouri	2	4355976.469
North Carolina	3	4267806.4
California	10	4171756.484
Michigan	3	4116956.207
Colorado	2	4088612.324
Minnesota	2	4037404.358
Wisconsin	2	3958011.116
Florida	6	3938221.405
Texas	8	3899781.164
New Jersey	3	3794460.878
California	11	3773495.72
Pennsylvania	4	3756195.818
Illinois	4	3701605.907
New York	6	3690874.28
South Carolina	2	3623718.607
Alabama	2	3556784.586
Virginia	3	3533201.976
California	12	3444714.544
Texas	9	3439283.709
Ohio	4	3408920.786
Florida	7	3328404.577
Louisiana	2	3296155.633
Kentucky	2	3188586.307
California	13	3168676.516
Washington	3	3150021.764
New York	7	3119358.101
Georgia	4	3096119.916
Texas	10	3076188.867
North Carolina	4	3017794.846
Oregon	2	2999193.412
California	14	2933624.408
Arizona	3	2922618.076
Michigan	4	2911127.652
Pennsylvania	5	2909536.77

Florida	8	2882482.917
Massachusetts	3	2871401.695
Illinois	5	2867251.606
Tennessee	3	2823811.376
Oklahoma	2	2802629.041
Texas	11	2782517.525
Indiana	3	2772120.202
California	15	2731055.696
New York	8	2701443.359
New Jersey	4	2683089.018
Ohio	5	2640538.686
California	16	2554668.679
Connecticut	2	2551451.984
Florida	9	2542110.986
Texas	12	2540079.358
Maryland	3	2525129.17
Missouri	3	2514924.187
Virginia	4	2498351.077
California	17	2399693.374
Georgia	5	2398244.174
New York	9	2382449.103
Pennsylvania	6	2375626.825
Colorado	3	2360561.426
Illinois	6	2341101.133
North Carolina	5	2337573.836
Texas	13	2336533.175
Minnesota	3	2330996.493
Utah	2	2315952.899
Wisconsin	3	2285158.783
Florida	10	2273733.188
California	18	2262452.61
Iowa	2	2257371.931
Michigan	5	2254949.783
Washington	4	2227401.75
Nevada	2	2198014.559
Texas	14	2163209.377
Ohio	6	2155990.809
California	19	2140065.921
Arkansas	2	2131047.304

New York	10	2130927.259
Mississippi	2	2095803.688
South Carolina	3	2092154.913
Kansas	2	2079505.584
New Jersey	5	2078311.816
Arizona	4	2066603.061
Florida	11	2056669.053
Alabama	3	2053510.538
Massachusetts	4	2030387.61
California	20	2030244.796
Texas	15	2013838.334
Pennsylvania	7	2007771.118
Tennessee	4	1996736.173
Illinois	7	1978591.583
Indiana	4	1960184.993
Georgia	6	1958158.168
Virginia	5	1935214.423
California	21	1931148.002
New York	11	1927496.229
North Carolina	6	1908621.045
Louisiana	3	1903036.342
Texas	16	1883773.269
Florida	12	1877473.389
California	22	1841277.374
Michigan	6	1841158.788
Kentucky	3	1840931.163
Ohio	7	1822144.806
Maryland	4	1785535.959
Missouri	4	1778319.947
Texas	17	1769496.87
New York	12	1759555.274
California	23	1759401.452
Pennsylvania	8	1738780.794
Oregon	3	1731585.124
Florida	13	1727024.333
Washington	5	1725337.977
Illinois	8	1713510.575
New Jersey	6	1696934.492
California	24	1684498.643

Colorado	4	1669168.992
Texas	18	1668297.648
Georgia	7	1654945.708
Minnesota	4	1648263.427
New York	13	1618555.443
Oklahoma	3	1618098.631
Wisconsin	4	1615851.272
California	25	1615714.339
North Carolina	7	1613079.197
Arizona	5	1600783.847
Florida	14	1598913.84
Virginia	6	1580095.959
Texas	19	1578051.592
Ohio	8	1578023.691
Massachusetts	5	1572731.48
Michigan	7	1556063.183
California	26	1552328.125
Tennessee	5	1546665.189
Pennsylvania	9	1533460.521
Indiana	5	1518352.767
Illinois	9	1511174.283
New Mexico	2	1499221.94
New York	14	1498491.162
Texas	20	1497071.189
California	27	1493728.435
Florida	15	1488507.778
South Carolina	4	1479376.926
Connecticut	3	1473081.49
Alabama	4	1452051.227
California	28	1439392.736
New Jersey	7	1434171.406
Georgia	8	1433225.025
Texas	21	1423998.742
Washington	6	1408732.559
North Carolina	8	1396967.563
New York	15	1395019.352
Florida	16	1392371.531
Ohio	9	1391686.083
California	29	1388871.895

Nebraska	2	1388286.078
Maryland	5	1383070.207
Missouri	5	1377480.708
Pennsylvania	10	1371568.787
Texas	22	1357729.528
Illinois	10	1351635.369
Michigan	8	1347590.247
Louisiana	4	1345649.902
California	30	1341777.726
Utah	3	1337116.03
Virginia	7	1335424.823
Florida	17	1307905.312
Arizona	6	1307034.538
New York	16	1304921.116
Iowa	3	1303294.292
Idaho	2	1302050.163
Kentucky	4	1301734.909
California	31	1297772.987
Texas	23	1297355.485
Colorado	5	1292932.741
Massachusetts	6	1284129.876
Minnesota	5	1276739.361
West Virginia	2	1269288.492
Nevada	3	1269024.298
Georgia	9	1263985.663
Tennessee	6	1262846.838
California	32	1256563.291
Wisconsin	5	1251633.013
Ohio	10	1244761.874
Texas	24	1242123.31
New Jersey	8	1242028.871
Pennsylvania	11	1240630.647
Indiana	6	1239729.843
Florida	18	1233104.954
North Carolina	9	1232009.587
Arkansas	3	1230360.735
New York	17	1225759.951
Oregon	4	1224415.583
Illinois	11	1222600.193

California	33	1217890.507
Mississippi	3	1210012.824
Kansas	3	1200603.109
Texas	25	1191402.825
Washington	7	1190596.316
Michigan	9	1188462.887
California	34	1181527.341
Florida	19	1166400.515
Virginia	8	1156511.822
New York	18	1155657.565
California	35	1147272.87
South Carolina	5	1145920.44
Texas	26	1144662.809
Oklahoma	4	1144168.515
Pennsylvania	12	1132535.652
Georgia	10	1130543.146
Maryland	6	1129272.095
Ohio	11	1125929.479
Alabama	5	1124754.044
Missouri	6	1124708.288
Illinois	12	1116076.174
California	36	1114948.819
Florida	20	1106544.687
Arizona	7	1104645.801
North Carolina	10	1101942.874
Texas	27	1101452.302
New Jersey	9	1095366.505
New York	19	1093142.619
Massachusetts	7	1085287.829
California	37	1084396.462
Tennessee	7	1067300.378
Michigan	10	1062993.522
Texas	28	1061385.996
Colorado	6	1055675.163
California	38	1055474.011
Florida	21	1052533.944
Indiana	7	1047762.951
Minnesota	6	1042453.323
Louisiana	5	1042335.932

Pennsylvania	13	1041781.279
Connecticut	4	1041625.911
New York	20	1037046.145
Hawaii	2	1032472.774
Washington	8	1031086.655
California	39	1028054.415
Ohio	12	1027828.29
Illinois	13	1026640.761
Texas	29	1024132.707
Georgia	11	1022614.752
Wisconsin	6	1021954.076
Virginia	9	1019947.556
Kentucky	5	1008319.525
Florida	22	1003551.739
California	40	1002023.496
North Carolina	11	996744.8328
Texas	30	989406.1932
New York	21	986427.6438
New Jersey	10	979725.5859
California	41	977278.3557
New Hampshire	2	975163.1838
Pennsylvania	14	964502.0474
Maine	2	964198.0789
Michigan	11	961513.818
Florida	23	958926.8902
Texas	31	956957.7778
Arizona	8	956651.3259
Maryland	7	954409.1158
California	42	953726.0186
Missouri	7	950551.995
Illinois	14	950484.6521
Oregon	5	948428.2327
Utah	4	945483.8119
Ohio	13	945464.5144
New York	22	940521.8553
Massachusetts	8	939886.8299
South Carolina	6	935640.121
Georgia	12	933515.2787
California	43	931282.2626

Texas	32	926570.3841
Tennessee	8	924309.2412
Iowa	4	921568.2317
Alabama	6	918357.8312
Florida	24	918102.599
Virginia	10	912268.8275
North Carolina	12	909899.3817
California	44	909870.6128
Washington	9	909332.9566
Indiana	8	907389.3329
New York	23	898699.7508
Texas	33	898053.6694
Pennsylvania	15	897902.5408
Nevada	4	897335.6862
Colorado	7	892208.3554
California	45	889421.4709
Oklahoma	5	886269.1206
New Jersey	11	886195.1362
Illinois	15	884853.056
Minnesota	7	881033.8611
Florida	25	880613.0772
Michigan	12	877738.0125
Ohio	14	875330.0511
Texas	34	871240.0321
Arkansas	4	869996.4189
California	46	869871.3589
New Mexico	3	865576.1904
Wisconsin	7	863708.8352
New York	24	860439.5031
Georgia	13	858709.1623
Mississippi	4	855608.2729
California	47	851162.261
Louisiana	6	851063.7249
Kansas	4	848954.5997
Florida	26	846065.6776
Texas	35	845981.3134
Arizona	9	843687.1665
Pennsylvania	16	839910.9186
North Carolina	13	836985.6966

California	48	833241.0484
Massachusetts	9	828902.2709
Illinois	16	827704.2433
Maryland	8	826542.5399
New York	25	825304.5786
Virginia	11	825178.2024
Kentucky	6	823289.4443
Missouri	8	823202.1753
Texas	36	822146.057
California	49	816058.9753
Tennessee	9	815164.1289
Ohio	15	814887.93
Florida	27	814127.0779
Washington	10	813332.1221
New Jersey	12	808981.7774
Michigan	13	807401.5398
Connecticut	5	806839.9611
Nebraska	3	801527.3409
Indiana	9	800242.1724
Texas	37	799617.2204
California	50	799571.2358
Georgia	14	795010.2024
New York	26	792926.991
South Carolina	7	790760.2292
Pennsylvania	17	788958.9294
Florida	28	784512.4822
California	51	783736.5741
Texas	38	778290.2511
Illinois	17	777492.7545
Rhode Island	2	776518.5041
Alabama	7	776154.0284
North Carolina	14	774898.1811
Oregon	6	774388.4092
Colorado	8	772675.1012
California	52	768516.9393
Montana	2	767498.65
Minnesota	8	762997.7053
New York	27	762994.3528

EXHIBIT 13

Scenario 4 basis-of-representation value calculations

State	Census enumerated population 1	Census citizenship population 2	Census citizen percentage registered to vote 3	Citizen population who can vote (2 * 3) 4	Citizen population who cannot vote because of Wisconsin's photo voter ID law 5	Citizen population who can vote despite Wisconsin's photo voter ID law (4 – 5) 6	Sentencing Project Citizens who cannot vote because of a criminal conviction 7	Total citizens who can vote plus citizens who cannot vote because of a criminal conviction (6 + 7) 8	Percentage of citizens who can vote plus citizens who cannot vote because of a criminal conviction (8 / 2) 9	Fourteenth Amendment basis of representation (1 * 9) 10
Alabama	5030053	3716000	0.680032293	2527000	0	2527000	328198	2855198	0.76835253	3864853.9
Alaska	736081	516000	0.742248062	383000	0	383000	5541	388541	0.752986434	554259.0
Arizona	7158923	5075000	0.764137931	3878000	0	3878000	233816	4111816	0.810210049	5800231.4
Arkansas	3013756	2195000	0.620045558	1361000	0	1361000	87187	1448187	0.659766287	1988374.6
California	39576757	25946000	0.693787096	18001000	0	18001000	243181	18244181	0.703159678	27828779.7
Colorado	5782171	4200000	0.712619048	2993000	0	2993000	22607	3015607	0.718001667	4151608.4
Connecticut	3608298	2524000	0.73296355	1850000	0	1850000	20124	1870124	0.740936609	2673520.1
Delaware	990837	722000	0.750692521	542000	0	542000	11524	553524	0.76665374	759628.9
Florida	21570527	15645000	0.670821349	10495000	0	10495000	1132493	11627493	0.743208245	16031393.5
Georgia	10725274	7400000	0.707162162	5233000	0	5233000	275089	5508089	0.744336351	7983211.3
Hawaii	1460137	980000	0.686734694	673000	0	673000	4899	677899	0.691733673	1010025.9
Idaho	1841377	1299000	0.692840647	9.00E+05	0	9.00E+05	32500	932500	0.717859892	1321850.7
Illinois	12822739	8860000	0.743792325	6590000	0	6590000	39005	6629005	0.748194695	9593905.3
Indiana	6790280	4921000	0.693355009	3412000	0	3412000	30659	3442659	0.699585247	4750379.7
Iowa	3192406	2293000	0.759703445	1742000	0	1742000	34227	1776227	0.774630179	2472934.0
Kansas	2940865	1975000	0.707848101	1398000	0	1398000	21256	1419256	0.718610633	2113336.9
Kentucky	4509342	3227000	0.759219089	2450000	0	2450000	197672	2647672	0.820474744	3699801.2

Louisiana	4661468	3299000	0.692937254	2286000	0	2286000	76924	2362924	0.716254623	3338798.0
Maine	1363582	1075000	0.773953488	832000	0	832000	0	832000	0.773953488	1055349.0
Maryland	6185278	4303000	0.786195677	3383000	0	3383000	18778	3401778	0.79055961	4889831.0
Massachusetts	7033469	4897000	0.724116806	3546000	0	3546000	8956	3554956	0.725945681	5105916.4
Michigan	10084442	7467000	0.738315254	5513000	0	5513000	38819	5551819	0.743513995	7497923.8
Minnesota	5709752	4142000	0.829550942	3436000	0	3436000	64700	3500700	0.845171415	4825719.2
Mississippi	2963914	2177000	0.803399173	1749000	0	1749000	235152	1984152	0.91141571	2701357.8
Missouri	6160281	4475000	0.757094972	3388000	0	3388000	95485	3483485	0.778432402	4795362.3
Montana	1085407	827000	0.775090689	641000	0	641000	4221	645221	0.78019468	846828.8
Nebraska	1963333	1369000	0.709276844	971000	0	971000	22396	993396	0.725636231	1424665.6
Nevada	3108462	2198000	0.661965423	1455000	0	1455000	14397	1469397	0.668515469	2078054.9
New Hampshire	1379089	1077000	0.782729805	843000	0	843000	2905	845905	0.785427112	1083173.9
New Jersey	9294493	5921000	0.845803074	5008000	0	5008000	19896	5027896	0.849163317	7892542.5
New Mexico	2120220	1498000	0.686248331	1028000	0	1028000	18451	1046451	0.698565421	1481112.4
New York	20215751	13298000	0.704617236	9370000	0	9370000	44343	9414343	0.707951797	14311777.3
North Carolina	10453948	7391000	0.698281694	5161000	0	5161000	83837	5244837	0.709624814	7418380.9
North Dakota	779702	556000	0.771582734	429000	0	429000	1821	430821	0.774857914	604158.3
Ohio	11808848	8740000	0.770366133	6733000	0	6733000	50402	6783402	0.776132952	9165236.1
Oklahoma	3963516	2800000	0.672857143	1884000	0	1884000	56995	1940995	0.6932125	2747558.8
Oregon	4241500	3242000	0.798889574	2590000	0	2590000	15871	2605871	0.803785009	3409254.1
Pennsylvania	13011844	9621000	0.76260264	7337000	0	7337000	48823	7385823	0.767677268	9988896.9
Rhode Island	1098163	776000	0.740979381	575000	0	575000	2588	577588	0.744314433	817378.6
South Carolina	5124712	3878000	0.699587416	2713000	0	2713000	44584	2757584	0.711084064	3644101.0
South Dakota	887770	649000	0.673343606	437000	0	437000	13339	450339	0.693896764	616020.7
Tennessee	6916897	5038000	0.742755062	3742000	0	3742000	451227	4193227	0.83231977	5757070.1
Texas	29183290	18581000	0.718099134	13343000	0	13343000	500474	13843474	0.745033852	21742539.0
Utah	3275252	2178000	0.674012856	1468000	0	1468000	7987	1475987	0.677679982	2219572.7
Vermont	643503	500000	0.73	365000	0	365000	0	365000	0.73	469757.2
Virginia	8654542	5974000	0.760127218	4541000	0	4541000	366065	4907065	0.821403582	7108871.8

Washington	7715946	5389000	0.747634069	4029000	0	4029000	45090	4074090	0.756001113	5833263.8
West Virginia	1795045	1379000	0.672951414	928000	0	928000	17274	945274	0.685477883	1230463.6
Wisconsin	5897473	4421000	0.767021036	3391000	300000	3091000	69344	3160344	0.7148482	4215798.1
Wyoming	577719	427000	0.693208431	296000	0	296000	11403	307403	0.719913349	415907.6

EXHIBIT 14

Scenario 4 priority values based on the basis-of-representation

State	Seat Number	Priority Value
California	2	19677918.8
Texas	2	15374296.7
California	3	11361051.7
Florida	2	11335907.1
New York	2	10119954.7
Texas	3	8876354.4
California	4	8033476.7
Pennsylvania	2	7063216.7
Illinois	2	6783915.5
Florida	3	6544789.0
Ohio	2	6480800.6
Texas	4	6276530.4
California	5	6222704.3
New York	3	5842758.6
Georgia	2	5644982.9
New Jersey	2	5580870.3
Michigan	2	5301832.7
North Carolina	2	5245587.4
California	6	5080816.8
Virginia	2	5026731.5
Texas	5	4861779.5
Florida	4	4627864.7
California	7	4294073.9
New York	4	4131454.2
Washington	2	4124740.4
Arizona	2	4101382.9
Pennsylvania	3	4077950.1
Tennessee	2	4070863.3
Texas	6	3969626.3
Illinois	3	3916695.4
Ohio	3	3741692.0
California	8	3718777.1
Massachusetts	2	3610428.1
Florida	5	3584728.6
Maryland	2	3457632.6
Minnesota	2	3412298.8
Missouri	2	3390833.2
Indiana	2	3359025.7
Texas	7	3354946.6
California	9	3279653.1
Georgia	3	3259132.4

New Jersey	3	3222117.0
New York	5	3200210.7
Michigan	3	3061014.6
North Carolina	3	3028541.3
Wisconsin	2	2981019.4
Colorado	2	2935630.5
California	10	2933410.9
Florida	6	2926918.6
Texas	8	2905469.0
Virginia	3	2902184.8
Pennsylvania	4	2883546.1
Illinois	4	2769521.9
Alabama	2	2732864.4
California	11	2653370.0
Ohio	4	2645775.8
Kentucky	2	2616154.5
New York	6	2612961.1
South Carolina	2	2576768.6
Texas	9	2562382.8
Florida	7	2473697.7
California	12	2422184.4
Oregon	2	2410706.7
Washington	3	2381420.0
Arizona	3	2367934.5
Louisiana	2	2360886.7
Tennessee	3	2350314.0
Georgia	4	2304554.6
Texas	10	2291864.8
New Jersey	4	2278380.8
Pennsylvania	5	2233585.2
California	13	2228085.6
New York	7	2208355.2
Michigan	4	2164464.1
Illinois	5	2145262.4
Florida	8	2142285.1
North Carolina	4	2141502.1
Massachusetts	3	2084481.7
Texas	11	2073069.7
California	14	2062806.4
Virginia	4	2052154.5
Ohio	5	2049409.1
Maryland	3	1996265.1
Minnesota	3	1970091.6
Missouri	3	1957698.5
Oklahoma	2	1942817.5

Indiana	3	1939334.4
California	15	1920368.2
New York	8	1912491.7
Mississippi	2	1910148.4
Texas	12	1892445.1
Connecticut	2	1890464.2
Florida	9	1889317.8
Pennsylvania	6	1823714.7
California	16	1796340.0
Georgia	5	1785100.3
New Jersey	5	1764826.2
Illinois	6	1751599.4
Iowa	2	1748628.4
Texas	13	1740796.3
Wisconsin	3	1721092.4
Colorado	3	1694887.0
Florida	10	1689857.3
California	17	1687367.6
New York	9	1686659.1
Washington	4	1683918.2
Michigan	5	1676586.7
Arizona	4	1674382.6
Ohio	6	1673335.5
Tennessee	4	1661923.0
North Carolina	5	1658800.4
Texas	14	1611664.2
California	18	1590865.4
Virginia	5	1589592.1
Alabama	3	1577820.0
Utah	2	1569474.9
Pennsylvania	7	1541320.2
Florida	11	1528533.4
Kentucky	3	1510437.5
New York	10	1508593.8
California	19	1504808.1
Texas	15	1500377.7
Kansas	2	1494354.8
South Carolina	3	1487698.0
Illinois	7	1480371.7
Massachusetts	4	1473951.1
Nevada	2	1469406.7
Georgia	6	1457528.3
New Jersey	6	1440974.5
California	20	1427586.3
Ohio	7	1414226.6

Maryland	4	1411572.6
Arkansas	2	1405993.2
Texas	16	1403474.9
Florida	12	1395353.7
Minnesota	4	1393065.1
Oregon	3	1391822.2
Missouri	4	1384301.9
Indiana	4	1371316.5
Michigan	6	1368927.3
New York	11	1364574.4
Louisiana	3	1363058.6
California	21	1357905.4
North Carolina	6	1354404.9
Pennsylvania	8	1334822.5
Texas	17	1318335.1
Washington	5	1304357.4
Virginia	6	1297896.5
Arizona	5	1296971.2
California	22	1294712.0
Tennessee	5	1287320.0
Florida	13	1283538.7
Illinois	8	1282039.5
New York	12	1245680.3
Texas	18	1242938.2
California	23	1237140.2
Georgia	7	1231836.2
Ohio	8	1224756.2
New Jersey	7	1217845.7
Wisconsin	4	1216996.1
Colorado	4	1198466.1
Florida	14	1188325.9
California	24	1184471.5
Pennsylvania	9	1177202.8
Texas	19	1175701.9
Michigan	7	1156954.8
New York	13	1145859.2
North Carolina	7	1144681.0
Massachusetts	5	1141717.6
California	25	1136105.2
Illinois	9	1130652.6
Oklahoma	3	1121686.2
Alabama	4	1115687.2
Texas	20	1115368.7
Florida	15	1106271.3
Mississippi	3	1102824.7

Virginia	7	1096922.7
Maryland	5	1093399.4
California	26	1091534.5
Connecticut	3	1091460.0
Ohio	9	1080133.4
Minnesota	5	1079063.6
Missouri	5	1072275.6
Kentucky	4	1068040.6
Georgia	8	1066801.5
Washington	6	1065003.4
Indiana	5	1062217.2
Texas	21	1060927.3
New York	14	1060859.5
Arizona	6	1058972.5
New Jersey	8	1054685.4
Pennsylvania	10	1052922.2
South Carolina	4	1051961.4
Tennessee	6	1051092.4
California	27	1050329.6
New Mexico	2	1047304.6
Florida	16	1034822.0
California	28	1012122.9
Texas	22	1011554.5
Illinois	10	1011286.4
Iowa	3	1009571.1
Nebraska	2	1007390.7
Michigan	8	1001952.2
North Carolina	8	991322.8
New York	15	987606.5
Oregon	4	984166.9
California	29	976598.7
Florida	17	972046.0
Texas	23	966573.8
Ohio	10	966100.7
Louisiana	4	963828.0
Pennsylvania	11	952403.9
Virginia	8	949963.0
California	30	943484.0
Wisconsin	5	942681.1
Georgia	9	940830.5
Idaho	2	934689.6
Massachusetts	6	932208.5
New Jersey	9	930145.1
Colorado	5	928327.9
Texas	24	925423.9

New York	16	923821.2
Florida	18	916453.8
Illinois	11	914743.0
California	31	912541.6
Utah	3	906136.8
Washington	7	900092.1
Arizona	7	894995.1
Maryland	6	892756.9
Tennessee	7	888335.2
Texas	25	887635.4
Michigan	9	883638.8
California	32	883564.6
Minnesota	6	881051.7
Missouri	6	875509.4
North Carolina	9	874264.6
Ohio	11	873871.0
West Virginia	2	870069.2
Pennsylvania	12	869421.9
New York	17	867779.0
Indiana	6	867296.7
Florida	19	866878.5
Alabama	5	864207.6
Kansas	3	862766.2
California	33	856371.5
Texas	26	852812.5
Nevada	3	848362.4
Georgia	10	841504.4
Virginia	9	837788.6
Illinois	12	835042.3
New Jersey	10	831947.0
California	34	830802.4
Kentucky	5	827300.7
Florida	20	822393.1
Texas	27	820619.3
New York	18	818149.8
South Carolina	5	814845.8
Arkansas	3	811750.5
California	35	806716.0
Pennsylvania	13	799751.8
Ohio	12	797731.4
Oklahoma	4	793151.9
Texas	28	790768.5
Michigan	10	790350.6
Massachusetts	7	787860.0
California	36	783987.1

Florida	21	782251.9
North Carolina	10	781966.0
Mississippi	4	779814.8
Washington	8	779502.7
Arizona	8	775088.5
New York	19	773892.3
Connecticut	4	771778.8
Wisconsin	6	769695.9
Tennessee	8	769320.9
Illinois	13	768127.2
New Hampshire	2	765919.6
Texas	29	763013.5
California	37	762503.9
Oregon	5	762332.4
Georgia	11	761169.3
Colorado	6	757976.5
Maryland	7	754517.3
New Jersey	11	752524.4
Virginia	10	749340.9
Louisiana	5	746577.9
Maine	2	746244.5
Florida	22	745847.9
Minnesota	7	744624.6
California	38	742166.8
Pennsylvania	14	740426.3
Missouri	7	739940.5
Texas	30	737141.1
New York	20	734178.7
Ohio	13	733806.2
Indiana	7	732999.5
California	39	722886.4
Michigan	11	714899.0
Hawaii	2	714196.2
Iowa	4	713874.6
Texas	31	712965.9
Florida	23	712682.4
Illinois	14	711147.6
North Carolina	11	707314.9
Alabama	6	705622.6
California	40	704582.5
New York	21	698343.2
Georgia	12	694849.4
Texas	32	690326.3
Pennsylvania	15	689299.4
Washington	9	687456.7

California	41	687182.7
New Jersey	12	686957.6
Arizona	9	683563.8
Florida	24	682341.4
Massachusetts	8	682306.8
Ohio	14	679372.5
Tennessee	9	678477.2
Virginia	11	677804.3
Kentucky	6	675488.2
California	42	670621.7
Texas	33	669080.4
New York	22	665844.1
South Carolina	6	665318.8
Illinois	15	662042.4
California	43	654840.1
Florida	25	654478.9
Maryland	8	653431.1
Michigan	12	652610.5
Wisconsin	7	650511.8
Texas	34	649103.3
North Carolina	12	645687.2
Minnesota	8	644863.9
Pennsylvania	16	644780.5
Missouri	8	640807.2
Utah	4	640735.5
Colorado	7	640607.1
California	44	639784.3
Georgia	13	639168.4
New York	23	636236.1
Indiana	8	634796.2
Ohio	15	632461.4
New Jersey	13	631909.1
Texas	35	630284.7
Florida	26	628803.0
California	45	625405.3
Oregon	6	622441.8
Illinois	16	619283.9
Virginia	12	618747.9
Washington	10	614880.0
Oklahoma	5	614372.8
Texas	36	612526.6
California	46	611658.5
Arizona	10	611398.1
Kansas	4	610067.8
Louisiana	6	609578.3

New York	24	609149.7
Tennessee	10	606848.5
Pennsylvania	17	605665.8
Florida	27	605066.0
New Mexico	3	604661.6
Mississippi	5	604042.0
Massachusetts	9	601738.0
Michigan	13	600314.3
Nevada	4	599882.8
Montana	2	598798.4
California	47	598503.0
Connecticut	5	597817.3
Alabama	7	596359.9
Texas	37	595741.9
North Carolina	13	593945.8
Georgia	14	591755.0
Ohio	16	591613.4
California	48	585901.5
New Jersey	14	585034.2
New York	25	584275.9
Florida	28	583056.1
Illinois	17	581716.0
Nebraska	3	581617.3
Texas	38	579852.6
Rhode Island	2	577973.9
Maryland	9	576272.1
Arkansas	4	573994.3
California	49	573819.8
Pennsylvania	18	571027.2

EXHIBIT

1

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF THE DISTRICT OF COLUMBIA**

CITIZENS FOR CONSTITUTIONAL
INTEGRITY,

No. 1:21-cv-3045

Plaintiff,

v.

THE CENSUS BUREAU, *et al.*,

Defendants.

KRISTIN KEELING DECLARATION

1. My name is Kristin Keeling, and I reside in McLean, Virginia. I am a member of Citizens for Constitutional Integrity. I have resided in Virginia since 2014. I voted in the 2020 election, and in every election since 2016 that I can remember. I plan to vote in the 2022 election and in future elections.

2. I live and vote in Virginia. Its high voter registration rates mean a larger proportion of Virginia citizens can vote there than in many other states. I understand that, if the Agencies completed the analysis the Fourteenth Amendment, Section 2, requires, the census would have allocated Virginia an additional seat in the U.S. House of Representatives. I would rather Virginia have that seat than some state that disenfranchises its voters. Right now, Virginia has fewer seats, and that injures me by diluting my vote. I want the Agencies to complete the analysis that the Fourteenth Amendment requires and to give Virginia an additional seat in the meantime.

3. I declare under penalty of perjury that the foregoing is true and correct.

Executed on

May 20, 2022


KRISTIN KEELING

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF THE DISTRICT OF COLUMBIA**

CITIZENS FOR CONSTITUTIONAL
INTEGRITY,

Plaintiff,

v.

THE CENSUS BUREAU, *et al.*,

Defendants.

No. 21-3045

Judge Justin Walker
Judge Carl Nichols
Judge Florence Pan

SECOND AMENDED COMPLAINT

Jared S. Pettinato, DC Bar No. 496901
The Pettinato Firm
3416 13th St. NW, #1
Washington, DC 20010
Jared@JaredPettinato.com
Attorney for Plaintiff

INTRODUCTION¹

1. States are attacking citizens’ rights to vote with an intensity not seen since the Civil War. Civil War problems demand Reconstruction remedies. The Framers of the Fourteenth Amendment armed future citizens with tools to thwart these forces that seek to undermine democracy.

2. When states deny or “in any way” abridge their citizens’ rights to vote, Section 2 of the Fourteenth Amendment requires the United States to calculate each state’s “basis of representation” and to apportion seats in the U.S. House of Representatives based on that figure, instead of the state’s actually enumerated population.² Recent voting abridgments have triggered the Constitution’s plain-language consequence. The Fourteenth Amendment and the Administrative Procedure Act (APA), 5 U.S.C. §§ 701-706, compel the Secretary of Commerce Gina

¹ Federal Defendants provided written consent to this amended complaint, so Federal Rule of Civil Procedure 15(a)(1)(B) allows Citizens to file this amended complaint as of right.

² Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis for representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State. U.S. CONST., 14th amend., § 2. The Nineteenth and Twenty-Sixth Amendments, respectively, deleted “male” and replaced “twenty-one” with “eighteen.” *See Evenwel v. Abbott*, 136 S. Ct. 1120, 1149 n.7 (2016) (Alito, J., concurring); *Breedlove v. Suttles*, 302 U.S. 277, 283 (1937), *overruled on other grounds* by *Harper v. State Bd. of Elections*, 383 U.S. 663, 668-69 (1966).

Raimondo, the Department of Commerce, the Census Bureau, and Census Bureau Director Robert Santos (collectively, Census) to implement that consequence.

3. For decades since the Voting Rights Act of 1965, states have expanded citizens' voting rights and access to ballots. Some have adopted vote-by-mail, absentee ballot voting for voters with excuses, early voting (opening some polling locations on days earlier than election day), and some automatically mail ballots to every registered voter.

4. In recent times, however, some states passed laws to lessen or to diminish voters' abilities to participate in the democratic process. These voter-abridging laws have revitalized the need for the Fourteenth Amendment. By its terms, the Fourteenth Amendment does not require any state to change its voting regulations. It only implements federal consequences when states deny or abridge their citizens' rights to vote.

5. The Fourteenth Amendment requires Census to identify each state's denials and abridgments, to determine the number of citizens they affect, to calculate the basis of representation for states that denied or abridged their citizens' rights to vote, and to distribute the seats in the House of Representatives among the states. "Constitutional rights are enshrined with the scope they were understood to have when the people adopted them, whether or not future legislatures or (yes) even future judges think that scope too broad." *Dist. of Columbia v. Heller*, 554 U.S. 570, 634-35 (2008). Census did not complete that process.

6. In April 2021, Secretary of Commerce Raimondo sent the President a report with the results of the 2020 census (the Report). *See* 13 U.S.C. § 141(b). There, Census violated the Fourteenth Amendment and the APA by failing to calculate those bases for representation. Its failure resulted in apportioning too many representatives to some states and too few to other states, which include New York, Pennsylvania, and Virginia. Citizens for Constitutional Integrity’s (Citizens) members live in those states.

7. The APA and the Constitution compel setting aside and remanding the 2020 census report to Census to complete the requirements under the Fourteenth Amendment. *See Fla. Power & Light Co. v. Lorion*, 470 U.S. 729, 744 (1985) (“[I]f the agency has not considered all relevant factors, . . . , the proper course, except in rare circumstances, is to remand to the agency for additional investigation or explanation.”). Alternately, the Constitution and the Fourteenth Amendment require the Court to issue a writ of mandamus to complete that analysis. *See Franklin v. Massachusetts*, 505 U.S. 788, 803 (1992).

CAUSE OF ACTION, JURISDICTION, AND VENUE

8. United States Code Title 28, sections 1331 and 1361, assign this Court jurisdiction over this case both because the case presents a federal question and because it is “in the nature of mandamus to compel” United States officers and agencies “to perform a duty owed to” Citizens. *See Califano v. Sanders*, 430 U.S. 99, 105 (1977). Separately, Congress gave this Court jurisdiction over this case under the Act of Nov. 26, 1997 § 209, Pub. L. No. 105-119, 111Stat. 2440, 2481 (codified at

13 U.S.C. § 141 note) (Section 209). That section allows “[a]ny person aggrieved by the use of any statistical method in violation of the Constitution . . . , in connection with the 2000 or any later decennial census, to determine the population for purposes of the apportionment . . . of Members in Congress,” to bring “a civil action” for “declaratory, injunctive, and any other appropriate relief” Section 209(b). Aggrieved people include “any resident of a State whose congressional representation or district could be changed as a result of the use of a statistical method challenged in the civil action” *Id.* § 209(d)(1).

9. The United States Code also directs this Court to convene a three-judge court because this “action . . . challeng[es] the constitutionality of the apportionment of congressional districts” 28 U.S.C. § 2284(a); Section 209(e)(1); *see Utah v. Evans*, 182 F. Supp. 2d 1165, 1167 (D. Utah 2001), *aff’d* 536 U.S. 457; *see also Dep’t of Commerce v. Montana*, 503 U.S. 442, 446 (1992). A district judge may only examine the allegations in the complaint and determine whether the complaint’s allegations “satisfy[] the criteria” of Section 2284(a): “no more, no less.” *Shapiro v. McManus*, 577 U.S. 39, 44 (2015) (alteration omitted). Citizens concurrently filed an LCvR 9.1 application for a three-judge court. ECF No. 4.

10. The APA waives sovereign immunity. 5 U.S.C. § 702. Section 209 also waives sovereign immunity.

11. The statute commonly known as the Declaratory Judgment Act, Act of June 14, 1934, Pub. L. No. 73-343, 48 Stat. 955 (1934) (codified at 28 U.S.C. §§ 2201-02), grants this Court authority to issue declaratory judgment.

12. Separately, 28 U.S.C. § 1361, colloquially known as the All Writs Act, grants this Court authority to issue writs of mandamus and any other appropriate writs.

13. This District sets the proper venue for four reasons:

- a. On information and belief, Ms. Raimondo works here, *see id.* §§ 1391(b)(1),
- b. On information and belief, Census sent the Report to the President here, *see id.* § 1391(b)(2),
- c. The Defendants are either U.S. officers or agencies, *see id.* § 1391(e)(1)(A), (B), and
- d. Citizens maintain their principal office within this District, and this case involves no real property. *See id.* § 1391(e)(1)(C).

PLAINTIFF

14. Citizens for Constitutional Integrity is a 501(c)(3) charitable nonprofit organization that researches and advocates for legislation, regulations, and government programs. Its purposes include improving the United States Constitution's integrity, democratic elections, and government accountability. It maintains its principal office in Washington, D.C.

15. Citizens' members include citizens of New York, Pennsylvania, and Virginia. These individuals rely on their members of Congress to advocate for their issues. Removing representative seats has diluted their votes by leaving them to compete with more people for their members' time and attention to their issues. Census apportioned New York and Pennsylvania each one fewer U.S. House of

Representatives seat in the 2020 census results. Citizens’ members are therefore suffering concrete harms from losing a representative seat in their respective states. That harm arises from Census failing to complete the procedures the Fourteenth Amendment requires.

16. Citizens seeks to protect interests germane to its purpose, and individual members need not participate to advance Citizens’ claims or to obtain the relief Citizens seek.

DEFENDANTS

17. Congress assigned the Census Bureau responsibility for tabulating the actual enumeration of persons in the United States. 13 U.S.C. § 141. It also assigned the Census Bureau “a duty to conduct a census that is accurate and that fairly accounts for the crucial representational rights that depend on the census and the apportionment.” *Dep’t of Commerce v. N.Y.*, 139 S. Ct. 2551, 2568-69 (2019) (quotations omitted) (citing 2 U.S.C. § 2a and 13 U.S.C. § 141).

18. The Department of Commerce oversees and directs its components, which include the Census Bureau.

19. Commerce Secretary Gina Raimondo, in her official capacity, oversees and directs the Department of Commerce, and she sent the President the census results and the apportionment calculations. “Congress has delegated its broad authority over the census to the Secretary [of Commerce.]” *Wisconsin v. City of New York*, 517 U.S. 1, 19 (1996).

20. Census Bureau Director Robert Santos, in his official capacity, oversees and directs the Census Bureau. His predecessor oversaw the calculations for apportioning seats among the states. Federal Rule of Civil Procedure 25(d) automatically substitutes him for the prior defendant.

LEGAL BACKGROUND

I. Every ten years, Census distributes representative seats according to the method of equal proportions.

21. The Constitution directs the United States to apportion “Representatives . . . among the several States according to their respective numbers, counting the whole number of persons in each State.” U.S. Const. amend. XIV, sec. 2. It requires the Executive Branch to conduct an “actual Enumeration” every ten years in “such Manner as” Congress directs, as long as each state receives “at Least one Representative.” U.S. Const. art. 1, sec. 2.

22. When distributing 435 Representatives among fifty states, the shifting populations never divide evenly among 435 districts. *Montana*, 503 U.S. at 452 (“the fractional remainder problem”). Therefore, every method for apportioning representatives leaves states larger or smaller remainders of population without representatives. Depending on the method for handling remainders, some states win and some states lose. *See generally id.*

23. For about 150 years, Congress switched back and forth among various apportionment methods. *Id.* at 448-51. That ad hoc system broke down after the 1920 census, when Congress failed to apportion the seats based on those census results. *Id.* at 448. To make a self-executing process going forward, Congress

directed the National Academy of Science to recommend a method for solving the fractional remainder problem. *Id.* at 451, 452 n.25. Among five possible methods, each with advantages and disadvantages, mathematicians at the Academy proposed the method of equal proportions because it “minimized the discrepancy between the size of the districts in any pair of States.” *Id.* at 452-54. In 1941, Congress required Census to use that method going forward. *Id.* at 451-52; Act of Nov. 15, 1941, § 1, 55 Stat. 761-762 (codified at 2 U.S.C. § 2a).

24. As part of that self-executing apportionment, Congress requires the Secretary to report to the President “[t]he tabulation of total population by States . . . as required for the apportionment of Representatives in Congress among the several States.” 13 U.S.C. § 141(b); *see also id.* § 195. After receiving the Secretary’s report, Congress required the President to send a statement that describes the results of the census and the distribution of Representative seats. 2 U.S.C. § 2a.

II. The Fourteenth Amendment requires Census to calculate the basis of representation.

25. Before Census can calculate the distribution of representatives among the states, the Fourteenth Amendment requires it to calculate the basis of representation for each state that denies or abridges that state’s citizens’ right to vote.

26. The Framers literally wrote this equation into the Fourteenth Amendment:

$$\frac{\text{Basis of representation}}{\text{Residents}} = \frac{\begin{array}{l} \text{Citizens over eighteen years old whose rights} \\ \text{to vote the State did NOT} \\ \text{deny or abridge in any way} \\ + \text{citizens denied because of criminal convictions} \\ + \text{citizen denied because of rebellion participation} \end{array}}{\text{Citizens at least eighteen years old}}$$

27. Generally, the Framers sought to discount a state's apportionment population by the percentage of its citizens who could not vote. Take 1870 North Carolina. Its citizen population split roughly into two-thirds white people and one-third black people. *See* Census Bureau, Population of the U.S., Table 1 (June 1, 1870), <http://www2.census.gov/library/publications/decennial/1870/population/1870a-04.pdf> (391,650/1,071,361 = 0.36). At that time, North Carolina did not allow black citizens to vote. *See* Report of the Joint Committee on Reconstruction (Reconstruction Report), Virginia, North Carolina, South Carolina 174, H.R. Rep. No. 30, 39th Cong., 1st Sess. (1866); Sen. Rep. No. 112, 39th Cong., 1st Sess. (1866). Then, the Fourteenth Amendment would allow Census to count only two-thirds of North Carolina's enumerated population when distributing representative seats (assuming for simplicity that the census reflects citizens and that North Carolina did not disenfranchise anyone for criminal convictions or rebellion).

28. The Framers sought to "secure the civil rights of all citizens of the republic" and to ensure "a just equality of representation." Reconstruction Report XVIII. They saw no way to accomplish these and other goals without adding provisions to the Constitution. *Id.*

29. In particular, the Framers recognized that the Thirteenth Amendment, which outlawed slavery, perversely rewarded rebel states for the Civil War by *increasing* their number of seats in the House of Representatives. *Id.* at XIII. Before the Civil War, enslaved persons counted as *three-fifths* of a person; after the Civil

War, those newly free persons counted as *five-fifths* of a person—and the Framers knew those rebel states would not let the newly freed people vote. *Id.*; see U.S. Const. art. 1, sec. 2 (“the whole Number of free Persons . . . and . . . three fifths of all other Persons.”). The Thirteenth Amendment freed three million, six hundred thousand people in the rebel states, and that would have given the rebel states’ leaders thirteen additional seats without giving any formerly enslaved person a voice in their destiny. See Cong. Globe, 39th Cong., 1st Sess. 74 (1866) (hereinafter CG); CG2767.

30. The Framers concluded that the rebel states had built “a spirit of oligarchy adverse to republican institutions, which finally inaugurated civil war.” Reconstruction Report XIII. They rejected as not “just or proper” a situation that freed formerly enslaved people, but confined “all the political advantages” to their former masters. *Id.*

31. No easy solution presented itself. The Framers doubted whether, even by constitutional amendment, the United States could “prescribe the qualifications of voters in a state.” *Id.* But they knew the federal constitution had complete power over representation in the federal government. Therefore, they devised a “just and proper” method of allotting “political power . . . in all the States exactly in proportion as the right of suffrage should be granted . . .” *Id.*

32. The Framers left the rights of suffrage to the state, and they promised increased political power in the House in exchange for allowing “all to participate.” *Id.* They believed the great power of democracy could bring about equality of all

people. They “hoped, at no distant day, to an equal participation of all, without distinction, in all the rights and privileges of citizenship, thus affording a full and adequate protection to all classes of citizens, since all would have through the ballot-box, the power of self-protection.” *Id.*

33. The 1866 Framers expected that, once implemented, the Fourteenth Amendment would take away at least twenty-four seats from the rebel states if those states did not extend the right to vote to formerly enslaved people. CG2767. Unfortunately, after the 1870 census, Congress lacked sufficient reliable data to implement it. George David Zuckerman, *A Consideration of the History and Present Status of Section 2 of the Fourteenth Amend.*, 30 FORDHAM L. REV. 93, 110-15 (1961). Congress wrote a similar requirement into a statute, but that statute does not operate quite the same way as the amendment. Act of Feb. 2, 1872 § 6, 17 Stat. 29 (codified at 2 U.S.C. § 6); see *A Consideration of the History and Present Status of Section 2 of the Fourteenth Amend.*, 30 FORDHAM L. REV. at 115. Census never implemented that statute, either.

III. The Administrative Procedure Act

34. The APA contains “generous” and “comprehensive provisions” for judicial review, and they “allow any person ‘adversely affected or aggrieved’ by agency action to obtain judicial review thereof, so long as the decision challenged represents a ‘final agency action for which there is no other adequate remedy in a court.’” *Webster v. Doe*, 486 U.S. 592, 599 (1988) (quoting 5 U.S.C. § 704); *Abbott Labs. v. Gardner*, 387 U.S. 136, 141 (1967). Congress passed the APA after “a long period of study and strife; it settles long-continued and hard-fought contentions, and Pl.’s Second Am. Compl. *Citizens for Constitutional Integrity v. Census Bureau*, No. 21-3045

enacts a formula upon which opposing social and political forces have come to rest.” *Wong Yang Sung v. McGrath*, 339 U.S. 33, 40 (1950). The Supreme Court directs courts “to give effect to [the APA’s] remedial purposes where the evils it was aimed at appear.” *Id.* at 41.

35. The APA provides directions both to agencies and to courts. It requires agencies to “examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made.” *Motor Vehicle Mfrs. Ass’n of the U.S., Inc. v. State Farm Mut. Auto. Ins. Co.* (*State Farm*), 463 U.S. 29, 43 (1983) (quotations omitted).

36. Separately, the APA directs courts to take a “thorough, probing, in-depth review” of agency decisions. *Citizens to Preserve Overton Park v. Volpe*, 401 U.S. 402, 415 (1971), *overruled on other grounds by Califano v. Sanders*, 430 U.S. 99, 104, 107 (1977). When agencies fail at their duties, the APA directs courts to “hold unlawful and set aside agency action, findings, and conclusions” that qualify as “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” “contrary to constitutional right, power, privilege, or immunity,” “short of statutory right,” or “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D).

37. When agencies err, courts generally remand the action to the agency. *Fla. Power & Light.*, 470 U.S. at 744. In the meantime, “the [agency’s] decision must be vacated and the matter remanded to him for further consideration.” *Camp v. Pitts*, 411 U.S. 138, 143 (1973) (*per curiam*).

FACTUAL BACKGROUND

I. Census possesses voluminous data to implement the Fourteenth Amendment.

38. In stark contrast to the 1870 Census, Census now possesses and controls voluminous data from which it can determine every factor in the Fourteenth Amendment equation. Census actually enumerates each state's resident population every ten years. For each state, it collects data on the number of citizens at least eighteen years old and the number of registered voters.

39. Census already possesses voluminous administrative data on citizens and residents, and it can collect other administrative data from other federal agencies. For the actual enumeration every ten years, Census obtains information from sources that include past censuses, the IRS, the Medicare enrollment database, the Indian Health Service, the U.S. Postal Service, and the Social Security Administration.

40. Census could ask states to volunteer information. States could increase their number of seats by volunteering, for example, the number of citizens who cannot vote because of criminal convictions. States could cooperate or decline to cooperate at their peril.

41. With all of that information, Census can easily, or at least practically, determine every factor in the Fourteenth Amendment equation to calculate each state's basis of representation.

42. In April 2021, Secretary Raimondo delivered to President Joe Biden the results of Census's 2020 Census Results (the Report). Citizens filed a request under

the Freedom of Information Act for that report, but Census has not produced it. Regardless, Census released the actual enumeration data on the internet. Table 1. Apportionment Population and Number of Representatives by State: 2020 Census (Apr. 26, 2021), <https://www.census.gov/data/tables/2020/dec/2020-apportionment-data.html>. In response to a letter from Citizens, Census admitted that it did not apply the Fourteenth Amendment or discount any state's population based on denials or abridgments of the states' citizens' rights to vote. *See generally* Letter from Ron S. Jarmin, Acting Director of the Census Bureau, to Jared Pettinato, The Pettinato Firm (Oct. 1, 2021), ECF No. 1-2.

II. States deny unregistered voters the right to vote.

43. States have long used voter registration to draw the line between citizens they allow to vote and citizens they deny that right. *See, e.g.*, Ind. Code § 3-7-48-1 (“a person whose name does not appear on the registration record may not vote”); Kan. Stat. § 25-2302; N.C. Gen. Stat. § 163-54 (“Only such persons as are legally registered shall be entitled to vote”); S.C. Code § 7-5-110 (“No person shall be allowed to vote at any election unless he shall be registered as herein required.”); Tex. Elec. Code § 11.002 (“‘qualified voter’ means a person who: . . . is a registered voter.”); Wis. Stat. § 6.15. If unregistered citizens show up at their polling place, a state will not let them vote. If unregistered citizens request a mail-in ballot, a state will not give them one. Voter registration draws the categories of voter eligibility.

44. Since the Civil War, states have used voter registration requirements to deny citizens the right to vote. *See S. Carolina v. Katzenbach*, 383 U.S. 301, 311 (1966).

They used grandfather clauses (allowing registration only if the voter's grandfather Pl.'s Second Am. Compl. *Citizens for Constitutional Integrity v. Census Bureau*, No. 21-3045

voted before enactment of the Thirteenth Amendment) and property requirements. *Id.* Some states required registrants to interpret documents. *Id.* States leveraged their election officials' discretion to discriminate against racial minorities when deciding whether citizens met the voting qualifications. *Id.* at 312. Election officials excused white registration applicants, gave them, "easy versions" of literacy tests, or outright helped them. *Id.* Some states required "good morals," which presented a standard "so vague and subjective that it ha[d] constituted an open invitation to abuse at the hands of voting officials." *Id.* at 312-13. Most often, southern states did not need to discriminate by stopping black voters at the polls because they already stopped black people from registering to vote in the first place. *See* U.S. Comm'n on Civil Rights, Political Participation 7 (1968) ("intimidation by violence became less and less necessary to assure that the Negro would stay away from the polls and cease to run for office"), ECF No. 20-2.

45. Many states still have registration requirements that the Fourteenth Amendment does not excuse. The Fourteenth Amendment discounts states' populations when they require qualifications beyond residence, citizenship, age eighteen years or greater, not convicted of crime, and not convicted of participating in rebellion. But the Arkansas Constitution denies registration to "idiot[s]," "insane person[s]," and soldiers stationed in Arkansas. Ark. Const., Art. 3, secs. 5, 7. California's statutes deny registration to people who pled not-guilty by reason of insanity and denies it to people "incompetent to stand trial." Cal. Elec. Code § 2211(a). Then-Representative James Garfield listed similar unjustifiable

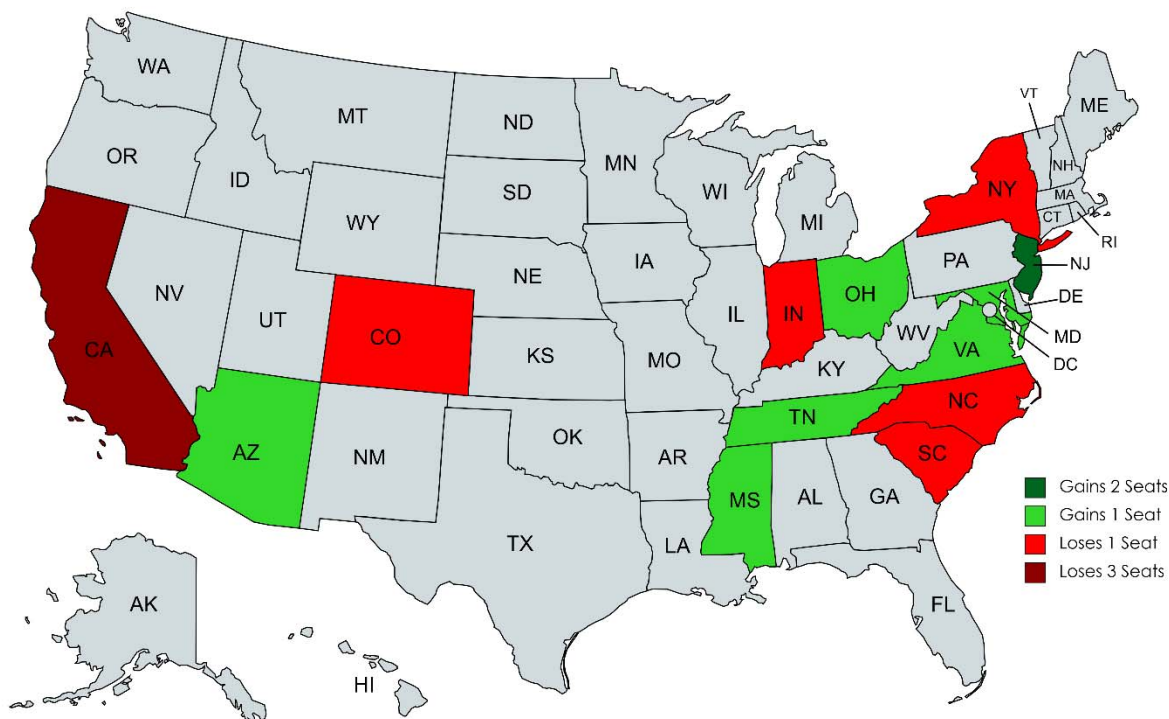
abridgments in 1870. *See* Ninth Census Report, H.R. Rep. No. 41-3 at 52-53 (Jan. 18, 1870).

46. Some states routinely require weeks of residency before registration. Pennsylvania denies the right to vote to people who move districts within thirty days before an election—even within the state if the citizen had not already registered to vote. 25 Pa. Cons. Stat. § 1301(a) (2021) (requiring residence “in this Commonwealth and the election district where the individual offers to vote for at least 30 days prior to the next ensuing election”). One Citizens member lived in Pennsylvania for three months before the November 2020 election, but Pennsylvania would not register her to vote because she moved too close to Election Day.

47. The Census has calculated, for each state, the number of citizens at least eighteen years old and the voter registration rates in each state. Table 4a, Reported Voting and Registration for States: November 2020, <https://www2.census.gov/programs-surveys/cps/tables/p20/585/table04a.xlsx>. The Sentencing Project estimated the number of citizens at least eighteen years old in each state who cannot vote because of a criminal conviction. *Locked Out 2020: Estimates of People Denied Voting Rights Due to a Felony Conviction* (Oct. 30, 2020), Ayush Sharma Decl., Ex. 5, ECF No. 20-8.

48. Calculating the bases for representation based on the Census’ figures and the Sentencing Project’s figures, and redistributing seats according to the method of equal proportions, the Fourteenth Amendment moves the following seats:

State	Seat Adjustment	State	Seat Adjustment
California	-3	New Jersey	2
Colorado	-1	Arizona	1
Indiana	-1	Maryland	1
New York	-1	Mississippi	1
North Carolina	-1	Ohio	1
South Carolina	-1	Tennessee	1
		Virginia	1



U.S. House Seats the Fourteenth Amendment Moves Based on Voter Registration

49. Data Scientist Ayush Sharma completed the calculations that show precisely how these changes would move representative seats. Ayush Sharma Decl. ¶ 21, Ex.

Pl.'s Second Am. Compl.

Citizens for Constitutional Integrity v. Census Bureau, No. 21-3045

18

7, ECF No. 20-10; Ex. 8, ECF No. 20-11. These calculations form part of the Second Amended Complaint “for all purposes.” *See* Fed. R. Civ. P. 10(c) (“A copy of a written instrument that is an exhibit to a pleading is a part of the pleading for all purposes.”).

III. Wisconsin passed a law requiring photograph identification, and it abridges the rights to vote of 300,000 registered voters.

50. Voter denials and abridgments do not stop at registration. States abridge even registered voters’ rights to vote. Some states do that by narrowing the list of documents by which voters can prove their identity. Some voter identification laws merely match a voter’s signature with the signature on the voter’s registration form. Others more simply require a voter to bring a utility bill or lease to the polls. Yet others allow a voter merely to sign a declaration. But some states have recently passed strict photo voter ID laws that prohibit voters from voting unless they bring, with them to the polls, a particular photo ID. Those states list the particular photo ID documents that a voter can use. Some require very specific, unexpired photo IDs with current addresses.

51. Wisconsin may have the strictest photo voter ID law in the nation. It narrowed qualifying photo voter IDs so much that it disenfranchised “approximately 300,000 registered voters in Wisconsin, roughly 9% of all registered voters, [for lacking] a qualifying ID.” *Frank v. Walker*, 17 F. Supp. 3d 837, 854 (E.D. Wis.), *rev’d on other grounds*, 768 F.3d 744 (7th Cir. 2014), *r’hr’g en banc denied*, 773 F.3d 783, 785 (2014).

52. Citizens often do not possess the photo identification documents that states require. The Brennan Center for Justice at NYU Law School concluded that “[a]s many as 11 percent of United States citizens—more than 21 million individuals—do not have government-issued photo identification.” Citizens Without Proof, Brennan Center for Justice, (Nov. 2006), https://www.brennancenter.org/sites/default/files/legacy/d/download_file_39242.pdf (cited approvingly by *Frank*, 773 F.3d at 785 (7th Cir. 2014) (Posner, J., dissenting from rehearing en banc)); see also Wendy R. Weiser, et al., *"Citizens Without Proof" Stands Strong*, Brennan Center for Justice (Sept. 8, 2011), <https://www.brennancenter.org/our-work/research-reports/citizens-without-proof-stands-strong>. Elderly, low-income, and minority citizens lack those IDs in even higher percentages. Citizens Without Proof 3. And even if citizens possess photo IDs, ten percent of those IDs reflect outdated addresses or legal names. *Id.*

53. Even registered voters do not own photo identification. The Government Accountability Office reviewed ten studies and estimated that only 84 to 95 percent of voters possess a driver’s license or state identification. *Issues Related to State Voter Identification Laws* ii, No. GAO-14-634 (Sept. 2014 rev. Feb. 2015).

54. If Census had calculated Wisconsin’s basis of representation under the Fourteenth Amendment’s equation by subtracting 300,000 citizens who could not vote because of Wisconsin’s photo voter ID law (without calculating denials from voter registration rates), the Fourteenth Amendment would have moved one seat from Wisconsin to New York.

55. Data Scientist Ayush Sharma completed the calculations that show precisely how these changes would move representative seats. Sharma Decl. ¶ 23; Ex. 9, ECF No. 20-12; Ex. 10, ECF No. 20-13.

56. These results also accord with the results from a separate election data analytics firm. Election Data Services, *Final Census Apportionment Counts Surprises Many Observers; Raising Questions of Why?*, Table #1 (Apr. 28, 2021), electiondataservices.com/wpcontent/uploads/2021/04/NR_Appor20wTablesMaps-20210428.pdf, Sharma Decl., Ex. 12, ECF No. 20-15. That firm concluded that, if Wisconsin had 188,088 fewer citizens, it would have lost a representative seat. This analytical shortcut calculation confirms that, because the 300,000 proven in district court exceeds 188,088, Wisconsin would lose a seat because of its photo voter ID law. Because New York would have received the next representative (number 436), it would receive the one Wisconsin lost. *See id.* at Table #1, page 2. This data demonstrates that because Wisconsin disenfranchised so many of its citizens, it would likely lose one representative seat, and New York would gain one.

57. If Census had calculated bases for representation for all states using both (a) denials from voter registration rates and (b) Wisconsin's voter abridgments because of its photo voter ID law, the Fourteenth Amendment would have moved a seat from Wisconsin to Pennsylvania (in addition to the other moves for registration rates).

58. Data Scientist Ayush Sharma completed the calculations that show precisely how these changes would move representative seats. Sharma Decl. ¶ 26; Ex. 13, ECF No. 20-15; Ex. 14, ECF No. 20-16.

COUNT 1
Administrative Procedure Act

59. Citizens hereby adopt by reference the previous paragraphs.

60. Census failed to implement its duties under the Fourteenth Amendment, Section 2, to discount states' basis of representation for distributing seats in the U.S. House of Representatives.

61. First, Census did not discount every state's basis of representation when those states denied their citizens' rights to vote by failing to include them on the list of registered voters. Census did not, then, reapportion seats according to the method of equal proportions.

62. Second, Census failed to discount Wisconsin's basis of representation based on Wisconsin abridging the right of its citizens to vote.

63. Congress assigned the Secretary of Commerce responsibility for "tabulat[ing]" the "total population by States . . . as required for the apportionment of Representatives in Congress among the several States," and required it to report to the President of the United States. 13 U.S.C. § 141. That tabulation qualifies as a statistical method under Section 209.

64. Because Census did not implement the Fourteenth Amendment, it violated the APA by "entirely fail[ing] to consider an important aspect of the problem" *State Farm*, 463 U.S. at 43.

65. To the extent Census misinterpreted the Fourteenth Amendment not to require it to determine the denials or abridgments "in any way," it misconceived the law. That misconception violates the APA. *See NLRB v. Brown*, 380 U.S. 278, 292

(1965) (“Courts must, of course, set aside [agency] decisions which rest on an erroneous legal foundation.”) (quotations omitted); *SEC v. Chenery Corp.*, 318 U.S. 80, 9 (1943) (“if the action is based upon a determination of law . . ., an order may not stand if the agency has misconceived the law.”).

66. Census failed to complete the Fourteenth Amendment’s analysis in issuing its report to the President, and because that report is incomplete, Census has acted arbitrarily and capriciously, otherwise contrary to law, and in contravention of Citizens’ constitutional rights. It violated the APA and the Fourteenth Amendment.

COUNT 2

67. Citizens hereby adopt by reference the previous paragraphs.

68. If the APA does not apply, this situation compels a writ of mandamus under the All Writs Act. Writs of mandamus issue “where the duty to be performed is ministerial and the obligation to act peremptory, and plainly defined.” *United States v. Wilbur*, 283 U.S. 414, 420 (1931). The Fourteenth Amendment assigned Census a duty to complete a process, and Census admitted it did not complete the process. Letter from Ron S. Jarmin, ECF No. 1-2. The Constitution compels a writ of mandamus to Secretary of Commerce Raimondo to complete the analysis of abridgments and to reissue the Report according to that analysis. *See Utah*, 536 U.S. at 459-62; *Franklin*, 505 U.S. at 802.

PRAYER FOR RELIEF

69. Citizens request the following relief:

a. Declare Defendants violated the Fourteenth Amendment and the APA by failing to calculate each state's basis of representation when apportioning Representative seats.

b. Declare the current distribution of Representative seats, based on Secretary Raimondo's April 2021 Report to the President, void and illegal for lacking the analysis the Fourteenth Amendment required.

c. Vacate and set aside that Report and the President's 2 U.S.C. § 2a statement to Congress, and restore the 2010 apportionment.

d. Remand the Report to the Census Bureau, the Department of Commerce, Secretary Raimondo, and Director Santos to complete the analysis the Fourteenth Amendment requires and to reissue the Report.

e. Enjoin the Census Bureau, the Department of Commerce, Secretary Raimondo, and Director Santos to complete the analysis the Fourteenth Amendment requires, and to reissue the Report.

f. Issue a writ of mandamus directing the Census Bureau, the Department of Commerce, Secretary Raimondo, and Director Santos to complete the analysis the Fourteenth Amendment requires and to reissue the Report.

g. Set a deadline for completing the new Report.

h. Reapportion one seat from Wisconsin to New York.

i. Reapportion seats according to Census's data of citizens and voter registration rates.

j. Issue a writ of mandamus to Census.

k. Award attorney fees and costs in favor of Citizens for Constitutional Integrity.

l. Issue any other and further relief as the Court concludes necessary or appropriate.

Dated February 13, 2023,

/s/ Jared S. Pettinato
JARED S. PETTINATO
The Pettinato Firm
3416 13th St. NW, #1
Washington, DC 20010
(406) 314-3247
Jared@JaredPettinato.com

Attorney for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR CONSTITUTIONAL
INTEGRITY,

Plaintiff,

v.

THE CENSUS BUREAU, et al.,

Defendants.

Civil Action No. 1:21-cv-03045

ORDER

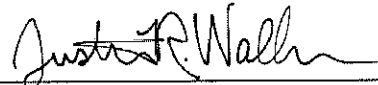
For the reasons set forth in the Memorandum Opinion, it is

ORDERED that the Defendants' Motion to Dismiss is **GRANTED**; and it is further

ORDERED that Defendants' Motion in Limine and the Plaintiff's Renewed Motion for Summary Judgment are **DENIED** as moot.

The Clerk is directed to terminate this case.

DATE: April 18, 2023



JUSTIN R. WALKER
United States Circuit Judge



FLORENCE Y. PAN
United States Circuit Judge



CARL J. NICHOLS
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR CONSTITUTIONAL
INTEGRITY,

Plaintiff,

v.

THE CENSUS BUREAU, et al.,

Defendants.

Civil Action No. 1:21-cv-03045

MEMORANDUM OPINION

Before: WALKER and PAN, *Circuit Judges*, NICHOLS, *District Judge*.

Opinion of the Court filed by *Circuit Judge* WALKER.

WALKER, *Circuit Judge*: Every ten years, the government conducts a census to count the number of people living in the United States. U.S. Const. art. I, § 2; 13 U.S.C. § 141. The census helps determine the number of United States Representatives in each state. *Congressional Apportionment*, United States Census Bureau, <https://www.census.gov/topics/public-sector/congressional-apportionment.html>. The more populous a state is in comparison to other states, the more representatives it receives. That process is called apportionment. *Id.*

Citizens for Constitutional Integrity says that in 2020, the Census Bureau failed to follow Section Two of the Fourteenth Amendment, which requires a state's population to be reduced for apportionment purposes when it abridges the voting rights of its citizens. Second Am. Compl.

¶¶ 60-62.

We cannot reach the merits of that claim because the “judicial Power” of the United States extends only to “Cases” and “Controversies.” U.S. Const. art. III, § 2. That means that a party seeking relief from a federal court must show that it was injured by the defendant and that an order from this court would redress its injury. *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2015). Here, Citizens for Constitutional Integrity has failed to show that it was injured by the Census Bureau’s alleged failure to follow Section Two of the Fourteenth Amendment.

True, Citizens’s members reside in states, like New York and Pennsylvania, that lost representation in Congress after the 2020 census. *See* U.S. Census Bureau, 2020 Census Apportionment Results Presentation (April 26, 2021), 8. But Citizens failed to show that the loss in representation was caused by the Census Bureau’s alleged failure to follow the Fourteenth Amendment. So we must dismiss this case for lack of jurisdiction.

I

A

After the Civil War, the Thirteenth, Fourteenth, and Fifteenth Amendments reshaped our Constitution to abolish slavery and extend rights to those formerly enslaved. One such right is the right to be included as a person for apportionment purposes. U.S. Const. amend. XIV, § 2. Another is the right to vote. *Id.* amend. XV. To ensure that southern states could not deny freed slaves the right to vote while also claiming them as residents for apportionment purposes, the nation ratified Section Two of the Fourteenth Amendment. *See* Second Am. Compl. ¶¶ 29-33. Its original text reads:

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being

twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

U.S. Const. amend. XIV, § 2.¹

Section Two has two clauses. The first clause says a state will be apportioned representatives in the House of Representatives based on the “whole number of persons” in that state. *Id.* The second clause, known as the Reduction Clause, imposes a penalty on states that deny or abridge the right to vote for any reason other than age, citizenship, participation in a rebellion, or the commission of another crime. When a state does so, the Clause requires the state’s “basis of representation” to be “reduced” by the proportion of eligible voters who are wrongfully disenfranchised. *Id.*

Here’s how it works. Imagine a state with 100 people, 80 of whom are citizens old enough to vote. The state wrongfully abridges the right to vote of 8 people, or 10% of eligible voters. Under the Reduction Clause, the State’s basis of representation (100 people) should be reduced by 10%. When it comes time to apportion representatives to our hypothetical state, only 90 out of its 100 people will count. *Cf.* Ethan Herenstein & Yuriy Rudensky, *The Penalty Clause and the Fourteenth Amendment’s Consistency on Universal Representation*, 96 N.Y.U. L. Rev. 1021, 1040-41 (2021).

B

Citizens for Constitutional Integrity is a nonprofit organization with members in New York, Pennsylvania, and Virginia. Second Am. Compl. ¶¶ 14-15. It alleges that the Census

¹ “Needless to say, the reference in this provision to ‘male inhabitants . . . being twenty-one years of age’ has been superseded by the Nineteenth and Twenty-sixth Amendments.” *Evenwel v. Abbott*, 578 U.S. 54, 102 n.7 (2016) (Alito, J., concurring in the judgment).

Bureau is charged with implementing the Reduction Clause. It points out that, after completing the census, the Bureau prepares a report for the President with “[t]he tabulation of total population by States.” *Id.* ¶ 24 (quoting 13 U.S.C. § 141(b)). Based on that report, the President sends a statement to Congress “that describes the results of the census and the distribution of Representative seats.” *Id.*; *see also* 2 U.S.C. § 2a.

Citizens believes that some states’ voter-ID and voter-registration requirements abridge the right to vote. *Id.* ¶¶ 43-46, 50-53. It thus claims that the Census Bureau failed to implement the Reduction Clause by refusing to account for those abridgments when it prepared its report for the President. *Id.* ¶ 66.

As a first step, Citizens sent a letter to the Census Bureau raising its concerns about the 2020 census. *See id.* ¶ 42; ECF No. 1-2 (Bureau response). The Bureau replied that it did “not have the authority to investigate whether states have violated voting rights laws.” ECF No. 1-2. So Citizens filed this lawsuit asking the court to set aside the 2020 apportionment and issue an injunction requiring the Bureau to implement the Reduction Clause. Second Am. Compl. ¶ 69. The Court granted Citizens’s request that the case be assigned to a three-judge panel under the Voting Rights Act. *See* Minute Order, Dec. 13, 2021; 28 U.S.C. § 2284(a).

The Bureau moved to dismiss Citizens’s suit. The Bureau argued that Citizens has not shown that its members were injured by the Bureau’s failure to implement the Clause, so it does not have standing to sue in federal court. Defs.’ Mem. in Supp. of Mot. Dismiss 7-8.

By contrast, Citizens asserts that if the Bureau had properly implemented the Clause, New York, Pennsylvania, or Virginia would have been allocated an additional representative after the 2020 census. Second Am. Compl. ¶¶ 48, 54-58. Thus, Citizens alleges that the Bureau’s failure

to implement the Clause harmed at least some of its members by diluting their voting power. *Id.* ¶ 15.

II

A

To bring a lawsuit in federal court, a plaintiff must show that it has standing to sue. U.S. Const. art. III; *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992). To do so, a plaintiff must show three things: (1) “an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision.” *Spokeo*, 578 U.S. at 338. An organization (like Citizens) cannot sue on behalf of its members if none of its members would have standing to sue as an individual. *Warth v. Seldin*, 422 U.S. 490, 516 (1975). When determining whether a plaintiff has standing at the motion to dismiss stage, we accept the plaintiff’s factual allegations as true, and we “may consider materials outside the pleadings.” *Jerome Stevens Pharmaceuticals, Inc. v. FDA*, 402 F.3d 1249, 1253-54 (D.C. Cir. 2005).

Citizens alleges only one kind of injury: dilution of the voting power of its members. Pl’s Opp. to Defs.’ Mot. Dismiss 17. It says that the Bureau’s failure to apply the Reduction Clause caused at least some of its members to have fewer representatives in their respective states. *Id.*

Vote dilution is an injury sufficient to satisfy the first element of standing. *Department of Commerce v. U.S. House of Representatives*, 525 U.S. 316, 331 (1999). And the 2020 apportionment *did* decrease the number of representatives in two states in which Citizens’s members reside — both New York and Pennsylvania have one fewer representative than they did under the previous apportionment in 2010. Oral Arg. Tr. 4.

But to show standing, it is not enough for a plaintiff to merely allege vote dilution. It must also show that the dilution is “traceable to the challenged conduct of the defendant.” *Spokeo*, 578

U.S. at 338. In other words, to have standing in this context, plaintiffs alleging vote dilution injuries must show that their states would have had an additional representative but for the government's error. *See, e.g., Franklin v. Massachusetts*, 505 U.S. 788, 802 (1992).

That cannot be done merely by pointing out the government's alleged failure to follow the Reduction Clause. Representatives are distributed according to a complicated mathematical formula, prescribed by statute, and states might lose representatives for reasons unrelated to the Bureau's failure. *See* 2 U.S.C. § 2a(a) (requiring "the method of equal proportions"); *Computing Apportionment*, United States Census Bureau, <https://www.census.gov/topics/public-sector/congressional-apportionment/about/computing.html>. So even if a plaintiff can show that the Census Bureau counted incorrectly, that does not mean that a corrected recount would lead to an apportionment more favorable to the plaintiff.

In *Franklin v. Massachusetts*, for example, it was not enough for the plaintiffs to allege that the Census Bureau used inaccurate data; they had to *show* "that Massachusetts would have had an additional Representative if the allocation had been done using some other source of 'more accurate' data." 505 U.S. at 802.² And in *Utah v. Evans*, the Court held that Utah had standing to challenge the Bureau's use of a certain statistical counting method because Utah could show that it would have had an additional representative if the method had not been applied. 536 U.S. 452, 458, 460-61 (2002).

Here, Citizens fails to show that any of the states in which its members reside would have had an additional representative if the Reduction Clause had been applied according to its legal theory. Thus, it does not show that the Bureau's failure to implement the Clause caused its injury.

² Though that part of the standing analysis appeared in a plurality opinion, the concurrences did not challenge the plurality's conclusion that the plaintiffs lacked standing to pursue their claims about the accuracy of the data.

B

Start with Citizens’s legal theory, which we accept as true when asking whether it has standing. *American Federation of Government Employees, AFL-CIO v. Pierce*, 697 F.2d 303, 305 (D.C. Cir. 1982). Citizens believes that states are unlawfully abridging the right to vote in two ways — first, by requiring voters to register before voting; and second, by requiring voters to present identification at polling places. Second Am. Compl. ¶¶ 43-54. Citizens argues that those who could not vote due to voter-ID or voter-registration requirements must be deducted from a state’s “basis of representation” according to the Reduction Clause. *Id.* ¶¶ 60-62; *see also* Pl’s P. & A. in Supp. of Renewed Summ. J. 36.

To show that New York, Virginia, or Pennsylvania would have gained a seat if the Reduction Clause were applied according to its legal theory, Citizens offered a declaration by a data scientist. That declaration provided three apportionment “scenarios” that purported to demonstrate what apportionment would look like if the Bureau had accounted for state voter-registration requirements and voter-ID laws.

- Scenario 1: what apportionment would look like if the Bureau had accounted for voter-registration requirements and applied the Reduction Clause accordingly, Sharma Decl., ECF No. 20-3 ¶¶ 14, 21;
- Scenario 2: what apportionment would look like if the Bureau had accounted for Wisconsin’s voter-ID law and applied the Reduction Clause accordingly, *id.* ¶¶ 15, 23;
- Scenario 3: what apportionment would look like if the Bureau had accounted for *both* voter-registration requirements and Wisconsin’s voter-ID law and applied the Reduction Clause accordingly, *id.* ¶¶ 16, 26.

Each scenario produces an apportionment that is better for one of Citizens’s member states than the actual apportionment that occurred. *See id.* ¶¶ 21, 23, 26. However, even when we accept the resulting apportionments in each scenario as true, the declaration tells an incomplete story.

Most glaringly, the declaration does not even attempt to approximate the number of citizens in each state who have been disenfranchised by voter-ID requirements. Instead, the declaration investigates the effect of voter-ID requirements in just one state: Wisconsin. *See id.* ¶ 12. In two of its apportionment scenarios, the declaration shows us what apportionment would look like if the Bureau reduced Wisconsin’s basis of representation because of its voter-ID law. *Id.* ¶¶ 15-16. But the declaration never provides a scenario that shows us what apportionment would look like if the basis of representation were reduced in *each* state with a similar law.

That is a significant mistake. If Citizens is right that voter-ID laws disenfranchise voters in a way that triggers the Reduction Clause, then the Clause would reduce the basis of representation in *all* states with those laws. Neither the declaration nor the complaint asserts that Wisconsin is the only state with such a requirement. In fact, the complaint briefly compares and contrasts different ID requirements in different states, admitting that Wisconsin is not alone. Second Am. Compl. ¶ 50. By taking only Wisconsin into account, the declaration fails to provide us with a scenario that illustrates what apportionment might look like if Citizens’s legal theory is correct.

When the Bureau pointed out that error, Citizens responded that it is “master[] of [its] complaint” and may focus solely on Wisconsin’s voter-ID law if it wishes. Pl’s Opp. to Defs.’ Mot. Dismiss 27-28. Fair enough — that is Citizens’s choice. But if Citizens wants to be master of a *viable* complaint, it needs to do more. Without knowing how voter-ID laws in other states might affect the basis of representation in those states, it is impossible for us to know how

representatives might be apportioned if Citizens’s legal theory is correct. *See* 2 U.S.C. § 2a (apportioning pursuant to a formula that accounts for the relative populations in each state).

Indeed, it might be that Citizens’s voter-ID theory would *reduce* the “basis of representation” for some of Citizens’s member states (Pennsylvania, New York, and Virginia). Given the lack of detail in Citizens’s complaint, we do not know whether such a reduction would occur, or how it would affect the number of representatives apportioned to those states. In fact, at oral argument, Citizens admitted as much. Oral Arg. Tr. 4 (“Conceivably, it is possible that when the Census Bureau complies with Fourteenth Amendment, Section 2, and decides where to move all of the seats, there is some possibility that New York could lose a seat.”).

We don’t doubt that it would be difficult and expensive for Citizens to show that the Bureau’s failure to apply the Reduction Clause diluted the voting power of its members. Citizens would need to collect the data necessary to show what apportionment might look like if its legal theory is correct. But a plaintiff is not absolved from its duty to show a traceable injury just because it is hard to do so. *See Sharrow v. Brown*, 447 F.2d 94, 97 (2d Cir. 1971) (A plaintiff’s “sincere effort . . . to rectify what he considers a grave constitutional mistake is not enough. He must establish that the failure to enforce [Section Two of the Fourteenth Amendment] has resulted in a detriment to his rights of representation in Congress.”).

In sum, we have no way of knowing if the Bureau’s failure to apply the Reduction Clause, in accordance with Citizens’s legal theory, led to fewer representatives in Pennsylvania, New York, or Virginia. So Citizens has not shown standing.

C

As a fallback, Citizens argues that it was denied a procedural right and so does not need to show what apportionment would look like under its legal theory. Pl’s Opp. To Defs.’ Mot. Dismiss 15.

True, “[w]hen a litigant is vested with a procedural right, that litigant has standing if there is some possibility that the requested relief will prompt the injury-causing party to reconsider the decision that allegedly harmed the litigant.” *Massachusetts v. EPA*, 549 U.S. 497, 518 (2007). In procedural-rights cases, courts thus soften standing’s traceability and redressability requirements. *National Parks Conservation Association v. Manson*, 414 F.3d 1, 5 (D.C. Cir. 2005). A litigant claiming the loss of a procedural right need not prove that the loss of the right was a but-for cause of his injury or that his injury would be cured if the proper procedure is followed. *Id.* He need show only that he was denied a procedure to which he was entitled and that he was harmed by a decision made without that procedure. *Id.*; see also *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 572 n. 7 (1992). If he makes that showing, he has standing so long as there is “some possibility” that the proper procedure would lead to a more favorable decision. *Massachusetts v. EPA*, 549 U.S. at 518.

Citizens argues the Bureau’s failure to apply the Reduction Clause was a “flawed procedure.” Pl’s Opp. to Defs.’ Mot. Dismiss 15. It then points out that the resulting apportionment figures caused New York and Pennsylvania to lose one seat in the House of Representatives. Oral Arg. Tr. 4. Thus, Citizens says it has standing so long as there is ““some possibility”” that apportionment would be more favorable had the Reduction Clause been followed. Pl’s Opp. to Defs.’ Mot. Dismiss 20 (quoting *Massachusetts v. EPA*, 549 U.S. at 518).

But relaxed standing principles do not apply every time a plaintiff alleges that the government failed to follow proper procedures. They apply only when “the procedure at issue” is “one designed to protect a threatened interest of the plaintiff.” *Renal Physicians Association v. U.S. Department of Health and Human Services*, 489 F.3d 1267, 1278 (D.C. Cir. 2007). Such procedures are usually found in statutory provisions that give private parties a right to participate in a government process. For example, the Supreme Court held that the Clean Air Act gave Massachusetts a “procedural right to challenge the [EPA’s] rejection of its rulemaking petition.” *Massachusetts v. EPA*, 549 U.S. at 520 (citing 42 U.S.C. § 7607(b)(1)). Similarly, some statutes give “concerned public and private organizations” the right to “cooperat[e]” with an agency in preparing impact statements. *See, e.g.*, 42 U.S.C. §§ 4331, 4332; *Manson*, 414 F.3d at 5 (“[T]he archetypal procedural injury[] [is] an agency’s failure to prepare a statutorily required environmental impact statement.”).

The Reduction Clause does not accord to Citizens a right to participate in a government process. It does not, for example, give Citizens a procedural right to challenge the apportionment of United States Representatives. *Cf. Massachusetts v. EPA*, 549 U.S. at 520. Nor does it require the government to collaborate with Citizens. *Cf.* 42 U.S.C. § 4331. Nor does it provide Citizens with any opportunity to comment on the census or the resulting apportionment. *Cf. Summers v. Earth Island Institute*, 555 U.S. 488, 496-97 (2009) (characterizing an agency’s denial of the “guaranteed right to comment” as a “deprivation of a procedural right”). Rather, it imposes a nondiscretionary obligation on the government, with no input by private parties.

In short, Citizens has not been *deprived* of a procedural right for the simple reason that it was never *entitled* to a procedure. So it must show the typical elements of standing, including a traceable injury. But for the reasons explained above, it has failed to do so.

* * *

Citizens does not show that the Census Bureau's failure to implement the Reduction Clause caused an injury to Citizens and its members. Thus, Citizens fails to show standing, and we must dismiss this case. We also deny as moot the Bureau's Motion in Limine, and Citizens's Renewed Motion for Summary Judgment.

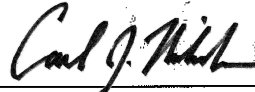
DATE: April 18, 2023



JUSTIN R. WALKER
United States Circuit Judge



FLORENCE Y. PAN
United States Circuit Judge



CARL J. NICHOLS
United States District Judge

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF THE DISTRICT OF COLUMBIA**

CITIZENS FOR CONSTITUTIONAL
INTEGRITY,

Plaintiff,

v.

THE CENSUS BUREAU, *et al.*,

Defendants.

No. 21-cv-3045

PLAINTIFF'S NOTICE OF APPEAL

Plaintiff Citizens for Constitutional Integrity hereby appeals to the United States Court of Appeals for the District of Columbia from this Court's Order and Memorandum Opinion entered on April 18, 2023. ECF Nos. 36, 37.

Respectfully submitted, June 19, 2023,

/s/ Jared S. Pettinato
JARED S. PETTINATO, DC Bar No. 496901
The Pettinato Firm
3416 13th St. NW, #1
Washington, DC 20010
(406) 314-3247
Jared@JaredPettinato.com

Attorney for Plaintiff

EXHIBIT

1



UNITED STATES DEPARTMENT OF COMMERCE
The Secretary of Commerce
Washington, D.C. 20230

April 26, 2021

The President
The White House
Washington, DC 20500

Dear Mr. President:

In accordance with the provisions of Title 13, United States Code, Section 141(b), I am transmitting the statement showing the apportionment population for each of the 50 states on April 1, 2020, as ascertained by the Twenty-Fourth Decennial Census of the United States.

The enclosed table shows the apportionment population for each state, the number of Representatives to which each state is entitled based on the apportionment population, and the change (if any) since the 2010 Census in the number of Representatives for each state. The population of the District of Columbia is not included in the apportionment population.

The United States Census Bureau prepared these calculations using the existing size of the U.S. House of Representatives (435 members) and the Method of Equal Proportions, as provided for in Title 2, United States Code, Section 2a, enacted in 1929 and thereafter amended, as well as Title 2, United States Code, Section 2b, enacted in 1941. Under Section 2a, you are to send this information to the 117th Congress.

Respectfully,

A handwritten signature in black ink, appearing to read "Gina Raimondo", is written over a large, stylized "X" mark.

Gina Raimondo

Enclosure

U.S. Department of Commerce
U.S. Census Bureau

APPORTIONMENT POPULATION AND NUMBER OF REPRESENTATIVES BY STATE: 2020 CENSUS

STATE	APPORTIONMENT POPULATION (APRIL 1, 2020)	NUMBER OF APPORTIONED REPRESENTATIVES BASED ON 2020 CENSUS ²	CHANGE FROM 2010 CENSUS APPORTIONMENT
Alabama	5,030,053	7	0
Alaska	736,081	1	0
Arizona	7,158,923	9	0
Arkansas	3,013,756	4	0
California	39,576,757	52	-1
Colorado	5,782,171	8	1
Connecticut	3,608,298	5	0
Delaware	990,837	1	0
Florida	21,570,527	28	1
Georgia	10,725,274	14	0
Hawaii	1,460,137	2	0
Idaho	1,841,377	2	0
Illinois	12,822,739	17	-1
Indiana	6,790,280	9	0
Iowa	3,192,406	4	0
Kansas	2,940,865	4	0
Kentucky	4,509,342	6	0
Louisiana	4,661,468	6	0
Maine	1,363,582	2	0
Maryland	6,185,278	8	0
Massachusetts	7,033,469	9	0
Michigan	10,084,442	13	-1
Minnesota	5,709,752	8	0
Mississippi	2,963,914	4	0
Missouri	6,160,281	8	0
Montana	1,085,407	2	1
Nebraska	1,963,333	3	0
Nevada	3,108,462	4	0
New Hampshire	1,379,089	2	0
New Jersey	9,294,493	12	0
New Mexico	2,120,220	3	0
New York	20,215,751	26	-1
North Carolina	10,453,948	14	1
North Dakota	779,702	1	0
Ohio	11,808,848	15	-1
Oklahoma	3,963,516	5	0
Oregon	4,241,500	6	1
Pennsylvania	13,011,844	17	-1
Rhode Island	1,098,163	2	0
South Carolina	5,124,712	7	0
South Dakota	887,770	1	0
Tennessee	6,916,897	9	0
Texas	29,183,290	38	2
Utah	3,275,252	4	0
Vermont	643,503	1	0
Virginia	8,654,542	11	0
Washington	7,715,946	10	0
West Virginia	1,795,045	2	-1
Wisconsin	5,897,473	8	0
Wyoming	577,719	1	0
TOTAL APPORTIONMENT POPULATION ¹	331,108,434	435	

¹ Includes the resident population for the 50 states, as ascertained by the Twenty-Fourth Decennial Census under Title 13, United States Code, and counts of U.S. military and federal civilian employees living overseas (and their dependents living with them overseas) allocated to their home state, as reported by the employing federal agencies. The apportionment population excludes the population of the District of Columbia. The counts of overseas personnel (and dependents) are used for apportionment purposes only.

² The U.S. Census Bureau prepared these calculations using the existing size of the U.S. House of Representatives (435 members) and the Method of Equal Proportions, as provided for in Title 2, United States Code, Sections 2a and 2b.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR CONSTITUTIONAL
INTEGRITY,

Civil Action
No. 1:21-3045

Plaintiff,

vs.

THE CENSUS BUREAU, ET AL.,

December 19, 2022
10:05 a.m.

Defendants.

Washington, DC

TRANSCRIPT OF ORAL ARGUMENT
BEFORE U.S. CIRCUIT JUDGES JUSTIN WALKER and FLORENCE PAN
and U.S. DISTRICT JUDGE CARL J. NICHOLS

APPEARANCES:

For Plaintiff:

Jared S. Pettinato

The Pettinato Firm
3416 13th St. NW, #1
Washington, DC 20010
406-314-3247

For Defendants:

Alexander V. Sverdlov

U.S. DEPARTMENT OF JUSTICE
P.O. Box 386
Washington, DC 20044
202-308-8550

Stephen Ehrlich

U.S. DEPARTMENT OF JUSTICE
Civil Division
1100 L Street, NW
Washington, DC 20005
202-305-9803

Reported By:

LORRAINE T. HERMAN, RPR, CRC
Official Court Reporter
U.S. District & Bankruptcy Cts.
333 Constitution Avenue NW
Room 6720
Washington, D.C. 20001
202-354-3196

*** Proceedings recorded by stenotype shorthand.

*** Transcript produced by computer-aided transcription.

P R O C E E D I N G S

JUDGE WALKER: Good morning. We have on the table today a Motion to Dismiss and plaintiff's Motion for Summary Judgment.

I think it's best to hear from the plaintiff first. I think we have some questions. We've read the briefs. We are familiar with the matter.

After we've asked our questions, I'm happy to give the plaintiff some -- which side is the plaintiff? Are you over here? I'm happy to give the plaintiff some time, a few minutes to say anything that you didn't get a chance to say during our questioning. And then I'll do the same thing for the government. And then we'll give the plaintiff a couple minutes of rebuttal after that.

So with that, we'll hear from Citizens for Constitutional Integrity.

MR. PETTINATO: Your Honor, may it please the Court. My name is Jared Pettinato. I represent Citizens for Constitutional Integrity.

JUDGE WALKER: I'm going to start with a question about -- imagine this, your complaint does not mention whether New York, Pennsylvania and Virginia might also have allegedly unconstitutional voter ID requirements or other voter restrictions beyond registration.

So given that, can you talk to us about how we can

1 know that applying your legal theory will gain one of those
2 states a seat?

3 **MR. PETTINATO:** Your Honor, we do not need to go
4 through that process because we can prove concrete injury
5 based purely on the 2020 census.

6 I have here a map from ECF 14-17. It represents
7 Table 1 from the Census Bureau. Here it colors purple the
8 states that lost seats in the 2020 Census. And it colors
9 greens the ones that gained and does not color the ones that
10 did not lose or gain anything.

11 Our clients, my members -- the members' clients --
12 client members come from New York and Pennsylvania. They
13 each lost a seat. New York had 27 in 2010. Now it has 26.
14 Pennsylvania had 18 in 2010. Now it has 17.

15 **JUDGE WALKER:** I appreciate that and I understand
16 that. But if New York has even more restrictive laws about
17 voting than, say, the average state, then New York might
18 lose a seat. Right?

19 **MR. PETTINATO:** Conceivably, it is possible that
20 when the Census Bureau complies with Fourteenth Amendment,
21 Section 2, and decides where to move all of the seats, there
22 is some possibility that New York could lose a seat.

23 **JUDGE WALKER:** So I appreciate --

24 **MR. PETTINATO:** But there is also --

25 **THE COURT:** Go ahead and finish the sentence.

1 **MR. PETTINATO:** There is also a possibility it
2 could gain a seat. And the Supreme Court in *Massachusetts*
3 *v. EPA* says that we only need to demonstrate some
4 possibility.

5 In the *WildEarth Guardians* case, we just need to
6 show a legal violation related to a decision and then a
7 decision related to the injury. That violation, in Section
8 2 --

9 **JUDGE WALKER:** In *Massachusetts v. EPA*, I think,
10 there was no chance that global warming was going to
11 actually improve the coastlines of Massachusetts. Right?

12 **MR. PETTINATO:** I doubt that, Your Honor. I think
13 that wasn't probably true.

14 **JUDGE WALKER:** So the debate was, Is it going to
15 stay the same or is it going to get worse?

16 Here it seems like there's just as good a chance
17 that New York will be in a better position than it will be
18 in a worse position.

19 **MR. PETTINATO:** Well, it may not have to prove
20 what situation New York is going to be in in the end.

21 **JUDGE PAN:** Wait. You have to allege concrete
22 injury.

23 **MR. PETTINATO:** The concrete injury --

24 **JUDGE PAN:** And I think what Judge Walker is
25 getting at is that your methodology does not establish

1 concrete injury because you subtract voters from the basis
2 for Wisconsin, based on a voter ID law, but you don't apply
3 voter ID analysis to any other state. And so your
4 methodology does not establish concrete injury.

5 **MR. PETTINATO:** That may be true, Your Honor, in a
6 sense but --

7 **JUDGE PAN:** If that's true, then you have no
8 standing.

9 **MR. PETTINATO:** Well, our concrete injury rises
10 from simply the loss of a seat. So in 2010 --

11 **JUDGE PAN:** But -- I'm sorry. I'm sorry to
12 interrupt you.

13 But the point is you don't know if there is a loss
14 of a seat if we employ your methodology or the correct
15 methodology, because the correct methodology would require
16 you to calculate the disenfranchisement in all 50 states,
17 including the voter ID laws, and then do the math.

18 But your math does not do the math for any state
19 except for Wisconsin. And, therefore, you haven't
20 established standing you haven't plausibly alleged a
21 concrete injury to your clients, cause we don't know what
22 would happen if we did the correct analysis.

23 **MR. PETTINATO:** Well, we do know that vacatur.
24 would restore a seat. So we do know at least that.

25 **JUDGE PAN:** I'm sorry. What would?

1 **MR. PETTINATO:** Vacatur. If the Court vacates.

2 **JUDGE PAN:** How do you know that? Because you
3 haven't done the math regarding all of the states.

4 **MR. PETTINATO:** Well, vacating would go back to
5 the 2010 census, at least for a while. And that's enough of
6 an injury to establish; that's under the *WildEarth Guardians*
7 case.

8 **JUDGE NICHOLS:** That would clearly prove too much,
9 because that would be true for everyone. I mean, anyone who
10 is affected by the change from 2010 to 2020, a vacatur would
11 just restore 2010. That can't be enough to create an injury
12 here.

13 **MR. PETTINATO:** It is enough, Your Honor, as long
14 as you live in one of these states. The Supreme Court in
15 the *Department of Commerce* case --

16 **JUDGE NICHOLS:** So wait. Imagine I live in one of
17 those states and I say, I'm suing to vacate the 2020 Census
18 results. What's your injury? Well, I'm injured because
19 vacatur will allow me to go back to 2010. Full stop.

20 That can't be adequate.

21 **MR. PETTINATO:** Well, the concrete injury is the
22 loss of the representative.

23 **JUDGE NICHOLS:** Yes, that is true. But you have
24 to demonstrate that that injury is the result of your
25 challenged action. And it seems to me that one of the

1 significant problems here is a mismatch between your injury
2 theory and the claims in your complaint. So --

3 **MR. PETTINATO:** Your Honor, we --

4 **JUDGE NICHOLS:** Go ahead.

5 **MR. PETTINATO:** We do not need to establish the
6 connection between the actual injury and the actual legal
7 claim. We only need to show that the legal claim connects
8 to the decision and the decision connects to the injury.

9 Let's take the *WildEarth Guardians* case because it
10 is really a good example. The plaintiffs claimed aesthetic
11 harms from an environmental analysis. And their claims,
12 though -- they said, You didn't analyze greenhouse gases.

13 So greenhouse gases are not going to get to their
14 aesthetic claims, but that is the procedural violation that
15 they allege. So that way the violation, failure to analyze
16 air emissions and greenhouse gases connected to the
17 decision, which is the -- I believe it was a ROD in that
18 case, a Record of Decision -- and that ROD caused the
19 injury.

20 So you need a decision that causes the injury. We
21 have the 2020 census caused the injury and then we allege a
22 procedural violation.

23 The sugar cane growers case is the same. We don't
24 need to show that absolute connection from the absolute
25 results of all of that.

1 And that also reflects, to your point, Your Honor,
2 the free enterprise case. We do not have to prove some
3 counterfactual world that the agency would have done --

4 **JUDGE WALKER:** What if New York lost a seat
5 because a lot of people moved? Would that be an injury?

6 **MR. PETTINATO:** Well, we would have to allege a
7 legal violation.

8 **JUDGE WALKER:** Ah. So it can't just be that New
9 York lost a seat. It has to be that New York lost a seat
10 because the government did something illegal.

11 **MR. PETTINATO:** In the process of counting the
12 people.

13 **JUDGE WALKER:** So I think your theory for standing
14 has to connect something the government did, that you say is
15 illegal, to the loss of a seat.

16 **MR. PETTINATO:** It does not. It does not. That
17 comes straight out of *Massachusetts v. EPA*, "When a litigant
18 is vested with procedural right, that litigant has standing
19 if there is some possibility that the requested relief --"

20 **JUDGE WALKER:** So assume, for the sake of the
21 question I just asked, that I think your point about a
22 procedural right is very helpful to you in similarly
23 situated plaintiffs, when it comes to redressability. You
24 don't have to show that the illegal conduct by the
25 government, that injured you in a concrete way, will be

1 redressed by the better procedure.

2 To the extent you are saying that, I agree with
3 you. To the extent you are saying more than that, I don't
4 think the case law is with you. And rather than argue with
5 you about it, just assume for the sake of my question that
6 the case law is not with you; that all the good quotes you
7 have in your briefs about procedural injuries help you a lot
8 with redressability, but they don't do anything for you at
9 the injury inquiry.

10 So when it comes to the injury inquiry, what is
11 your theory for an illegal action by the government that
12 caused New York to lose a seat when we don't know whether
13 New York has worse voting laws than the other states?

14 **MR. PETTINATO:** Well, Your Honor, we only -- do
15 not need to prove causation. It's fair traceability.
16 That's the legal standard.

17 **JUDGE WALKER:** Right. But I'm saying, put
18 causation, traceability and redressability aside.

19 **MR. PETTINATO:** Okay.

20 **THE COURT:** Just concrete injury.

21 **MR. PETTINATO:** Concrete injury. A lost seat.

22 **JUDGE WALKER:** I guess, maybe, you can't put
23 causation totally aside. Put a lost seat due to an illegal
24 action by the government.

25 **MR. PETTINATO:** Okay.

1 **JUDGE WALKER:** Right? I think you have to prove
2 that. Right?

3 **MR. PETTINATO:** I'm sorry? I have to prove what
4 again, Your Honor?

5 **JUDGE WALKER:** A lost seat due to an illegal
6 action by the government.

7 **MR. PETTINATO:** No, I don't have to prove that. I
8 have to prove -- for causation --

9 **JUDGE WALKER:** Well, let me ask you this and then
10 I'll let you finish. But if you do have to prove it, have
11 you failed to prove it?

12 **MR. PETTINATO:** Have I failed to prove that if the
13 Census Bureau did every analysis of every state's voter ID
14 laws and every state's voter registration laws and every
15 state's laws since 1866 that --

16 **JUDGE WALKER:** That wasn't my question. My
17 question was, If you have to prove that an illegal action by
18 the government caused one of your three states to lose a
19 seat, have you failed to prove it?

20 **MR. PETTINATO:** I have met -- as for causation --
21 you are asking for causation. Yes, Your Honor? Here is the
22 *WildEarth Guardians* case, "As for causation, in a case
23 alleging procedural deficiency an adequate causal chain must
24 contain at least two links connecting the legal violation to
25 a decision and one connecting that substantive decision to

1 the plaintiff's particularized injury."

2 We have the particularized injury right here. We
3 have the legal decision, which is the Census Bureau's
4 apportionment in 2020 that changes the number of seats. And
5 then we have the connection between the legal violation and
6 the census -- the apportionment.

7 **JUDGE WALKER:** And I said I'd let you say what you
8 wanted to say about that, and you've now said what you want
9 to say about that.

10 **MR. PETTINATO:** Okay.

11 **JUDGE WALKER:** And I will process it and I will
12 think about it and it will be a part of our decision-making
13 process.

14 But now I want to go back to what I think was my
15 question, which I think was a little bit different, which
16 is, if we decide as a court that you have to have shown us
17 that an illegal action by the government caused one of your
18 three states to lose a seat, if we decide you have to have
19 shown us that, can you still win?

20 **MR. PETTINATO:** We can still win under voter
21 registration laws directly.

22 **JUDGE WALKER:** Tell me about that.

23 **MR. PETTINATO:** We calculated every state's voter
24 registration laws, based on the Census' data, on
25 citizenship, on voter registration rates, and then we

1 calculated how the states would --

2 **JUDGE WALKER:** But your theory, I think, is not
3 that it's illegal to use just voter registration laws. Your
4 theory is it's illegal to use registration and ID and
5 probably some other things.

6 **MR. PETTINATO:** Well, Your Honor --

7 **JUDGE WALKER:** Right? Am I right about that?

8 **MR. PETTINATO:** Well, we brought different legal
9 claims. We brought one voter registration and we've done
10 the calculations under that. We've brought one --

11 **JUDGE WALKER:** Okay. Let's start with this: What
12 do you think the Fourteenth Amendment's clause and issue
13 requires states to do?

14 **MR. PETTINATO:** It doesn't require the states to
15 do anything.

16 **JUDGE WALKER:** Well, what does it require the
17 Census Bureau to do with regard to state voter laws?

18 **MR. PETTINATO:** It requires the Census Bureau to
19 calculate abridgments and denials.

20 **JUDGE WALKER:** To calculate what?

21 **MR. PETTINATO:** Abridgments and denials.

22 **JUDGE WALKER:** Okay. Very good.

23 And registration is an abridgment or denial,
24 according to your theory. Right?

25 **MR. PETTINATO:** Correct.

1 **JUDGE WALKER:** Voter ID laws are an abridgment or
2 denial, according to your theory. Right?

3 **MR. PETTINATO:** They are.

4 **JUDGE WALKER:** Okay. Are there any other election
5 laws that are abridgment or denials under your theory?

6 **MR. PETTINATO:** I do not know all of the
7 abridgment and denials that the states have passed.

8 **JUDGE WALKER:** That seems relevant, though,
9 because that would all affect how the Census Bureau will
10 count, if they do it right.

11 **MR. PETTINATO:** And that is the Census Bureau's
12 job that it has failed to do for 150 years; and that failure
13 has injured my clients.

14 **JUDGE NICHOLS:** Counsel, is it your theory that --
15 excuse me.

16 **JUDGE WALKER:** No, I was going to --

17 **JUDGE NICHOLS:** Is it your theory that all
18 registration requirements are abridgment or denials?

19 **MR. PETTINATO:** No. The --

20 **JUDGE NICHOLS:** So which are and which states have
21 registration requirements that are abridgment or denials?

22 **MR. PETTINATO:** We have not done the 50-state
23 survey of registration requirements.

24 **JUDGE NICHOLS:** So it seems to me that the
25 analysis that the expert did to suggest there is standing

1 with respect to registration is basically a calculation of
2 the difference between registered voters and voters of
3 voting age. But that's not, in your view, the relevant
4 calculation about what the denials and abridgment are,
5 because you just acknowledged that there are some
6 registration requirements that are not denials or
7 abridgment.

8 **MR. PETTINATO:** Well, I am not aware of any state
9 that has created a registration requirement that was not a
10 denial, and the Department of Justice has not identified one
11 either.

12 **JUDGE NICHOLS:** So, wait. But is your theory that
13 all registration requirements -- I just asked this and I
14 just want to make sure I understand your answer. Is your
15 theory that all registration requirements in every state,
16 that those are or are not abridgment or denials?

17 **MR. PETTINATO:** A state could craft a valid voter
18 registration requirement. We are not aware of any state
19 that has done that.

20 And, in particular, the 40th Congress -- just a
21 few days into the 40th Congress the -- they issued a voter
22 registration ruling --

23 **JUDGE NICHOLS:** So are the registration
24 requirements in New York, Virginia and Pennsylvania
25 abridgment or denials?

1 **MR. PETTINATO:** I haven't looked at those
2 statutes.

3 **JUDGE NICHOLS:** So then we can't know whether, if
4 they are, whether New York, Pennsylvania or Virginia would
5 potentially lose or stay the same, with respect to the
6 analysis that Judge Walker was asking about, without knowing
7 whether, in your view, the registration requirements or
8 abridgment or denials in those states.

9 **MR. PETTINATO:** Your Honor, I am not aware of any
10 state that only requires an oral oath; and that is the
11 standard for a valid or --

12 **JUDGE NICHOLS:** But what is your claim here? Are
13 you claiming -- I think, as I said before, the mismatch here
14 is we need to understand what your specific claim is and how
15 it relates to your injury.

16 Is it your claim that all registration
17 requirements beyond the oath required at the time of the
18 Fourteenth Amendment, all such registration requirements are
19 abridgment or denials and the analysis of your expert is a
20 perfect analysis of such abridgment or denials?

21 **MR. PETTINATO:** I wouldn't say "perfect" but I
22 would say, Yes, all -- anything beyond -- any voting and
23 registration requirement, beyond the oral oath, qualifies as
24 a denial. And I am not aware of any state that only
25 requires an oral oath. So then all of the states have

1 denied --

2 **JUDGE NICHOLS:** So let's assume your claim is that
3 all registration requirements in all states are abridgment
4 or denials. And so if you analyze the difference between
5 registration rates and voting-age persons, and then apply it
6 to a reapportionment, then you get the reapportionment you
7 have here.

8 Doesn't that assume that an abridgment or denial,
9 that everyone who is of voting age, who is not registered,
10 has had his or her vote abridged or denied, merely because
11 the person didn't register?

12 **MR. PETTINATO:** Yes.

13 **JUDGE NICHOLS:** Okay. How can we make that leap?
14 Because isn't it at least hypothetically possible that a
15 number of people have declined to register, for perfectly
16 independent reasons, and not because those registration
17 requirements are abridgment or denials?

18 **MR. PETTINATO:** Well, Your Honor --

19 **JUDGE NICHOLS:** Your analysis -- the analysis
20 assumes that that difference between voting age and
21 registered is entirely the result of the registration
22 requirement, rather than independent decisions by voters not
23 to register, for whatever reason, including they don't want
24 to vote.

25 **MR. PETTINATO:** Well, a state could adopt an

1 opt-out policy but it has not. So the framers wanted an
2 oral oath, and they said it in an oral oath because the
3 rebel states were making it too hard for --

4 **JUDGE NICHOLS:** I understand the history. But the
5 question here is -- your theory is that voters in the three
6 states that you've identified as the relevant states for
7 standing analysis are harmed. Because if Census had done
8 its job and, essentially, counted only registered voters for
9 purposes of the reduction analysis -- registered voters as
10 related to the voting-age people -- then that's the metric
11 to use for the reduction and therefore the reapportionment.

12 But you're not answering the question of, why is
13 that a correct ratio to use when there's going to be some
14 percentage of people of voting age, who aren't registered,
15 who chose not to register, for perfectly reasonable reasons
16 that have nothing to do with abridgment or denial.

17 **MR. PETTINATO:** But, Your Honor, that is --
18 Congress set the ceiling. The voters in the south, in the
19 rebel states, when they were dealing with -- when they were
20 trying to ratify the 14th Amendment, those were the voters.

21 **THE COURT:** Let me ask you a very --

22 **MR. PETTINATO:** Could I --

23 **JUDGE NICHOLS:** Hold on. Let me -- because the
24 history is not helping. We are talking about right now the
25 injury. So imagine the following hypothetical. Imagine

1 there are 100,000 people in a state of voting age and then
2 60,000 are registered to vote. In your view the reduction
3 has to be 40 percent. The apportionment reduction for that
4 state has to be 40 percent, because there are 40 percent of
5 the voting population who aren't registered.

6 What if 20 percent of those people -- not 20
7 percent of the 40 percent but half of the 40 percent -- 20
8 percent simply chose of their own volition and having
9 nothing to do with the registration requirements not to
10 register?

11 **MR. PETTINATO:** Well, if they showed up to vote,
12 Your Honor, they couldn't vote. If they ask for --

13 **JUDGE NICHOLS:** What reduction ratio should Census
14 be using in that world?

15 **MR. PETTINATO:** Forty percent.

16 **JUDGE NICHOLS:** Forty percent, even though 20
17 percent of the population has chosen not to register, for
18 reasons having nothing to do with the registration
19 requirements? How can that be an abridgment or denial?

20 **MR. PETTINATO:** Forty percent is the intent of the
21 framers. They wanted numbers and numbers alone to determine
22 the apportionment.

23 **THE COURT:** So your theory is the frame --

24 **MR. PETTINATO:** They say the category of voters --

25 **JUDGE NICHOLS:** Your theory is the framers wanted

1 to ensure that people who chose of their -- entirely of
2 their own volition, not to register or to participate in the
3 voting process whatsoever, that those people's independent
4 choices would be considered abridgment or denials within the
5 meaning of the Fourteenth Amendment? That's your theory.

6 **MR. PETTINATO:** Yes, Your Honor. Because it is
7 impossible to know whether the people are not registered
8 because of the honors voting registration requirements or
9 because of choice; and that is a very difficult --

10 **JUDGE NICHOLS:** You are fighting my hypothetical
11 now. I am assuming that we know that 20 percent chose,
12 independently, not to register because they don't want to
13 participate in the voting process. Not because registration
14 is too difficult.

15 **MR. PETTINATO:** Well, I don't know how anyone can
16 know that.

17 **THE COURT:** What if we are talking about a state
18 where registration is simple? In fact, is only the oath
19 required at the framing? Then take my numbers.

20 **MR. PETTINATO:** Then I would use 20 percent.

21 **JUDGE NICHOLS:** Does your analysis include that?
22 Does the expert report analysis, that you rely on for
23 standing purposes, make those distinctions?

24 **MR. PETTINATO:** I'm not aware of any state that
25 requires only an oral oath. So it didn't have to make

1 that --

2 **JUDGE NICHOLS:** So your theory is that so long as
3 there is something slightly more than the oral oath, then
4 it's appropriate to use for standing purposes the entire set
5 of voters who are not registered --

6 **MR. PETTINATO:** Yes.

7 **JUDGE NICHOLS:** -- for purposes of calculating
8 the ratio?

9 **MR. PETTINATO:** And that is what the framers
10 intended. They said, The category of voters, they intended
11 a simple endeavor. And also in the *Wesberry* case.

12 **JUDGE WALKER:** In that theory, why wouldn't you
13 count as disenfranchised people who live in a state with
14 voter ID law, who choose not to vote, even though they have
15 a voter ID?

16 **MR. PETTINATO:** To choose not to vote. Well, Your
17 Honor, we need numbers. And that is -- the category of
18 voters is what the framers decided on. And the category of
19 voters here is the registered voters. So if you are not
20 registered to vote --

21 **JUDGE WALKER:** I'm asking you a slightly different
22 question.

23 **MR. PETTINATO:** Oh, excuse me then.

24 **JUDGE WALKER:** What is the phrasing again?
25 Abridgment or --

1 **MR. PETTINATO:** Denial.

2 **JUDGE WALKER:** Abridgment or denial. Okay.

3 So under your theory would the following group of
4 people have their voting rights abridged or denied? They
5 live in a state with a voter ID law. They have a voter ID.
6 They choose not to vote.

7 **MR. PETTINATO:** That would not count as an
8 abridgment or a denial.

9 **JUDGE WALKER:** How is that different than someone
10 who lives in a state with a registration requirement, they
11 are perfectly willing and able to register, if they want to
12 vote, but they choose not to vote?

13 **MR. PETTINATO:** If they choose not to vote, we
14 would still count them, if they are registered. The
15 registration list is the category of voters; and that's what
16 the framers were intending to get at; that was the simple
17 calculation they wanted.

18 **JUDGE WALKER:** But you don't count them if they
19 are perfectly willing and able -- willing is the wrong
20 word -- if they are perfectly able to register but they
21 choose not to register?

22 **MR. PETTINATO:** That's because the plain text of
23 the 14th Amendment doesn't say "denial of registration." It
24 says, "denial of the right to vote."

25 So if are you registered to vote, then you are on

1 the category of voters and you can vote. And if you don't,
2 then that's your decision.

3 **JUDGE PAN:** Can I just follow up?

4 I think under Judge Walker's hypothetical, you
5 would have subtracted that voter twice. Because they are
6 not registered, so you would have subtracted them. Oh, I
7 guess -- but they had a voter ID. But you would have
8 subtracted 300,000 people who don't have IDs.

9 **MR. PETTINATO:** I want to make clear, Your Honor,
10 we've done three different scenarios.

11 **JUDGE PAN:** No, I understand. I am just trying to
12 figure out under Judge Walker's hypothetical, whether you
13 would have subtracted them twice. But I guess you would've
14 subtracted them once, as people who didn't register.

15 **JUDGE WALKER:** I think there is a scenario where
16 they would've been subtracted twice, though.

17 **JUDGE PAN:** There might be a scenario where they
18 subtract twice.

19 **JUDGE WALKER:** Is there?

20 **MR. PETTINATO:** I'm not aware of that because the
21 300,000 --

22 **JUDGE PAN:** They had no voter ID so they couldn't
23 register.

24 **MR. PETTINATO:** Judge something Adelman found that
25 300,000 already-registered voters --

1 **JUDGE WALKER:** Maybe this is it. If there is a
2 state with a registration requirement and there's a state
3 with a voter ID requirement, and imagine I'm someone who
4 hasn't registered, and I'm also someone who does not have a
5 voter ID. Are you going to count that as two abridgment?

6 **MR. PETTINATO:** No. No, Your Honor.

7 When you say "we," I think that that is really the
8 responsibility of the Census Bureau to make sure that it is
9 doing that kind of analysis correctly.

10 **JUDGE WALKER:** But if you --

11 **MR. PETTINATO:** This analysis --

12 **JUDGE WALKER:** But if you start with, you know,
13 people over -- citizens over 18 and then you subtract --
14 let's say we are in Wisconsin -- the 300,000 that don't have
15 a voter ID. Let's say we start with 3 million. I don't
16 know how many people live in Wisconsin, but let's say we
17 start with 3 million and we subtract 300,000; that gets us
18 down to 2.7 million. And now let's say we subtract the
19 people who are not registered, and let's say that there are
20 200,000 of them. So now we are down to 2.5 million. Right?

21 **MR. PETTINATO:** Yes, Your Honor.

22 **JUDGE WALKER:** What if one of those people in
23 Wisconsin is not registered and does not have a voter ID,
24 you've now subtracted them from 3 million twice.

25 **MR. PETTINATO:** Not under Judge Adelman's

1 analysis. He counted 300,000 already-registered voters, who
2 did not have voter ID. So here it really does -- because he
3 did such a thorough job and the experts were so capable in
4 that case, it didn't double count anybody. And we are not
5 doing that in our analysis here.

6 **JUDGE NICHOLS:** But Wisconsin is the only state
7 for which your experts have done the analysis about the
8 apportionment effect of subtracting out the voter ID
9 affected voters.

10 But your complaint seems to claim that there are
11 other states that have similar or even more stringent voter
12 IDs than Wisconsin. Correct?

13 **MR. PETTINATO:** Yes, Your Honor.

14 **JUDGE NICHOLS:** So how can we know, if we are
15 focused just on voter ID, what the effect of your claim on
16 the overall apportionment would be?

17 Because don't we need to know which other states,
18 in your view, have voter ID laws that are abridgment or
19 denials? And once we know what that universe is, one would
20 have to then subtract all of those affected voters out and
21 then run the apportionment.

22 And we wouldn't know until one did all of that,
23 whether any of the three states that you are representing
24 people from, would have their representatives increased,
25 stay the same or decreased.

1 **MR. PETTINATO:** Well, Your Honor, we've done the
2 analysis for Wisconsin. We've shown where they went --

3 **JUDGE NICHOLS:** Right. But you just said that
4 there are other states that have -- that also have voter ID
5 laws that, in your view, are as unlawful as Wisconsin's.

6 But sitting here we don't know -- if we assume
7 that all of those voters in those other states had had their
8 votes abridged or denied and therefore those states have to
9 have the reduction clause applied to them and then the
10 apportionment has to occur, we don't know, once we put those
11 states into the math, whether the three states here would
12 have more, the same or fewer representatives; isn't that
13 correct?

14 **MR. PETTINATO:** That's correct.

15 **JUDGE NICHOLS:** Okay. So why isn't that --

16 **MR. PETTINATO:** I do not have to prove that
17 because of *Duke Power*. *Duke Power* says that's speculative.
18 When the Department of Justice says, Well, it's not going to
19 turn out your way, that's speculative.

20 And in the *Swann v. Adams* case, the 1967 case in
21 the Supreme Court, they said, As long as you, the
22 plaintiffs, come forward with an apportionment, with a
23 different apportionment plan, it doesn't even matter if it
24 is completely legal in every single respect, then that gives
25 you standing.

1 **JUDGE NICHOLS:** But -- I'm sorry. Just to follow
2 up. I want to make sure it is clear.

3 You are, in fact, alleging that Census is
4 obligated to look at all of those other states' voter ID
5 laws. Correct?

6 **MR. PETTINATO:** Correct.

7 **JUDGE NICHOLS:** And to apply the reduction
8 analysis to all of them. Correct?

9 **MR. PETTINATO:** Correct.

10 **JUDGE NICHOLS:** And you acknowledge that if that
11 happened, we would not know, sitting here today, what the
12 apportionment effect would be with respect to New York,
13 Virginia and Pennsylvania. Correct?

14 **MR. PETTINATO:** We don't know for certain; that's
15 true.

16 **JUDGE NICHOLS:** Do we know at all?

17 **MR. PETTINATO:** Well, we know that there is a
18 possibility that the numbers in all of the other states
19 might still end up with taking one seat from Wisconsin and
20 giving it to New York. That's possible.

21 **JUDGE NICHOLS:** But to have standing, you have to
22 allege more than possibility.

23 **MR. PETTINATO:** Under *Massachusetts v. EPA* some
24 possibility is enough.

25 **JUDGE NICHOLS:** In *Massachusetts v. EPA* the injury

1 was clear. The question was whether it was causation
2 redressability. And in a lot of these procedural cases, the
3 injury is -- you know, this dam is being built next to my
4 house; that's my injury. The question is whether the
5 procedural violation and whether it's -- when redressed is
6 going to result in that injury going away. You don't know
7 whether that's going to occur here.

8 But here we don't know -- you just basically said,
9 We don't know for sure, or even close to sure, whether if
10 Census applied your theory to voter ID laws across the 50
11 states, whether New York, Virginia or Pennsylvania would
12 win, lose or draw with respect to representatives.

13 **MR. PETTINATO:** We do not. And in most
14 apportionment cases, malapportionment cases, the plaintiffs
15 don't know what the state is ultimately going to draw for
16 the apportionment.

17 They can't predict the future of where they are
18 going to find compactness and which communities they are
19 going to try to keep together and which they are going to
20 split apart or how they are going to divide the state. They
21 don't have any idea.

22 So the Supreme Court has a lower bar. They say,
23 You just need to come in with some apportionment that tries
24 to meet the standard. It doesn't have to meet all of the
25 standard, but if you come in with something that's kind of

1 in the general ballpark -- this is *Swann v. Adams* -- that's
2 enough.

3 We've got something that under the voter ID --
4 just the ID law -- is in the ballpark. There is some
5 possibility that could result from this. And that's enough.
6 And then the voter registration, of course, is separate.
7 But that -- in the *Swann v. Adams* case, it sets a very low
8 bar for what plaintiffs have to prove. They just have to
9 prove a different apportionment that could be some outcome.

10 **JUDGE PAN:** So can I bring to your attention
11 *Sharrow versus Brown*, which is a Second Circuit case that
12 addressed a very similar claim to the one you are making
13 now. The Second Circuit said in that case, To prove
14 standing, a plaintiff would have to show, at least
15 approximately, the apportionment that his interpretation of
16 14/2 would yield -- which is Amendment 14, Section 2. -- not
17 only for New York, but for every other state as well. This
18 would necessitate a state-by-state study of the
19 disenfranchisement of adult males, a task of great
20 proportions.

21 That says precisely what Judge Nichols is saying,
22 that in order for you to show standing, you have to
23 plausibly allege that your client is going to experience
24 this decrease in representation. And in order to do that,
25 because of the way seats are apportioned, you would have to

1 take your theory of disenfranchisement, apply to all 50
2 states, then run the math, and then see if your client would
3 suffer an injury. And you haven't done the work. You
4 haven't established the standing.

5 **MR. PETTINATO:** The Second Circuit has not
6 accounted for Supreme Court cases that came out afterwards.
7 That was in 1971. Since then we've had *Franklin v.*
8 *Massachusetts*. We've had *Department of Commerce*. We've had
9 *Utah*. And in particular --

10 **JUDGE PAN:** So my review of those cases is they
11 don't focus on this injury requirement. In both *Franklin* --
12 well, it's really *Utah*, because *Utah* adopted that part of
13 *Franklin*, which was not a majority part of the opinion.

14 But in *Utah*, the injury there was so mathematical
15 and precise and clear, they didn't focus on that. So those
16 cases don't stand for the proposition that you don't have to
17 establish the fundamental requirement of alleging concrete
18 and particularized injury. That is just basic standing.
19 You have to do that.

20 And in this context, based on the type of claim
21 you are making, you haven't done that. Those Supreme Court
22 cases don't make the type of claim you are making. You are
23 making a particular claim that alleges that voter ID laws
24 are a denial or an abridgment. And if that's your claim,
25 you have to run the math for all 50 states, then do the

1 apportionment, and then see if your client has suffered an
2 injury in order to establish standing.

3 **MR. PETTINATO:** Those cases did not address
4 procedural injury. So they did not address --

5 **JUDGE PAN:** I'd like to talk to you about. What
6 is the procedural injury? What is the procedural right that
7 your client was granted?

8 In *Massachusetts v. EPA* it was an APA thing. And
9 here the APA doesn't apply under *Franklin*. Right?

10 **MR. PETTINATO:** That's not --

11 **JUDGE PAN:** Well, *Franklin* said that the
12 apportionment is not a final action subject to APA review.
13 It's the President's Act, which is the final act.

14 **MR. PETTINATO:** Right.

15 **JUDGE PAN:** So what is the procedural claim?
16 Because I see your briefing as trying to glide past this by
17 saying, There is a procedural flaw. But you have to show a
18 procedural injury, that you were given a procedural right
19 that is being violated. What is that right?

20 **MR. PETTINATO:** If I could briefly, Your Honor --

21 **JUDGE PAN:** What is that right?

22 **MR. PETTINATO:** The procedural right is for the
23 Census Bureau to do the analysis that the Constitution
24 requires.

25 **JUDGE PAN:** That was given to your clients.

1 **MR. PETTINATO:** That was given to all Americans,
2 just like the Fourth Amendment was given to all Americans
3 with the First Amendment.

4 **JUDGE PAN:** So the problem is --

5 **MR. PETTINATO:** The concrete injury, Your Honor,
6 if I could --

7 **JUDGE PAN:** If I can, to inform your answer, and
8 then I will let you answer.

9 In *Franklin*, it was an APA claim, the Supreme
10 Court said, This is not appropriately before the APA because
11 the final action of reapportionment goes to the President;
12 that's not agency action.

13 In *Utah*, there is actually a statute, the Census
14 Act, but it only applies to statistical issues. Neither of
15 those applies here. You can't rely on the APA. You can't
16 rely on the Census Act.

17 What is the procedural act that you are relying on
18 that has been violated and what is your cause of action?

19 **MR. PETTINATO:** The *U.S. House of Representatives*
20 case -- if I can back up. You gave me a few things there,
21 Your Honor.

22 **JUDGE PAN:** Yes.

23 **MR. PETTINATO:** The *U.S. House of Representatives*
24 case, the 1989 case says, A plaintiff's expected loss of a
25 Representative to the United States Congress undoubtedly

1 satisfies the injury in fact requirement.

2 **JUDGE PAN:** Yes, but you haven't proved that.

3 **MR. PETTINATO:** And you have to have an actual
4 loss --

5 **JUDGE PAN:** Wait. I'm sorry. Let's back up.

6 We all agree that if you could establish the
7 injury of losing a seat, you would have standing. But I
8 think the issue that all of us have been trying to grapple
9 with is that you haven't established that, because you
10 haven't done the math. You haven't actually alleged that
11 you are going to lose a seat, based on the
12 disenfranchisement that you are claiming.

13 **MR. PETTINATO:** We lost the seat. And under the
14 *WildEarth Guardians* case --

15 **JUDGE PAN:** You lost a seat but you don't know
16 why. It could have been population --

17 **MR. PETTINATO:** Well, in *WildEarth Guardians*, it
18 was a different thing. It was a different cause. It was a
19 different procedural flaw that ultimately led to the
20 decision that caused the injury.

21 They were saying aesthetics and then they were
22 claiming climate change and air quality. And those are
23 different injuries that led to -- different flaws in the
24 procedure that led to the injury. And that is the basis for
25 *WildEarth Guardians*.

1 If we go back to the APA, Section 209 absolutely
2 does trigger the APA. The APA applies not only to final
3 agency actions -- and to be clear, *Franklin* was only a
4 plurality. There were 4 and 4.

5 **JUDGE PAN:** No. I think that part of *Franklin* was
6 a majority, the APA part of it.

7 **MR. PETTINATO:** No. Just standing. Justice
8 Scalia only talked about standing.

9 **JUDGE PAN:** Yeah, but no standing as to the APA.
10 So there's five votes for that.

11 **MR. PETTINATO:** No. Standing was the cause of
12 action. It wasn't standing -- it wasn't the claim. The
13 standing was the injury. He didn't believe that the
14 plaintiffs had established injury.

15 **JUDGE PAN:** He didn't believe -- okay. Let's back
16 up.

17 **MR. PETTINATO:** Okay.

18 **JUDGE PAN:** I read that case to say that there's
19 no standing for the APA claim because there's no final
20 injury action.

21 **MR. PETTINATO:** Your Honor, the APA, in Section 5
22 U.S.C. 704, requires a final agency action to bring a claim.
23 It's part of the cause of action.

24 **JUDGE PAN:** All right.

25 **MR. PETTINATO:** It's not part of the actual

1 jurisdiction.

2 JUDGE PAN: Okay.

3 MR. PETTINATO: The jurisdictional waivers come
4 from, you know, federal question. They come from other
5 parts. And here -- Justice Scalia was talking about --

6 JUDGE PAN: Okay. I'm sorry. You're right.

7 So there were five votes to say that there is no
8 APA claim for a reapportionment claim. And you are brining
9 an APA claim for reapportionment --

10 MR. PETTINATO: No, there were five votes to say
11 there was no jurisdiction; that's what Justice Scalia was
12 ruling on his jurisdiction. So it was really 4, 1 and 4.
13 And you have 8/4 saying, No APA claim and 4 saying, Yes.

14 JUDGE PAN: Are we agreed that there are 5 votes
15 in *Franklin* to say that there was no final agency action?

16 MR. PETTINATO: No. Justice Scalia didn't reach
17 that point. He just talked about standing. So I believe
18 it's 4, 1 and 4. But regardless --

19 JUDGE PAN: Okay. I take that back.

20 MR. PETTINATO: -- 209 is really broad. It talks
21 about statistical flaws. We've been talking about
22 statistics this entire hearing. So we have alleged the
23 statistical flaw; and that is all that 209 requires.

24 JUDGE WALKER: I have a --

25 MR. PETTINATO: So the APA applies not only to

1 final agency actions but also to actions made reviewable by
2 Congress; and that is exactly what they did in Section 209.

3 **JUDGE WALKER:** Mr. Pettinato, I have a math
4 question, unless -- Judge Pan, did you have more?

5 **JUDGE PAN:** No, go ahead. Go ahead.

6 **JUDGE WALKER:** So on Page 3, after the Sharma
7 Declaration, and it's Paragraph 14, I will read the last two
8 sentences, and then I have a question.

9 To calculate the "basis of representation figure"
10 for each state, the Fourteenth Amendment requires
11 multiplying the proportion of citizens who can vote --
12 citizens who can vote, plus citizens who cannot register
13 because of criminal convictions, to the number of
14 citizens -- by the Census's actually-enumerated population
15 statistic. The results are presented in the next section.

16 So that says how Sharma did the math. There
17 Sharma is talking about citizens.

18 Here's my question --

19 **MR. PETTINATO:** Was that Paragraph 14, Your Honor?

20 **JUDGE WALKER:** It is.

21 If I'm reading it right, Sharma's Declaration
22 calculates the basis of representation fraction, for Section
23 2 purposes, by dividing registered citizens plus those
24 convicted of crimes, by all citizens -- registered citizens
25 plus those convicted of crimes -- and divide that by all

1 citizens.

2 But Section 2 of the Fourteenth Amendment requires
3 dividing by all citizens 18 or older. So I'm wondering if
4 that's a mistake.

5 **MR. PETTINATO:** I don't believe so, Your Honor.

6 If we go back to the basis, we have -- I'm not
7 sure I have it with me. If you look at Table 4-A, it's
8 ECF-48.

9 **JUDGE WALKER:** Wait. Give me a second to get
10 there.

11 **MR. PETTINATO:** Yep.

12 **JUDGE WALKER:** This is in Sharma's Declaration or
13 in your Amended Complaint?

14 **MR. PETTINATO:** It is attached to the Amended
15 Complaint -- or to the original Complaint, in any event, but
16 at least...

17 And we didn't -- I don't know if we added -- I'm
18 looking at it here, but it does not specify 18 and older.
19 But I believe that it does in one of the other Census Bureau
20 documents that describes the methodology for Table 4-A, it
21 does talk about 18 plus.

22 **JUDGE WALKER:** So I hear what you are saying, but
23 I have in front of me the declaration. The declaration
24 seems to have used the wrong numbers. It seems to have used
25 "citizens regardless of age" rather than "citizens 18 and

1 older."

2 **MR. PETTINATO:** Well, Your Honor, if you look
3 at --

4 **JUDGE WALKER:** If we have to make our decision
5 based on the declaration, is that alone enough to show that
6 you haven't proved standing because you aren't doing the
7 right math?

8 **MR. PETTINATO:** No, we did the right math.

9 If you look Table 4-A, it talks about total
10 citizen population, total registered and then it talks about
11 your percent voted total. To me it's clear from this that
12 it is talking about age 18 plus. But if you look at the
13 underlying methodology for where the Census Bureau developed
14 Table 4-A, they developed it based on 18 and older citizens.
15 So is it total citizens --

16 **JUDGE WALKER:** So it's just sort of, like -- you
17 are saying Sharma did the right math, but the declaration
18 uses imprecise language.

19 **MR. PETTINATO:** It didn't say 18 and older.
20 Correct.

21 **JUDGE WALKER:** But it meant 18 and older.

22 **MR. PETTINATO:** Correct.

23 **JUDGE WALKER:** And then that's what Sharma did.

24 **MR. PETTINATO:** Correct.

25 **JUDGE WALKER:** I mean, I would like to just take

1 your word for it, but how can I know that that --

2 **MR. PETTINATO:** That's why we attached the
3 exhibit, the Table 4-A. And I believe we attached the
4 Census Bureau's explanation of that, but I didn't bring that
5 with me.

6 **JUDGE WALKER:** Okay.

7 And this is an unrelated question. But in a case,
8 I think from this past year, D.C. Circuit case, *ViaSat*
9 *versus FEC*, we held that an organization asserting
10 associational standing must have the quote "indicia of a
11 traditional membership association," which turns on
12 considerations such as whether members fund the
13 organization, guide its activities, et cetera. We said it's
14 not enough that members are just merely, you know, read the
15 group's publication.

16 Does your organization, does your Citizens
17 organization have true associational standing under that
18 *ViaSat* test?

19 **MR. PETTINATO:** Your Honor, I am not familiar with
20 that test. I would need to read the case.

21 **JUDGE WALKER:** Maybe -- can you tell me, does your
22 organization -- do the members fund it?

23 **MR. PETTINATO:** Yes.

24 **JUDGE WALKER:** They do?

25 **MR. PETTINATO:** Yes.

1 JUDGE WALKER: How many members?

2 MR. PETTINATO: I haven't counted them lately.

3 MR. PETTINATO: More than 10?

4 MR. PETTINATO: Yes.

5 JUDGE WALKER: And they guide its activities?

6 MR. PETTINATO: Yes.

7 JUDGE PAN: Can I just come back to *Franklin* for a
8 moment? I'm sorry.

9 It says in *Franklin* that Justice O'Connor
10 announced the judgment of the court and delivered the
11 opinion of the court with respect to Parts 1 and 2, in which
12 Rehnquist, Rice and Scalia joined; that's five.

13 MR. PETTINATO: Okay.

14 JUDGE PAN: Part 2 is the APA analysis. And the
15 APA analysis said that there is no APA claim for
16 reapportionment, because there's no financial agency action
17 there.

18 MR. PETTINATO: Okay.

19 JUDGE PAN: So if you have no APA claim, then all
20 that is before us is your mandamus claim; is that right?

21 MR. PETTINATO: Well, let's come back to 209,
22 because that's really the basis for our claim. We think 209
23 is clear. It allows -- "Whenever the Census Bureau uses any
24 statistical method in violation of the Constitution, in
25 connection with a decennial census to determine population

1 for purposes of the apportionment."

2 **JUDGE PAN:** Yes. But they didn't use a
3 statistical method. You are saying they should have used
4 your proposed statistical method. They just didn't do this
5 at all.

6 **MR. PETTINATO:** They didn't do the statistical
7 method required, yes. They did a statistical method and it
8 wasn't the one required.

9 **JUDGE PAN:** I'm sorry. What is the statistical
10 method that you are challenging?

11 **MR. PETTINATO:** We are challenging -- well, we are
12 challenging both their failure to do the Fourteenth
13 Amendment, Section 2, as well as the statistics that they
14 have done in the way that they counted and did the actual
15 enumeration. That's statistics, just as much as anything
16 else is.

17 **JUDGE PAN:** Well, I think that Section 209(b) was
18 geared toward sampling, like, actual real mathematical
19 statistical issues. And I don't see what statistical method
20 you are challenging here, because I think your claim is that
21 they failed to do a statistical analysis in the way that you
22 are saying they had to do it.

23 **MR. PETTINATO:** Correct. That is part of it. And
24 also --

25 **JUDGE PAN:** But how is that a cause of action

1 under 209(b) ?

2 **MR. PETTINATO:** Well, it's a cause of action under
3 209 for a few reasons. First, the Supreme Court in *Utah*
4 said, We are just talking about accounting method. That's
5 all we need here. And that's qualifies under 209.

6 **JUDGE PAN:** No, that was an actual statistical
7 method. There was a name for it. I forget what it was
8 called. Hot something.

9 **MR. PETTINATO:** Oh, they were talking about hot
10 decking.

11 **JUDGE PAN:** Yeah, hot decking.

12 **MR. PETTINATO:** They did say that some accounting
13 method that qualifies --

14 **JUDGE PAN:** No, no. It was a statistical method
15 that tried to fill in holes by -- right?

16 **MR. PETTINATO:** Yes, that's what they were
17 analyzing is hot decking. Trying to fill in holes of
18 neighbors and figuring out who lives in what place,
19 consistent with who lives next door, yes.

20 **JUDGE PAN:** So I can see why that would be
21 characterized as a statistical method. What is the
22 statistical method in this case that you think that you are
23 aggrieved by?

24 **MR. PETTINATO:** Well, we just need a statistical
25 method in connection with a decennial census. So if the

1 Census Bureau did any statistics, that's enough to bring us
2 under 209. And to say that this statistic you did was not
3 good enough, because it didn't also include 14th
4 Amendment --

5 **JUDGE PAN:** So they just counted and you are
6 saying they should have done something more.

7 **MR. PETTINATO:** Yeah.

8 **JUDGE PAN:** So that is not a statistical method.

9 **MR. PETTINATO:** They did hot decking again.

10 **JUDGE PAN:** But you are not challenging the hot
11 decking.

12 **MR. PETTINATO:** Regardless, Your Honor, before
13 this court can eliminate this case entirely by saying, Oh,
14 there is no APA jurisdiction, there is no 209 jurisdiction,
15 we really do need to come back to *Webster v. Doe* and also
16 *Califano v. Sanders*.

17 The Supreme Court -- first of all, it did say --
18 the statute not say "bars post-census lawsuits," that's one
19 argument that the Census Bureau has made. They based it on
20 a three-judge, *Utah* court, that said, Oh, you know, you are
21 too late. But the Supreme Court said, No, you can base it
22 on the post -- after the census.

23 What we are talking about here, really, is that
24 the Supreme Court reads its limitations on jurisdiction
25 narrowly, especially when it would preclude all

1 constitutional claims. And that comes from the *Webster*
2 case. It comes from the *Johnson* case. It comes from
3 *Califano v. Sanders*.

4 And the Supreme Court says, We don't want to get
5 into the possibility that there might not be a claim for a
6 constitutional violation, because that raises serious
7 constitutional questions.

8 So when interpreting Section 209, we need to make
9 sure that we can bring some cause of action forward for this
10 constitutional claim. And if it's not under the APA, then
11 it ought to be under Section 209 and it has to be somewhere.
12 That follows directly under *Franklin*.

13 **JUDGE PAN:** Does it have to be somewhere? I mean,
14 I see that you've identified an issue here. Which is, there
15 is a constitutional provision that does not seem to be
16 accounted for.

17 But it seems that Congress, in passing the Census
18 Act, considered including language that would require
19 implementation of this reduction clause. I guess it's
20 outlined in the *Lampkin* case, all the legislative history
21 where they considered it, considered an amendment, decided
22 not to do it.

23 So it seems to me that you're saying that we have
24 to do it this way. But Congress has chosen not to implement
25 this. And there is language in the case law that says, This

1 is not the only way to implement Section 14/2. And I wonder
2 if this is really something for the political process.

3 **MR. PETTINATO:** For several reasons, no, Your
4 Honor.

5 First of all, the Constitution itself requires all
6 of the branches to abide by it. So if Congress assigned and
7 delegated obligations to the Federal Communications
8 Commission, it doesn't have to say, Oh, by the way, you guys
9 also need to follow the First Amendment. Because of course
10 they have to follow First Amendment. That falls out of the
11 *Panama* case. That falls out of all sorts of cases.

12 When the agencies act, they have to comply with
13 all parts of the Constitution. They don't get to pick and
14 choose. And Congress doesn't have to tell them. This
15 doesn't qualify as a political question doctrine for several
16 reasons.

17 **JUDGE PAN:** I didn't mean political question. I
18 just meant, Is the remedy for this the political process?
19 Because I think what we are struggling with is, What is the
20 cause of action? How do you bring a legal claim to
21 challenge this? Because there is standing issues, there's
22 cause of action issues and it's just not clear to me.

23 The case law suggests too there are different ways
24 to comply with 14/2. Like, for example, in two of the cases
25 that I reviewed, *Lampkin* and *Sharrow*, they said there is no

1 one mandated way to implement 14/2. So when you bring a
2 case like this -- which says, You have to implement it this
3 way, the way that I've suggested -- the case law seems to
4 say, Well, no, it doesn't need to be that particular way.

5 In those cases they were saying you have to
6 include in your Census questionnaire certain questions,
7 which would be a logical way to implement 14/2. And the
8 Court said, Well, the Constitution doesn't mandate that they
9 do it that way. So it's not unconstitutional for them not
10 to do it.

11 So what I see is you are sort of making a general
12 claim. It's like, You have to do this somehow. But it's
13 really hard to put that into a cause of action. It's really
14 hard to show standing for your clients, because it's sort of
15 a laborious process to implement the theory that you are
16 proposing, because it requires a 50-state analysis.

17 So there are a lot of hurdles to it. So that's
18 why I kind of end with, maybe the way to address this is
19 through the political process. I mean, there is this whole
20 process that four years before the census there has to be a
21 process. And maybe that's where you need to be addressing
22 this problem.

23 **MR. PETTINATO:** So this court's jurisdiction is
24 virtually unflagging. And the Supreme requires this court
25 to exercise jurisdiction whenever it has something in front

1 of it to rule upon. And by punting it to one of the
2 political branches, is effectively calling it political
3 question doctrine. That is what the political question
4 doctrine does. In step one it says, Is there a textual
5 delegation to one of the particular political branches to
6 make the decision?

7 And here we don't have that. We have passive
8 voice that says, The United States, basically, "shall" do
9 this. And then the second part of the political question
10 doctrine, under *Zivotofsky*, asks whether there are
11 judicially manageable standards for ruling on this.

12 And here there are because the Court can simply
13 remand and say you guys -- the Constitution requires you to
14 do something. You didn't do it. And we are just going to
15 remand. And it's a very straightforward APA routine cause
16 of action that this court and the D.C. Circuit implement --

17 **JUDGE PAN:** But the Supreme Court said you don't
18 have an APA cause of action.

19 **MR. PETTINATO:** Well, 209 brings us back into that
20 cause of action. And it --

21 **THE COURT:** Is Citizens a "person" within the
22 meaning of Section 209(b)?

23 **MR. PETTINATO:** The Department of Justice raised
24 that issue, and we do qualify under 1 U.S.C. 1. And 1
25 U.S.C. 1 says that corporations qualify as aggrieved people.

1 But the better answer --

2 JUDGE NICHOLS: Is Citizens a corporation?

3 MR. PETTINATO: It is a corporation. It is a
4 non-profit corporation, registered in the State of Montana.

5 The other part of that, though, is *Sierra Club v.*
6 *Norton*, where the Supreme Court basically said, Of course
7 organizations can come in to represent the interests of
8 their members.

9 JUDGE NICHOLS: Was that a prudential standing
10 case?

11 MR. PETTINATO: It was a standing case, Article
12 III.

13 THE COURT: Was it a prudential standing case?

14 MR. PETTINATO: Well, Your Honor, the Supreme
15 Court --

16 JUDGE NICHOLS: Typically a plaintiff has to have
17 both Article III standing and then be within the zone of
18 interest sought to be protected by the relevant statute.
19 Here Congress says that the person that the -- at least says
20 that a Section 209 claim can be brought by any person
21 aggrieved by. So why wouldn't it be more reasonable to
22 interpret that to mean natural persons?

23 MR. PETTINATO: Well, because of 1 U.S.C. 1. And
24 I have it here. The words "person" --

25 JUDGE NICHOLS: Even if Citizens is a person --

1 **MR. PETTINATO:** Okay.

2 **JUDGE NICHOLS:** -- is Citizens aggrieved by the
3 use of a statistical method on your theory or is it its
4 members?

5 **MR. PETTINATO:** Under *Sierra Club v. Morton*, as
6 long as our members --

7 **JUDGE NICHOLS:** You just said it's an Article III
8 standing question.

9 **MR. PETTINATO:** If you want to talk about those
10 other interests, I would imagine it's the same.

11 **JUDGE NICHOLS:** Aren't the individuals in the
12 states of New York, Virginia and Pennsylvania, who are
13 members of your organization, the persons aggrieved by the
14 use of a statistical method?

15 **MR. PETTINATO:** Yes. Yes.

16 **JUDGE NICHOLS:** So aren't they the persons within
17 the zone of interests for purposes of Section 209(b)?
18 Shouldn't they be bringing this suit directly? It seems to
19 me that there is a mismatch between the organizational
20 standing and the zone of interest tests here.

21 **MR. PETTINATO:** So the organizational standing
22 requires three things. It requires --

23 **JUDGE NICHOLS:** That's for Article III purposes.

24 **MR. PETTINATO:** Article III. Right.

25 I could research that, Your Honor, and provide you

1 a brief, if you want, on the zone of interest applicability
2 to organizations where only their members have standing. I
3 believe that's going to be a relative -- I can find that, if
4 you want.

5 **JUDGE NICHOLS:** Sure. We may not need that but
6 thank you for that.

7 **JUDGE WALKER:** I think Judge Pan may have one more
8 question.

9 **JUDGE PAN:** Yes. I just had one more question.
10 Because in my last line of questions I was asking about the
11 APA versus mandamus. And you said, Well, you still have
12 209(b). But your complaint doesn't allege a claim under
13 209(b), does it?

14 **MR. PETTINATO:** We talk about 13 U.S.C. 141, and
15 209 is a note to that. So it is a reference to it. And
16 this is notice pleading.

17 We've talked about all of these very same issues,
18 the statistics, the Census Bureau. Of course, if Your Honor
19 would like, we could amend the complaint. But we don't
20 think that is necessary. We think it satisfies. I gave
21 sufficient notice to the Census Bureau to know where our
22 claims are arising from.

23 **JUDGE PAN:** Okay. Thank you.

24 **JUDGE WALKER:** Mr. Pettinato, I told you I would
25 give you a couple minutes, maybe one or two minutes, if

1 there is anything you feel like we need to hear and haven't
2 heard, now is the time.

3 **MR. PETTINATO:** Thank you, Your Honor. If I could
4 have one short moment.

5 If I could respond very briefly to the Census
6 Bureau's Motion in Limine now, and they moved under Rule
7 56(d) for more discovery and time for more discovery. And
8 it's now moot. It's been 11 months now that they have been
9 asking for discovery. They have not made one effort toward
10 it.

11 Rule 56(d) allows deferral and it allows time to
12 obtain discovery, and they have not sought that. So at this
13 point they have essentially waived their Motion in Limine.
14 So we believe that that satisfies that one.

15 With that, Your Honor, I believe I get another
16 chance for rebuttal.

17 **JUDGE WALKER:** We will give you a few minutes.
18 We will now hear from the government. If you
19 could introduce yourself, please.

20 **MR. SVERDLOV:** Good morning, Your Honor.
21 Alexander Sverdlov from the Department of Justice.

22 **JUDGE WALKER:** And, Mr. Sverdlov, I see two names.
23 Are you both planning to talk?

24 **MR. SVERDLOV:** No, I will be presenting on behalf
25 of the government. Thank you, Your Honor.

1 **JUDGE WALKER:** Let me ask, What do you think
2 plaintiff could have done to have standing in this case?
3 Plaintiff has a theory. It's an interesting theory. It
4 might make a fun bar review theory.

5 Imagine you are the plaintiff's attorney, and the
6 organization comes to you say, We have unlimited resources.
7 We can hire the best statisticians in the world. We can
8 collect all of the data in the world that is possible to be
9 collected. What should they have done?

10 **MR. SVERDLOV:** So I have several points on that,
11 Your Honor.

12 I guess the first thing they could do is to try to
13 proceed along the lines that they have proceeded, but
14 actually have matched the calculations to their legal
15 theory, define the scope of the injury in such a way that it
16 corresponds to -- well, define the scope of what they view
17 abridgment or denial to correspond to the kinds of
18 calculations they are making.

19 I would have to caution, in that instance, that
20 the plaintiff would also have to use much more reliable data
21 than what they have proffered. And at the very least we
22 think that the plaintiff should have conducted a canvas of
23 voting laws -- the plaintiff's expert, presumably.

24 **JUDGE NICHOLS:** Do you agree that if plaintiff was
25 alleging, here, that Wisconsin and Wisconsin only, had a

1 voter ID law that constituted an abridgment or a denial, and
2 that was the only claim that it was asserting, and so what
3 you would then do is you would say, Well, Wisconsin and
4 Wisconsin only gets a reduction on their theory; that they
5 could prove standing for at least one of their state
6 members. If that was their claim.

7 And I understand the government's position is,
8 That's not the claim. The Complaint can't be read that way.
9 But if that was the claim and the only claim, would they
10 have not adequately alleged standing based on the expert
11 report here? At least as to one of the states?

12 **MR. SVERDLOV:** Your Honor, I think if that were
13 the only claim, and there were no data deficiency issues
14 that we flagged, such as the margins of error and those
15 kinds of things that the court would have to parse. If that
16 were their claim --

17 **JUDGE NICHOLS:** But for present purposes -- let me
18 just ask a question about the data deficiency. We are at
19 the Motion to Dismiss stage. Wouldn't it be adequate at
20 this stage to say, Wisconsin is the only state that we are
21 pursuing. Wisconsin -- our theory is that it's 300,000
22 people. The reduction has to be the reduction of 300,000 in
23 total. That results in reduction of Wisconsin --
24 reapportionment as to Wisconsin. We've run the numbers. At
25 least for purposes of a complaint and a motion to dismiss,

1 we've adequately alleged standing. I believe the government
2 agrees that would be adequate. Correct?

3 **MR. SVERDLOV:** If that were the scope of the legal
4 theory in the complaint and the allegations.

5 **JUDGE WALKER:** In this case it's different
6 because?

7 **MR. SVERDLOV:** This case is different because,
8 one, plaintiff -- I think my friend on the other side has
9 admitted that they view voter ID as something that extends
10 beyond Wisconsin. So the complaint alleges far more than
11 Wisconsin is the only state suffers from that alleged
12 deficiency. They have also brought in the voter
13 registration issue, which as I think the Court's colloquy
14 explored.

15 **JUDGE NICHOLS:** Do you agree -- just to play it
16 out a little bit -- if the plaintiff's theory was, as it
17 seemed to be during argument today, all voter registration
18 laws are abridgment or denials; therefore, if each state
19 needs to have its reduction clause affect by looking at the
20 ratio of voter age persons to registered persons; that's the
21 reduction ratio. We've run that analysis. And there's an
22 apportionment affect from that as well.

23 Why isn't that enough at this stage to adequately
24 allege standing, if that's the legal theory?

25 **MR. SVERDLOV:** Yeah. So with the caveat that we

1 don't take that to be the legal theory, because in its
2 papers, plaintiff has specifically identified that the
3 constitutional floor is not, per se, connected to
4 registration. It's rather connected to things that exceed,
5 kind of, the three-part standard that it has established.

6 But I would say that if that were the theory --
7 and, again, putting aside the error rates on the numbers,
8 which we think are significant, and at some point do
9 transcend into the plausibility of an injury being alleged.

10 But I think putting all of those things aside,
11 yes, if the theory were tailored to the injury, and the
12 injury were plausibly alleged for the reliable numbers,
13 plausibly calculated, then plaintiff would get over at the
14 pleading stage --

15 **JUDGE NICHOLS:** I thought you would say, No.
16 Because I thought you would say, Well, the problem with that
17 is you still have independent choices by people choosing not
18 to get registered.

19 **MR. SVERDLOV:** I understood that to be
20 incorporated in the hypothetical.

21 **JUDGE NICHOLS:** Oh, sorry.

22 **MR. SVERDLOV:** Yes, absolutely. We do think
23 that --

24 **JUDGE NICHOLS:** I just want to make sure.
25 You would still have -- even if plaintiff's theory

1 was, A registration requirement is an abridgment or denial,
2 and there's obviously a gap in every state between voter-age
3 people and registered people, and we can use that gap for
4 purposes of calculating a reduction, you would still say --
5 whereas, my Wisconsin hypothetical, if this was a
6 Wisconsin-only case, there might be enough to get -- There
7 still would not be enough here, in the government's view, to
8 get even past the Motion to Dismiss, because that gap
9 between registration -- I mean, registered people and total
10 people, doesn't account for the independent decisions of
11 people who aren't registered, for reasons having nothing to
12 do with the registration requirement to start with.

13 **MR. SVERDLOV:** That's correct. I understood --

14 **JUDGE NICHOLS:** Yes.

15 **MR. SVERDLOV:** I understood my friend on the other
16 side to be suggesting that under his theory, registration
17 for whatever reason would constitute -- or failure to
18 register, for whatever reason, would constitute an
19 abridgment for denial. And, obviously, we would disagree
20 with that characterization of what the clause means, but
21 that's sort of a merits' question.

22 So I think if plaintiff were alleging that no
23 matter what the underlying reasons for failure to register,
24 registration itself were the proxy, taking that legal theory
25 as true and running the calculations subject to all of the

1 caveats, we think it could get...I think that highlights
2 just how far we are in this case from plaintiff actually
3 having established a plausible entry.

4 **JUDGE WALKER:** Here is a very different theory
5 than you've been exploring. Tell me why this theory is
6 wrong. This would be a theory that the plaintiff might
7 like.

8 Especially when you do the voter registration
9 impact, it's going to throw a real wrench into the works.
10 Like every state is going to have some pretty big affect.
11 So we don't know for sure whether it's going to help one
12 state, hurt another state. We just know it's going to shake
13 things up a lot and they've got three states.

14 Let's say each state, there's a 50 percent chance
15 it helps and a 50 percent chance it hurts, because we just
16 don't know. We are in a world where we just don't know. So
17 it might help. It might hurt. Fifty percent chance it
18 helps. Fifty percent chance it hurts. What are the chances
19 that it's going to hurt all three of their states?

20 Well, the math on that, I think, would be 1 over
21 2, times 1 over 2, times 1 over 2; so that comes to 1 over
22 8. So there's a 7 in 8ths chance that at least one state is
23 going to be helped by all of the shakeup that happens. A 7
24 out of 8 chance of injury sounds pretty good.

25 **MR. SVERDLOV:** So, Your Honor, I would point the

1 Court to the Supreme Court's decisions in the Census cases
2 starting with *Montana, Wisconsin, Franklin, House of*
3 *Representatives*, what those cases stand for.

4 Now, I will say, most of those cases were brought
5 after apportionment. And they were dealing with a specific
6 formula or a specific methodology that could actually be
7 tested based on the actual numbers that were derived from
8 the census and a concrete comparison established.

9 Do you have -- running this model, do you have --
10 so, for example, for *Utah versus North Carolina*, right, the
11 Court talked about how there is, essentially, no question
12 that not using compact computation wouldn't shift a seat.

13 The same with *Montana*, a different apportionment
14 formula. No question that under the numbers that were
15 provided, a different apportionment formula would
16 redistribute those things.

17 None of those cases talk about, kind of, this
18 loose -- none of those cases even suggest that this kind of
19 loose possibility is sufficient. And to the contrary,
20 something like *House of Representatives*, where the Court
21 expressly discusses the expert evidence that was put in, and
22 the lack of rebuttal from the other side, established a
23 substantial possibility that, in fact, seats would shift, as
24 a result of --

25 **JUDGE PAN:** Could they have members from all 50

1 states and say at least some of them would be affected by
2 this?

3 **MR. SVERDLOV:** So --

4 **JUDGE PAN:** Say they had associational standing
5 based on members that are in all 50 states and say, At least
6 some of our members are going to be affected.

7 **MR. SVERDLOV:** I think it's speculative whether
8 some of their members would be affected.

9 **JUDGE PAN:** Well, that would certainly be true
10 because there is going to be some change.

11 I think it's certainly clear that if we accounted
12 for the reduction clause, as they allege through
13 registrations or through voter ID laws, and say they did the
14 math for all 50 states, there would be some shifting.

15 If they had members from all 50 states, could they
16 have standing that way? Without having to do all of the
17 math, because clearly there is going to be shifting.

18 **MR. SVERDLOV:** I think they would have to do the
19 math to show that there is shifting.

20 I guess what I would point to --

21 **JUDGE PAN:** It would be hard to refute the fact
22 that there is going to be some shifting. We just don't know
23 where it's going to shift. So if they had members from all
24 50 states, could they do that?

25 **MR. SVERDLOV:** So I think -- I guess what I would

1 maybe point the Court to is the differences between the
2 scenarios that the plaintiff's expert laid out. In the
3 three scenarios he calculates, excluding just Wisconsin,
4 just the registration rates and then combining the first two
5 scenarios.

6 **JUDGE PAN:** No, I know in this case they don't
7 have it. We are trying to figure out, theoretically, is
8 there a way of having standing and theoretically is there a
9 cause of action here?

10 **MR. SVERDLOV:** My short answer is I think it's
11 also possible that accounting for registration across the
12 country wouldn't necessarily shift seats.

13 **JUDGE WALKER:** That seems very unlikely. But I
14 think maybe the defendant in that case would be able to say
15 the plaintiff has to show which member would be injured.
16 You can't just say there's a member out there.

17 **JUDGE NICHOLS:** Why wouldn't it be enough at the
18 motion to dismiss stage to say, I represent an association
19 with members of 50 states; at least one of my members will
20 have a state that would gain a representative if this
21 analysis is done -- that's enough for a motion to dismiss
22 allegation pleading stage standing -- and once we go through
23 discovery and a trial, I'll prove up, in fact, which member
24 of which state gets the net representative gain?

25 **MR. SVERDLOV:** Your Honor, I think that would run

1 up against a plausible allegation problem. I think
2 plaintiff would have to identify which -- the numbers in
3 which states. In other words, which members are likely to
4 gain and which are likely to lose.

5 I guess what I would say -- Judge Pan, back to
6 your question -- what we know about apportionment cases, is
7 that the slightest shifts in population can changes seats.
8 Right?

9 **JUDGE PAN:** Yes.

10 **MR. SVERDLOV:** So I don't think, for that reason,
11 it's appropriate or consistent with the Supreme Court's
12 precedent to just assume that it's likely. Maybe it's very
13 likely that a whole national shakeup would potentially
14 benefit some members of the plaintiff somewhere.

15 **JUDGE PAN:** I think it definitely would. It's
16 just a question of whether you have to identify who it is at
17 the pleading stage. I think that would be the question.

18 **MR. SVERDLOV:** Our view is that they would. They
19 would have to identify --

20 **JUDGE PAN:** I think that would require some
21 research.

22 I guess my question to you is one that I also
23 posed to your colleague on the other side which is, Is there
24 a cause of action -- is there a legal way to challenge the
25 fact that the provisions of 14/2, for lack of a better way

1 to describe it, is not being accounted for in this entire
2 process? Is it just a political process type issue or is
3 there a legal cause of action to challenge this clear -- I
4 think it is a problem. There is a provision of the
5 Constitution that is not being accounted for. Is there any
6 legal cause of action that could be brought to challenge
7 this?

8 **MR. SVERDLOV:** Yes. I have several answers to
9 that, Your Honor. If I could just unpack it.

10 **JUDGE PAN:** Okay.

11 **MR. SVERDLOV:** I think if we looked at *Franklin*,
12 *Franklin* rejected the APA cause of action, but it proceeded
13 under the Fourteenth Amendment.

14 Now, in that case, it was the first sentence of
15 Section 2 of the Fourteenth amendment. The Court seemed to
16 take that as a cause of action to evaluate the Census
17 Bureau's and the Secretary of Commerce's actions.

18 I think in order to --

19 **JUDGE PAN:** And that was only four votes, though,
20 in *Franklin*.

21 **MR. SVERDLOV:** Yes.

22 **JUDGE PAN:** But then *Utah* kind of adopted it with
23 five votes.

24 **MR. SVERDLOV:** Correct. On the Fourteenth
25 Amendment. Now, *Utah* didn't reach the Fourteenth Amendment.

1 **JUDGE PAN:** Yes. Right. To reach the Fourteenth
2 Amendment, the Constitution issue, yes.

3 **MR. SVERDLOV:** Under *Franklin*, the Court seemed to
4 assume there was a cause of action. It didn't expressly
5 discuss this but it proceeded under the Fourteenth
6 Amendment. It seemed to assume that there was a cause of
7 action under the first sentence of sections of the
8 Fourteenth Amendment.

9 **JUDGE PAN:** Yes.

10 **MR. SVERDLOV:** A court would have to consider
11 whether the reduction clause creates a cause of action.

12 **JUDGE PAN:** Right.

13 **MR. SVERDLOV:** But if it concluded that it does
14 create a cause of action, presumably someone could follow
15 *Franklin* and proceed under the Fourteenth Amendment.

16 **JUDGE PAN:** Right. For standing. For standing.
17 So is there a cause of action for the reduction
18 clause? It's not an APA one. We know that.

19 **MR. SVERDLOV:** It's not an APA one.

20 **JUDGE PAN:** Is it a 209(b) one or is there some
21 kind of direct constitutional challenge that can be made?

22 **MR. SVERDLOV:** So, Your Honor, I don't want to lay
23 a roadmap for Constitutional challenges standing here. But
24 I will say it is at least plausible to me that somebody
25 could come in and challenge the Census Act under the

1 Fourteenth Amendment. That would be a very conventional
2 statutory application.

3 **JUDGE PAN:** And who would be the defendant?

4 **MR. SVERDLOV:** Well, the United States would be
5 the defendant, if somebody were challenging the
6 constitutionality of the Census Act.

7 Presumably, a plaintiff would have to allege that
8 the Census Act, by not accounting for the constitutional
9 provision, it violates that section of the Constitution.

10 **JUDGE PAN:** Right.

11 **MR. SVERDLOV:** But I think that's a much more
12 straightforward kind of conventional approach to getting
13 constitutional --

14 **JUDGE PAN:** They would be seeking declaratory
15 relief, I guess, because the last census is over and the
16 next one is not for many years. So it would be seeking
17 declaratory relief.

18 **MR. SVERDLOV:** Yes. And I think that would solve
19 a lot of the -- kind of a lot of the issues that are
20 potentially in the background to challenging a report by the
21 Secretary, now over a completed apportionment.

22 I think that's probably, in some ways, the most
23 straightforward answer. I think it's not obvious that
24 Section 2 of the Fourteenth Amendment has its own cause of
25 action. The Court would have to consider that.

1 **THE COURT:** How does one test whether a
2 constitutional provision creates a cause of action?

3 **MR. SVERDLOV:** I'm sorry?

4 **JUDGE NICHOLS:** What's the standard for deciding
5 whether a constitutional provision creates a cause of
6 action?

7 **MR. SVERDLOV:** I don't know that I am prepared to
8 answer that, Your Honor.

9 **JUDGE NICHOLS:** I'm not sure I know the answer.
10 It's a very difficult question that I've struggled with for
11 25 years.

12 **MR. SVERDLOV:** Yes. I think the Supreme Court has
13 provided some guidance, but I am not sure the guidance it's
14 provided would be applicable in the case of 14/2.

15 I want to, if I may, Your Honor, I want to unpack
16 the Section 209 question, 'cause I think it's also kind of
17 swirling in the background. Just so set the record
18 straight, there were five votes in *Franklin* that there was
19 no APA cause of action, Justice Scalia joined that portion
20 of the Court's opinion.

21 The argument that Section 209 somehow overrode
22 *Franklin* and established and defined final agency action for
23 a census methodology, a census statistical methodology, was
24 expressly rejected by the three-judge court in the *Utah*
25 *versus North Carolina* case.

1 The Supreme Court didn't address that aspect of
2 the decision. It rather held that Section 209 doesn't bar
3 post-census relief. But the underlying three-judge court in
4 *Utah* expressly rejected the argument the plaintiff is now
5 making. And there is good reasons for rejecting that.
6 Section 209, very much by its language and by its terms
7 contemplates, only for respective relief, and is targeted
8 towards a pre-census challenge, which is not what we have
9 here.

10 In any event, as I think the Court has explored
11 somewhat with my friend on the other side, plaintiff doesn't
12 come within either the "aggrieved person" language of
13 Section 209 cause of action, nor is what he is challenging a
14 statistical method.

15 **JUDGE WALKER:** Mr. Sverdlov, I think we likely
16 don't have any more questions. If you want to take a few
17 minutes, I will give you the same opportunity, that I gave
18 your friend on the other side, to say anything you think
19 needs to be said.

20 **MR. SVERDLOV:** Your Honor, I'd like to make two
21 points. First, in *Sharrow versus Brown*, the Second Circuit
22 not only made clear that a plaintiff alleging a reduction
23 clause injury must conduct a canvassing across the entire
24 country to determine its injury, but it also stated, "We
25 agree with the court in *Lampkin* in so far as that Court

1 implied that standing might be exceedingly hard to
2 establish."

3 I think what the cases from the -- the cases that
4 have touched on the reduction clause over the years, what
5 they demonstrate in various ways is that it is, in fact,
6 very difficult for a plaintiff to establish standing for
7 these types of challenges. But the fact is, there is no law
8 of nature that requires plaintiffs to have standing to bring
9 this type of constitutional challenge.

10 Certain types of constitutional provisions, as the
11 Court has alluded to, are better addressed, better reserved
12 for other branches to be the first movers and perhaps the
13 primary movers. And in this case, we certainly believe that
14 plaintiff has not met its burden.

15 **JUDGE WALKER:** Thank you.

16 **MR. SVERDLOV:** I'd like to close if I could with,
17 if I may just one more on the --

18 **JUDGE WALKER:** Quick close.

19 **MR. SVERDLOV:** -- Motion in Limine, since my
20 friend on the other side brought that up. We have not
21 sought to take discovery during this period because in our
22 view this case can and should be resolved on the Motion to
23 Dismiss. So it is appropriate for the Court to resolve
24 those threshold legal questions before the parties go
25 through the burden of conducting discovery.

1 **JUDGE WALKER:** Thank you.

2 **MR. SVERDLOV:** Thank you, Your Honor.

3 **JUDGE WALKER:** Mr. Pettinato, we will give you
4 about three minutes.

5 **MR. PETTINATO:** Okay.

6 I'd just like to make a few short points. Just a
7 quick two points, main points.

8 First, we are arguing in the alternative, which
9 Rule 10 allows us to do. We can say that we think the photo
10 voter ID law in Wisconsin qualifies. We think registration
11 qualifies. We think votes qualify. And we can make those
12 in the alternative. There is nothing that precludes that.
13 And I think that that is very clear from our pleadings, that
14 we have done different scenarios to try to say that there
15 are different ways to approach this. Ultimately, it really
16 does come down to the math, to the loss of an actual
17 representative; that is concrete injury.

18 Second, on Section 209, just to bring up again,
19 that provides the cause of action here. It is -- from the
20 actual section it says -- it's talking about Section 2 of
21 the Fourteenth Amendment. It talks about the requirements
22 of Congress to comply with the Constitution. It says, Any
23 person aggrieved by the use of the statistical method in
24 [sic] violation of the Constitution.

25 That is clearly what we are having here. We've

1 had a long discussion about statistics. We've gone back and
2 forth about this statistic and that statistic. So it's very
3 clear that the use of statistics by the Census Bureau did
4 not qualify, did not satisfy it's obligations. And we
5 come -- under Section 209.

6 And the Supreme Court in *Utah* read Section 209
7 broadly. It said that we are going to read this so that we
8 can bring in claims. And that is consistent with the
9 Supreme Court's direction generally. It wants to make sure
10 that it has an opportunity to review agency actions.
11 Because, otherwise, the agencies might make mistakes and
12 might not be doing what they are supposed to be doing. That
13 is kind of the *Weyerhaeuser* case as well, that we quoted.

14 For those reasons, as well as the *Califano v.*
15 *Sanders* and the *Webster v. Doe* case. That's why the
16 *Franklin* case had a constitutional claim. Because it said,
17 We are not going to eliminate the APA cause of action and
18 somehow eliminate all of the causes of action to bring a
19 claim here.

20 So they were reading it broadly because of *Webster*
21 *v. Doe*; that's what they actually talk about; and that's why
22 they looked at the constitutional claim. We've -- and our
23 second claim is, basically, a constitutional claim. The
24 writ of mandamus claim is saying, Well, if the APA doesn't
25 apply, then we have this other claim, based under the

1 constitution; that is what we were bringing; and that's what
2 we intended to bring. And the Supreme Court addressed that,
3 and we have a right to bring that claim here in Court as
4 well.

5 If I could bring -- I'm sorry. One more point on
6 the political question doctrine.

7 **JUDGE WALKER:** Last thought.

8 **MR. PETTINATO:** Last though.

9 The Supreme Court rejected political question
10 doctrine over the Census in *Department of Commerce*. It
11 rejected it over malapportionment in *Baker v. Carr*. So this
12 does not fall within the political question doctrine. This
13 is a job for this court.

14 We ask the Court to deny the Motion to Dismiss, to
15 deny the Motion in Limine and to grant our Motion for
16 Summary Judgment.

17 **JUDGE WALKER:** Thank to you for your time. Thank
18 you for your time as well.

19 (Proceedings concluded at 11:28 a.m.)
20
21
22
23
24
25

C E R T I F I C A T E

I, Lorraine T. Herman, Official Court Reporter,
certify that the foregoing is a true and correct transcript
of the record of proceedings in the above-entitled matter.

December 31, 2022

DATE

/s/

Lorraine T. Herman

<p>JUDGE NICHOLS: [54] 7/8 7/16 7/23 8/4 14/14 14/17 14/20 14/24 15/12 15/23 16/3 16/12 17/2 17/13 17/19 18/4 18/23 19/13 19/16 19/25 20/10 20/21 21/2 21/7 25/6 25/14 26/3 26/15 27/1 27/7 27/10 27/16 27/21 27/25 48/2 48/9 48/16 48/25 49/2 49/7 49/11 49/16 49/23 50/5 52/24 53/17 54/15 55/15 55/21 55/24 56/14 60/17 65/4 65/9 JUDGE PAN: [71] 5/21 5/24 6/7 6/11 6/25 7/2 23/3 23/11 23/17 23/22 29/10 30/10 31/5 31/11 31/15 31/21 31/25 32/4 32/7 32/22 33/2 33/5 33/15 34/5 34/9 34/15 34/18 34/24 35/2 35/6 35/14 35/19 36/5 40/7 40/14 40/19 41/2 41/9 41/17 41/25 42/6 42/11 42/14 42/20 43/5 43/8 43/10 44/13 45/17 47/17 50/9 50/23 58/25 59/4 59/9 59/21 60/6 61/9 61/15 61/20 62/10 62/19 62/22 63/1 63/9 63/12 63/16 63/20 64/3 64/10 64/14 JUDGE WALKER: [73] MR. PETTINATO: [157] MR. SVERDLOV: [39] 51/20 51/24 52/10 53/12 54/3 54/7 54/25 55/19 55/22 56/13 56/15 57/25 59/3 59/7 59/18 59/25 60/10 60/25 61/10 61/18 62/8 62/11 62/21 62/24 63/3 63/10 63/13 63/19 63/22 64/4 64/11 64/18 65/3 65/7 65/12 66/20 67/16 67/19 68/2 THE COURT: [8] 4/25 10/20 18/21 19/23 20/17 47/21 48/13 65/1</p>	<p>' 'cause [1] 65/16 / /s [1] 71/9 1 10 [2] 40/3 68/9 100,000 [1] 19/1 10:05 [1] 1/8 11 [1] 51/8 1100 [1] 1/22 11:28 a.m [1] 70/19 13 [1] 50/14 13th [1] 1/16 14 [3] 29/16 36/7 36/19 14-17 [1] 4/6 14/2 [7] 29/16 45/1 45/24 46/1 46/7 61/25 65/14 141 [1] 50/14 14th [3] 18/20 22/23 43/3 150 [1] 14/12 17 [2] 4/6 4/14 18 [10] 4/14 24/13 37/3 37/18 37/21 37/25 38/12 38/14 38/19 38/21 1866 [1] 11/15 19 [1] 1/7 1967 [1] 26/20 1971 [1] 30/7 1989 [1] 32/24 1:21-3045 [1] 1/5 2 2.5 [1] 24/20 2.7 [1] 24/18 20 [6] 19/6 19/6 19/7 19/16 20/11 20/20 200,000 [1] 24/20 20001 [1] 2/3 20005 [1] 1/23 20010 [1] 1/16 20044 [1] 1/19 2010 [7] 4/13 4/14 6/10 7/5 7/10 7/11 7/19 202-305-9803 [1] 1/23 202-308-8550 [1] 1/20 202-354-3196 [1] 2/4 2020 [6] 4/5 4/8 7/10 7/17 8/21 12/4 2022 [2] 1/7 71/9</p>	<p>209 [30] 34/1 35/20 35/23 36/2 40/21 40/22 41/17 42/1 42/3 42/5 43/2 43/14 44/8 44/11 47/19 47/22 48/20 49/17 50/12 50/13 50/15 63/20 65/16 65/21 66/2 66/6 66/13 68/18 69/5 69/6 25 [1] 65/11 26 [1] 4/13 27 [1] 4/13 3 300,000 [8] 23/8 23/21 23/25 24/14 24/17 25/1 53/21 53/22 3045 [1] 1/5 31 [1] 71/9 3196 [1] 2/4 3247 [1] 1/17 333 [1] 2/2 3416 [1] 1/16 386 [1] 1/19 4 4-A [5] 37/7 37/20 38/9 38/14 39/3 40 [5] 19/3 19/4 19/4 19/7 19/7 406-314-3247 [1] 1/17 40th [2] 15/20 15/21 48 [1] 37/8 5 50 [12] 6/16 28/10 30/1 30/25 57/14 57/15 58/25 59/5 59/14 59/15 59/24 60/19 50-state [2] 14/22 46/16 56 [2] 51/7 51/11 6 60,000 [1] 19/2 6720 [1] 2/3 7 704 [1] 34/22 8 8/4 [1] 35/13 8550 [1] 1/20 8ths [1] 57/22</p>	<p>9 9803 [1] 1/23 A a.m [2] 1/8 70/19 abide [1] 45/6 able [4] 22/11 22/19 22/20 60/14 about [44] 3/21 3/25 4/16 9/21 10/5 10/7 12/8 12/9 12/12 12/22 13/7 15/4 16/6 18/24 20/17 25/7 31/5 34/8 35/5 35/17 35/21 35/21 36/17 37/21 38/9 38/10 38/12 42/4 42/9 43/23 49/9 50/10 50/14 50/17 53/18 58/11 58/17 61/6 68/4 68/20 68/21 69/1 69/2 69/21 above [1] 71/5 above-entitled [1] 71/5 abridged [3] 17/10 22/4 26/8 abridgment [30] 13/23 14/1 14/5 14/7 14/18 14/21 15/4 15/7 15/16 15/25 16/8 16/19 16/20 17/3 17/8 17/17 18/16 19/19 20/4 21/25 22/2 22/8 24/5 25/18 30/24 52/17 53/1 54/18 56/1 56/19 abridgments [2] 13/19 13/21 absolute [2] 8/24 8/24 absolutely [2] 34/1 55/22 according [2] 13/24 14/2 account [1] 56/10 accounted [5] 30/6 44/16 59/11 62/1 62/5 accounting [4] 42/4 42/12 60/11 64/8 acknowledge [1] 27/10 acknowledged [1] 15/5 across [3] 28/10 60/11 66/23 act [10] 31/13 31/13 32/14 32/16 32/17</p>
--	--	---	--

<p>A</p> <p>act... [5] 44/18 45/12 63/25 64/6 64/8</p> <p>action [46] 1/4 7/25 10/11 10/24 11/6 11/17 12/17 31/12 32/11 32/12 32/18 34/12 34/20 34/22 34/23 35/15 40/16 41/25 42/2 44/9 45/20 45/22 46/13 47/16 47/18 47/20 60/9 61/24 62/3 62/6 62/12 62/16 63/4 63/7 63/11 63/14 63/17 64/25 65/2 65/6 65/19 65/22 66/13 68/19 69/17 69/18</p> <p>actions [5] 34/3 36/1 36/1 62/17 69/10</p> <p>activities [2] 39/13 40/5</p> <p>actual [10] 8/6 8/6 33/3 34/25 41/14 41/18 42/6 58/7 68/16 68/20</p> <p>actually [8] 5/11 32/13 33/10 36/14 52/14 57/2 58/6 69/21</p> <p>actually-enumerated [1] 36/14</p> <p>Adams [3] 26/20 29/1 29/7</p> <p>added [1] 37/17</p> <p>address [4] 31/3 31/4 46/18 66/1</p> <p>addressed [3] 29/12 67/11 70/2</p> <p>addressing [1] 46/21</p> <p>Adelman [1] 23/24</p> <p>Adelman's [1] 24/25</p> <p>adequate [4] 7/20 11/23 53/19 54/2</p> <p>adequately [3] 53/10 54/1 54/23</p> <p>admitted [1] 54/9</p> <p>adopt [1] 17/25</p> <p>adopted [2] 30/12 62/22</p> <p>adult [1] 29/19</p> <p>aesthetic [2] 8/10 8/14</p> <p>aesthetics [1] 33/21</p> <p>affect [4] 14/9 54/19 54/22 57/10</p> <p>affected [6] 7/10 25/9 25/20 59/1 59/6 59/8</p> <p>after [5] 3/8 3/14 36/6</p>	<p>43/22 58/5</p> <p>afterwards [1] 30/6</p> <p>again [5] 11/4 21/24 43/9 55/7 68/18</p> <p>against [1] 61/1</p> <p>age [11] 15/3 17/5 17/9 17/20 18/10 18/14 19/1 37/25 38/12 54/20 56/2</p> <p>agencies [2] 45/12 69/11</p> <p>agency [9] 9/3 32/12 34/3 34/22 35/15 36/1 40/16 65/22 69/10</p> <p>aggrieved [7] 42/23 47/25 48/21 49/2 49/13 66/12 68/23</p> <p>agree [5] 10/2 33/6 52/24 54/15 66/25</p> <p>agreed [1] 35/14</p> <p>agrees [1] 54/2</p> <p>Ah [1] 9/8</p> <p>ahead [4] 4/25 8/4 36/5 36/5</p> <p>aided [1] 2/8</p> <p>air [2] 8/16 33/22</p> <p>AL [1] 1/8</p> <p>Alexander [2] 1/18 51/21</p> <p>all [59] 4/21 6/16 7/3 8/25 10/6 14/6 14/9 14/17 15/13 15/15 16/16 16/18 16/22 16/25 17/3 17/3 25/20 25/22 26/7 27/4 27/8 27/16 27/18 28/24 30/1 30/25 32/1 32/2 33/6 33/8 34/24 35/23 36/24 36/25 37/3 40/19 41/5 42/5 43/17 43/25 44/20 45/5 45/5 45/11 45/13 50/17 52/8 54/17 55/10 56/25 57/19 57/23 58/25 59/5 59/14 59/15 59/16 59/23 69/18</p> <p>allegation [2] 60/22 61/1</p> <p>allegations [1] 54/4</p> <p>allege [10] 5/21 8/15 8/21 9/6 27/22 29/23 50/12 54/24 59/12 64/7</p> <p>alleged [8] 6/20 33/10 35/22 53/10 54/1 54/11 55/9 55/12</p> <p>allegedly [1] 3/23</p>	<p>alleges [2] 30/23 54/10</p> <p>alleging [6] 11/23 27/3 30/17 52/25 56/22 66/22</p> <p>allow [1] 7/19</p> <p>allows [4] 40/23 51/11 51/11 68/9</p> <p>alluded [1] 67/11</p> <p>alone [2] 19/21 38/5</p> <p>along [1] 52/13</p> <p>already [2] 23/25 25/1</p> <p>already-registered [2] 23/25 25/1</p> <p>also [18] 3/22 4/24 5/1 9/1 21/11 24/4 26/4 36/1 41/24 43/3 43/15 45/9 52/20 54/12 60/11 61/22 65/16 66/24</p> <p>alternative [2] 68/8 68/12</p> <p>am [9] 13/7 15/8 16/9 16/24 20/11 23/11 39/19 65/7 65/13</p> <p>amend [1] 50/19</p> <p>Amended [2] 37/13 37/14</p> <p>amendment [26] 4/20 16/18 18/20 20/5 22/23 29/16 32/2 32/3 36/10 37/2 41/13 43/4 44/21 45/9 45/10 62/13 62/15 62/25 62/25 63/2 63/6 63/8 63/15 64/1 64/24 68/21</p> <p>Amendment's [1] 13/12</p> <p>Americans [2] 32/1 32/2</p> <p>analysis [28] 6/3 6/22 8/11 11/13 14/25 16/6 16/19 16/20 17/19 17/19 18/7 18/9 20/21 20/22 24/9 24/11 25/1 25/5 25/7 26/2 27/8 31/23 40/14 40/15 41/21 46/16 54/21 60/21</p> <p>analyze [3] 8/12 8/15 17/4</p> <p>analyzing [1] 42/17</p> <p>announced [1] 40/10</p> <p>another [2] 51/15 57/12</p> <p>answer [8] 15/14 32/7</p>	<p>32/8 48/1 60/10 64/23 65/8 65/9</p> <p>answering [1] 18/12</p> <p>answers [1] 62/8</p> <p>any [19] 6/3 6/18 14/4 15/8 15/18 16/9 16/22 16/24 20/24 25/23 28/21 37/15 40/23 43/1 48/20 62/5 66/10 66/16 68/22</p> <p>anybody [1] 25/4</p> <p>anyone [2] 7/9 20/15</p> <p>anything [8] 3/11 4/10 10/8 13/15 16/22 41/15 51/1 66/18</p> <p>APA [32] 31/8 31/9 31/12 32/9 32/10 32/15 34/1 34/2 34/2 34/6 34/9 34/19 34/21 35/8 35/9 35/13 35/25 40/14 40/15 40/15 40/19 43/14 44/10 47/15 47/18 50/11 62/12 63/18 63/19 65/19 69/17 69/24</p> <p>apart [1] 28/20</p> <p>APPEARANCES [1] 1/14</p> <p>applicability [1] 50/1</p> <p>applicable [1] 65/14</p> <p>application [1] 64/2</p> <p>applied [2] 26/9 28/10</p> <p>applies [4] 32/14 32/15 34/2 35/25</p> <p>apply [6] 6/2 17/5 27/7 30/1 31/9 69/25</p> <p>applying [1] 4/1</p> <p>apportioned [1] 29/25</p> <p>apportionment [25] 12/4 12/6 19/3 19/22 25/8 25/16 25/21 26/10 26/22 26/23 27/12 28/14 28/16 28/23 29/9 29/15 31/1 31/12 41/1 54/22 58/5 58/13 58/15 61/6 64/21</p> <p>appreciate [2] 4/15 4/23</p> <p>approach [2] 64/12 68/15</p> <p>appropriate [3] 21/4 61/11 67/23</p> <p>appropriately [1] 32/10</p>
--	---	---	--

<p>A</p> <p>approximately [1] 29/15</p> <p>are [120]</p> <p>aren't [6] 18/14 19/5 38/6 49/11 49/16 56/11</p> <p>argue [1] 10/4</p> <p>arguing [1] 68/8</p> <p>argument [5] 1/11 43/19 54/17 65/21 66/4</p> <p>arising [1] 50/22</p> <p>Article [5] 48/11 48/17 49/7 49/23 49/24</p> <p>as [51] 5/16 7/13 7/14 11/20 11/22 12/16 16/13 16/23 18/6 18/9 21/2 21/13 22/7 23/14 24/5 26/5 26/5 26/21 26/21 29/17 31/16 34/9 39/12 41/13 41/13 41/15 41/15 42/21 45/15 47/25 49/5 49/6 53/11 53/14 53/24 54/9 54/13 54/16 54/22 56/25 58/23 59/12 62/16 66/10 66/25 67/10 69/13 69/14 69/14 70/3 70/18</p> <p>aside [4] 10/18 10/23 55/7 55/10</p> <p>ask [6] 11/9 18/21 19/12 52/1 53/18 70/14</p> <p>asked [3] 3/8 9/21 15/13</p> <p>asking [5] 11/21 16/6 21/21 50/10 51/9</p> <p>asks [1] 47/10</p> <p>aspect [1] 66/1</p> <p>asserting [2] 39/9 53/2</p> <p>assigned [1] 45/6</p> <p>association [2] 39/11 60/18</p> <p>associational [3] 39/10 39/17 59/4</p> <p>assume [8] 9/20 10/5 17/2 17/8 26/6 61/12 63/4 63/6</p> <p>assumes [1] 17/20</p> <p>assuming [1] 20/11</p> <p>attached [3] 37/14 39/2 39/3</p> <p>attention [1] 29/10</p> <p>attorney [1] 52/5</p> <p>Avenue [1] 2/2</p>	<p>average [1] 4/17</p> <p>aware [6] 15/8 15/18 16/9 16/24 20/24 23/20</p> <p>away [1] 28/6</p> <p>B</p> <p>back [15] 7/4 7/19 12/14 32/20 33/5 34/1 34/15 35/19 37/6 40/7 40/21 43/15 47/19 61/5 69/1</p> <p>background [2] 64/20 65/17</p> <p>Baker [1] 70/11</p> <p>ballpark [2] 29/1 29/4</p> <p>Bankruptcy [1] 2/2</p> <p>bar [4] 28/22 29/8 52/4 66/2</p> <p>bars [1] 43/18</p> <p>base [1] 43/21</p> <p>based [12] 4/5 6/2 12/24 30/20 33/11 38/5 38/14 43/19 53/10 58/7 59/5 69/25</p> <p>basic [1] 30/18</p> <p>basically [5] 15/1 28/8 47/8 48/6 69/23</p> <p>basis [6] 6/1 33/24 36/9 36/22 37/6 40/22</p> <p>be [82]</p> <p>because [63] 4/4 6/1 6/15 7/2 7/9 7/18 8/9 9/5 9/10 14/9 15/5 17/10 17/14 17/16 18/2 18/7 18/23 19/4 20/6 20/8 20/9 20/12 20/13 22/22 23/5 23/20 25/2 25/17 26/17 29/25 30/12 31/16 32/10 33/9 34/19 36/13 38/6 40/16 40/22 41/20 43/3 44/6 45/9 45/19 45/21 46/14 46/16 47/12 48/23 50/10 54/6 54/7 55/1 55/16 56/8 57/15 59/10 59/17 64/15 67/21 69/11 69/16 69/20</p> <p>been [8] 23/16 32/18 33/8 33/16 35/21 51/8 51/8 57/5</p> <p>before [7] 1/12 16/13 32/10 40/20 43/12 46/20 67/24</p> <p>behalf [1] 51/24</p>	<p>being [5] 28/3 31/19 55/9 62/1 62/5</p> <p>believe [12] 8/17 34/13 34/15 35/17 37/5 37/19 39/3 50/3 51/14 51/15 54/1 67/13</p> <p>benefit [1] 61/14</p> <p>best [2] 3/5 52/7</p> <p>better [6] 5/17 10/1 48/1 61/25 67/11 67/11</p> <p>between [10] 8/1 8/6 12/5 15/2 17/4 17/20 49/19 56/2 56/9 60/1</p> <p>beyond [5] 3/24 16/17 16/22 16/23 54/10</p> <p>big [1] 57/10</p> <p>bit [2] 12/15 54/16</p> <p>both [4] 30/11 41/12 48/17 51/23</p> <p>Box [1] 1/19</p> <p>branches [4] 45/6 47/2 47/5 67/12</p> <p>brief [1] 50/1</p> <p>briefing [1] 31/16</p> <p>briefly [2] 31/20 51/5</p> <p>briefs [2] 3/7 10/7</p> <p>bring [14] 29/10 34/22 39/4 43/1 44/9 45/20 46/1 67/8 68/18 69/8 69/18 70/2 70/3 70/5</p> <p>bringing [2] 49/18 70/1</p> <p>brings [1] 47/19</p> <p>brining [1] 35/8</p> <p>broad [1] 35/20</p> <p>broadly [2] 69/7 69/20</p> <p>brought [8] 13/8 13/9 13/10 48/20 54/12 58/4 62/6 67/20</p> <p>Brown [2] 29/11 66/21</p> <p>built [1] 28/3</p> <p>burden [2] 67/14 67/25</p> <p>BUREAU [17] 1/8 4/7 4/20 11/13 13/17 13/18 14/9 24/8 31/23 37/19 38/13 40/23 43/1 43/19 50/18 50/21 69/3</p> <p>Bureau's [5] 12/3 14/11 39/4 51/6 62/17</p> <p>C</p> <p>calculate [4] 6/16 13/19 13/20 36/9</p> <p>calculated [3] 12/23</p>	<p>13/1 55/13</p> <p>calculates [2] 36/22 60/3</p> <p>calculating [2] 21/7 56/4</p> <p>calculation [3] 15/1 15/4 22/17</p> <p>calculations [4] 13/10 52/14 52/18 56/25</p> <p>Califano [3] 43/16 44/3 69/14</p> <p>called [1] 42/8</p> <p>calling [1] 47/2</p> <p>came [1] 30/6</p> <p>can [36] 3/25 3/25 4/4 12/19 12/20 17/13 19/19 20/15 23/1 23/3 25/14 29/10 32/7 32/20 36/11 36/12 39/1 39/21 40/7 42/20 43/13 43/21 44/9 47/12 48/7 48/20 50/3 52/7 52/7 56/3 61/7 63/21 67/22 68/9 68/11 69/8</p> <p>can't [10] 7/11 7/20 9/8 10/22 16/3 28/17 32/15 32/15 53/8 60/16</p> <p>cane [1] 8/23</p> <p>cannot [1] 36/12</p> <p>canvas [1] 52/22</p> <p>canvassing [1] 66/23</p> <p>capable [1] 25/3</p> <p>CARL [1] 1/12</p> <p>Carolina [2] 58/10 65/25</p> <p>Carr [1] 70/11</p> <p>case [54] 5/5 7/7 7/15 8/9 8/18 8/23 9/2 10/4 10/6 11/22 11/22 21/11 25/4 26/20 26/20 29/7 29/11 29/13 32/20 32/24 32/24 33/14 34/18 39/7 39/8 39/20 42/22 43/13 44/2 44/2 44/20 44/25 45/11 45/23 46/2 46/3 48/10 48/11 48/13 52/2 54/5 54/7 56/6 57/2 60/6 60/14 62/14 65/14 65/25 67/13 67/22 69/13 69/15 69/16</p> <p>cases [19] 28/2 28/14 28/14 30/6 30/10 30/16 30/22 31/3 45/11 45/24</p>
---	--	--	--

<p>C</p> <p>cases... [9] 46/5 58/1 58/3 58/4 58/17 58/18 61/6 67/3 67/3</p> <p>category [6] 19/24 21/10 21/17 21/18 22/15 23/1</p> <p>causal [1] 11/23</p> <p>causation [8] 10/15 10/18 10/23 11/8 11/20 11/21 11/22 28/1</p> <p>cause [32] 6/21 32/18 33/18 34/11 34/23 41/25 42/2 44/9 45/20 45/22 46/13 47/15 47/18 47/20 60/9 61/24 62/3 62/6 62/12 62/16 63/4 63/6 63/11 63/14 63/17 64/24 65/2 65/5 65/19 66/13 68/19 69/17</p> <p>caused [6] 8/18 8/21 10/12 11/18 12/17 33/20</p> <p>causes [2] 8/20 69/18</p> <p>caution [1] 52/19</p> <p>caveat [1] 54/25</p> <p>caveats [1] 57/1</p> <p>ceiling [1] 18/18</p> <p>census [52] 1/8 4/5 4/7 4/8 4/20 7/5 7/17 8/21 11/13 12/3 12/6 13/17 13/18 14/9 14/11 18/7 19/13 24/8 27/3 28/10 31/23 32/13 32/16 37/19 38/13 39/4 40/23 40/25 42/25 43/1 43/18 43/19 43/22 44/17 46/6 46/20 50/18 50/21 51/5 58/1 58/8 62/16 63/25 64/6 64/8 64/15 65/23 65/23 66/3 66/8 69/3 70/10</p> <p>Census' [1] 12/24</p> <p>Census's [1] 36/14</p> <p>certain [3] 27/14 46/6 67/10</p> <p>certainly [3] 59/9 59/11 67/13</p> <p>certify [1] 71/4</p> <p>cetera [1] 39/13</p> <p>chain [1] 11/23</p> <p>challenge [8] 45/21 61/24 62/3 62/6 63/21</p>	<p>63/25 66/8 67/9</p> <p>challenged [1] 7/25</p> <p>challenges [2] 63/23 67/7</p> <p>challenging [8] 41/10 41/11 41/12 41/20 43/10 64/5 64/20 66/13</p> <p>chance [10] 3/11 5/10 5/16 51/16 57/14 57/15 57/17 57/18 57/22 57/24</p> <p>chances [1] 57/18</p> <p>change [3] 7/10 33/22 59/10</p> <p>changes [2] 12/4 61/7</p> <p>characterization [1] 56/20</p> <p>characterized [1] 42/21</p> <p>choice [1] 20/9</p> <p>choices [2] 20/4 55/17</p> <p>choose [7] 21/14 21/16 22/6 22/12 22/13 22/21 45/14</p> <p>choosing [1] 55/17</p> <p>chose [4] 18/15 19/8 20/1 20/11</p> <p>chosen [2] 19/17 44/24</p> <p>CIRCUIT [7] 1/12 29/11 29/13 30/5 39/8 47/16 66/21</p> <p>citizen [1] 38/10</p> <p>citizens [23] 1/4 3/15 3/18 24/13 36/11 36/12 36/12 36/14 36/17 36/23 36/24 36/24 37/1 37/3 37/25 37/25 38/14 38/15 39/16 47/21 48/2 48/25 49/2</p> <p>citizenship [1] 12/25</p> <p>Civil [2] 1/4 1/22</p> <p>claim [48] 8/7 8/7 16/12 16/14 16/16 17/2 25/10 25/15 29/12 30/20 30/22 30/23 30/24 31/15 32/9 34/12 34/19 34/22 35/8 35/8 35/9 35/13 40/15 40/19 40/20 40/22 41/20 44/5 44/10 45/20 46/12 48/20 50/12 53/2 53/6 53/8 53/9 53/9 53/13 53/16 69/16 69/19</p>	<p>69/22 69/23 69/23 69/24 69/25 70/3</p> <p>claimed [1] 8/10</p> <p>claiming [3] 16/13 33/12 33/22</p> <p>claims [7] 8/2 8/11 8/14 13/9 44/1 50/22 69/8</p> <p>clause [10] 13/12 26/9 44/19 54/19 56/20 59/12 63/11 63/18 66/23 67/4</p> <p>clear [13] 23/9 27/2 28/1 30/15 34/3 38/11 40/23 45/22 59/11 62/3 66/22 68/13 69/3</p> <p>clearly [3] 7/8 59/17 68/25</p> <p>client [5] 4/12 29/23 30/2 31/1 31/7</p> <p>clients [6] 4/11 4/11 6/21 14/13 31/25 46/14</p> <p>climate [1] 33/22</p> <p>close [3] 28/9 67/16 67/18</p> <p>Club [2] 48/5 49/5</p> <p>coastlines [1] 5/11</p> <p>colleague [1] 61/23</p> <p>collect [1] 52/8</p> <p>collected [1] 52/9</p> <p>colloquy [1] 54/13</p> <p>color [1] 4/9</p> <p>colors [2] 4/7 4/8</p> <p>COLUMBIA [1] 1/1</p> <p>combining [1] 60/4</p> <p>come [14] 4/12 26/22 28/23 28/25 35/3 35/4 40/7 40/21 43/15 48/7 63/25 66/12 68/16 69/5</p> <p>comes [8] 9/17 9/23 10/10 44/1 44/2 44/2 52/6 57/21</p> <p>Commerce [3] 7/15 30/8 70/10</p> <p>Commerce's [1] 62/17</p> <p>Commission [1] 45/8</p> <p>Communications [1] 45/7</p> <p>communities [1] 28/18</p> <p>compactness [1] 28/18</p> <p>comparison [1] 58/8</p> <p>complaint [12] 3/21 8/2 25/10 37/13 37/15</p>	<p>37/15 50/12 50/19 53/8 53/25 54/4 54/10</p> <p>completed [1] 64/21</p> <p>completely [1] 26/24</p> <p>complies [1] 4/20</p> <p>comply [3] 45/12 45/24 68/22</p> <p>computation [1] 58/12</p> <p>computer [1] 2/8</p> <p>computer-aided [1] 2/8</p> <p>Conceivably [1] 4/19</p> <p>concluded [2] 63/13 70/19</p> <p>concrete [15] 4/4 5/21 5/23 6/1 6/4 6/9 6/21 7/21 9/25 10/20 10/21 30/17 32/5 58/8 68/17</p> <p>conduct [2] 9/24 66/23</p> <p>conducted [1] 52/22</p> <p>conducting [1] 67/25</p> <p>Congress [11] 15/20 15/21 18/18 32/25 36/2 44/17 44/24 45/6 45/14 48/19 68/22</p> <p>connect [1] 9/14</p> <p>connected [3] 8/16 55/3 55/4</p> <p>connecting [2] 11/24 11/25</p> <p>connection [5] 8/6 8/24 12/5 40/25 42/25</p> <p>connects [2] 8/7 8/8</p> <p>consider [2] 63/10 64/25</p> <p>considerations [1] 39/12</p> <p>considered [4] 20/4 44/18 44/21 44/21</p> <p>consistent [3] 42/19 61/11 69/8</p> <p>constitute [2] 56/17 56/18</p> <p>constituted [1] 53/1</p> <p>constitution [13] 2/2 31/23 40/24 45/5 45/13 46/8 47/13 62/5 63/2 64/9 68/22 68/24 70/1</p> <p>constitutional [20] 1/4 3/16 3/19 44/1 44/6 44/7 44/10 44/15 55/3 63/21 63/23 64/8 64/13 65/2 65/5 67/9 67/10 69/16 69/22 69/23</p>
---	--	--	---

<p>C</p> <p>constitutionality [1] 64/6</p> <p>contact [1] 58/12</p> <p>contain [1] 11/24</p> <p>contemplates [1] 66/7</p> <p>context [1] 30/20</p> <p>contrary [1] 58/19</p> <p>conventional [2] 64/1 64/12</p> <p>convicted [2] 36/24 36/25</p> <p>convictions [1] 36/13</p> <p>corporation [3] 48/2 48/3 48/4</p> <p>corporations [1] 47/25</p> <p>correct [21] 6/14 6/15 6/22 13/25 18/13 25/12 26/13 26/14 27/5 27/6 27/8 27/9 27/13 38/20 38/22 38/24 41/23 54/2 56/13 62/24 71/4</p> <p>correctly [1] 24/9</p> <p>correspond [1] 52/17</p> <p>corresponds [1] 52/16</p> <p>could [30] 4/22 5/2 15/17 17/25 18/22 29/5 29/9 31/20 32/6 33/6 33/16 49/25 50/19 51/3 51/5 51/19 52/2 52/12 53/5 57/1 58/6 58/25 59/15 59/24 62/6 62/9 63/14 63/25 67/16 70/5</p> <p>couldn't [2] 19/12 23/22</p> <p>Counsel [1] 14/14</p> <p>count [7] 14/10 21/13 22/7 22/14 22/18 24/5 25/4</p> <p>counted [5] 18/8 25/1 40/2 41/14 43/5</p> <p>counterfactual [1] 9/3</p> <p>counting [1] 9/11</p> <p>country [2] 60/12 66/24</p> <p>couple [2] 3/13 50/25</p> <p>course [4] 29/6 45/9 48/6 50/18</p> <p>court [53] 1/1 2/1 3/18 5/2 7/1 7/14 12/16 26/21 28/22 30/6 30/21 32/10 40/10 40/11 42/3 43/13 43/17 43/20 43/21 43/24 44/4 46/8</p>	<p>46/24 47/12 47/16 47/17 48/6 48/15 53/15 58/1 58/11 58/20 60/1 62/15 63/3 63/10 64/25 65/12 65/24 66/1 66/3 66/10 66/25 66/25 67/11 67/23 69/6 70/2 70/3 70/9 70/13 70/14 71/3</p> <p>court's [6] 46/23 54/13 58/1 61/11 65/20 69/9</p> <p>craft [1] 15/17</p> <p>CRC [1] 2/1</p> <p>create [2] 7/11 63/14</p> <p>created [1] 15/9</p> <p>creates [3] 63/11 65/2 65/5</p> <p>crimes [2] 36/24 36/25</p> <p>criminal [1] 36/13</p> <p>Cts [1] 2/2</p> <hr/> <p>D</p> <p>D.C [3] 2/3 39/8 47/16</p> <p>dam [1] 28/3</p> <p>data [5] 12/24 52/8 52/20 53/13 53/18</p> <p>DATE [1] 71/9</p> <p>days [1] 15/21</p> <p>DC [4] 1/9 1/16 1/19 1/23</p> <p>dealing [2] 18/19 58/5</p> <p>debate [1] 5/14</p> <p>December [2] 1/7 71/9</p> <p>decennial [2] 40/25 42/25</p> <p>decide [2] 12/16 12/18</p> <p>decided [2] 21/18 44/21</p> <p>decides [1] 4/21</p> <p>deciding [1] 65/4</p> <p>decision [16] 5/6 5/7 8/8 8/8 8/17 8/18 8/20 11/25 11/25 12/3 12/12 23/2 33/20 38/4 47/6 66/2</p> <p>decision-making [1] 12/12</p> <p>decisions [3] 17/22 56/10 58/1</p> <p>decking [5] 42/10 42/11 42/17 43/9 43/11</p> <p>declaration [7] 36/7 36/21 37/12 37/23 37/23 38/5 38/17</p>	<p>declaratory [2] 64/14 64/17</p> <p>declined [1] 17/15</p> <p>decrease [1] 29/24</p> <p>decreased [1] 25/25</p> <p>defendant [3] 60/14 64/3 64/5</p> <p>Defendants [2] 1/9 1/18</p> <p>deferral [1] 51/11</p> <p>deficiency [4] 11/23 53/13 53/18 54/12</p> <p>define [2] 52/15 52/16</p> <p>defined [1] 65/22</p> <p>definitely [1] 61/15</p> <p>delegated [1] 45/7</p> <p>delegation [1] 47/5</p> <p>delivered [1] 40/10</p> <p>demonstrate [3] 5/3 7/24 67/5</p> <p>denial [17] 13/23 14/2 15/10 16/24 17/8 18/16 19/19 22/1 22/2 22/8 22/23 22/24 30/24 52/17 53/1 56/1 56/19</p> <p>denials [18] 13/19 13/21 14/5 14/7 14/18 14/21 15/4 15/6 15/16 15/25 16/8 16/19 16/20 17/4 17/17 20/4 25/19 54/18</p> <p>denied [4] 17/1 17/10 22/4 26/8</p> <p>deny [2] 70/14 70/15</p> <p>DEPARTMENT [9] 1/18 1/21 7/15 15/10 26/18 30/8 47/23 51/21 70/10</p> <p>derived [1] 58/7</p> <p>describe [1] 62/1</p> <p>describes [1] 37/20</p> <p>determine [3] 19/21 40/25 66/24</p> <p>developed [2] 38/13 38/14</p> <p>did [27] 4/10 6/22 9/10 9/14 11/13 14/25 25/2 25/3 25/22 31/3 31/4 36/2 36/4 36/16 38/8 38/17 38/23 41/7 41/14 42/12 43/1 43/2 43/9 43/17 59/13 69/3 69/4</p> <p>didn't [22] 3/11 8/12 17/11 20/25 23/14 25/4</p>	<p>30/15 34/13 34/15 35/16 37/17 38/19 39/4 41/2 41/4 41/6 43/3 45/17 47/14 62/25 63/4 66/1</p> <p>difference [3] 15/2 17/4 17/20</p> <p>differences [1] 60/1</p> <p>different [20] 12/15 13/8 21/21 22/9 23/10 26/23 29/9 33/18 33/18 33/19 33/23 33/23 45/23 54/5 54/7 57/4 58/13 58/15 68/14 68/15</p> <p>difficult [4] 20/9 20/14 65/10 67/6</p> <p>direct [1] 63/21</p> <p>direction [1] 69/9</p> <p>directly [3] 12/21 44/12 49/18</p> <p>disagree [1] 56/19</p> <p>discovery [7] 51/7 51/7 51/9 51/12 60/23 67/21 67/25</p> <p>discuss [1] 63/5</p> <p>discusses [1] 58/21</p> <p>discussion [1] 69/1</p> <p>disenfranchised [1] 21/13</p> <p>disenfranchisement [4] 6/16 29/19 30/1 33/12</p> <p>dismiss [8] 3/3 53/19 53/25 56/8 60/18 60/21 67/23 70/14</p> <p>distinctions [1] 20/23</p> <p>DISTRICT [4] 1/1 1/1 1/12 2/2</p> <p>divide [2] 28/20 36/25</p> <p>dividing [2] 36/23 37/3</p> <p>Division [1] 1/22</p> <p>do [62] 3/12 4/3 6/17 6/18 6/23 6/24 7/2 8/5 9/2 10/8 10/14 11/10 13/12 13/13 13/15 13/17 14/6 14/10 14/12 18/16 19/9 19/18 26/16 27/16 28/13 29/24 30/19 30/25 31/23 39/22 39/24 41/4 41/6 41/12 41/21 41/22 43/15 44/22 44/24 45/20 46/9 46/10 46/12</p>
--	--	---	---

<p>D</p> <p>do... [19] 47/8 47/14 47/14 47/24 52/1 52/12 52/24 53/3 54/15 55/8 55/22 56/12 57/8 58/9 58/9 59/16 59/18 59/24 68/9</p> <p>doctrine [7] 45/15 47/3 47/4 47/10 70/6 70/10 70/12</p> <p>documents [1] 37/20</p> <p>Doe [3] 43/15 69/15 69/21</p> <p>does [28] 3/21 4/9 5/25 6/4 6/18 9/16 9/16 13/16 20/21 20/22 24/4 24/23 25/2 34/2 37/18 37/19 37/21 39/16 39/16 39/21 44/13 44/15 47/4 50/13 63/13 65/1 68/16 70/12</p> <p>doesn't [16] 13/14 17/8 22/23 26/23 28/24 31/9 45/8 45/14 45/15 46/4 46/8 50/12 56/10 66/2 66/11 69/24</p> <p>doing [5] 24/9 25/5 38/6 69/12 69/12</p> <p>don't [49] 6/2 6/13 6/21 8/23 9/24 10/3 10/8 10/12 11/7 17/23 20/12 20/15 22/18 23/1 23/8 24/14 24/15 25/17 26/6 26/10 27/14 28/6 28/8 28/9 28/15 28/21 30/11 30/16 30/16 30/22 33/15 37/5 37/17 41/19 44/4 45/13 47/7 47/17 50/19 55/1 57/11 57/16 57/16 59/22 60/6 61/10 63/22 65/7 66/16</p> <p>done [18] 7/3 9/3 13/9 14/22 15/19 18/7 23/10 25/7 26/1 30/3 30/21 33/10 41/14 43/6 52/2 52/9 60/21 68/14</p> <p>door [1] 42/19</p> <p>double [1] 25/4</p> <p>doubt [1] 5/12</p> <p>down [3] 24/18 24/20 68/16</p> <p>draw [2] 28/12 28/15</p> <p>due [2] 10/23 11/5</p> <p>Duke [2] 26/17 26/17</p>	<p>during [3] 3/12 54/17 67/21</p> <p>E</p> <p>each [4] 4/13 36/10 54/18 57/14</p> <p>ECF [2] 4/6 37/8</p> <p>ECF-48 [1] 37/8</p> <p>effect [3] 25/8 25/15 27/12</p> <p>effectively [1] 47/2</p> <p>effort [1] 51/9</p> <p>Ehrlich [1] 1/21</p> <p>either [2] 15/11 66/12</p> <p>election [1] 14/4</p> <p>eliminate [3] 43/13 69/17 69/18</p> <p>else [1] 41/16</p> <p>emissions [1] 8/16</p> <p>employ [1] 6/14</p> <p>end [3] 5/20 27/19 46/18</p> <p>endeavor [1] 21/11</p> <p>enough [15] 7/5 7/11 7/13 27/24 29/2 29/5 38/5 39/14 43/1 43/3 54/23 56/6 56/7 60/17 60/21</p> <p>ensure [1] 20/1</p> <p>enterprise [1] 9/2</p> <p>entire [4] 21/4 35/22 62/1 66/23</p> <p>entirely [3] 17/21 20/1 43/13</p> <p>entitled [1] 71/5</p> <p>entry [1] 57/3</p> <p>enumerated [1] 36/14</p> <p>enumeration [1] 41/15</p> <p>environmental [1] 8/11</p> <p>EPA [6] 5/3 5/9 9/17 27/23 27/25 31/8</p> <p>error [2] 53/14 55/7</p> <p>especially [2] 43/25 57/8</p> <p>essentially [3] 18/8 51/13 58/11</p> <p>establish [9] 5/25 6/4 7/6 8/5 30/17 31/2 33/6 67/2 67/6</p> <p>established [9] 6/20 30/4 33/9 34/14 55/5 57/3 58/8 58/22 65/22</p> <p>et [2] 1/8 39/13</p>	<p>et cetera [1] 39/13</p> <p>evaluate [1] 62/16</p> <p>even [10] 4/16 19/16 21/14 25/11 26/23 28/9 48/25 55/25 56/8 58/18</p> <p>event [2] 37/15 66/10</p> <p>every [10] 11/13 11/13 11/14 11/14 12/23 15/15 26/24 29/17 56/2 57/10</p> <p>everyone [2] 7/9 17/9</p> <p>evidence [1] 58/21</p> <p>exactly [1] 36/2</p> <p>example [3] 8/10 45/24 58/10</p> <p>exceed [1] 55/4</p> <p>exceedingly [1] 67/1</p> <p>except [1] 6/19</p> <p>excluding [1] 60/3</p> <p>excuse [2] 14/15 21/23</p> <p>exercise [1] 46/25</p> <p>exhibit [1] 39/3</p> <p>expected [1] 32/24</p> <p>experience [1] 29/23</p> <p>expert [7] 14/25 16/19 20/22 52/23 53/10 58/21 60/2</p> <p>experts [2] 25/3 25/7</p> <p>explanation [1] 39/4</p> <p>explored [2] 54/14 66/10</p> <p>exploring [1] 57/5</p> <p>expressly [4] 58/21 63/4 65/24 66/4</p> <p>extends [1] 54/9</p> <p>extent [2] 10/2 10/3</p> <p>F</p> <p>fact [9] 20/18 27/3 33/1 58/23 59/21 60/23 61/25 67/5 67/7</p> <p>failed [5] 11/11 11/12 11/19 14/12 41/21</p> <p>failure [5] 8/15 14/12 41/12 56/17 56/23</p> <p>fair [1] 10/15</p> <p>fall [1] 70/12</p> <p>falls [2] 45/10 45/11</p> <p>familiar [2] 3/7 39/19</p> <p>far [3] 54/10 57/2 66/25</p> <p>FEC [1] 39/9</p> <p>federal [2] 35/4 45/7</p> <p>feel [1] 51/1</p>	<p>few [7] 3/10 15/21 32/20 42/3 51/17 66/16 68/6</p> <p>fewer [1] 26/12</p> <p>Fifty [2] 57/17 57/18</p> <p>fighting [1] 20/10</p> <p>figure [3] 23/12 36/9 60/7</p> <p>figuring [1] 42/18</p> <p>fill [2] 42/15 42/17</p> <p>final [9] 31/12 31/13 32/11 34/2 34/19 34/22 35/15 36/1 65/22</p> <p>financial [1] 40/16</p> <p>find [2] 28/18 50/3</p> <p>finish [2] 4/25 11/10</p> <p>Firm [1] 1/15</p> <p>first [14] 3/6 32/3 42/3 43/17 45/5 45/9 45/10 52/12 60/4 62/14 63/7 66/21 67/12 68/8</p> <p>five [6] 34/10 35/7 35/10 40/12 62/23 65/18</p> <p>flagged [1] 53/14</p> <p>flaw [3] 31/17 33/19 35/23</p> <p>flaws [2] 33/23 35/21</p> <p>floor [1] 55/3</p> <p>FLORENCE [1] 1/12</p> <p>focus [2] 30/11 30/15</p> <p>focused [1] 25/15</p> <p>follow [5] 23/3 27/1 45/9 45/10 63/14</p> <p>following [2] 18/25 22/3</p> <p>follows [1] 44/12</p> <p>foregoing [1] 71/4</p> <p>forget [1] 42/7</p> <p>formula [3] 58/6 58/14 58/15</p> <p>forth [1] 69/2</p> <p>Forty [3] 19/15 19/16 19/20</p> <p>forward [2] 26/22 44/9</p> <p>found [1] 23/24</p> <p>four [2] 46/20 62/19</p> <p>Fourteenth [18] 4/20 13/12 16/18 20/5 36/10 37/2 41/12 62/13 62/15 62/24 62/25 63/1 63/5 63/8 63/15 64/1 64/24 68/21</p> <p>Fourth [1] 32/2</p>
--	---	--	---

F fraction [1] 36/22 frame [1] 19/23 framers [6] 18/1 19/21 19/25 21/9 21/18 22/16 framing [1] 20/19 Franklin [21] 30/7 30/11 30/13 31/9 31/11 32/9 34/3 34/5 35/15 40/7 40/9 44/12 58/2 62/11 62/12 62/20 63/3 63/15 65/18 65/22 69/16 free [1] 9/2 friend [5] 54/8 56/15 66/11 66/18 67/20 front [2] 37/23 46/25 Full [1] 7/19 fun [1] 52/4 fund [2] 39/12 39/22 fundamental [1] 30/17 future [1] 28/17	36/5 36/5 37/6 60/22 67/24 goes [1] 32/11 going [35] 3/20 5/10 5/14 5/15 5/20 8/13 14/16 18/13 24/5 26/18 28/6 28/6 28/7 28/15 28/18 28/19 28/19 28/20 29/23 33/11 47/14 50/3 57/9 57/10 57/11 57/12 57/19 57/23 59/6 59/10 59/17 59/22 59/23 69/7 69/17 gone [1] 69/1 good [9] 3/2 5/16 8/10 10/6 13/22 43/3 51/20 57/24 66/5 got [2] 29/3 57/13 government [12] 3/13 9/10 9/14 9/25 10/11 10/24 11/6 11/18 12/17 51/18 51/25 54/1 government's [2] 53/7 56/7 grant [1] 70/15 granted [1] 31/7 grapple [1] 33/8 great [1] 29/19 greenhouse [3] 8/12 8/13 8/16 greens [1] 4/9 group [1] 22/3 group's [1] 39/15 growers [1] 8/23 Guardians [7] 5/5 7/6 8/9 11/22 33/14 33/17 33/25 guess [10] 10/22 23/7 23/13 44/19 52/12 59/20 59/25 61/5 61/22 64/15 guidance [2] 65/13 65/13 guide [2] 39/13 40/5 guys [2] 45/8 47/13	happen [1] 6/22 happened [1] 27/11 happens [1] 57/23 happy [2] 3/8 3/10 hard [5] 18/3 46/13 46/14 59/21 67/1 harmed [1] 18/7 harms [1] 8/11 has [40] 4/13 4/14 4/16 9/9 9/14 9/18 10/13 14/12 14/13 15/9 15/10 15/19 17/10 18/1 19/3 19/4 19/17 26/10 28/22 30/5 31/1 32/18 43/19 44/11 44/24 46/20 46/25 48/16 52/3 53/22 54/8 55/2 55/5 60/15 64/24 65/12 66/10 67/11 67/14 69/10 hasn't [1] 24/4 have [160] haven't [14] 6/19 6/20 7/3 16/1 30/3 30/4 30/21 33/2 33/9 33/10 33/10 38/6 40/2 51/1 having [7] 19/8 19/18 56/11 57/3 59/16 60/8 68/25 he [7] 25/1 25/2 34/13 34/15 35/17 60/3 66/13 hear [5] 3/5 3/15 37/22 51/1 51/18 heard [1] 51/2 hearing [1] 35/22 held [2] 39/9 66/2 help [3] 10/7 57/11 57/17 helped [1] 57/23 helpful [1] 9/22 helping [1] 18/24 helps [2] 57/15 57/18 her [1] 17/10 here [44] 3/10 4/6 4/7 5/16 7/12 8/1 11/21 12/2 16/12 16/13 17/7 18/5 21/19 25/2 25/5 26/6 26/11 27/11 28/7 28/8 31/9 32/15 35/5 37/18 41/20 42/5 43/23 44/14 47/7 47/12 48/19 48/24 49/20 52/25 53/11 56/7 57/4 60/9 63/23 66/9 68/19 68/25 69/19 70/3	Here's [1] 36/18 HERMAN [3] 2/1 71/3 71/9 highlights [1] 57/1 hire [1] 52/7 his [4] 17/10 29/15 35/12 56/16 history [3] 18/4 18/24 44/20 Hold [1] 18/23 holes [2] 42/15 42/17 Honor [49] 3/17 4/3 5/12 6/5 7/13 8/3 9/1 10/14 11/4 11/21 13/6 16/9 17/18 18/17 19/12 20/6 21/17 23/9 24/6 24/21 25/13 26/1 31/20 32/5 32/21 34/21 36/19 37/5 38/2 39/19 43/12 45/4 48/14 49/25 50/18 51/3 51/15 51/20 51/25 52/11 53/12 57/25 60/25 62/9 63/22 65/8 65/15 66/20 68/2 honors [1] 20/8 hot [6] 42/8 42/9 42/11 42/17 43/9 43/10 house [5] 28/4 32/19 32/23 58/2 58/20 how [20] 3/25 7/2 13/1 14/9 16/14 17/13 19/19 20/15 22/9 24/16 25/14 28/20 36/16 39/1 40/1 41/25 45/20 57/2 58/11 65/1 hurdles [1] 46/17 hurt [3] 57/12 57/17 57/19 hurts [2] 57/15 57/18 hypothetical [6] 18/25 20/10 23/4 23/12 55/20 56/5 hypothetically [1] 17/14 I I'd [5] 12/7 31/5 66/20 67/16 68/6 I'll [3] 3/12 11/10 60/23 I'm [27] 3/8 3/10 3/20 6/11 6/11 6/25 7/17 7/18 10/17 11/3 20/24 21/21 23/20 24/3 24/4 27/1 33/5 35/6 36/21
--	--	---	---

<p>I</p> <p>I'm... [8] 37/3 37/6 37/17 40/8 41/9 65/3 65/9 70/5</p> <p>I've [2] 46/3 65/10</p> <p>ID [31] 3/23 6/2 6/3 6/17 11/13 13/4 14/1 21/14 21/15 22/5 22/5 23/7 23/22 24/3 24/5 24/15 24/23 25/2 25/8 25/15 25/18 26/4 27/4 28/10 29/3 29/4 30/23 53/1 54/9 59/13 68/10</p> <p>idea [1] 28/21</p> <p>identified [4] 15/10 18/6 44/14 55/2</p> <p>identify [3] 61/2 61/16 61/19</p> <p>IDs [2] 23/8 25/12</p> <p>Ill [5] 48/12 48/17 49/7 49/23 49/24</p> <p>illegal [10] 9/10 9/15 9/24 10/11 10/23 11/5 11/17 12/17 13/3 13/4</p> <p>imagine [7] 3/21 7/16 18/25 18/25 24/3 49/10 52/5</p> <p>impact [1] 57/9</p> <p>implement [7] 44/24 45/1 46/1 46/2 46/7 46/15 47/16</p> <p>implementation [1] 44/19</p> <p>implied [1] 67/1</p> <p>impossible [1] 20/7</p> <p>imprecise [1] 38/18</p> <p>improve [1] 5/11</p> <p>include [3] 20/21 43/3 46/6</p> <p>including [3] 6/17 17/23 44/18</p> <p>incorporated [1] 55/20</p> <p>increased [1] 25/24</p> <p>independent [5] 17/16 17/22 20/3 55/17 56/10</p> <p>independently [1] 20/12</p> <p>indicia [1] 39/10</p> <p>individuals [1] 49/11</p> <p>inform [1] 32/7</p> <p>injured [4] 7/18 9/25 14/13 60/15</p> <p>injuries [2] 10/7 33/23</p> <p>injury [56] 4/4 5/7 5/22</p>	<p>5/23 6/1 6/4 6/9 6/21 7/6 7/11 7/18 7/21 7/24 8/1 8/6 8/8 8/19 8/20 8/21 9/5 10/9 10/10 10/20 10/21 12/1 12/2 16/15 18/25 27/25 28/3 28/4 28/6 30/3 30/11 30/14 30/18 31/2 31/4 31/6 31/18 32/5 33/1 33/7 33/20 33/24 34/13 34/14 34/20 52/15 55/9 55/11 55/12 57/24 66/23 66/24 68/17</p> <p>inquiry [2] 10/9 10/10</p> <p>instance [1] 52/19</p> <p>INTEGRITY [3] 1/5 3/16 3/19</p> <p>intended [3] 21/10 21/10 70/2</p> <p>intending [1] 22/16</p> <p>intent [1] 19/20</p> <p>interest [3] 48/18 49/20 50/1</p> <p>interesting [1] 52/3</p> <p>interests [3] 48/7 49/10 49/17</p> <p>interpret [1] 48/22</p> <p>interpretation [1] 29/15</p> <p>interpreting [1] 44/8</p> <p>interrupt [1] 6/12</p> <p>introduce [1] 51/19</p> <p>is [252]</p> <p>isn't [4] 17/14 26/12 26/15 54/23</p> <p>issue [7] 13/12 33/8 44/14 47/24 54/13 62/2 63/2</p> <p>issued [1] 15/21</p> <p>issues [7] 32/14 41/19 45/21 45/22 50/17 53/13 64/19</p> <p>it [193]</p> <p>it's [56] 3/5 10/15 13/3 13/4 21/4 26/18 28/5 30/12 31/13 34/23 34/25 35/18 36/7 37/7 38/11 38/16 39/13 42/2 44/10 44/19 45/22 46/9 46/12 46/12 46/13 46/14 47/15 49/7 49/10 51/8 51/8 52/3 53/21 54/5 55/4 57/9 57/11 57/12 57/19 59/7 59/11</p>	<p>59/23 60/10 61/11 61/12 61/12 61/15 63/18 63/19 64/23 65/10 65/13 65/16 68/20 69/2 69/4</p> <p>its [12] 18/8 39/13 40/5 43/24 49/3 54/19 55/1 64/24 66/6 66/6 66/24 67/14</p> <p>itself [2] 45/5 56/24</p> <p>J</p> <p>Jared [2] 1/15 3/18</p> <p>job [4] 14/12 18/8 25/3 70/13</p> <p>Johnson [1] 44/2</p> <p>joined [2] 40/12 65/19</p> <p>judge [14] 1/12 5/24 16/6 23/4 23/12 23/24 24/25 29/21 36/4 43/20 50/7 61/5 65/24 66/3</p> <p>JUDGES [1] 1/12</p> <p>judgment [3] 3/4 40/10 70/16</p> <p>judicially [1] 47/11</p> <p>jurisdiction [8] 35/1 35/11 35/12 43/14 43/14 43/24 46/23 46/25</p> <p>jurisdictional [1] 35/3</p> <p>just [59] 5/5 5/16 7/11 9/8 9/21 10/5 10/20 13/3 15/5 15/13 15/14 15/20 23/3 23/11 25/15 26/3 27/1 28/8 28/23 29/4 29/8 30/18 32/2 34/7 35/17 38/16 38/25 39/14 40/7 41/4 41/15 42/4 42/24 43/5 45/18 45/22 47/14 49/7 50/9 53/18 54/15 55/24 57/2 57/12 57/15 57/16 59/22 60/3 60/4 60/16 61/12 61/16 62/2 62/9 65/17 67/17 68/6 68/6 68/18</p> <p>JUSTICE [12] 1/18 1/21 15/10 26/18 34/7 35/5 35/11 35/16 40/9 47/23 51/21 65/19</p> <p>JUSTIN [1] 1/12</p> <p>K</p> <p>keep [1] 28/19</p>	<p>kind [12] 24/9 28/25 46/18 55/5 58/17 58/18 62/22 63/21 64/12 64/19 65/16 69/13</p> <p>kinds [2] 52/17 53/15</p> <p>know [47] 4/1 6/13 6/21 6/23 6/24 7/2 10/12 14/6 16/3 20/7 20/11 20/15 20/16 24/12 24/16 25/14 25/17 25/19 25/22 26/6 26/10 27/11 27/14 27/16 27/17 28/3 28/6 28/8 28/9 28/15 33/15 35/4 37/17 39/1 39/14 43/20 50/21 57/11 57/12 57/16 57/16 59/22 60/6 61/6 63/18 65/7 65/9</p> <p>knowing [1] 16/6</p> <p>L</p> <p>laborious [1] 46/15</p> <p>lack [2] 58/22 61/25</p> <p>laid [1] 60/2</p> <p>Lampkin [3] 44/20 45/25 66/25</p> <p>language [5] 38/18 44/18 44/25 66/6 66/12</p> <p>last [5] 36/7 50/10 64/15 70/7 70/8</p> <p>late [1] 43/21</p> <p>lately [1] 40/2</p> <p>law [12] 6/2 10/4 10/6 21/14 22/5 29/4 44/25 45/23 46/3 53/1 67/7 68/10</p> <p>laws [20] 4/16 6/17 10/13 11/14 11/14 11/15 12/21 12/24 13/3 13/17 14/1 14/5 25/18 26/5 27/5 28/10 30/23 52/23 54/18 59/13</p> <p>lawsuits [1] 43/18</p> <p>lay [1] 63/22</p> <p>leap [1] 17/13</p> <p>least [16] 6/24 7/5 11/24 17/14 29/14 37/16 48/19 52/21 53/5 53/11 53/25 57/22 59/1 59/5 60/19 63/24</p> <p>led [3] 33/19 33/23 33/24</p> <p>legal [21] 4/1 5/6 8/6</p>
--	---	--	---

<p>L</p> <p>legal... [18] 8/7 9/7 10/16 11/24 12/3 12/5 13/8 26/24 45/20 52/14 54/3 54/24 55/1 56/24 61/24 62/3 62/6 67/24</p> <p>legislative [1] 44/20</p> <p>let [8] 11/9 11/10 12/7 18/21 18/23 32/8 52/1 53/17</p> <p>let's [12] 8/9 13/11 17/2 24/14 24/15 24/16 24/18 24/19 33/5 34/15 40/21 57/14</p> <p>like [17] 5/16 31/5 32/2 38/16 38/25 41/18 45/24 46/2 46/12 50/19 51/1 57/7 57/10 58/20 66/20 67/16 68/6</p> <p>likely [5] 61/3 61/4 61/12 61/13 66/15</p> <p>Limine [4] 51/6 51/13 67/19 70/15</p> <p>limitations [1] 43/24</p> <p>line [1] 50/10</p> <p>lines [1] 52/13</p> <p>links [1] 11/24</p> <p>list [1] 22/15</p> <p>litigant [2] 9/17 9/18</p> <p>little [2] 12/15 54/16</p> <p>live [5] 7/14 7/16 21/13 22/5 24/16</p> <p>lives [3] 22/10 42/18 42/19</p> <p>logical [1] 46/7</p> <p>long [5] 7/13 21/2 26/21 49/6 69/1</p> <p>look [5] 27/4 37/7 38/2 38/9 38/12</p> <p>looked [3] 16/1 62/11 69/22</p> <p>looking [2] 37/18 54/19</p> <p>loose [2] 58/18 58/19</p> <p>LORRAINE [3] 2/1 71/3 71/9</p> <p>lose [10] 4/10 4/18 4/22 10/12 11/18 12/18 16/5 28/12 33/11 61/4</p> <p>losing [1] 33/7</p> <p>loss [7] 6/10 6/13 7/22 9/15 32/24 33/4 68/16</p> <p>lost [10] 4/8 4/13 9/4 9/9 9/9 10/21 10/23</p>	<p>11/5 33/13 33/15</p> <p>lot [7] 9/5 10/7 28/2 46/17 57/13 64/19 64/19</p> <p>low [1] 29/7</p> <p>lower [1] 28/22</p> <p>M</p> <p>made [5] 36/1 43/19 51/9 63/21 66/22</p> <p>main [1] 68/7</p> <p>majority [2] 30/13 34/6</p> <p>make [18] 15/14 17/13 20/23 20/25 23/9 24/8 27/2 30/22 38/4 44/8 47/6 52/4 55/24 66/20 68/6 68/11 69/9 69/11</p> <p>making [9] 12/12 18/3 29/12 30/21 30/22 30/23 46/11 52/18 66/5</p> <p>malapportionment [2] 28/14 70/11</p> <p>males [1] 29/19</p> <p>manageable [1] 47/11</p> <p>mandamus [3] 40/20 50/11 69/24</p> <p>mandate [1] 46/8</p> <p>mandated [1] 46/1</p> <p>many [3] 24/16 40/1 64/16</p> <p>map [1] 4/6</p> <p>margins [1] 53/14</p> <p>Massachusetts [8] 5/2 5/9 5/11 9/17 27/23 27/25 30/8 31/8</p> <p>matched [1] 52/14</p> <p>math [18] 6/17 6/18 6/18 7/3 26/11 30/2 30/25 33/10 36/3 36/16 38/7 38/8 38/17 57/20 59/14 59/17 59/19 68/16</p> <p>mathematical [2] 30/14 41/18</p> <p>matter [4] 3/7 26/23 56/23 71/5</p> <p>may [7] 3/17 5/19 6/5 50/5 50/7 65/15 67/17</p> <p>maybe [9] 10/22 24/1 39/21 46/18 46/21 50/25 60/1 60/14 61/12</p> <p>me [23] 7/19 7/25 11/9 12/22 14/15 14/24 18/21 18/23 21/23</p>	<p>32/20 37/7 37/9 37/23 38/11 39/5 39/21 44/23 45/22 49/19 52/1 53/17 57/5 63/24</p> <p>mean [7] 7/9 38/25 44/13 45/17 46/19 48/22 56/9</p> <p>meaning [2] 20/5 47/22</p> <p>means [1] 56/20</p> <p>meant [2] 38/21 45/18</p> <p>meet [2] 28/24 28/24</p> <p>member [3] 60/15 60/16 60/23</p> <p>members [22] 4/11 4/12 39/12 39/14 39/22 40/1 48/8 49/4 49/6 49/13 50/2 53/6 58/25 59/5 59/6 59/8 59/15 59/23 60/19 60/19 61/3 61/14</p> <p>members' [1] 4/11</p> <p>membership [1] 39/11</p> <p>mention [1] 3/21</p> <p>merely [2] 17/10 39/14</p> <p>merits' [1] 56/21</p> <p>met [2] 11/20 67/14</p> <p>method [19] 40/24 41/3 41/4 41/7 41/7 41/10 41/19 42/4 42/7 42/13 42/14 42/21 42/22 42/25 43/8 49/3 49/14 66/14 68/23</p> <p>methodology [10] 5/25 6/4 6/14 6/15 6/15 37/20 38/13 58/6 65/23 65/23</p> <p>metric [1] 18/10</p> <p>might [13] 3/22 4/17 23/17 27/19 44/5 52/4 56/6 57/6 57/17 57/17 67/1 69/11 69/12</p> <p>million [5] 24/15 24/17 24/18 24/20 24/24</p> <p>minutes [7] 3/11 3/14 50/25 50/25 51/17 66/17 68/4</p> <p>mismatch [3] 8/1 16/13 49/19</p> <p>mistake [1] 37/4</p> <p>mistakes [1] 69/11</p> <p>model [1] 58/9</p> <p>moment [2] 40/8 51/4</p> <p>Montana [3] 48/4 58/2</p>	<p>58/13</p> <p>months [1] 51/8</p> <p>moot [1] 51/8</p> <p>more [20] 4/16 10/3 21/3 25/11 26/12 27/22 36/4 40/3 43/6 48/21 50/7 50/9 51/7 51/7 52/20 54/10 64/11 66/16 67/17 70/5</p> <p>morning [2] 3/2 51/20</p> <p>Morton [1] 49/5</p> <p>most [3] 28/13 58/4 64/22</p> <p>motion [14] 3/3 3/3 51/6 51/13 53/19 53/25 56/8 60/18 60/21 67/19 67/22 70/14 70/15 70/15</p> <p>move [1] 4/21</p> <p>moved [2] 9/5 51/6</p> <p>movers [2] 67/12 67/13</p> <p>Mr [1] 50/24</p> <p>Mr. [4] 36/3 51/22 66/15 68/3</p> <p>Mr. Pettinato [2] 36/3 68/3</p> <p>Mr. Sverdlov [2] 51/22 66/15</p> <p>much [5] 7/8 41/15 52/20 64/11 66/6</p> <p>multiplying [1] 36/11</p> <p>must [3] 11/23 39/10 66/23</p> <p>my [22] 3/18 4/11 10/5 11/16 11/16 12/14 14/13 20/10 20/19 28/3 28/4 30/10 36/18 50/10 54/8 56/5 56/15 60/10 60/19 61/22 66/11 67/19</p> <p>N</p> <p>name [2] 3/18 42/7</p> <p>names [1] 51/22</p> <p>narrowly [1] 43/25</p> <p>national [1] 61/13</p> <p>natural [1] 48/22</p> <p>nature [1] 67/8</p> <p>necessarily [1] 60/12</p> <p>necessary [1] 50/20</p> <p>necessitate [1] 29/18</p> <p>need [22] 4/3 5/3 5/5 8/5 8/7 8/20 8/24 10/15</p>
---	--	---	--

<p>N</p> <p>need... [14] 16/14 21/17 25/17 28/23 39/20 42/5 42/24 43/15 44/8 45/9 46/4 46/21 50/5 51/1</p> <p>needs [2] 54/19 66/19</p> <p>neighbors [1] 42/18</p> <p>Neither [1] 32/14</p> <p>net [1] 60/24</p> <p>New [20] 3/22 4/12 4/13 4/16 4/17 4/22 5/17 5/20 9/4 9/8 9/9 10/12 10/13 15/24 16/4 27/12 27/20 28/11 29/17 49/12</p> <p>next [4] 28/3 36/15 42/19 64/16</p> <p>NICHOLS [2] 1/12 29/21</p> <p>no [45] 1/5 5/10 6/7 11/7 14/16 14/19 23/11 23/22 24/6 24/6 34/5 34/7 34/9 34/11 34/19 34/19 35/7 35/10 35/11 35/13 35/15 35/16 36/5 38/8 40/15 40/16 40/19 42/6 42/14 42/14 43/14 43/14 43/21 45/3 45/25 46/4 51/24 53/13 55/15 56/22 58/11 58/14 60/6 65/19 67/7</p> <p>non [1] 48/4</p> <p>non-profit [1] 48/4</p> <p>none [2] 58/17 58/18</p> <p>North [2] 58/10 65/25</p> <p>Norton [1] 48/6</p> <p>not [120]</p> <p>note [1] 50/15</p> <p>nothing [5] 18/16 19/9 19/18 56/11 68/12</p> <p>notice [2] 50/16 50/21</p> <p>now [20] 4/13 4/14 12/8 12/14 18/24 20/11 24/18 24/20 24/24 29/13 51/2 51/6 51/8 51/8 51/18 58/4 62/14 62/25 64/21 66/4</p> <p>number [3] 12/4 17/15 36/13</p> <p>numbers [12] 19/21 19/21 20/19 21/17 27/18 37/24 53/24 55/7 55/12 58/7 58/14 61/2</p>	<p>NW [3] 1/16 1/22 2/2</p> <p>O</p> <p>O'Connor [1] 40/9</p> <p>oath [9] 16/10 16/17 16/23 16/25 18/2 18/2 20/18 20/25 21/3</p> <p>obligated [1] 27/4</p> <p>obligations [2] 45/7 69/4</p> <p>obtain [1] 51/12</p> <p>obvious [1] 64/23</p> <p>obviously [2] 56/2 56/19</p> <p>occur [2] 26/10 28/7</p> <p>Official [2] 2/1 71/3</p> <p>Oh [7] 21/23 23/6 42/9 43/13 43/20 45/8 55/21</p> <p>okay [21] 10/19 10/25 12/10 13/11 13/22 14/4 17/13 22/2 26/15 34/15 34/17 35/2 35/6 35/19 39/6 40/13 40/18 49/1 50/23 62/10 68/5</p> <p>older [6] 37/3 37/18 38/1 38/14 38/19 38/21</p> <p>once [4] 23/14 25/19 26/10 60/22</p> <p>one [42] 4/1 7/14 7/16 7/25 11/18 11/25 12/17 13/9 13/10 15/10 24/22 25/19 25/22 27/19 29/12 37/19 41/8 43/18 46/1 47/1 47/4 47/5 50/7 50/9 50/25 51/4 51/9 51/14 53/5 53/11 54/8 57/11 57/22 60/19 61/22 63/18 63/19 63/20 64/16 65/1 67/17 70/5</p> <p>ones [2] 4/9 4/9</p> <p>only [28] 5/3 8/7 10/14 16/10 16/24 18/8 20/18 20/25 25/6 29/17 32/14 34/2 34/3 34/8 35/25 45/1 50/2 52/25 53/2 53/4 53/9 53/13 53/20 54/11 56/6 62/19 66/7 66/22</p> <p>opinion [3] 30/13 40/11 65/20</p> <p>opportunity [2] 66/17 69/10</p> <p>opt [1] 18/1</p>	<p>opt-out [1] 18/1</p> <p>oral [8] 1/11 16/10 16/23 16/25 18/2 18/2 20/25 21/3</p> <p>order [4] 29/22 29/24 31/2 62/18</p> <p>organization [7] 39/9 39/13 39/16 39/17 39/22 49/13 52/6</p> <p>organizational [2] 49/19 49/21</p> <p>organizations [2] 48/7 50/2</p> <p>original [1] 37/15</p> <p>other [26] 3/23 6/3 10/13 13/5 14/4 25/11 25/17 26/4 26/7 27/4 27/18 29/17 35/4 37/19 48/5 49/10 54/8 56/15 58/22 61/3 61/23 66/11 66/18 67/12 67/20 69/25</p> <p>otherwise [1] 69/11</p> <p>ought [1] 44/11</p> <p>our [17] 3/8 3/12 4/11 6/9 12/12 25/5 38/4 40/22 49/6 50/21 53/21 59/6 61/18 67/21 68/13 69/22 70/15</p> <p>out [15] 9/17 18/1 23/12 25/8 25/20 26/19 30/6 42/18 45/10 45/11 54/16 57/24 60/2 60/7 60/16</p> <p>outcome [1] 29/9</p> <p>outlined [1] 44/20</p> <p>over [13] 3/10 24/13 24/13 55/13 57/20 57/21 57/21 57/21 64/15 64/21 67/4 70/10 70/11</p> <p>overall [1] 25/16</p> <p>overrode [1] 65/21</p> <p>own [3] 19/8 20/2 64/24</p> <p>P</p> <p>P.O [1] 1/19</p> <p>Page [1] 36/6</p> <p>PAN [4] 1/12 36/4 50/7 61/5</p> <p>Panama [1] 45/11</p> <p>papers [1] 55/2</p> <p>Paragraph [2] 36/7</p>	<p>36/19</p> <p>parse [1] 53/15</p> <p>part [12] 12/12 30/12 30/13 34/5 34/6 34/23 34/25 40/14 41/23 47/9 48/5 55/5</p> <p>participate [2] 20/2 20/13</p> <p>particular [5] 15/20 30/9 30/23 46/4 47/5</p> <p>particularized [3] 12/1 12/2 30/18</p> <p>parties [1] 67/24</p> <p>parts [3] 35/5 40/11 45/13</p> <p>passed [1] 14/7</p> <p>passing [1] 44/17</p> <p>passive [1] 47/7</p> <p>past [3] 31/16 39/8 56/8</p> <p>Pennsylvania [8] 3/22 4/12 4/14 15/24 16/4 27/13 28/11 49/12</p> <p>people [26] 9/5 9/12 17/15 18/10 18/14 19/1 19/6 20/1 20/7 21/13 22/4 23/8 23/14 24/13 24/16 24/19 24/22 25/24 47/25 53/22 55/17 56/3 56/3 56/9 56/10 56/11</p> <p>people's [1] 20/3</p> <p>per [1] 55/3</p> <p>percent [19] 19/3 19/4 19/4 19/6 19/7 19/7 19/7 19/8 19/15 19/16 19/17 19/20 20/11 20/20 38/11 57/14 57/15 57/17 57/18</p> <p>percentage [1] 18/14</p> <p>perfect [2] 16/20 16/21</p> <p>perfectly [5] 17/15 18/15 22/11 22/19 22/20</p> <p>perhaps [1] 67/12</p> <p>period [1] 67/21</p> <p>person [8] 17/11 47/21 48/19 48/20 48/24 48/25 66/12 68/23</p> <p>persons [6] 17/5 48/22 49/13 49/16 54/20 54/20</p> <p>Pettinato [6] 1/15 1/15 3/18 36/3 50/24 68/3</p>
---	--	--	--

<p>P</p> <p>photo [1] 68/9</p> <p>phrasing [1] 21/24</p> <p>pick [1] 45/13</p> <p>place [1] 42/18</p> <p>plain [1] 22/22</p> <p>plaintiff [29] 1/6 1/15 3/5 3/9 3/9 3/10 3/13 29/14 48/16 52/2 52/3 52/20 52/22 52/24 54/8 55/2 55/13 56/22 57/2 57/6 60/15 61/2 61/14 64/7 66/4 66/11 66/22 67/6 67/14</p> <p>plaintiff's [8] 3/3 12/1 32/24 52/5 52/23 54/16 55/25 60/2</p> <p>plaintiffs [7] 8/10 9/23 26/22 28/14 29/8 34/14 67/8</p> <p>plan [1] 26/23</p> <p>planning [1] 51/23</p> <p>plausibility [1] 55/9</p> <p>plausible [3] 57/3 61/1 63/24</p> <p>plausibly [4] 6/20 29/23 55/12 55/13</p> <p>play [1] 54/15</p> <p>pleading [4] 50/16 55/14 60/22 61/17</p> <p>pleadings [1] 68/13</p> <p>please [2] 3/17 51/19</p> <p>plurality [1] 34/4</p> <p>plus [5] 36/12 36/23 36/25 37/21 38/12</p> <p>point [10] 6/13 9/1 9/21 35/17 51/13 55/8 57/25 59/20 60/1 70/5</p> <p>points [5] 52/10 66/21 68/6 68/7 68/7</p> <p>policy [1] 18/1</p> <p>political [14] 45/2 45/15 45/17 45/18 46/19 47/2 47/2 47/3 47/5 47/9 62/2 70/6 70/9 70/12</p> <p>population [7] 19/5 19/17 33/16 36/14 38/10 40/25 61/7</p> <p>portion [1] 65/19</p> <p>posed [1] 61/23</p> <p>position [3] 5/17 5/18 53/7</p> <p>possibility [11] 4/22</p>	<p>5/1 5/4 9/19 27/18 27/22 27/24 29/5 44/5 58/19 58/23</p> <p>possible [5] 4/19 17/14 27/20 52/8 60/11</p> <p>post [3] 43/18 43/22 66/3</p> <p>post-census [2] 43/18 66/3</p> <p>potentially [3] 16/5 61/13 64/20</p> <p>Power [2] 26/17 26/17</p> <p>pre [1] 66/8</p> <p>pre-census [1] 66/8</p> <p>precedent [1] 61/12</p> <p>precise [1] 30/15</p> <p>precisely [1] 29/21</p> <p>preclude [1] 43/25</p> <p>precludes [1] 68/12</p> <p>predict [1] 28/17</p> <p>prepared [1] 65/7</p> <p>present [1] 53/17</p> <p>presented [1] 36/15</p> <p>presenting [1] 51/24</p> <p>President [1] 32/11</p> <p>President's [1] 31/13</p> <p>presumably [3] 52/23 63/14 64/7</p> <p>pretty [2] 57/10 57/24</p> <p>primary [1] 67/13</p> <p>probably [3] 5/13 13/5 64/22</p> <p>problem [5] 32/4 46/22 55/16 61/1 62/4</p> <p>problems [1] 8/1</p> <p>procedural [18] 8/14 8/22 9/18 9/22 10/7 11/23 28/2 28/5 31/4 31/6 31/6 31/15 31/17 31/18 31/18 31/22 32/17 33/19</p> <p>procedure [2] 10/1 33/24</p> <p>proceed [2] 52/13 63/15</p> <p>proceeded [3] 52/13 62/12 63/5</p> <p>proceedings [3] 2/8 70/19 71/5</p> <p>process [14] 4/4 9/11 12/11 12/13 20/3 20/13 45/2 45/18 46/15 46/19 46/20 46/21 62/2 62/2</p> <p>produced [1] 2/8</p>	<p>proffered [1] 52/21</p> <p>profit [1] 48/4</p> <p>proportion [1] 36/11</p> <p>proportions [1] 29/20</p> <p>proposed [1] 41/4</p> <p>proposing [1] 46/16</p> <p>proposition [1] 30/16</p> <p>protected [1] 48/18</p> <p>prove [20] 4/4 5/19 7/8 9/2 10/15 11/1 11/3 11/7 11/8 11/10 11/11 11/12 11/17 11/19 26/16 29/8 29/9 29/13 53/5 60/23</p> <p>proved [2] 33/2 38/6</p> <p>provide [1] 49/25</p> <p>provided [3] 58/15 65/13 65/14</p> <p>provides [1] 68/19</p> <p>provision [5] 44/15 62/4 64/9 65/2 65/5</p> <p>provisions [2] 61/25 67/10</p> <p>proxy [1] 56/24</p> <p>prudential [2] 48/9 48/13</p> <p>publication [1] 39/15</p> <p>punting [1] 47/1</p> <p>purely [1] 4/5</p> <p>purple [1] 4/7</p> <p>purposes [11] 18/9 20/23 21/4 21/7 36/23 41/1 49/17 49/23 53/17 53/25 56/4</p> <p>pursuing [1] 53/21</p> <p>put [6] 10/17 10/22 10/23 26/10 46/13 58/21</p> <p>putting [2] 55/7 55/10</p> <p>Q</p> <p>qualifies [5] 16/23 42/5 42/13 68/10 68/11</p> <p>qualify [5] 45/15 47/24 47/25 68/11 69/4</p> <p>quality [1] 33/22</p> <p>question [37] 3/20 9/21 10/5 11/16 11/17 12/15 18/5 18/12 21/22 28/1 28/4 35/4 36/4 36/8 36/18 39/7 45/15 45/17 47/3 47/3 47/9 49/8 50/8 50/9 53/18 56/21 58/11 58/14 61/6</p>	<p>61/16 61/17 61/22 65/10 65/16 70/6 70/9 70/12</p> <p>questioning [1] 3/12</p> <p>questionnaire [1] 46/6</p> <p>questions [7] 3/6 3/8 44/7 46/6 50/10 66/16 67/24</p> <p>quick [2] 67/18 68/7</p> <p>quote [1] 39/10</p> <p>quoted [1] 69/13</p> <p>quotes [1] 10/6</p> <p>R</p> <p>raised [1] 47/23</p> <p>raises [1] 44/6</p> <p>rates [4] 12/25 17/5 55/7 60/4</p> <p>rather [5] 10/4 17/22 37/25 55/4 66/2</p> <p>ratify [1] 18/20</p> <p>ratio [5] 18/13 19/13 21/8 54/20 54/21</p> <p>re [1] 25/4</p> <p>reach [3] 35/16 62/25 63/1</p> <p>read [8] 3/6 34/18 36/7 39/14 39/20 53/8 69/6 69/7</p> <p>reading [2] 36/21 69/20</p> <p>reads [1] 43/24</p> <p>real [2] 41/18 57/9</p> <p>really [13] 8/10 24/7 25/2 30/12 35/12 35/20 40/22 43/15 43/23 45/2 46/13 46/13 68/15</p> <p>reapportionment [8] 17/6 17/6 18/11 32/11 35/8 35/9 40/16 53/24</p> <p>reason [4] 17/23 56/17 56/18 61/10</p> <p>reasonable [2] 18/15 48/21</p> <p>reasons [10] 17/16 18/15 19/18 42/3 45/3 45/16 56/11 56/23 66/5 69/14</p> <p>rebel [2] 18/3 18/19</p> <p>rebuttal [3] 3/14 51/16 58/22</p> <p>record [3] 8/18 65/17 71/5</p> <p>recorded [1] 2/8</p>
--	---	--	---

<p>R</p> <p>redistribute [1] 58/16</p> <p>redressability [4] 9/23 10/8 10/18 28/2</p> <p>redressed [2] 10/1 28/5</p> <p>reduction [20] 18/9 18/11 19/2 19/3 19/13 26/9 27/7 44/19 53/4 53/22 53/22 53/23 54/19 54/21 56/4 59/12 63/11 63/17 66/22 67/4</p> <p>reference [1] 50/15</p> <p>reflects [1] 9/1</p> <p>refute [1] 59/21</p> <p>regard [1] 13/17</p> <p>regarding [1] 7/3</p> <p>regardless [3] 35/18 37/25 43/12</p> <p>register [16] 17/11 17/15 17/23 18/15 19/10 19/17 20/2 20/12 22/11 22/20 22/21 23/14 23/23 36/12 56/18 56/23</p> <p>registered [29] 15/2 17/9 17/21 18/8 18/9 18/14 19/2 19/5 20/7 21/5 21/19 21/20 22/14 22/25 23/6 23/25 24/4 24/19 24/23 25/1 36/23 36/24 38/10 48/4 54/20 55/18 56/3 56/9 56/11</p> <p>registration [50] 3/24 11/14 12/21 12/24 12/25 13/3 13/4 13/9 13/23 14/18 14/21 14/23 15/1 15/6 15/9 15/13 15/15 15/18 15/22 15/23 16/7 16/16 16/18 16/23 17/3 17/5 17/16 17/21 19/9 19/18 20/8 20/13 20/18 22/10 22/15 22/23 24/2 29/6 54/13 54/17 55/4 56/1 56/9 56/12 56/16 56/24 57/8 60/4 60/11 68/10</p> <p>registrations [1] 59/13</p> <p>Rehnquist [1] 40/12</p> <p>rejected [5] 62/12 65/24 66/4 70/9 70/11</p> <p>rejecting [1] 66/5</p> <p>related [3] 5/6 5/7 18/10</p>	<p>relates [1] 16/15</p> <p>relative [1] 50/3</p> <p>relevant [4] 14/8 15/3 18/6 48/18</p> <p>reliable [2] 52/20 55/12</p> <p>relief [5] 9/19 64/15 64/17 66/3 66/7</p> <p>rely [3] 20/22 32/15 32/16</p> <p>relying [1] 32/17</p> <p>remand [2] 47/13 47/15</p> <p>remedy [1] 45/18</p> <p>report [3] 20/22 53/11 64/20</p> <p>Reported [1] 2/1</p> <p>Reporter [2] 2/1 71/3</p> <p>represent [3] 3/18 48/7 60/18</p> <p>representation [3] 29/24 36/9 36/22</p> <p>representative [5] 7/22 32/25 60/20 60/24 68/17</p> <p>representatives [7] 25/24 26/12 28/12 32/19 32/23 58/3 58/20</p> <p>representing [1] 25/23</p> <p>represents [1] 4/6</p> <p>requested [1] 9/19</p> <p>require [5] 6/15 13/14 13/16 44/18 61/20</p> <p>required [4] 16/17 20/19 41/7 41/8</p> <p>requirement [12] 15/9 15/18 16/23 17/22 22/10 24/2 24/3 30/11 30/17 33/1 56/1 56/12</p> <p>requirements [17] 3/23 14/18 14/21 14/23 15/6 15/13 15/15 15/24 16/7 16/17 16/18 17/3 17/17 19/9 19/19 20/8 68/21</p> <p>requires [17] 13/13 13/18 16/10 16/25 20/25 31/24 34/22 35/23 36/10 37/2 45/5 46/16 46/24 47/13 49/22 49/22 67/8</p> <p>research [2] 49/25 61/21</p> <p>reserved [1] 67/11</p>	<p>resolve [1] 67/23</p> <p>resolved [1] 67/22</p> <p>resources [1] 52/6</p> <p>respect [6] 15/1 16/5 26/24 27/12 28/12 40/11</p> <p>respective [1] 66/7</p> <p>respond [1] 51/5</p> <p>responsibility [1] 24/8</p> <p>restore [2] 6/24 7/11</p> <p>restrictions [1] 3/24</p> <p>restrictive [1] 4/16</p> <p>result [5] 7/24 17/21 28/6 29/5 58/24</p> <p>results [4] 7/18 8/25 36/15 53/23</p> <p>review [4] 30/10 31/12 52/4 69/10</p> <p>reviewable [1] 36/1</p> <p>reviewed [1] 45/25</p> <p>Rice [1] 40/12</p> <p>right [40] 4/18 5/11 9/18 9/22 10/17 11/1 11/2 12/2 13/7 13/7 13/24 14/2 14/10 18/24 22/24 24/20 26/3 31/6 31/9 31/14 31/18 31/19 31/21 31/22 34/24 35/6 36/21 38/7 38/8 38/17 40/20 42/15 49/24 58/10 61/8 63/1 63/12 63/16 64/10 70/3</p> <p>rights [1] 22/4</p> <p>rises [1] 6/9</p> <p>roadmap [1] 63/23</p> <p>ROD [2] 8/17 8/18</p> <p>Room [1] 2/3</p> <p>routine [1] 47/15</p> <p>RPR [1] 2/1</p> <p>rule [4] 47/1 51/6 51/11 68/9</p> <p>ruling [3] 15/22 35/12 47/11</p> <p>run [6] 25/21 30/2 30/25 53/24 54/21 60/25</p> <p>running [2] 56/25 58/9</p> <p>S</p> <p>said [26] 8/12 12/7 12/8 16/13 18/2 21/10 26/3 26/21 28/8 29/13 31/11 32/10 39/13 40/15 42/4 43/20 43/21</p>	<p>45/25 46/8 47/17 48/6 49/7 50/11 66/19 69/7 69/16</p> <p>sake [2] 9/20 10/5</p> <p>same [10] 3/12 5/15 8/23 16/5 25/25 26/12 49/10 50/17 58/13 66/17</p> <p>sampling [1] 41/18</p> <p>Sanders [3] 43/16 44/3 69/15</p> <p>satisfies [3] 33/1 50/20 51/14</p> <p>satisfy [1] 69/4</p> <p>say [52] 3/11 3/11 4/17 7/17 9/14 12/7 12/8 12/9 16/21 16/22 19/24 22/23 24/7 24/14 24/15 24/16 24/18 24/19 28/22 34/18 35/7 35/10 35/15 38/19 42/12 43/2 43/17 43/18 45/8 46/4 47/13 52/6 53/3 53/20 55/6 55/15 55/16 56/4 57/14 58/4 59/1 59/4 59/5 59/13 60/14 60/16 60/18 61/5 63/24 66/18 68/9 68/14</p> <p>saying [17] 10/2 10/3 10/17 29/21 31/17 33/21 35/13 35/13 37/22 38/17 41/3 41/22 43/6 43/13 44/23 46/5 69/24</p> <p>says [18] 5/3 22/24 26/17 26/18 29/21 32/24 36/16 40/9 44/4 44/25 46/2 47/4 47/8 47/25 48/19 48/19 68/20 68/22</p> <p>Scalia [6] 34/8 35/5 35/11 35/16 40/12 65/19</p> <p>scenario [2] 23/15 23/17</p> <p>scenarios [5] 23/10 60/2 60/3 60/5 68/14</p> <p>scope [3] 52/15 52/16 54/3</p> <p>se [1] 55/3</p> <p>seat [24] 4/2 4/13 4/18 4/22 5/2 6/10 6/14 6/24 9/4 9/9 9/9 9/15 10/12 10/21 10/23 11/5 11/19</p>
---	--	--	---

<p>S</p> <p>seat... [7] 12/18 27/19 33/7 33/11 33/13 33/15 58/12</p> <p>seats [7] 4/8 4/21 12/4 29/25 58/23 60/12 61/7</p> <p>second [8] 29/11 29/13 30/5 37/9 47/9 66/21 68/18 69/23</p> <p>Secretary [2] 62/17 64/21</p> <p>section [30] 4/21 5/7 29/16 34/1 34/21 36/2 36/15 36/22 37/2 41/13 41/17 44/8 44/11 45/1 47/22 48/20 49/17 62/15 64/9 64/24 65/16 65/21 66/2 66/6 66/13 68/18 68/20 68/20 69/5 69/6</p> <p>sections [1] 63/7</p> <p>see [8] 30/2 31/1 31/16 41/19 42/20 44/14 46/11 51/22</p> <p>seeking [2] 64/14 64/16</p> <p>seem [1] 44/15</p> <p>seemed [4] 54/17 62/15 63/3 63/6</p> <p>seems [12] 5/16 7/25 14/8 14/24 25/10 37/24 37/24 44/17 44/23 46/3 49/18 60/13</p> <p>sense [1] 6/6</p> <p>sentence [3] 4/25 62/14 63/7</p> <p>sentences [1] 36/8</p> <p>separate [1] 29/6</p> <p>serious [1] 44/6</p> <p>set [3] 18/18 21/4 65/17</p> <p>sets [1] 29/7</p> <p>several [4] 45/3 45/15 52/10 62/8</p> <p>shake [1] 57/12</p> <p>shakeup [2] 57/23 61/13</p> <p>shall [1] 47/8</p> <p>Sharma [5] 36/6 36/16 36/17 38/17 38/23</p> <p>Sharma's [2] 36/21 37/12</p> <p>Sharrow [3] 29/11 45/25 66/21</p>	<p>shift [4] 58/12 58/23 59/23 60/12</p> <p>shifting [4] 59/14 59/17 59/19 59/22</p> <p>shifts [1] 61/7</p> <p>short [3] 51/4 60/10 68/6</p> <p>shorthand [1] 2/8</p> <p>should [6] 19/13 41/3 43/6 52/9 52/22 67/22</p> <p>Shouldn't [1] 49/18</p> <p>show [11] 5/6 8/7 8/24 9/24 29/14 29/22 31/17 38/5 46/14 59/19 60/15</p> <p>showed [1] 19/11</p> <p>shown [3] 12/16 12/19 26/2</p> <p>sic [1] 68/24</p> <p>side [8] 3/9 54/8 56/16 58/22 61/23 66/11 66/18 67/20</p> <p>Sierra [2] 48/5 49/5</p> <p>significant [2] 8/1 55/8</p> <p>similar [2] 25/11 29/12</p> <p>similarly [1] 9/22</p> <p>simple [3] 20/18 21/11 22/16</p> <p>simply [3] 6/10 19/8 47/12</p> <p>since [3] 11/15 30/7 67/19</p> <p>single [1] 26/24</p> <p>sitting [2] 26/6 27/11</p> <p>situated [1] 9/23</p> <p>situation [1] 5/20</p> <p>slightest [1] 61/7</p> <p>slightly [2] 21/3 21/21</p> <p>so [106]</p> <p>solve [1] 64/18</p> <p>some [29] 3/6 3/9 3/10 4/22 5/3 9/2 9/19 13/5 15/5 18/13 27/23 28/23 29/4 29/9 42/12 44/9 55/8 57/10 59/1 59/6 59/8 59/10 59/14 59/22 61/14 61/20 63/20 64/22 65/13</p> <p>somebody [2] 63/24 64/5</p> <p>somehow [3] 46/12 65/21 69/18</p> <p>someone [4] 22/9 24/3 24/4 63/14</p> <p>something [13] 9/10</p>	<p>9/14 21/3 23/24 28/25 29/3 42/8 43/6 45/2 46/25 47/14 54/9 58/20</p> <p>somewhat [1] 66/11</p> <p>somewhere [3] 44/11 44/13 61/14</p> <p>sorry [12] 6/11 6/11 6/25 11/3 27/1 33/5 35/6 40/8 41/9 55/21 65/3 70/5</p> <p>sort [4] 38/16 46/11 46/14 56/21</p> <p>sorts [1] 45/11</p> <p>sought [3] 48/18 51/12 67/21</p> <p>sounds [1] 57/24</p> <p>south [1] 18/18</p> <p>specific [3] 16/14 58/5 58/6</p> <p>specifically [1] 55/2</p> <p>specify [1] 37/18</p> <p>speculative [3] 26/17 26/19 59/7</p> <p>split [1] 28/20</p> <p>St [1] 1/16</p> <p>stage [7] 53/19 53/20 54/23 55/14 60/18 60/22 61/17</p> <p>stand [2] 30/16 58/3</p> <p>standard [6] 10/16 16/11 28/24 28/25 55/5 65/4</p> <p>standards [1] 47/11</p> <p>standing [52] 6/8 6/20 9/13 9/18 14/25 18/7 20/23 21/4 26/25 27/21 29/14 29/22 30/4 30/18 31/2 33/7 34/7 34/8 34/9 34/11 34/12 34/13 34/19 35/17 38/6 39/10 39/17 45/21 46/14 48/9 48/11 48/13 48/17 49/8 49/20 49/21 50/2 52/2 53/5 53/10 54/1 54/24 59/4 59/16 60/8 60/22 63/16 63/16 63/23 67/1 67/6 67/8</p> <p>start [6] 3/20 13/11 24/12 24/15 24/17 56/12</p> <p>starting [1] 58/2</p> <p>state [42] 4/17 6/3 6/18 13/17 14/22 15/8 15/15 15/17 15/18</p>	<p>16/10 16/24 17/25 19/1 19/4 20/17 20/24 21/13 22/5 22/10 24/2 24/2 25/6 28/15 28/20 29/17 29/18 29/18 36/10 46/16 48/4 53/5 53/20 54/11 54/18 56/2 57/10 57/12 57/12 57/14 57/22 60/20 60/24</p> <p>state's [4] 11/13 11/14 11/15 12/23</p> <p>stated [1] 66/24</p> <p>states [48] 1/1 4/2 4/8 6/16 7/3 7/14 7/17 10/13 11/18 12/18 13/1 13/13 13/14 14/7 14/20 16/8 16/25 17/3 18/3 18/6 18/6 18/19 25/11 25/17 25/23 26/4 26/7 26/8 26/11 26/11 27/18 28/11 30/2 30/25 32/25 47/8 49/12 53/11 57/13 57/19 59/1 59/5 59/14 59/15 59/24 60/19 61/3 64/4</p> <p>states' [1] 27/4</p> <p>statistic [4] 36/15 43/2 69/2 69/2</p> <p>statistical [23] 32/14 35/21 35/23 40/24 41/3 41/4 41/6 41/7 41/9 41/19 41/19 41/21 42/6 42/14 42/21 42/22 42/24 43/8 49/3 49/14 65/23 66/14 68/23</p> <p>statisticians [1] 52/7</p> <p>statistics [7] 35/22 41/13 41/15 43/1 50/18 69/1 69/3</p> <p>statute [3] 32/13 43/18 48/18</p> <p>statutes [1] 16/2</p> <p>statutory [1] 64/2</p> <p>stay [3] 5/15 16/5 25/25</p> <p>stenotype [1] 2/8</p> <p>step [1] 47/4</p> <p>Stephen [1] 1/21</p> <p>still [9] 12/19 12/20 22/14 27/19 50/11 55/17 55/25 56/4 56/7</p> <p>stop [1] 7/19</p> <p>straight [2] 9/17 65/18</p> <p>straightforward [3]</p>
--	---	---	--

<p>S</p> <p>straightforward... [3] 47/15 64/12 64/23</p> <p>Street [1] 1/22</p> <p>stringent [1] 25/11</p> <p>struggled [1] 65/10</p> <p>struggling [1] 45/19</p> <p>study [1] 29/18</p> <p>subject [2] 31/12 56/25</p> <p>substantial [1] 58/23</p> <p>substantive [1] 11/25</p> <p>subtracted [1] 23/6</p> <p>subtract [6] 6/1 23/18 24/13 24/17 24/18 25/20</p> <p>subtracted [6] 23/5 23/8 23/13 23/14 23/16 24/24</p> <p>subtracting [1] 25/8</p> <p>such [6] 16/18 16/20 25/3 39/12 52/15 53/14</p> <p>suffer [1] 30/3</p> <p>suffered [1] 31/1</p> <p>suffers [1] 54/11</p> <p>sufficient [2] 50/21 58/19</p> <p>sugar [1] 8/23</p> <p>suggest [2] 14/25 58/18</p> <p>suggested [1] 46/3</p> <p>suggesting [1] 56/16</p> <p>suggests [1] 45/23</p> <p>suing [1] 7/17</p> <p>suit [1] 49/18</p> <p>Summary [2] 3/3 70/16</p> <p>supposed [1] 69/12</p> <p>Supreme [24] 5/2 7/14 26/21 28/22 30/6 30/21 32/9 42/3 43/17 43/21 43/24 44/4 46/24 47/17 48/6 48/14 58/1 61/11 65/12 66/1 69/6 69/9 70/2 70/9</p> <p>sure [13] 15/14 24/8 27/2 28/9 28/9 37/7 44/9 50/5 55/24 57/11 65/9 65/13 69/9</p> <p>survey [1] 14/23</p> <p>Sverdlov [4] 1/18 51/21 51/22 66/15</p> <p>Swann [3] 26/20 29/1 29/7</p>	<p>swirling [1] 65/17</p> <p>T</p> <p>table [7] 3/2 4/7 37/7 37/20 38/9 38/14 39/3</p> <p>tailored [1] 55/11</p> <p>take [9] 8/9 20/19 30/1 35/19 38/25 55/1 62/16 66/16 67/21</p> <p>taking [2] 27/19 56/24</p> <p>talk [8] 3/25 31/5 37/21 49/9 50/14 51/23 58/17 69/21</p> <p>talked [4] 34/8 35/17 50/17 58/11</p> <p>talking [10] 18/24 20/17 35/5 35/21 36/17 38/12 42/4 42/9 43/23 68/20</p> <p>talks [4] 35/20 38/9 38/10 68/21</p> <p>targeted [1] 66/7</p> <p>task [1] 29/19</p> <p>tell [4] 12/22 39/21 45/14 57/5</p> <p>terms [1] 66/6</p> <p>test [3] 39/18 39/20 65/1</p> <p>tested [1] 58/7</p> <p>tests [1] 49/20</p> <p>text [1] 22/22</p> <p>textual [1] 47/4</p> <p>than [15] 4/17 5/17 10/3 10/4 10/13 17/22 21/3 22/9 25/12 27/22 37/25 40/3 52/21 54/10 57/5</p> <p>thank [9] 50/6 50/23 51/3 51/25 67/15 68/1 68/2 70/17 70/17</p> <p>that [456]</p> <p>that's [51] 6/7 7/5 7/6 10/16 15/3 18/10 20/5 22/15 22/22 23/2 26/14 26/17 26/19 27/14 27/20 28/4 28/7 28/25 29/1 29/5 30/24 31/10 32/12 35/11 37/4 38/23 39/2 40/12 40/22 41/15 42/4 42/5 42/16 43/1 43/18 46/17 46/21 49/23 50/3 53/8 54/20 54/24 56/13 56/21 60/21 64/11 64/22</p>	<p>69/15 69/21 69/21 70/1</p> <p>their [19] 8/11 8/13 19/8 20/1 20/2 22/4 25/24 26/7 41/12 48/8 50/2 51/13 52/14 53/4 53/5 53/6 53/16 57/19 59/8</p> <p>them [13] 22/14 22/18 23/6 23/13 23/14 24/20 24/24 26/9 27/8 40/2 45/14 46/9 59/1</p> <p>then [47] 3/12 3/13 4/17 5/6 6/7 6/17 8/21 11/9 12/5 12/25 16/3 16/25 17/5 17/6 18/10 19/1 20/19 20/20 21/3 21/23 22/25 23/2 24/13 25/20 25/21 26/9 26/24 29/6 30/2 30/2 30/7 30/25 31/1 32/8 33/21 36/8 38/10 38/23 40/19 44/10 47/9 48/17 53/3 55/13 60/4 62/22 69/25</p> <p>theoretically [2] 60/7 60/8</p> <p>theory [42] 4/1 8/2 9/13 10/11 13/2 13/4 13/24 14/2 14/5 14/14 14/17 15/12 15/15 18/5 19/23 19/25 20/5 21/2 21/12 22/3 28/10 30/1 46/15 49/3 52/3 52/3 52/4 52/15 53/4 53/21 54/4 54/16 54/24 55/1 55/6 55/11 55/25 56/16 56/24 57/4 57/5 57/6</p> <p>there [80]</p> <p>there's [13] 5/16 18/13 24/2 34/10 34/18 34/19 40/16 45/21 54/21 56/2 57/14 57/22 60/16</p> <p>therefore [4] 6/19 18/11 26/8 54/18</p> <p>these [4] 7/14 28/2 50/17 67/7</p> <p>they [118]</p> <p>they've [1] 57/13</p> <p>thing [4] 3/12 31/8 33/18 52/12</p> <p>things [8] 13/5 32/20 49/22 53/15 55/4 55/10 57/13 58/16</p> <p>think [70] 3/5 3/6 5/9 5/12 5/24 9/13 9/21</p>	<p>10/4 11/1 12/12 12/14 12/15 13/2 13/12 16/13 23/4 23/15 24/7 33/8 34/5 39/8 40/22 41/17 41/20 42/22 45/19 50/7 50/20 50/20 52/1 52/22 53/12 54/8 54/13 55/8 55/10 55/22 56/22 57/1 57/1 57/20 59/7 59/11 59/18 59/25 60/10 60/14 60/25 61/1 61/10 61/15 61/17 61/20 62/4 62/11 62/18 64/11 64/18 64/22 64/23 65/12 65/16 66/10 66/15 66/18 67/3 68/9 68/10 68/11 68/13</p> <p>this [78]</p> <p>thorough [1] 25/3</p> <p>those [37] 4/1 7/17 15/16 16/1 16/8 17/16 18/20 19/6 20/3 20/23 24/22 25/20 26/7 26/7 26/8 26/10 27/4 30/10 30/15 30/21 31/3 32/15 33/22 36/23 36/25 46/5 49/9 53/14 55/10 58/3 58/4 58/16 58/17 58/18 67/24 68/11 69/14</p> <p>though [8] 8/12 14/8 19/16 21/14 23/16 48/5 62/19 70/8</p> <p>thought [3] 55/15 55/16 70/7</p> <p>three [15] 11/18 12/18 18/5 23/10 25/23 26/11 43/20 49/22 55/5 57/13 57/19 60/3 65/24 66/3 68/4</p> <p>three-judge [3] 43/20 65/24 66/3</p> <p>three-part [1] 55/5</p> <p>threshold [1] 67/24</p> <p>through [6] 4/4 46/19 59/12 59/13 60/22 67/25</p> <p>throw [1] 57/9</p> <p>time [7] 3/10 16/17 51/2 51/7 51/11 70/17 70/18</p> <p>times [2] 57/21 57/21</p> <p>today [3] 3/3 27/11 54/17</p> <p>together [1] 28/19</p>
---	--	---	---

<p>T</p> <p>told [1] 50/24</p> <p>too [5] 7/8 18/3 20/14 43/21 45/23</p> <p>total [6] 38/9 38/10 38/11 38/15 53/23 56/9</p> <p>totally [1] 10/23</p> <p>touched [1] 67/4</p> <p>toward [2] 41/18 51/9</p> <p>towards [1] 66/8</p> <p>traceability [2] 10/15 10/18</p> <p>traditional [1] 39/11</p> <p>transcend [1] 55/9</p> <p>transcript [3] 1/11 2/8 71/4</p> <p>transcription [1] 2/8</p> <p>trial [1] 60/23</p> <p>tried [1] 42/15</p> <p>tries [1] 28/23</p> <p>trigger [1] 34/2</p> <p>true [10] 5/13 6/5 6/7 7/9 7/23 27/15 39/17 56/25 59/9 71/4</p> <p>try [3] 28/19 52/12 68/14</p> <p>trying [6] 18/20 23/11 31/16 33/8 42/17 60/7</p> <p>turn [1] 26/19</p> <p>turns [1] 39/11</p> <p>twice [5] 23/5 23/13 23/16 23/18 24/24</p> <p>two [9] 11/24 24/5 36/7 45/24 50/25 51/22 60/4 66/20 68/7</p> <p>type [4] 30/20 30/22 62/2 67/9</p> <p>types [2] 67/7 67/10</p> <p>Typically [1] 48/16</p>	<p>23/12 24/25 27/23 29/3 31/9 33/13 39/17 42/1 42/2 42/5 43/2 44/10 44/11 44/12 47/10 47/24 49/5 50/12 51/6 56/16 58/14 62/13 63/3 63/5 63/7 63/15 63/25 69/5 69/25</p> <p>underlying [3] 38/13 56/23 66/3</p> <p>understand [6] 4/15 15/14 16/14 18/4 23/11 53/7</p> <p>understood [3] 55/19 56/13 56/15</p> <p>undoubtedly [1] 32/25</p> <p>unflagging [1] 46/24</p> <p>UNITED [4] 1/1 32/25 47/8 64/4</p> <p>universe [1] 25/19</p> <p>unlawful [1] 26/5</p> <p>unless [1] 36/4</p> <p>unlikely [1] 60/13</p> <p>unlimited [1] 52/6</p> <p>unpack [2] 62/9 65/15</p> <p>unrelated [1] 39/7</p> <p>until [1] 25/22</p> <p>up [12] 19/11 23/3 27/2 27/19 32/20 33/5 34/16 57/13 60/23 61/1 67/20 68/18</p> <p>upon [1] 47/1</p> <p>us [9] 3/25 12/16 12/19 24/17 33/8 40/20 43/1 47/19 68/9</p> <p>use [13] 13/3 13/4 18/11 18/13 20/20 21/4 41/2 49/3 49/14 52/20 56/3 68/23 69/3</p> <p>used [3] 37/24 37/24 41/3</p> <p>uses [2] 38/18 40/23</p> <p>using [2] 19/14 58/12</p> <p>Utah [13] 30/9 30/12 30/12 30/14 32/13 42/3 43/20 58/10 62/22 62/25 65/24 66/4 69/6</p>	<p>69/21</p> <p>v. Sanders [1] 44/3</p> <p>vacate [1] 7/17</p> <p>vacates [1] 7/1</p> <p>vacating [1] 7/4</p> <p>vacatur [4] 6/23 7/1 7/10 7/19</p> <p>valid [2] 15/17 16/11</p> <p>various [1] 67/5</p> <p>versus [6] 29/11 39/9 50/11 58/10 65/25 66/21</p> <p>very [19] 9/22 13/22 18/21 20/9 29/7 29/12 47/15 50/17 51/5 52/21 57/4 60/13 61/12 64/1 65/10 66/6 67/6 68/13 69/2</p> <p>vested [1] 9/18</p> <p>ViaSat [2] 39/8 39/18</p> <p>view [10] 15/3 16/7 19/2 25/18 26/5 52/16 54/9 56/7 61/18 67/22</p> <p>violated [2] 31/19 32/18</p> <p>violates [1] 64/9</p> <p>violation [12] 5/6 5/7 8/14 8/15 8/22 9/7 11/24 12/5 28/5 40/24 44/6 68/24</p> <p>Virginia [6] 3/22 15/24 16/4 27/13 28/11 49/12</p> <p>virtually [1] 46/24</p> <p>voice [1] 47/8</p> <p>volition [2] 19/8 20/2</p> <p>vote [17] 17/10 17/24 19/2 19/11 19/12 21/14 21/16 21/20 22/6 22/12 22/12 22/13 22/24 22/25 23/1 36/11 36/12</p> <p>voted [1] 38/11</p> <p>voter [47] 3/23 3/24 6/2 6/3 6/17 11/13 11/14 12/20 12/23 12/25 13/3 13/9 13/17 14/1 15/17 15/21 21/14 21/15 22/5 22/5 23/5 23/7 23/22 24/3 24/5 24/15 24/23 25/2 25/8 25/11 25/15 25/18 26/4 27/4 28/10 29/3 29/6 30/23 53/1 54/9 54/12 54/17 54/20 56/2 57/8 59/13 68/10</p>	<p>voter-age [1] 56/2</p> <p>voters [22] 6/1 15/2 15/2 17/22 18/5 18/8 18/9 18/18 18/20 19/24 21/5 21/10 21/18 21/19 21/19 22/15 23/1 23/25 25/1 25/9 25/20 26/7</p> <p>votes [9] 26/8 34/10 35/7 35/10 35/14 62/19 62/23 65/18 68/11</p> <p>voting [16] 4/17 10/13 15/3 16/22 17/5 17/9 17/20 18/10 18/14 19/1 19/5 20/3 20/8 20/13 22/4 52/23</p> <p>voting-age [2] 17/5 18/10</p> <p>vs [1] 1/7</p> <p>W</p> <p>wait [5] 5/21 7/16 15/12 33/5 37/9</p> <p>waived [1] 51/13</p> <p>waivers [1] 35/3</p> <p>WALKER [3] 1/12 5/24 16/6</p> <p>Walker's [2] 23/4 23/12</p> <p>want [17] 12/8 12/14 15/14 17/23 20/12 22/11 23/9 27/2 44/4 49/9 50/1 50/4 55/24 63/22 65/15 65/15 66/16</p> <p>wanted [5] 12/8 18/1 19/21 19/25 22/17</p> <p>wants [1] 69/9</p> <p>warming [1] 5/10</p> <p>was [61] 5/10 5/10 5/14 8/17 11/17 12/14 12/15 14/16 15/9 16/6 22/16 28/1 28/1 28/1 30/7 30/13 30/14 31/7 31/8 31/25 32/1 32/2 32/9 33/18 33/18 33/18 34/3 34/5 34/11 34/13 35/5 35/11 35/11 35/12 35/15 36/19 41/17 42/6 42/7 42/7 42/14 43/2 48/9 48/11 48/13 50/10 52/24 53/2 53/2 53/6 53/9 54/16 56/1 56/5 58/21 62/14 62/19 63/4 63/6 65/18 65/23</p>
<p>U</p> <p>U.S [7] 1/12 1/12 1/18 1/21 2/2 32/19 32/23</p> <p>U.S.C [3] 47/24 47/25 48/23</p> <p>U.S.C. [2] 34/22 50/14</p> <p>U.S.C. 141 [1] 50/14</p> <p>U.S.C. 704 [1] 34/22</p> <p>ultimately [3] 28/15 33/19 68/15</p> <p>unconstitutional [2] 3/23 46/9</p> <p>under [35] 7/6 12/20 13/10 14/5 22/3 23/4</p>	<p>V</p> <p>v. [7] 26/20 29/1 29/7 43/15 44/3 69/15 69/21</p> <p>v. Adams [3] 26/20 29/1 29/7</p> <p>v. Doe [3] 43/15 69/15</p>		

<p>W</p> <p>Washington [5] 1/9 1/16 1/19 1/23 2/3</p> <p>wasn't [5] 5/13 11/16 34/12 34/12 41/8</p> <p>way [22] 8/15 9/25 26/19 29/25 41/14 41/21 44/24 45/1 45/8 46/1 46/3 46/3 46/4 46/7 46/9 46/18 52/15 53/8 59/16 60/8 61/24 61/25</p> <p>ways [4] 45/23 64/22 67/5 68/15</p> <p>we [158]</p> <p>we'll [2] 3/13 3/15</p> <p>we've [19] 3/6 3/8 13/9 13/10 23/10 26/1 26/2 29/3 30/7 30/8 30/8 35/21 50/17 53/24 54/1 54/21 68/25 69/1 69/22</p> <p>Webster [4] 43/15 44/1 69/15 69/20</p> <p>well [50] 5/19 6/9 6/23 7/4 7/18 7/21 9/6 10/14 11/9 13/6 13/8 13/16 15/8 17/18 17/25 19/11 20/15 21/16 26/1 26/18 27/17 29/17 30/12 31/11 33/17 38/2 40/21 41/11 41/13 41/17 42/2 42/24 46/4 46/8 47/19 48/14 48/23 50/11 52/16 53/3 54/22 55/16 57/20 59/9 64/4 69/13 69/14 69/24 70/4 70/18</p> <p>went [1] 26/2</p> <p>were [32] 18/3 18/19 18/19 18/20 22/16 25/3 31/18 33/21 33/21 34/4 35/7 35/10 42/9 42/16 46/5 53/12 53/13 53/16 54/3 55/6 55/11 55/12 56/22 56/24 58/4 58/5 58/7 58/14 64/5 65/18 69/20 70/1</p> <p>Wesberry [1] 21/11</p> <p>Weyerhaeuser [1] 69/13</p> <p>what [74]</p> <p>What's [2] 7/18 65/4</p> <p>whatever [3] 17/23 56/17 56/18</p> <p>whatsoever [1] 20/3</p>	<p>when [16] 4/20 9/17 9/23 10/10 10/12 18/13 18/19 18/19 24/7 26/18 28/5 43/25 44/8 45/12 46/1 57/8</p> <p>whenever [2] 40/23 46/25</p> <p>where [15] 4/21 20/18 23/15 23/17 26/2 28/17 38/13 44/21 46/21 48/6 50/2 50/21 57/16 58/20 59/23</p> <p>whereas [1] 56/5</p> <p>whether [23] 3/22 10/12 16/3 16/4 16/7 20/7 23/12 25/23 26/11 28/1 28/4 28/5 28/7 28/9 28/11 39/12 47/10 57/11 59/7 61/16 63/11 65/1 65/5</p> <p>which [32] 3/9 8/17 12/3 12/15 12/15 14/20 14/20 25/7 25/17 28/18 28/19 29/11 29/16 30/13 31/13 39/11 40/11 44/14 46/2 46/7 54/13 55/8 60/15 60/23 60/24 61/2 61/3 61/3 61/4 61/23 66/8 68/8</p> <p>while [1] 7/5</p> <p>who [26] 7/9 17/9 17/9 18/14 18/15 19/5 20/1 21/5 21/13 21/14 22/10 23/8 23/14 24/3 24/4 24/19 25/1 36/11 36/12 36/12 42/18 42/19 49/12 56/11 61/16 64/3</p> <p>whole [2] 46/19 61/13</p> <p>why [13] 18/12 21/12 26/15 33/16 39/2 42/20 46/18 48/21 54/23 57/5 60/17 69/15 69/21</p> <p>WildEarth [7] 5/5 7/6 8/9 11/22 33/14 33/17 33/25</p> <p>will [19] 4/1 5/17 5/17 7/19 9/25 12/11 12/11 12/12 14/9 32/8 36/7 51/17 51/18 51/24 58/4 60/19 63/24 66/17 68/3</p> <p>willing [3] 22/11 22/19 22/19</p> <p>win [3] 12/19 12/20 28/12</p>	<p>Wisconsin [24] 6/2 6/19 24/14 24/16 24/23 25/6 25/12 26/2 27/19 52/25 52/25 53/3 53/4 53/20 53/21 53/23 53/24 54/10 54/11 56/5 56/6 58/2 60/3 68/10</p> <p>Wisconsin's [1] 26/5</p> <p>Wisconsin-only [1] 56/6</p> <p>within [6] 20/4 47/21 48/17 49/16 66/12 70/12</p> <p>without [2] 16/6 59/16</p> <p>wonder [1] 45/1</p> <p>wondering [1] 37/3</p> <p>word [2] 22/20 39/1</p> <p>words [2] 48/24 61/3</p> <p>work [1] 30/3</p> <p>works [1] 57/9</p> <p>world [5] 9/3 19/14 52/7 52/8 57/16</p> <p>worse [3] 5/15 5/18 10/13</p> <p>would [98]</p> <p>would've [2] 23/13 23/16</p> <p>wouldn't [8] 16/21 21/12 25/22 48/21 53/19 58/12 60/12 60/17</p> <p>wrench [1] 57/9</p> <p>writ [1] 69/24</p> <p>wrong [3] 22/19 37/24 57/6</p> <p>Y</p> <p>Yeah [4] 34/9 42/11 43/7 54/25</p> <p>year [1] 39/8</p> <p>years [5] 14/12 46/20 64/16 65/11 67/4</p> <p>Yep [1] 37/11</p> <p>yes [33] 7/23 11/21 16/22 17/12 20/6 21/6 24/21 25/13 32/22 33/2 35/13 39/23 39/25 40/4 40/6 41/2 41/7 42/16 42/19 49/15 49/15 50/9 55/11 55/22 56/14 61/9 62/8 62/21 63/1 63/2 63/9 64/18 65/12</p> <p>yield [1] 29/16</p> <p>York [20] 3/22 4/12</p>	<p>4/13 4/16 4/17 4/22 5/17 5/20 9/4 9/9 9/9 10/12 10/13 15/24 16/4 27/12 27/20 28/11 29/17 49/12</p> <p>you [202]</p> <p>you're [3] 18/12 35/6 44/23</p> <p>you've [5] 12/8 18/6 24/24 44/14 57/5</p> <p>your [132]</p> <p>yourself [1] 51/19</p> <p>Z</p> <p>Zivotofsky [1] 47/10</p> <p>zone [4] 48/17 49/17 49/20 50/1</p>
---	--	--	--