UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JULIE CONTRERAS, IRVIN FUENTES, ABRAHAM MARTINEZ, IRENE PADILLA, and ROSE TORRES, Plaintiffs, v. ILLINOIS STATE BOARD OF ELECTIONS, CHARLES W. SCHOLZ, IAN K. LINNABARY, WILLIAM M. MCGUFFAGE, WILLIAM J. CADIGAN, KATHERINE S. O'BRIEN, LAURA K. DONAHUE, CASANDRA B. WATSON, and WILLIAM R. HAINE, in their official capacities as members of the Illinois State Board of Elections; EMANUEL CHRISTOPHER WELCH, in his official capacity as Speaker of the Illinois House of Representatives; the OFFICE OF SPEAKER OF THE ILLINOIS HOUSE OF REPRESENTATIVES, DON HARMON, in his official capacity as President of the Illinois Senate; and the OFFICE OF THE PRESIDENT OF THE ILLINOIS SENATE, Defendants.	Case No. 1:21-cv-03139 Circuit Judge Michael B. Brennan; Chief Judge Jon E. DeGuilio; Judge Robert M. Dow, Jr. Three-Judge Panel Pursuant to 28 U.S.C. § 2284(a)

PLAINTIFFS' RESPONSE IN OPPOSITION TO REP. GUERRERO-CUELLAR'S MOTION TO INTERVENE

INTRODUCTION

> In cases like this one, where a group of plaintiffs challenge state legislation, the court should evaluate requests to intervene *with special care*, lest the case be swamped by extraneous parties who would do little more than reprise the political debate that produced the legislation in the first place.

One Wis. Inst., Inc. v. Nichol, 310 F.R.D. 394, 397 (W.D. Wis. Oct. 28, 2015) (emphasis added).

Plaintiffs, Latino voters from several legislative districts in Illinois, challenged the General Assembly's current redistricting plan, alleging that the redrawn districts violate the "one person, one vote" guarantee of the Equal Protection Clause. Recently, the U.S. Census Bureau released the population and demographic data from the 2020 Census, which confirmed that many of the districts were indeed malapportioned, diluting the electoral power of Plaintiffs along with thousands of Illinoisans. Although it appears Defendants are standing by their map for purposes of this litigation, the General Assembly is currently considering revisions to the map for the likely purpose of reducing malapportionment.

Before the Court is a motion to intervene filed by Representative Angelica Guerrero-Cuellar ("Rep. Guerrero-Cuellar"), a Democratic member of the Illinois House of Representatives. Rep. Guerrero-Cuellar seeks to intervene in this action to maintain the status quo with regards to her district's boundaries. Although Rep. Guerrero-Cuellar's request is laudable insofar as she seeks to protect the voting power of Latinos in her district, the Court should deny her motion because she has failed to comply with the procedural rules, lacks standing, and does not satisfy the requirements for intervention. Ultimately, Rep. Guerrero-Cuellar's recourse is with the General Assembly, not this Court.

ARGUMENT

I. Rep. Guerrero-Cuellar has failed to comply with Rule 24(c).

The Court should dismiss Rep. Guerrero-Cuellar's motion because she has not satisfied Federal Rule of Civil Procedure 24(c). "Rule 24(c) states that a motion to intervene, whether permissive or required, must 'be accompanied *by a pleading* that sets out the *claim or defense* for which intervention is sought.'" *Perez v. J.A.S. Granite & Tile, LLC*, 2013 U.S. Dist. LEXIS 54510, at *5 (N.D. Ill. Apr. 16, 2013) (quoting Fed. R. Civ. P. 24(c)) (emphasis added). The procedure set forth in Rule 24(c) is "unambiguous." *Shevlin v. Schewe*, 809 F.2d 447, 450 (7th Cir. 1987). Rep. Guerrero-Cuellar's motion to intervene is not accompanied by a complaint, an answer, or any other pleading. And her motion does not set forth a discernable "claim or defense," frustrating any meaningful judicial review of her request. *See Chandler v. City of Indianapolis*, 2013 U.S. Dist. LEXIS 149, at *4 (S.D. Ind. Jan. 2, 2013) ("[The putative intervenor's] failure . . . to submit a pleading" and "barebones motion" "prevents the court from evaluating the merits of the motion"). Accordingly, Rep. Guerrero-Cuellar has failed to comply with Rule 24(c), and the Court should deny her motion on that basis. *See Aikens v. City of Chicago*, 202 F.R.D. 577, 585 (N.D. Ill. 2001) ("Total dereliction of [Rule 24(c)] warrants dismissal of the motion to intervene."); *Perez*, 2013 U.S. Dist. LEXIS 54510, at *5 ("The failure to file a pleading is fatal to a motion to intervene.").[1]

[1] Instead of submitting a pleading of her own as Rule 24(c) requires, Rep. Guerrero-Cuellar asserts that she "intends to adopt the responsive pleading of the defendants in the case." Mot. at 3. But a motion to intervene under Rule 24 "technically may not just 'adopt' the pleadings of an original party, nor may it merely describe a future pleading . . ." *Shevlin*, 809 F.2d at 450. And while the Court may overlook technical compliance with the rule in appropriate cases, it should not do so to permit Rep. Guerrero-Cuellar to preemptively *adopt* a *future* pleading.

II. Rep. Guerrero-Cuellar lacks standing to intervene in this action.

The Court should deny Rep. Guerrero-Cuellar's motion to intervene because she does not have Article III standing. "In the Seventh Circuit, an intervenor—whether as of right *or by permission* and as a plaintiff *or defendant*—must demonstrate Article III standing." *Common Cause Ind. v. Lawson*, 2018 U.S. Dist. LEXIS 30917, at *4 (S.D. Ind. Feb. 27, 2018) (citing *City of Chicago v. Fed. Emergency Mgmt. Agency*, 660 F.3d 980, 984 (7th Cir. 2011); *Flying J, Inc. v. Van Hollen*, 578 F.3d 569, 571, 573 (7th Cir. 2011)) (emphasis added); *see also Buquer v. City of Indianapolis*, 2013 U.S. Dist. LEXIS 45087, at *8 (S.D. Ind. Mar. 28, 2013) ("[T]he Seventh Circuit has ruled that Rule 24(a)(2)'s requirement that the proposed intervenor possess an 'interest' relating to the subject of the underlying action incorporates *the requirement that the party seeking intervention possess Article III standing*." (emphasis added)). Because Rep. Guerrero-Cuellar does not have Article III standing, her motion to intervene must be denied.

A. Rep. Guerrero-Cuellar does not have standing because she has failed to assert a cognizable injury.

Rep. Guerrero-Cuellar's failure to assert a cognizable injury warrants dismissal of her motion for lack of standing. The "first and foremost" requirement of Article III standing is injury in fact. *Protect Our Parks, Inc. v. Chicago Park Dist.*, 971 F.3d 722, 729 (7th Cir. 2020) (quoting *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016)). To establish an injury in fact, a prospective intervenor must assert an injury that is "'concrete and particularized' as well as 'actual or imminent, not conjectural or hypothetical.'" *Crabtree v. Experian Info. Sols., Inc.*, 948 F.3d 872, 877 (7th Cir. 2020) (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992)). Where, as here, the would-be intervenor is an individual legislator seeking to intervene in an official capacity, the burden is even higher: the legislator must assert that he or she has been "deprived . . . of something to which [he or she] [is] personally *entitled*" by virtue of his or her office. *Radogno*

v. Ill. State Bd. of Elections, 2011 U.S. Dist. LEXIS 122053, at *12–13 (N.D. Ill. Oct. 21, 2011) (quoting *Alaska Legislative Council v. Babbitt*, 181 F.3d 1333, 1337 (D.C. Cir. 1999)) (emphasis added).

Rep. Guerrero-Cuellar has failed to assert an injury in fact. Generously construed, Rep. Guerrero-Cuellar's only purported injury is that the redrawing of the enacted plans *might* change the boundaries of her district, and such change *might* reduce the voting power of Latino voters in her district. *See* Mot. to Intervene, ECF 54, at 4–5, (hereinafter "Mot.") (claiming that "a disposition that changes the configuration of the 22nd District is *possible*," that such a reconfiguration might result in the "dilution of Latino/a/x votes," and that such a dilution "would impair the Representative's significant interest in protecting her constituents' voting rights" (emphasis added)).

But this hypothetical injury is insufficient to confer standing on Rep. Guerrero-Cuellar. As an initial matter, it is far too speculative to be cognizable. "Allegations of future harm can establish Article III standing if that harm is 'certainly impending,' but 'allegations of *possible* future injury are not sufficient.'" *Remijas v. Neiman Marcus Group, LLC*, 794 F.3d 688, 692 (7th Cir. 2015) (quoting *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 409 (2013)) (emphasis added). Rep. Guerrero-Cuellar has failed to provide any factual support suggesting that the particular reconfiguration of her district that she fears *is likely and imminent*. For this reason, she has not established an injury in fact.

Even if the feared reconfiguration of Rep. Guerrero-Cuellar district were likely and imminent (it is not), it would not result in a cognizable harm to Rep. Guerrero-Cuellar. Individual legislators only have standing to sue in their official capacity when they have been "deprived . . . of something to which they are personally *entitled*" by virtue of their office. *Radogno*, 2011 U.S.

Dist. LEXIS 122053, at *12–13 (quoting *Alaska Legislative Council*, 181 F.3d at 1337) (emphasis added); *see also Maloney v. Murphy*, 984 F.3d 50, 62 (D.C. Cir. 2020) (referring to an "injury suffered directly by the individual legislators *to a right that they themselves individually hold*" (emphasis added)). Of course, Rep. Guerrero-Cuellar is not *entitled* to represent a district with particular boundaries. Accordingly, even if the district she represents is redrawn, Rep. Guerrero-Cuellar will not have suffered an injury recognized by law.

B. Rep. Guerrero-Cuellar does not have standing to sue on behalf of Latino voters in her district.

Although Rep. Guerrero-Cuellar brings this motion in her official capacity rather than on behalf of her constituents, she appears to rely on supposed harm to her constituents' voting rights in order to justify her intervention in this case. *See* Mot. at 3 (arguing that her intervention is necessary to "to protect her constituents' rights to a fair and reasonable opportunity to elect candidates of their choice and avoid dilution of Latino/a/x votes"). "The general rule is that plaintiffs must allege *their own* injuries to establish standing." *Bria Health Servs. LLC v. Eagleson*, 950 F.3d 378, 384 (7th Cir. 2020) (emphasis added). To be sure, there are certain "well-established exceptions" to this rule. *See id.* (listing examples). Accordingly, "[a]n uninjured plaintiff suing on behalf of another is normally required to identify one of these existing doctrines—most of which have deep common-law roots and all of which are limited in scope to ensure that the dispute is actually an Article III 'case' or 'controversy'—to establish representative standing." *Id.* at 385. Rep. Guerrero-Cuellar has failed to do so—and indeed none are applicable. Rep. Guerrero-Cuellar therefore does not have standing to intervene on behalf of her constituents.[2]

[2] In addition, some courts have expressed concern that allowing an individual legislator to sue on behalf of their constituents raises separation of powers concerns. *See, e.g.*, *Kucinich v. Def. Fin. & Accounting Serv.*, 183 F. Supp. 2d 1005, 1011 (N.D. Ohio 2002) ("Allowing members of Congress in [the plaintiff's] position to sue on behalf of their constituents in cases where some portion of the constituents are adversely affected by duly enacted legislation would pose grave separation of powers dangers.").

III. Rep. Guerrero-Cuellar is not entitled to intervene as a matter of right.

The Court should deny Rep. Guerrero-Cuellar's request to intervene as of right because she has not satisfied the necessary requirements. "A party may intervene as of right when (1) the motion to intervene is timely filed; (2) the proposed intervenors possess an interest related to the subject matter of the action; (3) disposition of the action threatens to impair that interest; and (4) the named parties inadequately represent that interest." *United States v. Segal*, 938 F.3d 898, 908 (7th Cir. 2019) (quotation omitted). "A failure to establish any of these elements is grounds to deny the petition." *Ligas v. Maram*, 478 F.3d 771, 773 (7th Cir. 2007).

A. Rep. Guerrero-Cuellar has failed to identify a legally cognizable interest in this action, and no such interest exists.

The Court should deny Rep. Guerrero-Cuellar's motion to intervene as of right because she has failed to assert—and cannot assert—a legally cognizable interest in this lawsuit. "Intervention as of right requires a direct, significant, and legally protectable interest in the question at issue in the lawsuit." *Wis. Educ. Ass'n Council ("WEAC") v. Walker*, 705 F.3d 640, 658 (7th Cir. 2013) (quotation omitted). "That interest must be unique to the proposed intervenor." *Id.*

In her motion, Rep. Guerrero-Cuellar asserts that she has an "a significant interest in maintaining the current configuration of the map." Mot. at 4. But while this may be a political or electoral interest, it is not a legal one: Rep. Guerrero-Cuellar is not entitled to represent a district that is shaped a certain way or that has a particular composition of voters. Thus, her interest in the current map is really a legislative preference. But "a legislator's personal support [for a piece of legislation] does not give him or her an interest sufficient to support intervention." *One Wisconsin Institute*, 310 F.R.D. at 397; *see also id.* ("Abstract agreement with the position of one side or another is not the type of 'direct, significant, and legally protectable' interest that gives rise to a right to intervene."). This is sensible. If it were otherwise, "then legislators would have the right

to participate in every case involving a constitutional challenge to a state statute." *Id.* "But Rule 24 is not designed to turn the courtroom into a forum for political actors who claim ownership of the laws that they pass." *Id.* The appropriate forum for legislators to debate the merits of the map is the General Assembly itself.

Rep. Guerrero-Cuellar also asserts that she seeks to "protect *her constituents'* rights to a fair and reasonable opportunity to elect candidates of their choice and avoid dilution of Latino/a/x votes." Mot. at 4 (emphasis added). But a proposed intervenor's interest "must be based on a *right that belongs to the proposed intervenor*"—not "to the existing parties to the suit," let alone other parties not before the court. *Planned Parenthood of Wis., Inc. v. Kaul*, 942 F.3d 793, 798 (7th Cir. 2019) (emphasis added). Even assuming some of her constituents have legally cognizable interests in maintaining the district's current boundaries or voter composition (they do not), those interests do not belong to Rep. Guerrero-Cuellar.[3]

B. Defendants adequately represent Rep. Guerrero-Cuellar's interests.

The Court should deny Rep. Guerrero-Cuellar's motion to intervene because her interests are adequately represented in this litigation. "Where the prospective intervenor and the named party have 'the same goal,' . . . there is a rebuttable presumption of adequate representation that requires a showing of 'some conflict' to warrant intervention." *Planned Parenthood*, 942 F.3d at 799 (quoting *WEAC*, 705 F.3d at 659).[4] Rep. Guerrero-Cuellar has the same goal as the Legislative

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[3] As she does not have a legal interest to impair, Rep. Guerrero-Cuellar also cannot establish that "the disposition of the action threatens to impair that interest" (*Segal*, 938 F.3d at 898). *See One Wisconsin Institute*, 310 F.R.D. at 397 ("Neither the state legislators nor the voters have identified legally protected interests that would entitle them to intervene as of right, which necessarily means that they cannot show that this case threatens to impair any such interests. This is reason enough to deny their motion to intervene as of right.").

[4] "This presumption of adequacy becomes even stronger when the representative party 'is a governmental body charged by law with protecting the interests of the proposed intervenors'; in such a situation the representative party is presumed to be an adequate representative 'unless there is a showing of gross negligence or bad faith.'" *Planned Parenthood*, 942 F.3d at 799 (quoting *Ligas*, 478 F.3d at 774). Defendants may well be "governmental bod[ies]" charged with protecting Rep. Guerrero-Cuellar's asserted interests, but the Court need not resolve this issue because it is apparent that Rep. Guerrero-Cuellar fails to rebut even the lesser presumption.

Defendants in this case: defending the current version of the map. *See* Mot. at 4 ("The Representative of the 22nd District has a significant interest in maintaining the current configuration of the map"). Indeed, Rep. Guerrero-Cuellar is so on board with the objectives of the other Defendants that she intends to adopt their responsive pleading as her own, sight unseen. Mot. at 4. The fact that Defendants' and Rep. Guerrero-Cuellar's interests may not be exactly same in all respects is irrelevant—what matters is that "their interests *align*" with respect to a common goal. *Planned Parenthood*, 942 F.3d at 806 (emphasis added); *see also id.* (explaining that the presumption of adequate representation arises "[i]f the intervenor has a significant *independent interest* but shares the *same goal* as an existing party." (emphasis added)).

Rep. Guerrero-Cuellar has failed to rebut the presumption. In support of her assertion that her interests are not being adequately represented, Rep. Guerrero-Cuellar asserts the following:

> The Representative has a particular and unique interest to protect the voting power of the constituents of her District as discussed above. While the remaining parties have a more general interest and will not concern themselves with the 22nd District. In other words, any disposition or negotiated settlement that implicates the 22nd District will not be of any consequence to the current parties.

Mot. at 5. However, even if Defendants' interest in the outcome of the litigation is more generalized than Rep. Guerrero-Cuellar's, this does not suffice to show "a concrete, substantive conflict" between them. *Democratic Nat'l Comm. v. Bostelmann*, 2020 U.S. Dist. LEXIS 54269, at *10 (W.D. Wisc. Mar. 28, 2020) (quoting *Planned Parenthood*, 942 F.3d at 810 (Sykes, J., concurring)); *see also id.* at *11 ("[D]ifferent political considerations held by the proposed intervenors and defendants are not sufficient by themselves to show inadequate representation."). Accordingly, Rep. Guerrero-Cuellar has failed to rebut the presumption of adequate representation, and her motion to intervene should be denied on that basis.

C. Rep. Guerrero-Cuellar's motion is untimely.

Rep. Guerrero-Cuellar's failure to timely file her motion warrants dismissal. "[Courts] look to four factors to determine whether a motion is timely: (1) the length of time the intervenor knew or should have known of his interest in the case; (2) the prejudice caused to the original parties by the delay; (3) the prejudice to the intervenor if the motion is denied; (4) any other unusual circumstances." *Ill. v. City of Chi.*, 912 F.3d 979, 984 (7th Cir. 2019). None of these factors weigh in Rep. Guerrero-Cuellar's favor.

Beginning with the first factor, Rep. Guerrero-Cuellar asserts that it weighs in her favor because she filed the motion shortly after the release of the U.S. Census data. *See* Mot. at 3 ("The Representative recently learned the census data was to be released Thursday August 12th and acted within reasonable time of such knowledge."). However, courts measure the length of time "from when the applicant has reason to know its interests *might* be adversely affected, not from when it knows for certain that they will be." 912 F.3d at 985 (emphasis in original); *see also Libertarian Party v. Pritzker*, 2020 U.S. Dist. LEXIS 213122, at *1–12 (N.D. Ill. Sept. 10, 2020) (finding an Illinois Senate candidate's motion to intervene in an action challenging signature collection requirements was untimely because candidate filed his motion only after the Illinois State Board of Elections made a finding that was unfavorable to him).

Plaintiffs' initial Complaint was filed on June 10, 2021—well over two months ago. *See* Compl., ECF 1. The Complaint requested sought a declaratory judgment that the current map was unconstitutional and an injunction requiring the General Assembly to redraw the map. *Id.* at 11–12. Rep. Guerrero-Cuellar became aware of Plaintiffs' lawsuit shortly after it was filed. Indeed, on July 2, 2021, Rep. Guerrero-Cuellar penned a letter to Plaintiffs' counsel, demanding that Plaintiffs "forego any legal challenge" to the current version of the map. *See* Ex. 1, Guerrero-Cuellar Letter to Vega Samuel. Accordingly, Rep. Guerrero-Cuellar had actual notice that this

action might affect the boundaries of her district by the beginning of July *at the latest*. But instead of moving expeditiously to intervene, Rep. Guerrero delayed until the U.S. Census data was released. As a result, Rep. Guerrero-Cuellar's motion is untimely. *See Fraternite Notre Dame, Inc. v. Cty. of McHenry*, 2019 U.S. Dist. LEXIS 64341, at *5 (N.D. Ill. 2019) ("A proposed intervenor that dragged its heels after learning of a lawsuit cannot establish timeliness." (quotation omitted)).

Turning to the second factor, Rep. Guerrero-Cuellar acknowledges that "whether delay will prejudice the original parties to the case" is "[t]he most important consideration" in the analysis. Mot. at 3. However, she then asserts—without support—that her intervention will not prejudice the original parties "as nothing affecting the[ir] substantive rights . . . has occurred." *Id.* But the late addition of another party to a lawsuit can prejudice the original parties at any stage of the litigation. *See One Wisconsin Institute*, 310 F.R.D. at 399 ("[A]dding the proposed intervenors could unnecessarily complicate and delay all stages of this case: discovery, dispositive motions, and trial."). Such complication and delay are particularly likely in a highly publicized, rapidly proceeding lawsuit such as this one. *See id.* ("[T]he nature of this case requires a higher-than-usual commitment to a swift resolution[,] [as] Plaintiffs are challenging Wisconsin's election procedures, and the court must resolve these challenges well ahead of the . . . election to avoid any voter confusion.").

In fact, the addition of Rep. Guerrero-Cuellar would unnecessarily complicate and delay the resolution of this lawsuit. Discovery is largely complete: The parties have sent—and responded to—discovery requests, exchanged expert reports, and litigated a motion to compel. And Plaintiffs have already moved for summary judgment. If the district-specific issues Rep. Guerrero-Cuellar raises are actually relevant to Plaintiffs' malapportionment claim, there may

need to be additional discovery on those topics and potentially a renewed motion for summary judgment. This additional time, effort, and expense would prejudice Plaintiffs. *See Magnesita Refractories Co. v. Mishra*, 2017 U.S. Dist. LEXIS 213876, at *4–5 (N.D. Ind. Dec. 28, 2017) ("The delay in seeking to intervene prejudices the original parties insofar as it opens up additional areas of discovery in this case, a process which has already required significant expense and court intervention.").

Furthermore, Rep. Guerrero-Cuellar asserts there will be no prejudice to the original parties because she "intends to adopt the responsive pleading of the defendants." Mot. at 3. But even if she rubberstamps Defendants' answer,[5] Rep. Guerrero-Cuellar will (presumably) wish to conduct her own discovery and motion practice, which will increase the litigation burden on Plaintiffs. *One Wisconsin Institute*, 310 F.R.D. at 399 ("The proposed intervenors assure the court that they will cooperate with defendants to minimize duplicative or overlapping arguments. But 'minimize' does not mean 'eliminate' . . . ." (citation omitted)). And if she does not wish to litigate, it is unclear why Rep. Guerrero-Cuellar needs to be in this action at all. *See id.* (noting that the purpose of Rule 24 is *not* "to mass allied troops on the battlefield").

Lastly, the third factor—prejudice to Rep. Guerrero-Cuellar if her motion is denied—does not tip the scales. If the Court denies her motion, the prejudice to Rep. Guerrero-Cuellar will be minimal. This is because Rep. Guerrero-Cuellar does not have a *legal* interest in this litigation. While she may prefer the current composition of her district, the law does not entitle her to represent a particular constituency. Accordingly, the only harm of not being able to intervene in this litigation is that Rep. Guerrero-Cuellar will have to bring her district-specific concerns about the redistricting process to the General Assembly rather than in this Court. But any *legal*

[5] As explained in fn. 1, *supra*, Rep. Guerrero-Cuellar cannot preemptively "adopt" Defendants' future answer; she needs to draft and file her own responsive pleading. This too will complicate and delay this case.

"prejudice" that results from Rep. Guerrero-Cuellar having to voice her concerns in a busier (yet more appropriate) forum is slight.

IV. Rep. Guerrero-Cuellar does not qualify for permissive intervention.

Rep. Guerrero-Cuellar is not entitled to permissive intervention. "Under Federal Rule of Civil Procedure 24(b)(1) a district court 'may permit anyone to intervene who . . . has a claim or defense that shares with the main action a common question of law or fact.'" *Planned Parenthood*, 942 F.3d at 803 (quoting Fed. R. Civ. P. 24(b)(1)(B)). However, Rep. Guerrero-Cuellar has failed to identify a single common question of law or fact. She asserts baldly that the "[t]he questions of law and fact presently before this Court are the same as those that would be raised by the Representative." Mot at 6. But she does not identify what those questions are. Nor can she. Because she does not have a claim or defense, it is impossible to tell if there are common questions of law or fact. *See Gen. Ins. Co. of Am. v. Clark Mall Corp.*, 2010 U.S. Dist. LEXIS 21978, at *22-24 (N.D. Ill. Mar. 10, 2010) ("[Proposed intervenor] asserts that [there] are [] common questions . . . . [But] [b]ecause [proposed intervenor] does not indicate what its claim is, there is no way to tell whether it meets this requirement."). And the fact that her district might be impacted by some future remedy does not fulfill this requirement. *See CE Design, Ltd. v. King Supply Co., LLC*, 2012 U.S. Dist. LEXIS 101310, at *43 (N.D. Ill. Jul 20, 2012) ("The settlement structure in this case . . . does not constitute a common question of law or fact with the subject matter of the lawsuit.").

And even if the Court concludes that the requirements for permissive intervention have been met, it should nevertheless deny her request. In reviewing a request for permissive intervention, a court should determine whether the permissive intervention is "timely," Fed. R. Civ. P. 24(b)(1), and "consider whether [it] would unduly delay or prejudice the adjudication of the original parties' rights," Fed. R. Civ. P. 24(b)(3). As discussed in § III(C), *supra*, Rep.

Guerrero-Cuellar's motion is untimely, and her intervention would prejudice Plaintiffs. Furthermore, as explained in § III(B), *supra*, the parties in this litigation adequately represent Rep. Guerrero-Cuellar's interests, and there is little to be gained from her participation. *See One Wisconsin Institute*, 310 F.R.D. at 399 ("[W]hen intervention of right is denied for the proposed intervenor's failure to overcome the presumption of adequate representation . . . the case for permissive intervention disappears.") (quotation omitted).

CONCLUSION

For the reasons above, Plaintiffs respectfully request that this Court deny Rep. Guerrero-Cuellar's motion to intervene.

Dated: August 27, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 27, 2021, a copy of the above Plaintiffs' Response in Opposition to Rep. Guerrero-Cuellar's Motion to Intervene was filed electronically in compliance with Local Rule 5.9. All other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing.

/s/ *Griselda Vega Samuel*
Attorney for Plaintiffs

EXHIBIT 1

GENERAL ASSEMBLY

STATE OF ILLINOIS
HOUSE OF REPRESENTATIVES

July 2, 2021

Dear Griselda Vega Samuel,

On behalf of the residents of the 22nd Representative District. I ask that you refrain from taking any legal actions that would disrupt the representation of this community and silence local voices.

As you know, the 22nd Representative District is home to a large Latino/a/x population and this community is represented by a woman of color. The neighborhoods surrounding Midway Airport also form a critical community of interest; numerous residents testifying before the House Redistricting Committee discussed how Midway is a hub of this community, and how residents share common interests and concerns that are unique to this area.

The map that was approved by the Legislature and signed by Governor Pritzker as required by the Illinois Constitution reflects these interests and empowers this community to elect the candidates of their choosing. Keeping these Midway-adjacent neighborhoods represented by someone who understands our unique community, respects our diversity and fights for our needs.

Like the many people who testified before the House Redistricting Committee asking that this community be kept together, and the many more who have privately shared their thoughts with me throughout the redistricting process, I am deeply concerned that attempts to overturn the map in court could disrupt the representation this community enjoys and silence our voices.

It is my sincere hope that you will respect the diversity of this community and the clearly stated will of the people who live here, and forego any legal challenge to the 22nd Representative District.

Sincerely,

Angelica Guerrero Cuellar

Angelica Guerrero-Cuellar
State Representative, 22nd District