Nos. 24-109 and 24-110

IN THE
Supreme Court of the United States

STATE OF LOUISIANA,
Appellant,
v.
PHILLIP CALLAIS, ET AL.,
Appellees.

PRESS ROBINSON, ET AL.,
Appellants,
v.
PHILLIP CALLAIS, ET AL.,
Appellees.

On Appeal from the United States District Court for the Western District of Louisiana

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BRIEF OF LOUISIANA MATHEMATICS AND COMPUTER-SCIENCE PROFESSORS AS *AMICI CURIAE* IN SUPPORT OF NEITHER PARTY

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INTEREST OF *AMICI CURIAE*[1]

Amici curiae Michael Mislove, Lisa J. Fauci, and Nicholas Mattei are professors of mathematics and computer science at Tulane University in Louisiana. *Amici* have an interest in showing that computational redistricting—using algorithms to help draw maps that attempt to optimize multiple districting criteria—can produce a congressional plan for Louisiana that fully remedies any violation of Section 2 of the Voting Rights Act of 1965 (VRA) while simultaneously complying with the United States Constitution, other legal requirements, and traditional districting criteria—all without unduly elevating race in redistricting. *Amici* and their team of computational-redistricting experts created an "*Amicus* Map" that achieves this result by including two districts (one based in New Orleans, the other in Baton Rouge) where black voters would have the opportunity to elect Representatives of their choice to Congress, although neither district is literally, mathematically majority-black.

On three occasions in 2022, the district court in *Robinson v. Ardoin* granted *amici* leave to file briefs in support of neither party about the *Amicus* Map.[2] In preliminarily enjoining the State's prior congressional map (the "2022 Plan"), the *Robinson* court identified the *Amicus* Map as one of several that "could provide a

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[1] No counsel for a party authored this brief in whole or in part, and no person or entity other than *amici* or their counsel made a monetary contribution to this brief's preparation or submission.

[2] *See Robinson v. Ardoin*, M.D. La. No. 3:22-cv-211, Docs. 74, 96, 97, 194, 210, 220, 277, 284, 285.

starting point" for the Legislature's remedial mapmaking. *Robinson v. Ardoin*, 605 F. Supp. 3d 759, 856 & n.441 (M.D. La. 2022). But the court also ordered the Legislature to enact a remedial plan that included two "majority-Black congressional district[s]," *id.* at 766, and none of the *Amicus* Map's districts is majority-black.

The Legislature eventually followed the *Robinson* court's directive and enacted the 2024 Plan—a map with two majority-black districts that is now the subject of this litigation. After the court below invalidated the 2024 Plan on the ground that its District 6 was an unconstitutional racial gerrymander, *amici* were granted leave to participate in the remedial proceedings by again offering the same *Amicus* Map.[3] Before *amici* could present their Map, this Court stayed those remedial proceedings, *Robinson v. Callais*, 144 S. Ct. 1171 (2024), with Justice Jackson noting that, absent the stay, the district court might have "selected a remedial map … that complies with both §2 and the Equal Protection Clause," *id.* at 1173 n.1 (dissenting opinion).

In this Court, *amici* again file in support of neither party. *Amici* focus solely on the "question raised on pages 36–38 of the Brief for Appellees: Whether the State's intentional creation of a second majority-minority congressional district violates the Fourteenth or Fifteenth Amendments to the U.S. Constitution." Court's August 1st Order; *see* Br. for Appellees 36, 38 (arguing that the State "lacks a compelling interest in

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[3] *See Callais v. Landry*, W.D. La. No. 3:24-cv-122, Docs. 206, 206-1, 207, 211, 212.

VRA compliance" because Section 2 is no longer constitutional as applied to Louisiana, since black voters have "dispers[ed] across the State, propelled by social advancements, including integration"); *see also id.* at 1 ("VRA Section 2 … cannot constitutionally apply to today's Louisiana.").

SUMMARY OF ARGUMENT

No doubt, a statute demanding the consideration of race can conflict with a constitutional provision restricting the consideration of race. And no doubt, when such conflicts arise, the statute must give way, and the Constitution must prevail. *See Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 178 (1803).

In the context of redistricting, it is widely believed that Section 2 of the Voting Rights Act and the Equal Protection Clause of the Fourteenth Amendment routinely conflict, making it nearly impossible for States to navigate these "competing hazards of liability." *Abbott v. Perez*, 585 U.S. 579, 587 (2018) (quotation marks omitted). But that belief is overblown generally—and is palpably untrue here, in the context of congressional redistricting in present-day Louisiana.

This Court can resolve much of the perceived conflict between Section 2 and the Equal Protection Clause by clarifying that Section 2 requires *opportunity* districts—that is, districts in which a particular group has the potential to elect its preferred candidates to office—not *majority-minority* or *majority-black* districts. And then, applying Section 2 as properly interpreted, the Court should neither invalidate Section 2 as applied to

Louisiana nor hold that Louisiana lacks a compelling interest in VRA compliance.

First, Louisiana can successfully navigate the competing imperatives of the VRA and the Constitution. A congressional plan like the *Amicus* Map would afford substantially equal electoral opportunity to citizens of all races while avoiding excessive consideration of race. On the one hand, the *Amicus* Map provides black citizens and white citizens alike with substantially equal "opportunit[ies] … to participate in the political process and to elect representatives of their choice," and thus complies with Section 2 of the VRA. 52 U.S.C. § 10301(b). On the other hand, the *Amicus* Map complies with the Constitution because race was not "the predominant factor motivating the [mapmaker's] decision to place a significant number of voters within or without a[ny] particular district," *Miller v. Johnson*, 515 U.S. 900, 916 (1995), and thus race did not subordinate the State's traditional districting criteria, including compactness, contiguity, and respect for parishes (Louisiana's equivalent of counties), municipalities, precincts, and communities of interest. And the *Amicus* Map accomplished all of this while fully protecting the reelection prospects of powerful members of the State's congressional delegation. The very existence of the *Amicus* Map conclusively refutes any notion that redistricting in Louisiana triggers an ineluctable clash between Section 2 and the Constitution.

Second, the Court should take this opportunity to clarify that Section 2—construed strictly in accord with its plain text—does not require remedies that violate the Fourteenth Amendment. Potential conflicts with the

Constitution typically will dissolve when a map focuses on electoral opportunity rather than demographic targets, because a focus on electoral opportunity avoids the harms associated with race-based redistricting. *Cf.* Louisiana Supp. Br. 6–17 (listing these harms). Where conflict between the statute and the Constitution seems irreconcilable, it is because Section 2 has been interpreted in a manner unfaithful to the VRA's plain text.

For example, Section 2 is frequently misread to suggest that it protects only "minority" voters, when in fact it applies universally, expressly according the same protection from discrimination in voting to all "citizen[s] of the United States." 52 U.S.C. § 10301(a). And Section 2 cases are frequently misunderstood to turn on the distinction between districts that are "majority-black" (or "majority-minority") and districts that are not, when in fact the statute expressly distinguishes districts where members of a racial group have the "opportunity … to elect representatives of their choice" from districts where they lack such opportunity. *Id.* § 10301(b). Reinterpreting Section 2 to hew more closely to its plain text would clearly be preferable to invalidating the statute.

Third, if faced with the choice between holding that "Louisiana lacks a compelling interest in VRA compliance" because Section 2 is no longer constitutional as applied to Louisiana, *see* Br. for Appellees 36, or holding that the 2024 Plan is not narrowly tailored to achieve the State's compelling interest in complying with the VRA because the Legislature considered race substantially more than was necessary to afford all

"members of the electorate" an equal "opportunity … to elect representatives of their choice" and thus to comply with Section 2, 52 U.S.C. § 10301(b), the latter is clearly more appropriate (though *amici* take no position on whether the judgment below should be affirmed).

The *Amicus* Map shows that harmony between the plain text of Section 2 and the Reconstruction Amendments is not simply theoretical but achievable in practice. Given this, the Court should not hold Section 2 unconstitutional (as applied to Louisiana or otherwise), nor should it conclude that the State of Louisiana lacked a compelling interest in complying with Section 2 as properly interpreted.

ARGUMENT

I. The State of Louisiana Can Successfully Navigate the Competing Imperatives of the Voting Rights Act and the Constitution.

Critics of this Court's Section 2 jurisprudence sometimes assert that States cannot successfully navigate the competing imperatives of the VRA and the Constitution. That assertion is exaggerated generally and is demonstrably wrong as applied to Louisiana congressional redistricting today, as the *Amicus* Map shows.

The *Amicus* Map complies with Section 2 of the VRA, the Fourteenth and Fifteenth Amendments to the U.S. Constitution, and all other federal and state legal requirements, while fully respecting Louisiana's traditional districting criteria. The Map's very existence disproves any argument that it is impossible in Louisiana to walk the line between paying too little

attention to race and violating the VRA and paying too much attention to race and violating the Constitution.

A. The *Amicus* Map Complies with Section 2 of the Voting Rights Act.

Section 2 of the VRA prohibits a State from imposing or applying a districting plan that "results in … abridgement of the right of any citizen of the United States to vote on account of race or color." 52 U.S.C. § 10301(a). A violation "is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State … are not equally open to participation by members of a class of citizens protected by" Section 2 "in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice." *Id.* § 10301(b).

The *Amicus* Map provides substantially equal electoral opportunities to white voters and nonwhite voters, and to black voters and nonblack voters—and it does so without engaging in "race-based redistricting" that "sort[s] [voters] based on their skin color and then divv[ies] them up between minority and nonminority districts." Louisiana Supp. Br. 10. Louisiana has six congressional districts, and its adult citizen population is nearly two-thirds white (as of 2020, about 63%) and nearly one-third black (about 32%), with other racial groups being relatively small. As shown below (*see infra* pages 12–16), voting in Louisiana today is sharply polarized by race. Indeed, with the possible exceptions of Mississippi and Alabama, Louisiana may have the

most racially polarized electorate in the Nation.[4] And this polarization extends to all regions of the State. This means that in each Louisiana congressional district, in the vast majority of recent elections, the empirical evidence shows that the victor is either—in the shorthand common in such analyses—"white-preferred" or "black-preferred," but not both. *Cf. Allen v. Milligan*, 599 U.S. 1, 22 (2023).

The *Amicus* Map contains four districts where white voters are likely to elect to Congress a Representative of their choice over the opposition of most black voters, and two districts where black voters are likely to elect to Congress a Representative of their choice over the opposition of most white voters. That conclusion rests on extensive statistical analysis by *amici*'s expert team. When analyzing congressional-election voting behavior, experts typically use statewide elections because they pit the same two candidates against each other everywhere in the State. So, for example, in the 2016, 2020, and 2024 general elections, President Trump won solid majorities of Louisiana's white vote and carried the *Amicus* Map's Congressional Districts 1, 3, 4, and 5 every time (indeed, always by margins of more than 20 percentage points) while his Democratic opponents won

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[4] *See* Election Law Clinic at Harvard Law School, *RPV Near Me*, RPVnearme.org (last visited Sept. 2, 2025); Stephen Ansolabehere, Nathaniel Persily, & Charles Stewart III, *Regional Differences in Racial Polarization in the 2012 Presidential Election: Implications for the Constitutionality of Section 5 of the Voting Rights Act*, 126 HARV. L. REV. FORUM 205, 214 (2013); *cf. South Carolina v. Katzenbach*, 383 U.S. 301, 329 (1966).

solid majorities of the black vote and carried the *Amicus* Map's Congressional Districts 2 and 6 every time.

Of course, under the VRA's plain text and this Court's decisions interpreting that text, including the nearly 40-year-old precedent in *Thornburg v. Gingles*, 478 U.S. 30 (1986), Section 2 does not mandate a proportional number of districts for a plaintiff's racial group. *See* 52 U.S.C. § 10301(b) (focusing on "[t]he extent to which members of a protected class have been elected to office" but disclaiming any "right to have members of a protected class elected in numbers equal to their proportion in the population"); *Milligan*, 599 U.S. at 43–44 (Kavanaugh, J., concurring in part) (citing, *inter alia*, *Gingles*, 478 U.S. at 50). However, given the Louisiana electorate's demographics and polarization, white citizens and black citizens alike would have substantially equal opportunities to elect representatives of their choice under a congressional plan like the *Amicus* Map. *See League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 436–38 (2006) (*LULAC*) (assessing rough proportionality on a statewide, rather than regional, basis); *Johnson v. De Grandy*, 512 U.S. 997, 1017–20 (1994) (explaining Section 2's rough-proportionality defense). There can be no serious debate on this point: The *Amicus* Map would vindicate the federally protected voting rights of Louisiana's white and black citizens alike.

Significantly, however, the *Amicus* Map does not satisfy the VRA by creating four *majority-white*

districts and two *majority-black* districts.[5] To the contrary, it contains *zero* majority-black districts. Instead, it contains two districts where Louisiana's black voters would have a realistic opportunity to elect their preferred Representatives to Congress with limited "crossover" support from other voters. One of these *crossover districts*, in greater New Orleans, is less than 44% black; the other, in greater Baton Rouge, is less than 46% black. Despite black citizens being literally outnumbered, both districts have voted (often by solid margins) for black-preferred candidates who were losing in statewide elections due to overpowering white bloc voting. These candidates include President Barack Obama in 2012, Vice President Kamala Harris in 2020 and 2024, Lieutenant Governor candidate Kip Holden in 2015, and Secretary of State candidate Gwen Collins-Greenup in 2018 and 2019—all of whom were preferred by black voters statewide, in the New Orleans area, and in the Baton Rouge area.

To the best of *amici*'s knowledge, their Map is the only map presented to the court below or to the *Robinson* court with two opportunity districts that were not majority-black. While, as explained below (*see infra*

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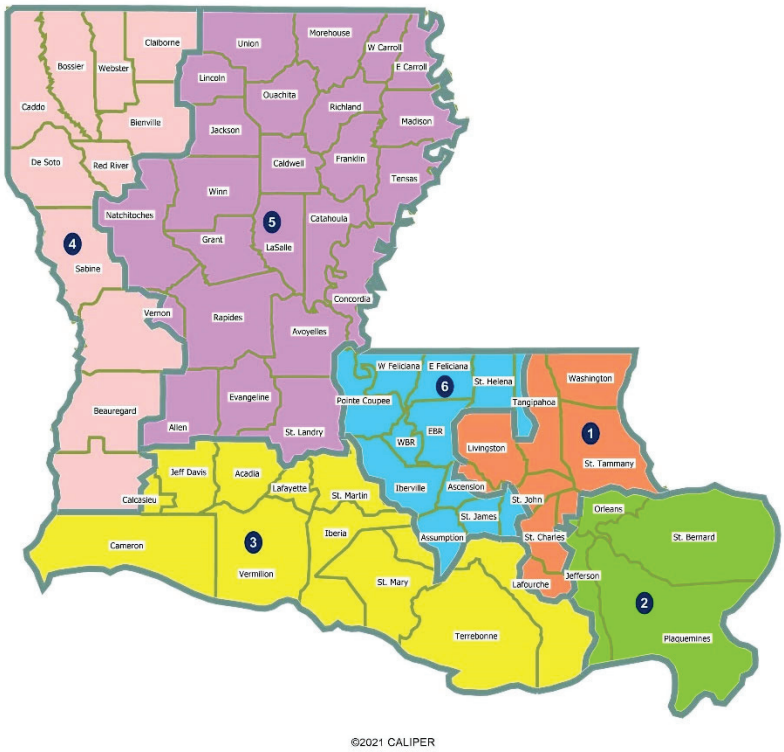
[5] As used in this brief, a *majority-black district*, often drawn using block- or tract-level demographic data from the federal census, is one in which more than half the relevant population (such as the voting-age or citizen voting-age population) is black. By contrast, an *opportunity district*, often drawn using precinct-level electoral data, is one in which a particular racial group has the potential to elect its preferred candidates to office. A *crossover district* is an opportunity district in which the particular group constitutes less than half the relevant population.

Part I-B), the *Amicus* Map may represent an especially attractive balancing of multiple districting criteria, computational redistricting could readily prove that there are literally hundreds or thousands of alternative Louisiana congressional maps that would present roughly similar characteristics.

Figure One shows the *Amicus* Map's six congressional districts superimposed on Louisiana's 64 parishes. District 2, based in Louisiana's largest city, New Orleans (in Orleans Parish), is shaded green; District 6, based in Louisiana's second largest city, Baton Rouge (in East Baton Rouge Parish, labeled "EBR"), is shaded blue.

FIGURE ONE: The *Amicus* Map



The effectiveness of both crossover districts is evident from the precinct-level results of recent statewide elections, which have been confirmed as correlating tightly with Louisiana's congressional-election results.[6] Focusing on candidates who clearly were black-preferred and were not fringe candidates, Table One shows the 19 statewide elections conducted in

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[6] *See Robinson v. Ardoin*, M.D. La. No. 3:22-cv-211, Doc. 97, at 19–22 (explaining methodology and correlations).

the decade preceding the Map's creation (2012–2021) in which one candidate is estimated to have received at least 85% of the black vote and more than one-third of the total vote. The elections are listed in order by the candidate's estimated level of statewide support from black voters, starting with President Obama, who was preferred by more than 95% of all Louisiana black voters (but only 12% of all Louisiana white voters).

TABLE ONE

Election Month and Year ("p" = primary election)	Office(s)	Candidate(s) Preferred by Black Voters (black candidates in *italics*)	Estimated % Support for Candidate(s)		2022 Plan Districts Carried by Black-Preferred Candidate(s)	2024 Plan Districts Carried by Black-Preferred Candidate(s)	*Amicus* Map Districts Carried by Black-Preferred Candidate(s)
			Black Voters	White Voters			
11/12	President/VP	*Obama*/Biden	95	12	2	2, 6	2, 6
12/14	U.S. Senator	Landrieu	95	17	2	2, 6	2, 6
11/15	Governor	J.B. Edwards	95	37	2, 3, 4, 5, 6	2, 5, 6	2, 4, 5, 6
11/19	Governor	J.B. Edwards	95	28	2	2, 6	2, 6
11/16	President/VP	Clinton/Kaine	94	12	2	2, 6	2, 6
12/16	U.S. Senator	Campbell	94	14	2	2, 6	2, 6
11/19	Sec'y of State	*Collins-Greenup*	93	15	2	2, 6	2, 6
11/15	Lt. Governor	*Holden*	93	22	2	2, 6	2, 6
11/14p	U.S. Senator	Landrieu	92	20	2	2, 6	2, 6
10/19p	Governor	J.B. Edwards	92	27	1, 2, 3, 4, 5, 6	2, 3, 4, 6	2, 3, 4, 6
11/20	President/VP	Biden/*Harris*	91	14	2	2, 6	2, 6
10/15p	Sec'y of State	*Tyson*	91	16	2	2, 6	2
10/19p	Treasurer	*D. Edwards*	91	12	2	2, 6	2
12/18	Sec'y of State	*Collins-Greenup*	90	14	2	2, 6	2, 6
10/19p	Att'y General	*Jackson*	90	11	2	2, 6	2
11/17	Treasurer	*D. Edwards*	90	19	2	2, 6	2
10/19p	Lt. Governor	*Jones*	89	10	2	2	2
10/19p	Sec'y of State	*Collins-Greenup*	88	12	2	2, 6	2, 6
10/15p	Governor	J.B. Edwards	85	21	2, 4, 5, 6	2, 4, 5, 6	2, 4, 5, 6

Table One shows that, under Louisiana's 2022 Plan, every black-preferred candidate carried the New Orleans-based District 2; but none of those candidates, other than Governor John Bel Edwards, carried any of the other five districts. By contrast, under the *Amicus* Map, the black-preferred candidate would have prevailed not only in the New Orleans-based District 2 in all 19 elections, but also in the Baton Rouge-based District 6 in 14 of the 19 elections, including the 11 elections in which the candidate attracted the strongest levels of black support.

The mere fact that black-preferred statewide candidates have occasionally failed to carry District 6 does not prevent it from fully curing any VRA violation here. As this Court has explained, "the ultimate right of §2 is equality of opportunity, not a guarantee of electoral success." *De Grandy*, 512 U.S. at 1014 n.11.

Table One also demonstrates one of the two main reasons why the *Amicus* Map's Districts 2 and 6 are effective for black voters even though the districts are not majority-black: Although white voters are cohesive in voting against black-preferred candidates, they are not *as* cohesive as black voters in supporting those same candidates. On average in these contests, black voters statewide split about 92 to 8 percent, while white voters split about 85 to 15 percent in the opposite direction. Beyond this greater cohesion of black voters, there is also the fact that a majority of Louisiana voters who identify as neither black nor white, including Latino and Asian-American citizens, consistently vote for black-preferred candidates. The latter point is most salient in

the *Amicus* Map's New Orleans-based District 2, where one out of ten registered voters identifies as neither white nor black.[7]

Courts have lauded districts like the *Amicus* Map's Districts 2 and 6 because they foster cross-racial alliances. *See, e.g.*, *Cooper v. Harris*, 581 U.S. 285, 305 (2017) (explaining that the VRA can "be satisfied by crossover districts" (emphasis deleted)); *Bartlett v. Strickland*, 556 U.S. 1, 23–26 (2009) (plurality opinion) (encouraging VRA defendants to rely on "crossover voting patterns and … effective crossover districts," which invite the kind of cross-racial cooperation that the VRA "was passed to foster"); *see also Robinson v. Ardoin*, 37 F.4th 208, 227 (5th Cir. 2022) (*per curiam*) ("If a minority group can … elect its preferred candidates, it does not matter whether that ability accrues in a majority-minority or a performing crossover district."); *Singleton v. Allen*, No. 2:21-cv-1291, 2023 WL 6567895, at *16–17 (N.D. Ala. Oct. 5, 2023) (three-judge court) (rejecting a majority-black district and instead choosing a crossover remedial district on remand from this Court's decision in *Milligan*).

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[7] The *Amicus* Map's Districts 2 and 6 encompass a substantial majority of the black voters who were found in *Robinson* to have a Section 2 right. These two districts are home to all the *Robinson* plaintiffs and draw almost 96% of their population from the 14 parishes shared in whole or in part with the *Robinson* illustrative plan's majority-black districts. So the *Amicus* Map "'substantially addresses'" the specific Section 2 violation identified in *Robinson*. *LULAC*, 548 U.S. at 431 (quoting *Shaw v. Hunt*, 517 U.S. 899, 918 (1996)).

As this Court noted more than 30 years ago, "minority voters are not immune from the obligation to pull, haul, and trade to find common political ground," as is required to prevail in crossover districts like those in the *Amicus* Map. *De Grandy*, 512 U.S. at 1020. The virtue of that obligation "is not to be slighted in applying a statute meant to hasten the waning of racism in American politics." *Id.*

B. The *Amicus* Map Complies with the Constitution.

Opportunity districts like those in the *Amicus* Map also comply fully with the Constitution. It has been suggested that compliance with Section 2, at least as applied here, violates the Constitution because it requires engaging in race-based redistricting that stereotypes and stigmatizes individuals, balkanizes citizens into competing racial factions, and forces States and federal judges to sort voters by race. *See* Louisiana Supp. Br. 9–17. But the *Amicus* Map, with its focus on electoral opportunity, refutes that view.

As further discussed below, the *Amicus* Map's crossover districts are the product of applying traditional districting criteria while considering race only when necessary to afford all members of the electorate a substantially equal "opportunity … to elect representatives of their choice." 52 U.S.C. § 10301(b). These districts are *not* the product of intentionally drawing boundaries to maintain an arbitrary minority percentage or meet a mechanical "racial target." *Cooper*, 581 U.S. at 299–300. Because they rely on electoral rather than demographic data, crossover districts such as these therefore avoid the stereotypical

and stigmatizing assumption that all voters of the same race share the same political preferences.

Similarly, such districts avoid racial blocs and balkanization. Indeed, in *Bartlett v. Strickland*, the plurality recognized that crossover districts where a racial group's adult citizens lack a numerical majority but nonetheless have the potential to elect representatives of their choice may be less vulnerable to claims of racial gerrymandering. *See* 556 U.S. at 23. And the plurality specifically recognized that crossover districts can "diminish the significance and influence of race by encouraging minority and majority voters to work together toward a common goal," leading "to less racial isolation, not more." *Id.*

The *Amicus* Map's use of computational redistricting to pursue equal electoral opportunity avoided excessive race consciousness by drawing maps based not on race, but on empirical and verifiable data about voting behavior. Rather than setting out to create a particular number of majority-black or majority-minority districts, or to hit some particular demographic threshold, the expert team's optimizing algorithm instead used election returns to evaluate actual electoral opportunity for voters of all races. The algorithm did not rely on generalizations or stereotypes about how "all black voters" or "all white voters" are expected to vote. Instead, it used actual data in the form of precinct-by-precinct returns from recent elections to group precincts together into districts that could then be evaluated as to whether they would afford all voters equal electoral opportunity. Racial data was used solely to determine which candidates in recent elections were preferred by

members of different racial groups; it was not used simply to decide which voters to place into each district. Election precincts were assembled into districts based on their electoral past performance, not their demographics. Essentially, *amici*'s expert team was just trying to solve the mathematical problem of which combinations of geography produce substantially equal electoral opportunity. Their redistricting process was thus based on electoral data, not race.

Through the use of these sophisticated algorithmic techniques,[8] the *Amicus* Map's New Orleans-based District 2 and Baton Rouge-based District 6 achieve electoral opportunity for black voters without attempting to hit any demographic threshold or target, such as being 50% black in voting-age population. Table Two presents each district's black population percentages, which were merely *consequences* of the algorithmic technique, not its *objective*.

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[8] For further background on these computational methods, *see* Br. of Computational Redistricting Experts as *Amici Curiae*, *Allen v. Milligan*, 599 U.S. 1 (2023) (Nos. 21-1086, 21-1087), 2022 WL 2873387, *cited in Milligan*, 599 U.S. at 35–37; Amariah Becker, Moon Duchin, Dara Gold & Sam Hirsch, *Computational Redistricting and the Voting Rights Act*, 20 ELECTION L.J. 407 (2021); Jessica Ring Amunson, Amariah Becker, Dara Gold, Sam Hirsch & Arjun Ramamurti, *The Promise of Computational Redistricting: A Practical Guide to Un-Gerrymandering*, 60 WAKE FOREST L. REV. (forthcoming 2024–2025).

TABLE TWO

Metric for Black Percentage	*Amicus* Map District 2 — Greater New Orleans	*Amicus* Map District 6 — Greater Baton Rouge
Voting-Age Population (2020)	41.5	42.9
Registered Voters (2021)	42.4	44.2
Total Population (2020)	43.8	45.3

Moreover, it is clear that Louisiana's traditional districting criteria—not race—predominated in crafting the *Amicus* Map generally and Districts 2 and 6 specifically.[9] As an initial matter, the color map (*see supra* page 12 (Figure One)) demonstrates that all six districts are visually compact. Moreover, the *Amicus* Map and its districts are reasonably configured, as they excel on multiple traditional districting criteria:

- **Respect for parishes.** The *Amicus* Map splits only 7 of Louisiana's 64 parishes. And no parish is split across three or more districts.
- **Respect for municipalities.** The *Amicus* Map splits only 6 of Louisiana's 304 municipalities (cities, towns, and villages). Four of those six

[9] *See* Louisiana Joint Rule No. 21, H.R. Con. Res. 90, 2021 Reg. Sess. (La. effective June 11, 2021) (listing Louisiana's districting criteria); *see also Major v. Treen*, 574 F. Supp. 325, 330–31 (E.D. La. 1983) (three-judge court) (similar).

splits follow parish lines. And no municipality is split across three or more districts.

- **Respect for larger cities.** The *Amicus* Map keeps fully intact every Louisiana city with more than 20,000 residents, including New Orleans, Baton Rouge, Shreveport, Lafayette, Lake Charles, Kenner, Bossier City, Monroe, and Alexandria.
- **Respect for communities of interest.** The *Amicus* Map's District 2 is located entirely within the official New Orleans metropolitan statistical area (MSA). The Map's District 6 contains nearly the entire Baton Rouge MSA. And the MSAs of Lafayette, Bossier City, Monroe, and Alexandria are kept fully intact in Districts 3, 4, 5, and 5, respectively.
- **Compactness.** The *Amicus* Map's six districts are compact not only visually, but also by standard mathematical measures such as Polsby-Popper, Reock, and Convex Hull scores.
- **Contiguity.** The *Amicus* Map's districts are composed of contiguous territory.
- **Whole precincts.** The *Amicus* Map keeps intact every one of Louisiana's 3,000-plus precincts from the 2022 election.

- **Population equality.** The *Amicus* Map has a lower population deviation than any congressional plan in Louisiana history.[10]

Although the *Amicus* Map was created in 2022 for presentation to the *Robinson* court, it also satisfies the political criteria that the Governor and leaders of the Louisiana Legislature articulated in 2024. Each member of Louisiana's congressional delegation resides in a separate district in the *Amicus* Map, so no election would pit a pair of Members of Congress against each other. And the reelection prospects of House Speaker Mike Johnson, House Majority Leader Steve Scalise, House Appropriations Committee member Julia Letlow, and other powerful members of the State's congressional delegation would be well protected under the *Amicus* Map. (For example, in November 2024, President Trump received more than 63% of the vote in all three of those Members' districts.)[11]

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[10] For details on the *Amicus* Map's adherence to these criteria, with favorable comparisons to the Legislature's 2022 and 2024 congressional maps, *see Callais v. Landry*, W.D. La. No. 3:24-cv-122, Doc. 212, at 2, 9–11, 17–26, A-1 to A-5 (May 6, 2024). Those comparisons show that the *Amicus* Map's districts, including its two crossover districts, respect "traditional districting criteria such as [parish], city, and town lines" "at least as well as [Louisiana's] redistricting plan[s]," clearly qualify as "geographically compact" and "reasonably configured," and thus should satisfy *Gingles*'s exacting compactness requirement. *Milligan*, 599 U.S. at 43–44 & n.2 (Kavanaugh, J., concurring in part) (citing, *inter alia*, *Cooper*, 581 U.S. at 301–02; *Gingles*, 478 U.S. at 50 (internal quotation marks omitted)).

[11] The *Amicus* Map's Baton Rouge-based District 6 is a potentially competitive one that neither political party could take for granted,

To summarize: The *Amicus* Map complies with any reasonable interpretation of Section 2 of the VRA. It complies with the U.S. Constitution. And it complies with all other legal requirements, as well as with Louisiana's traditional districting criteria. Thus, the *Amicus* Map demonstrates convincingly that, at least in Louisiana, any conflict between Section 2 and the Constitution is by no means intractable.

II. The Voting Rights Act Does Not Require "Majority-Minority" or "Majority-Black" Remedial Districts.

As the *Amicus* Map demonstrates, the creation of majority-minority districts is not always required when remedying a Section 2 violation. However, the Louisiana Legislature confronted the *Robinson* courts' mandate to create two literally "majority-black" districts. *See Robinson*, 605 F. Supp. 3d at 766 (ordering a remedial plan with "an additional majority-Black congressional district"); *Robinson*, 37 F.4th at 215 (describing the district court's order as "requir[ing] the Louisiana Legislature to enact a new congressional map with a second black-majority district"). And the *Robinson* courts in turn rested their mandates on this

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although a Democrat certainly would be favored there. The congressional delegation thus would likely have four Republicans and two Democrats. In a State where the last five Republican presidential candidates all received between 57 and 61 percent of the total vote and their Democratic counterparts all received between 38 and 41 percent, no one could credibly claim that the *Amicus* Map violates the state constitutional prohibition against arbitrary, capricious, or unreasonable discrimination based on "political ideas or affiliations." LA. CONST. art. I, § 3.

Court's frequent invocation of "majority-minority" or "majority-black" districts when discussing Section 2. It is now time to retire that terminology, for three reasons.

1. This language has no basis in Section 2's plain text. The word "minority" can be confusing or even inaccurate here. Section 2 does not single out black citizens or white citizens. It equally protects members of *any* class of "United States citizen[s]" defined by "race or color." 52 U.S.C. § 10301(a); *see id.* § 10301(b); *see also United States v. Brown*, 561 F.3d 420, 424, 430, 435 (5th Cir. 2009) (holding defendants liable for diluting white citizens' voting strength under Section 2).

Furthermore, Section 2 does not speak about, or draw distinctions based on, whether black citizens or white citizens or "members of a[ny] protected class" constitute a mathematical majority in any particular jurisdiction or district. 52 U.S.C. § 10301(b). Section 2 "says nothing about majority-minority districts." *Voinovich v. Quilter*, 507 U.S. 146, 155 (1993). Rather, the distinction drawn by Section 2's plain text is between districts where members of a plaintiff's racial group have the "opportunity … to elect representatives of their choice" and districts where they lack such opportunity. 52 U.S.C. § 10301(b). Congress could have added, after "representatives of their choice," the words "in districts where they constitute at least 50 percent of the citizens of voting age." But it chose not to do so.

Rather than fixating on "majority-minority" districts, this Court should echo the language of the statute by referring to "opportunity districts." *See, e.g.*, *Abbott*, 585 U.S. at 587 ("[U]nder certain circumstances, States must draw 'opportunity' districts in which

minority groups form 'effective majorities.'" (alteration and citation omitted)). A black opportunity district can, for example, be either a majority-black district or a majority-nonblack district, so long as the district's black voters have a realistic opportunity to elect their preferred candidates. *See Milligan*, 599 U.S. at 18 (asking whether a district provides plaintiff's group "the potential to elect a representative of its own choice" (quoting *Growe v. Emison*, 507 U.S. 25, 40 (1993))).

2. After conducting "'an intensely local appraisal' [and] a 'searching practical evaluation of the past and present reality,'" *Milligan*, 599 U.S. at 19 (quoting *Gingles*, 478 U.S. at 79), experts and courts alike typically find the 50% mark to be irrelevant. *See, e.g.*, *Singleton*, 2023 WL 6567895, at *16–17. In certain parts of Louisiana, as the *Amicus* Map demonstrates, districts well shy of 50% may suffice to create the potential for black voters to elect their preferred representatives. In other places—for example, where voting is also polarized but (unlike Louisiana) nonblack voters are more cohesive than black voters—districts might need to be well above 50% black to create a potential to elect black voters' preferred candidates.

What matters empirically, and what should matter legally, is whether a district actually affords the group electoral opportunity, not the percentage of the district comprised by members of the group. An intensely local appraisal of this question is based on actual electoral data about how actual voters in actual precincts cast their ballots in actual elections, not on stereotypes that simply lump voters together based on race.

3. Although in many instances this Court's use of the terms "majority-minority" and "majority-black" is merely a matter of convenience, it sometimes has harsh doctrinal consequences, needlessly injecting racial headcounts into Section 2 jurisprudence. The starkest example of this problem is the Court's decision in *Bartlett v. Strickland*. While, as noted above (*see supra* pages 16, 18), the *Bartlett* plurality opinion encouraged States to cure or forestall Section 2 liability by creating crossover districts, *Bartlett*'s holding pushed in the exact opposite direction by establishing what the plurality called "the majority-minority rule." 556 U.S. at 17–23 (plurality opinion); *see id.* at 19–20 ("[A] party asserting §2 liability must show by a preponderance of the evidence that the minority population in the potential election district is greater than 50 percent."). Under that rule, plaintiffs cannot come into court and claim a Section 2 violation by proffering an illustrative plan with a 49.999% black district. The plaintiffs will automatically lose unless they find a way to capture more black residents within the district's perimeter and bump that figure up to 50.001%. *See id.* at 12–26.

Whether in this case or in some future one, this Court should revisit *Bartlett*'s holding and shift away from the "majority-minority rule." Section 2's plain text speaks to the opportunity to elect candidates of choice, not to pure demographics. *Bartlett*'s fixation on the 50% mark injected into Section 2 litigation a racial quota, plain and simple. Moreover, it is a quota rooted in a racial stereotype hypothesizing that, when presented the choice, all black voters will cast their ballots in lockstep for their preferred candidates and all white voters will

do likewise for those candidates' opponents. It is impermissible for States or federal courts to invoke that racial stereotype because it wrongly assumes that voters from "the same racial group—regardless of their age, education, economic status, or the community in which they live—think alike, share the same political interests, and will prefer the same candidates at the polls." *Shaw v. Reno*, 509 U.S. 630, 647 (1993). And, as shown above (*see supra* pages 12–16 and Table One), such total polarization is not the empirical reality in Louisiana today, if it ever was.

Reversing the path taken in *Bartlett* would have the ancillary benefit of removing some of the thornier questions from Section 2 case law: Does the 50% rule refer to total population, voting-age population, or citizen voting-age population? *Compare Bartlett*, 556 U.S. at 19–20, 23 (plurality opinion) (population), *with id.* at 6–9, 12–14, 18–20 (voting-age population), *with id.* at 9 (citizen voting-age population). When applying the 50% rule, should people who self-identified on census forms as multiracial count as black, white, neither, or both? *See Georgia v. Ashcroft*, 539 U.S. 461, 473 & n.1 (2003). When, if ever, can the 50% rule be satisfied by combining two or more distinct groups? *See Petteway v. Galveston Cnty.*, 111 F.4th 596, 599–614 (5th Cir. 2024) (en banc) (rejecting a coalition of black and Hispanic citizens under Section 2 despite statistical evidence of cohesive voting). And an issue that recently splintered this Court: When does drawing an illustrative district to satisfy *Bartlett*'s 50% rule render that district too race-conscious? *Compare Milligan*, 599 U.S. at 30–33 (plurality opinion), *with id.* at 42, 45 (Kavanaugh, J. concurring in part). All

these issues would largely or entirely disappear if the Court overruled *Bartlett* and instead reinterpreted Section 2 in accord with its plain text.

The *Bartlett* plurality offered no principled basis for simultaneously encouraging Section 2 defendants to draw crossover districts and prohibiting Section 2 plaintiffs from proposing them when bringing a claim. *See Bartlett*, 556 U.S. at 43–44 (Souter, J., dissenting).[12] Justice Scalia had it right when he explained that establishing whether a Section 2 violation has occurred should "require[] application of the same standard that measures whether a §2 violation has been remedied." *Growe v. Emison*, 507 U.S. 25, 38 n.4 (1993).

III. The Court Should Neither Invalidate Section 2 as Applied to Louisiana Nor Hold that Louisiana Lacks a Compelling Interest in Voting Rights Act Compliance.

Appellees, now joined by the State, contend that Section 2 is no longer constitutional as applied to Louisiana, that Section 2 compliance is not a compelling state interest, and that this Court should affirm the judgment below on the ground that the State engaged in predominantly racial redistricting without a compelling

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[12] As Justice Souter explained in his *Bartlett* dissent: "The plurality cannot have it both ways. If voluntarily drawing a crossover district brings a State into compliance with §2, then requiring creation of a crossover district must be a way to remedy a violation of §2, and eliminating a crossover district must in some cases take a State out of compliance with the statute. And when the elimination of a crossover district does cause a violation of §2, I cannot fathom why a voter in that district should not be able to bring a claim to remedy it." *Id.*

interest. *See* Br. for Appellees 36–38. Each contention should be rejected.

1. This Court long ago rejected the argument that Section 2 exceeds the power vested in Congress by the Fifteenth Amendment, *see Miss. Republican Exec. Comm. v. Brooks*, 469 U.S. 1002 (1984), and current conditions have not subsequently rendered Section 2 invalid as applied to Louisiana or otherwise. As this Court made clear just three Terms ago, Section 2 liability rests on the combination of "residential segregation" and significant "racially polarized voting," "arising against the backdrop of substantial … racially discriminatory actions taken by the State." *Milligan*, 599 U.S. at 18–19, 22, 25–26, 28–29. Section 2 does not *assume* the existence of these conditions. Plaintiffs must prove them.

At some point, racial progress in a given State may leave Section 2 plaintiffs unable to prove those conditions, so their claims will systematically fail. Thus, Congress built into Section 2 its own "logical end point." *Students for Fair Admissions, Inc., v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 212, 221 (2023) (*SFFA*) (citation omitted). *Amici* cannot speak to whether some States may have already reached that end point. But Louisiana certainly has not. That much is clear from the facts already established by *amici*'s expert team and from the evidence adduced by the *Robinson* plaintiffs.

There may eventually come a day when housing throughout Louisiana is sufficiently racially integrated that all its precincts will have roughly similar demographics. At that point, no plaintiff could

successfully challenge a congressional map under Section 2. But the *Amicus* Map, the seven illustrative plans presented by plaintiffs in *Robinson*, and the 2022 and 2024 Plans enacted by the Legislature demonstrate conclusively that Louisiana is not yet at the point where residential integration has rendered Section 2 irrelevant. *See Robinson*, 605 F. Supp. 3d at 784 (finding that "housing segregation … still prevails" in Louisiana).

There may eventually come a day when racially polarized voting ceases in Louisiana. When members of a plaintiff's racial group and "other members of the electorate" both support the same candidates—that is, the "representatives of their choice" are identical—those candidates will *always* win office, and plaintiffs' claims of injury will be readily dismissed. 52 U.S.C. § 10301(b). But that is not yet a reality in Louisiana, as typically less than 20% of white voters support the candidates overwhelmingly preferred by black voters in recent elections. *See supra* page 14 (Table One). Likewise, the *Robinson* court found extensive evidence of significant black political cohesion and white bloc voting. *See Robinson*, 605 F. Supp. 3d at 839–45. This polarization explains why no black candidate has been elected to statewide office in Louisiana since Reconstruction, and only one black-preferred candidate (Governor John Bel Edwards) has been elected statewide in at least the last decade and a half. *See id.* at 845; *see also supra* page 14 (Table One).

There may eventually come a day when residential segregation and polarized voting can no longer be traced to official acts of racial discrimination taken by the State, calling into question whether Section 2 remains

"appropriate legislation" to enforce the Reconstruction Amendments. U.S. CONST. amend. XIV, § 5; *id.* amend. XV, § 2; *see Milligan*, 599 U.S. at 45 (Kavanaugh, J., concurring in part) (referencing a potential "temporal argument" that the "authority to conduct race-based redistricting cannot extend indefinitely into the future"); *SFFA*, 600 U.S. at 311 (Kavanaugh, J., concurring) ("[E]ven if a racial classification is otherwise narrowly tailored to further a compelling governmental interest, … [it] must be a temporary matter … [and] must be limited in time." (citations and internal quotation marks omitted)).

But that day also has yet to arrive. As the *Robinson* court found: Elections in Louisiana remain polarized by race more starkly than anywhere else in the Nation, with the possible exceptions of Mississippi and Alabama; black voters in Louisiana only rarely enjoy success in statewide elections, and when their preferred candidate is black, they never do; racial appeals in political campaigns persist; and there remains a "long and ongoing history of voting-related discrimination" that even Louisiana's State Senate President and House Speaker candidly labeled "a 'sordid history of discrimination.'" *Robinson*, 605 F. Supp. 3d at 846, 848; *see also Nairne v. Landry*, No. 24-30115, 2025 WL 2355524, at *20 (5th Cir. Aug. 14, 2025) (*per curiam*) (describing a record "replete with evidence" of "state-sponsored discrimination" against black voters in Louisiana); *Nairne v. Ardoin*, 715 F. Supp. 3d 808, 869 & n.403 (M.D. La. 2024) (noting that "[f]or over 40 years, Louisiana's courts have recognized the state's history of official discrimination" and its "'continue[d] … adverse

effect on the ability of its black residents to participate fully in the political process'" (citation omitted)); *cf. Milligan*, 599 U.S. at 22 (describing Alabama in similar terms).

Louisiana therefore remains today the site of "intensive racial politics where the excessive role of race in the electoral process denies [black] voters [an] equal opportunity to participate" and to elect their preferred representatives to office. *Milligan*, 599 U.S. at 30 (brackets and internal quotation marks omitted); *see Nairne*, 2025 WL 2355524, at *23 (rejecting the State's argument that "conditions in Louisiana no longer justify race-conscious remedies and that Congress's Fifteenth Amendment authority to enact the 1982 amendments to [Section 2 of] the VRA has expired"). Therefore, the Court should not declare Section 2 unconstitutional as applied to Louisiana.

2. Because the Supremacy Clause requires States to comply with all constitutional exercises of Congress's power, *see* U.S. CONST. art. VI, cl. 2, if this Court concludes that Section 2 (including its race-conscious remedies) is constitutionally valid as properly interpreted and as applied to Louisiana, then it must conclude that Louisiana can have a compelling governmental interest in complying with Section 2. *See Shaw v. Reno*, 509 U.S. at 654; *see also SFFA*, 600 U.S. at 207. In the current decade, between *Robinson* and *Nairne*, no fewer than ten federal judges have ordered

the State to comply with Section 2 when redistricting.[13] That alone supplies plenty enough reason.

This Court should not place Louisiana "in the impossible position of having to choose between compliance with [a valid federal antidiscrimination law] and compliance with the Equal Protection Clause." *LULAC*, 548 U.S. at 518 (Scalia, J., dissenting in relevant part) (discussing Section 5 of the VRA, 52 U.S.C. § 10304). Justice Scalia—joined by seven other Members of the Court[14]—concluded that compliance with Section 5 of the VRA "can be a compelling state interest" because this Court had "long ago upheld [its] constitutionality … as a proper exercise of Congress's authority under §2 of the Fifteenth Amendment to enforce that Amendment's prohibition on the denial or abridgment of the right to vote." *Id.*; *see also Harris v. Arizona Indep. Redistricting Comm'n*, 578 U.S. 253, 258 (2016). Likewise, the Court should now unambiguously hold that compliance with Section 2 of the same Act can be a compelling state interest. *See Wis. Legislature v. Wis. Elections Comm'n*, 595 U.S. 398, 401 (2022) (*per curiam*) ("[O]ur precedents hold that a State can satisfy strict scrutiny if it proves that its race-based sorting of voters is narrowly tailored to comply with the VRA."

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[13] *See Nairne*, 2025 WL 2355524, at *22; *Robinson v. Ardoin*, 86 F.4th 574, 599 (5th Cir. 2023); *Robinson*, 37 F.4th at 232; *Robinson*, 605 F. Supp. 3d at 766.

[14] *See id.* at 475 n.12 (Stevens, J., joined by Breyer, J., concurring in relevant part); *id.* at 483, 485 n.2 (Souter, J., joined by Ginsburg, J., concurring in relevant part); *id.* at 511, 518 (Scalia, J., joined by Roberts, C.J., and Thomas & Alito, JJ., dissenting in relevant part).

(citing *Cooper*, 581 U.S. at 292)); *see also Walen v. Burgum*, 145 S. Ct. 1041 (2025) (mem.).

3. *Amici* support neither party in this case and take no position as to its proper disposition. However, if the Court decides to affirm the judgment below, it should do so on the basis that District 6 in the Louisiana Legislature's 2024 Plan was not narrowly tailored to achieve the State's compelling governmental interest in complying with Section 2, as properly interpreted, because the Legislature considered race substantially more than was necessary to afford all "members of the electorate" an equal "opportunity … to participate in the political process and to elect representatives of their choice." 52 U.S.C. § 10301(b); *see also Cooper*, 581 U.S. at 301–06 (holding that the State's interest in complying with the VRA did not justify replacing a successful crossover district with a majority-black district that was not narrowly tailored to that objective). The Court should not affirm on the basis that Louisiana lacked a compelling interest in complying with a proper interpretation of the VRA.

CONCLUSION

For the foregoing reasons, *amici* respectfully ask this Court to hold that Section 2 of the Voting Rights Act remains constitutionally valid and that compliance with a proper interpretation of Section 2 can be a compelling state interest justifying the intentional creation of a district to provide voters with equal electoral opportunity.

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Respectfully submitted,

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