

**NINETEENTH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA**

LOUISIANA STATE CONFERENCE OF
THE NAACP *et al.*

Plaintiffs

vs.

CIVIL ACTION
No. 716837 sec. 25

KYLE ARDOIN, in his official capacity as
SECRETARY OF STATE OF LOUISIANA

Defendant.

**MEMORANDUM IN SUPPORT OF PLAINTIFFS’
MOTION FOR A PRELIMINARY INJUNCTION**

INTRODUCTION

1. Louisiana has failed in its obligation under Article 1, Section 2 of the U.S. Constitution to reapportion its six U.S. Congressional districts to ensure population equality following the 2020 U.S. Census. In the absence of action by this Court, Plaintiffs the Louisiana State Conference of the NAACP (“Louisiana NAACP”), Power Coalition for Equity and Justice (“Power Coalition”), Dorothy Nairne, Edwin René Soulé, Alice Washington and Clee Earnest Lowe (together, the “individual Plaintiffs”), are being denied equal access to representation and an equally weighted vote in elections for Congressional office. These are rights secured to Plaintiffs under Article I, Section 2 of the U.S. Constitution as well as under the First and Fourteenth Amendments to the Constitution.

2. In *Wesberry v. Sanders*, the Supreme Court of the United States explained that Article 1, Section 2’s requirement that members of Congress be chosen “by the People of the several States” requires “that when qualified voters elect members of Congress each vote be given as much weight as any other vote.” 376 U.S. 1, 7 (1964). As the Court later explained, the U.S. Constitution requires congressional districts “achieve population equality as nearly as is practicable,” demanding population deviations between Congressional districts greater than zero to be justified as necessary to achieve a legitimate state objective. *Karcher v. Daggett*, 462 U.S. 725, 730 (1983) (quotations and citations omitted). Absent such population equality or justification for any deviation, a state’s Congressional districts are malapportioned in violation of the U.S. Constitution.

3. Under Louisiana’s current Congressional plan, which was adopted in 2011, *see* 2011 La. Sess. Law Serv. 1st Ex. Sess. Act 2 (H.B. 6) (codified as La. Rev. Stat. § 18:1276.1), the deviation in population between congressional districts is over 88,000 people. Fairfax Aff. at ¶24. During the 2022 First Extraordinary Session (the “Special Session”), called for the purpose of redistricting all state-level governmental bodies, the State has failed to enact a properly apportioned map. Instead, because, despite repeated urging by Louisianians, notice by Plaintiffs in this case, the admonitions of Louisiana Governor John Bel Edwards, and the introduction of several alternative maps during the Special Session that properly apportioned Louisianians among the state’s six Congressional districts while also protecting the rights of Black Louisianians, the Legislature enacted a map that “packed” an unnecessarily high proportion of Louisiana’s Black voters into a single Congressional district, and “cracked” the remaining Black population across other Congressional districts, denying Black voters in the state the opportunity to elect candidates of their choice in all but one of the State’s six Congressional districts, in violation of Section 2 of the Voting Rights Act of 1965, 52 U.S.C. § 10301. This failure to comply with federal law in the enactment of the Louisiana Congressional districting plan drew a gubernatorial veto. Thus, the State has failed to enact a Congressional district map based on 2020 census data, without any legitimate justification, and the existing Congressional map, derived from the 2010 census, blatantly fails to achieve the constitutional requirement of population equality as nearly as practicable.

4. The Legislature appears to have no ability to override Governor Edwards’s veto and has demonstrated no will to comply with its obligation to reapportion its six U.S. Congressional districts to ensure population equality before Louisiana’s July 2022 candidate qualifying period for the November 2022 Open Congressional Primary election. Unless this Court acts promptly, the Open Congressional Primary election in Louisiana in November 2022 will proceed under a malapportioned map, in violation of the U.S. Constitution.

5. Article 3601 of the Louisiana Code of Civil Procedure provides that an injunction shall be issued in cases where irreparable injury, loss, or damage may otherwise result to the plaintiffs. La. Code Civ. P. art. 3601(A). While an action for an injunction is pending before a Louisiana court, the court may issue a temporary restraining order, a preliminary injunction, or both. La. Code Civ. P. art. 3601(C).

Factual Background

6. The current Congressional district map in force in Louisiana is the map the Legislature passed and the State adopted on April 14, 2011, using 2010 census data. *See* La. Rev. Stat. § 18:1276.1. That map divided Louisiana into six Congressional districts containing approximately 755,562 people each (i.e., the state's 2010 total population of 4,533,372 divided by the number of districts). The 2011 plan has been used in every Louisiana congressional election since 2012.
7. At the time it was adopted, the 2011 congressional plan had a maximum deviation (i.e., the difference between the most populated district and least populated district) based upon 2010 Census data of 162 people.
8. In 2020, the U.S. Census Bureau conducted the decennial census required by Article I, Section 2 of the U.S. Constitution. On April 26, 2021, the U.S. Secretary of Commerce delivered the results of the 2020 census to the President.
9. As a result of the 2020 census, Louisiana has again been apportioned six congressional districts for the next decade, as it has since 2000.
10. According to the 2020 census count, Louisiana's resident population has grown to 4,657,757, an increase of nearly 125,000 people from a decade ago. *Fairfax Aff.* at ¶22. But population growth has been uneven across Louisiana's existing congressional districts over the past decade. *Fairfax Aff.* at ¶24. Some districts grew much faster than others and two districts lost population. *Id.* As a result, the geographic distribution of the population within Louisiana has shifted and the congressional map, as drawn in 2011, is now grossly malapportioned. *Fairfax Aff.* at ¶26.
11. According to Louisiana's 2020 population, the ideal population of a properly apportioned Louisiana Congressional district is 776,292. *Fairfax Aff.* at ¶22.
12. 2020 Census data evidenced population shifts since 2010 which resulted in the underpopulation of Louisiana Congressional Districts 2, 4, and 5 and the overpopulation of Louisiana Congressional Districts 1, 3, and 6. Currently, the maximum population deviation between Louisiana's Congressional districts is 11 percent. *Fairfax Aff.* at ¶24. This corresponds to a population deviation among the current congressional districts of 88,120 people. *Id.*
13. In Louisiana, when a new districting plan is adopted, it has the effect of repealing or superseding any prior districting plan in effect for the same unit of government (relevant here, Louisiana's congressional districts). *See, e.g.,* 2011 La. Sess. Law Serv. 1st Ex. Sess. Act 2 (H.B.

6) (repealing previous congressional districts). If no plan is adopted, the prior plan remains statutorily in force and continues to govern elections until it is repealed or amended through the legislative process. *See* La. Stat. Ann. § 18:1276.1.

14. The redistricting process in Louisiana began in June of 2021 with the issuance of guidance governing the criteria to be used in developing redistricting plans for Congress and other levels of government for which the State Legislature is responsible. The guidance, embodied in Joint Rule 21 of the Louisiana Legislature, requires that each redistricting plan submitted for consideration by the Legislature must comply with the Equal Protection Clause of the Fourteenth Amendment and the Fifteenth Amendment to the U.S. Constitution; Section 2 of the Voting Rights Act of 1965, as amended; and all other applicable federal and state laws. Adcock Aff., Exh. 1.

15. From late October 2021 through January 2022, the Louisiana House Committee on House and Governmental Affairs and the Senate Committee on Senate and Governmental Affairs held a series of joint public meetings (commonly called “roadshows”) across the State during which Louisianans could make suggestions and recommendations regarding the redistricting process and the new maps. Adcock Aff. Exh. 4.

16. Following the conclusion of the roadshows, the Legislature convened a Special Session to consider redistricting proposals and enact a plan. The first Congressional maps were pre-filed by legislators on January 31, 2022, in advance of the Special Session.

17. On February 18, 2022, the Legislature passed both H.B. 1 and S.B. 5, bills adopting a proposed Louisiana Congressional redistricting plan creating a single majority-Black Congressional district within the six-district map. The House and Senate bills would have created identical Congressional maps. The Louisiana House of Representatives voted 62-27 in favor of H.B. 1 and 64-31 in favor of S.B. 5. The Louisiana Senate voted 27-10 to approve H.B. 1 and 26-9 to approve S.B. 5.

18. On March 9, Governor John Bel Edwards vetoed both H.B. 1 and S.B. 5, stating that the map “is not fair to the people of Louisiana and does not meet the standards set forth in the federal Voting Rights Act.” Adcock Aff. Exh. 2, 3. Governor Edwards’ veto statement explained that in failing to enact a Congressional map that complies with the Voting Rights Act, the Legislature “disregarded the shifting demographics of the state” particularly the increase in the Black voting age population by 4.4% since the 2010 census, resulting in a 2020 Black voting age population of 31.2%, almost one third of the state of Louisiana. Adcock Aff. Exh. 2, 3.

19. In a letter to the Speaker of the State House explaining his veto, the Governor stated that the Legislature's map deprives Black voters in five of the six congressional districts of the opportunity to elect a candidate of their choice. The Governor noted that in approving its map "the Legislature rejected numerous alternative maps with two majority minority districts . . . that would have given more Black voters an opportunity to elect a candidate of their choice." Adcock Aff. Exh. 2, 3. The Governor made clear that he will veto proposed maps that do not comply with Section 2, telling Louisiana legislators that "[t]his injustice cannot continue." Adcock Aff. Exh. 2, 3.

20. The Louisiana Constitution requires "two-thirds of the elected members of each house" to override a Gubernatorial veto of duly passed legislation. La. Const. Art. 3 § 18(c). Neither H.B. 1 nor S.B. 5 passed with more than 70 votes in the House, the number of votes required for the Legislature to override Governor Edwards' veto. Senior members of the legislative majority have questioned whether there are sufficient votes to override the Governor's veto and have made clear that the Legislature will not adopt a Congressional map that will comply with the Governor's stated requirements. Adcock Aff. Exh. 7 (H.B. 609, proposed legislation pre-filed on Mar. 4, 2022, by Rep. John Stefanski, Chairman of the House and Governmental Affairs Committee, Reg. Sess. 2022 Reapportioning Louisiana's Congressional map, which, like the map vetoed by Gov. Edwards, creates a single, majority-Black Congressional District); Adcock Aff. Exh. 8 (tweet by Sharon Hewitt, Chairman of the Senate and Governmental Affairs Committee, on March 9, 2022, stating "I am disappointed in the Governor's decision to veto the congressional map & am confident the map the legislature passed meets the requirements of the Voting Rights Act.")). The Legislature and the Governor have reached an impasse with respect to adopting a Congressional redistricting plan.

21. Veto override votes are extremely rare in Louisiana. The last successful veto override occurred in 1993, and state law makes it difficult to convene a veto session during a Regular Session of the Louisiana legislature.

22. There is little likelihood that the impasse can be resolved. Based on her personal experience and role as President and Chief Executive Officer of Power Coalition, Plaintiff Shelton has serious doubt that the Legislature will pass a new congressional map that the Governor will sign. Shelton Aff. at ¶19 ("I have serious doubt that the Legislature will pass a new congressional map that the Governor will sign, based on my experience engaging with members of the Legislature. During

the current legislative session, the Chairman of the House and Governmental Affairs Committee re-introduced a bill containing the same map as the one that Governor Edwards has already vetoed. Based both on my experience participating in the roadshows and special sessions and on the public reluctance of legislators to come to an agreement, it is highly unlikely the Legislature will pass a new map that the Governor will not veto.”). Likewise, Louisiana NAACP President Michael W. McClanahan believes it is highly unlikely that the Legislature will pass a new Congressional map that the Governor will sign. McClanahan Aff. at ¶11 (“based on my experience engaging with Senator Hewitt, I believe it is highly unlikely that she will allow a map that the Governor will sign pass out of her committee. Other legislative leaders have also alluded to the fact that the body will not pass a map that the Governor will sign.”).

23. Representative John Stefanski, Chairman of the House and Governmental Affairs Committee, admitted that the Louisiana House of Representatives will likely not muster the necessary 70 votes to override the Governor’s veto. Adcock Aff., Exh. 9 (Rep. Stefanski admitting that “[i]t’s part of the process... we’ll see” about whether a veto can be accomplished because there are likely only 68 out of the 70 requisite House votes).

ARGUMENT

24. Article I, § 2 of the U.S. Constitution requires that representatives be chosen “by the People of the several States.” The Supreme Court has long held that this command means that “as nearly as is practicable[,] one [person]’s vote in a congressional election is to be worth as much as another’s.” *Wesberry*, 376 U.S. at 8. Simply put, the U.S. Constitution requires virtually identically sized congressional districts. *Karcher*, 462 U.S. at 730. Any deviation from absolute population equality, no matter how small, dilutes equality of access to representation and must be justified by the state. *Kirkpatrick v. Preisler*, 394 U.S. 526, 531 (1969) (concluding that Article I, Section 2 “permits only the limited population variances which are unavoidable despite a good-faith effort to achieve absolute equality, or for which justification is shown”); *Karcher*, 462 U.S. at 734 (“[T]here are no *de minimis* population variations, which could practicably be avoided, but which nonetheless meet the standard of Art. I, § 2 without justification.”). For example, in *Karcher*, the Supreme Court struck down a district plan in which each district’s population differed from perfect equality, on average, by 0.1384%, and the difference between the largest and smallest districts was 0.6984% of the average district. *Id.* at 744; *see also Vieth v. Pennsylvania*, 195 F. Supp. 2d 672, 675 (M.D. Pa. 2002) (striking down as malapportioned a plan in which the most

populated and least populated districts differed by nineteen people); *Hastert v. State Bd. of Elections*, 777 F. Supp. 634, 662 (N.D. Ill. 1991) (declining to implement a plan that, among other things, had a total deviation from perfect equality of 0.00297%).

25. In 2011, when Louisiana's existing congressional plan was enacted, the deviation in population among districts was no more than 162 people. Now, due to the significant population shifts demonstrated by the 2020 census, the population deviation among the current congressional districts is 88,120 people. The population deviation between Louisiana's most overpopulated and most underpopulated Congressional districts is 11 percent.

26. There is no justification for this continued deviation after the 2020 census, and the Legislature has not suggested that there is. Rather, Louisiana's political branches have reached an impasse because the Legislature is unwilling to pass districting plans that include two majority-Black Congressional districts, and the Governor has stated publicly that he will veto a Congressional redistricting plan that does not contain two majority-Black Congressional districts because such a plan would violate Section 2 of the Voting Rights Act of 1965. Such a political impasse does not provide legitimate grounds for departing from the "one person, one vote" principle. Absent court intervention, lawful Congressional district boundaries will not be in place before commencement of the 2022 Open Congressional candidate qualifying period between July 20-22, 2022.

27. Unconstitutional malapportionment gives some Louisianans more access to representation than others and some votes more weight than others. In addition to having their votes devalued, malapportionment places a heavier burden on individuals in overpopulated districts than individuals in underpopulated districts to gain meaningful access to their representatives.

28. The use of Louisiana's current Congressional map in any future election will unconstitutionally dilute the voting strength of Individual Plaintiffs, who are registered voters in the overpopulated Congressional districts (and whose votes will thus be counted less than those of voters in the underpopulated districts) and many of the Louisiana NAACP's and Power Coalition's members and constituents who likewise are registered voters in the overpopulated districts. McClanahan Aff. at ¶4; Shelton Aff. at ¶¶3,8,16; Nairne Aff. at ¶7; Soulé Aff. at ¶¶3-5 ("I am lawfully registered to vote in Congressional District ("CD") 1" and "I intend to vote in future elections, including the upcoming 2022 congressional elections."); Washington Aff. at ¶¶3-5 ("I am lawfully registered to vote in Congressional District [] 6."); Lowe Aff. at ¶¶3-5 ("I am lawfully

registered to vote in Congressional District (“CD”) 6” and “I am a regular voter who votes in federal, state, and local elections.”). Denial of this constitutional right threatens Plaintiffs with immediate and imminent irreparable harm.

I. Legal Standard for the Issuance of a Preliminary Injunction.

29. To obtain a preliminary injunction, the moving party must make a *prima facie* showing that: (1) the injury, loss, or damage it will suffer if the injunction is not issued may be irreparable; (2) it is entitled to the relief sought; and (3) it will likely prevail on the merits of the case. *General Motors Acceptance Corporation v. Daniels*, 377 So.2d 346, 348 (La. 1979); *Burnham Broadcasting Company v. Williams*, 629 So.2d 1335, 1338 (La. App. 4th Cir. 1993), writ denied, 94-0150 (La. 2/25/94). However, where, as here, the conduct Plaintiffs seeks to enjoin is prohibited by the Constitution, no showing of irreparable injury is required. *City of New Orleans v. Board of Com’rs of Orleans Levee Dist.*, 640 So.2d 237, 253 (La. 1994).

30. Louisiana law is well settled that when “the conduct sought to be restrained is unconstitutional or unlawful,” *e.g.*, when the conduct sought to be enjoined constitutes a direct violation of a prohibitory law and/or a violation of a constitutional right, a showing of irreparable injury is not required because, by definition, such injuries have no adequate remedy at law. *Jurisich v. Jenkins*, 749 So. 2d 597, 599–600 (citations omitted). “Once a plaintiff has made a *prima facie* showing that the conduct to be enjoined is reprobated by law, the petitioner is entitled to injunctive relief without the necessity of showing that no other adequate legal remedy exists.” *Id.* (citing *Oachita Parish Police Jury v. American Waste & Pollution Control*, 606 So.2d 1341 (La. App. 2d Cir.).

II. Plaintiffs Are Likely to Succeed on The Merits of their Claim Under Article I, Section 2 of the U.S. Constitution that Louisiana’s Current Congressional Map is Malapportioned, Unconstitutionally Diluting the Vote of Plaintiffs in Overpopulated Districts.

31. Plaintiffs are likely to succeed on the merits of their claim that Louisiana’s 2011 Congressional plan, codified at La. Rev. Stat. § 18:1276.1, which is currently in force violates article I, Section 2 of the U.S. Constitution. Indeed, there can be no genuine dispute that the 2011 plan is currently malapportioned based on the 2020 census results.

32. The state has no compelling interest in the 11% population deviation in the operative Congressional map, nor could it. *See* La. Rev. Stat. § 18:1276.1. A political impasse does not provide a legitimate state interest justifying such a deviation, and no member of the Legislature

has suggested that the current malapportioned map is appropriate or justified in light of the 2020 census data.

III. Plaintiffs will Suffer Irreparable Harm, Including Denial of Rights Guaranteed by the U.S. Constitution, Absent Injunctive Relief from this Court.

33. No monetary or pecuniary relief adequately remedy the denial of rights secured to an individual under the U.S. Constitution. Plaintiffs residing in overpopulated districts will face irreparable harm if forced to vote under Louisiana's 2011 Congressional redistricting plan. Under applicable Louisiana law, the irreparable injury necessary for the issuance of a preliminary injunction has been interpreted to mean a loss that cannot be adequately compensated in money damages or measured by a pecuniary standard. *Star Enter. v. State Through Dept. of Revenue and Taxation*, 676 So.2d 827, 834 (La. 1997). When the act sought to be enjoined is unlawful or when a deprivation of a constitutional right is involved, the injury, as a matter of law, cannot be measured by a pecuniary standard, and a showing of irreparable injury is therefore not necessary. *Maynard Batture Venture v. Parish of Jefferson*, 694 So.2d 391, 392 (La. App. 5 Cir. 1996).

34. The U.S. Constitution requires that federal and state electoral districts must be drawn and political representatives apportioned in accordance with the principle of "one person, one vote." *Gray v. Sanders*, 372 U.S. 368 (1963). "Full and effective participation by all citizens in [] government requires ... that each citizen have an equally effective voice in the election of members of [the] legislature." *Reynolds v. Sims*, 377 U.S. 533, 565 (1964).

35. Louisiana's malapportioned districts violate the individual constitutional rights of Louisianians, including Plaintiffs and their members and constituents, who reside in overpopulated districts, because such districts "[i]nterfere[] with individuals' free access to elected representatives" which "impermissibly burdens their right to petition the government." See *Garza v. Cty. of Los Angeles*, 918 F.2d 763, 755 (9th Cir. 1990). Louisiana's malapportioned Congressional districts also burden Plaintiffs' fundamental right of political association, "an inseparable aspect of the 'liberty' assured by the Due Process Clause of the Fourteenth Amendment." *National Association for the Advancement of Colored People v. State of Alabama ex rel. Patterson*, 357 U.S. 449, 460 (1958); *Anderson v. Celebrezze*, 460 U.S. 780, 787-88 (1983) ("The [absence] of candidates also burdens voters' freedom of association, because an election campaign is an effective platform for the expression of views on the issues of the day, and a candidate serves as a rallying point for like-minded citizens.").

IV. Plaintiffs are Entitled to the Relief Sought.

36. Under Louisiana law, generally, an injunction will issue only in its prohibitory form. However, where a defendant obstructs a plaintiff in the enjoyment of a real right, the latter may “be entitled to a prohibitory injunction restraining the disturbance and also to a mandatory injunction for the removal of the obstruction or to undo what has been illegally done.” *Harris v. Pierce*, 73 So.2d 330, 334 (La. App. 1954). A preliminary injunction is designed to preserve the status quo pending a trial of the issues on the merits of the case. *Concerned Citizens for Proper Planning, LLC v. Parish of Tangipahoa*, 906 So.2d 660, 664 (La. App. 1 Cir. 2005).

37. Here, Plaintiffs are entitled to a prohibitory injunction preventing Defendant Ardoin from conducting any future Louisiana Congressional election, including any preceding election related deadlines, under the malapportioned 2011 plan, codified in Louisiana law at La. Rev. Stat. § 18:1276.1, and a mandatory injunction requiring Defendant to use an interim remedial plan adopted by this Court through the process set forth in this Petition, or one adopted by this Court.

38. Plaintiff Louisiana NAACP is a nonprofit and nonpartisan organization and a State Conference of the National Association for the Advancement of Colored People. *McClanahan Aff.* at ¶2. The Louisiana NAACP's work is devoted to pursuing the social, political, economic, and educational equity of Black people in this state and nation. *Id.* The Louisiana NAACP's mission includes eliminating racial discrimination and uplifting the protection of voting rights and fair political participation. *Id.* As a nonprofit, the Louisiana NAACP depends entirely on the work of volunteers, supported by membership fees and private donors. *Id.*

39. The Louisiana NAACP has approximately 5,000 members throughout Louisiana who are registered voters, including in Louisiana Congressional Districts 1, 3, and 6. *Id.* at ¶4. The Louisiana NAACP has active chapters in all three of Louisiana's currently overpopulated Congressional districts, including: St. Bernard (Congressional District 1); Lafayette (Congressional District 3); and Baton Rouge (Congressional District 6). *Id.* at ¶5.

40. As the Louisiana NAACP President Mike McClanahan explained, the Louisiana NAACP faces current, irreparable harm because the “[f]ailure to implement a new map will result in delayed education and outreach efforts necessary to combat the effects of vote dilution in these overpopulated districts.” *Id.* at ¶12. Not knowing which candidates will run in these districts makes it even more difficult for the NAACP Branches in Congressional Districts 1, 3, and 6, the overpopulated districts, to engage voters. *Id.* Moreover, allowing the old, malapportioned map to

stay in place directly impedes the Louisiana NAACP's mission to achieve equitable political representation. As a result of Louisiana's political impasse, the NAACP is being forced to divert resources away from its "broader voter registration and community empowerment initiatives to ensure that its constituents and members in affected districts" are aware of the malapportionment in their districts and its consequences for the political power of Black voters in overpopulated districts. *Id.* at ¶12.

41. Plaintiff Power Coalition is a nonpartisan, nonprofit statewide civic engagement table in Louisiana that works to build grassroots power, advocate for community-centered policies, and increase voter participation. Shelton Aff. at ¶6.

42. As a result of Louisiana's failure "to pass any maps that increased representation for Black voters and Power Coalition's broad and diverse constituencies," Power Coalition "launched campaigns to demand the Governor veto the maps." *Id.* at ¶6. These efforts coincided with the timing of the recent municipal elections in the majority of parishes statewide which "required that [Power Coalition] divert staff time and resources from [] routine voter mobilization efforts to advocate for fair and equal districts." *Id.* Power Coalition has also had to divert time and resources from "its broader voter registration and community engagement initiatives to educate and advocate for member organizations and voters in overpopulated districts." *Id.* at ¶16. Power Coalition has, moreover, been forced "to delay its broader voter education initiatives to combat the detrimental effects of vote dilution ... to divert resources from statewide voter education work to target voters in overpopulated districts by increasing voter education and engagement initiatives in overpopulated districts to ensure that voters in these districts have equal access to their candidates." *Id.*

43. Plaintiff Ashley Shelton is a resident of Baton Rouge, Louisiana and a registered voter in Congressional District 6. *Id.* at ¶¶3,5. She is a regular voter and plans to vote in the Open Congressional primary election in November 2022. *Id.* Plaintiff Shelton also faces immediate harm as a result of Louisiana's failure to enact any lawful and constitutional apportionment plan. *Id.* at ¶6. Voting under Louisiana's current malapportioned Congressional map would require her to vote in an overpopulated district and Louisiana's failure to enact any lawful map in advance of an upcoming Congressional primary election prevents her from organizing with others around a candidate and the issues that she cares most about. *Id.* at ¶¶14-16.

44. Plaintiff Dorothy Nairne is a resident of Assumption Parish, Louisiana, and identifies as African American. Nairne Aff. at ¶¶2-3. Plaintiff Nairne is lawfully registered to vote in Louisiana Congressional District 6. *Id.* at ¶4. She is a regular voter in federal, state and local elections, and most recently voted in the 2020 General Election. *Id.* at ¶5. Plaintiff Nairne faces imminent harm as a result of Louisiana’s malapportioned Congressional map, which would force her to “vote in an overpopulated district” and “dilute the strength” of her vote. *Id.* at ¶¶7-8. Louisiana’s malapportioned Congressional districts also cause her immediate harm because she is currently deprived of the ability to know which Congressional district she resides in, and to organize with others, and speak with the candidate who may represent her interests in Congress around causes she cares about. *Id.* at ¶¶9-11.

45. Plaintiff Edwin René Soulé is a resident of Hammond, Louisiana and identifies as African American. Soulé Aff. at ¶¶2-3. Plaintiff Soulé is lawfully registered to vote in Louisiana Congressional District 1. *Id.* at ¶4. He is a regular voter in federal, state and local elections, and most recently voted in the March 2022 elections for the Hammond City Judge. *Id.* at ¶5. Plaintiff Soulé faces imminent harm as a result of Louisiana’s malapportioned Congressional map, which would force him to “vote in an overpopulated district” and “dilute the strength” of his vote. Soulé Aff. at ¶¶8-11. Louisiana’s malapportioned Congressional districts also cause him immediate harm because he is currently deprived of the ability to know which Congressional district he resides in, to organize with others around candidates and their issue platforms, and speak with the candidate who may represent his interests in Congress. *Id.*

46. Plaintiff Alice Washington is a resident of Baton Rouge, Louisiana, where she is lawfully registered to vote in Congressional District 6. Washington Aff. at ¶¶3-4. Plaintiff Washington identifies as African American. *Id.* at ¶2. She learned about the malapportionment of Louisiana’s Congressional districts, and that she would be forced to vote in an overpopulated district where her vote would count less, from a community non-profit, Together Louisiana. *Id.* at ¶¶6-8. Plaintiff Washington is a regular voter, who intends to vote in Louisiana’s November 2022 Open Congressional primary election and all subsequent elections. *Id.* at ¶5. In prior election years, Plaintiff Washington has written to and met with her Representatives and sought constituent services. *Id.* at ¶5. Plaintiff Washington is presently harmed because she “will not have equal access to [her] Congressional representative compared to voters in other districts,” is unable to

educate herself on the potential candidates and what their positions are, and unable to associate with likeminded voters in the interim to influence their policy. *Id.* at ¶¶8,9.

47. Plaintiff Clee Earnest Lowe is a resident of Baton Rouge, Louisiana, where he is lawfully registered to vote in Congressional District 6. Lowe Aff. at ¶3. Plaintiff Lowe identifies as African American. *Id.* at ¶2. Plaintiff Lowe explained that if he is forced to vote in the upcoming Congressional elections under Louisiana’s current Congressional map, “it will dilute the strength of [his] vote.” *Id.* at ¶9. And because “Louisiana has still not created a new plan for ... Congressional districts,” he “still do[es]not know what district [he] will reside in when a plan is eventually passed.” *Id.* This causes Plaintiff Lowe immediate harm because he does not know who the candidates he will be choosing between for Congressional office are and cannot “associate with other voters who would support the same candidates.” *Id.*

48. Individual and organizational Plaintiffs thus face the imminent harm of being denied equal access to representation and association, as well as their constitutional right to have their votes for Congressional office weighed equally to voters in all other Congressional districts, as a result of Louisiana’s failure to enact a properly apportioned map in time for upcoming Congressional election deadlines.

49. Individual Plaintiffs, all of whom are registered voters residing in overpopulated Congressional Districts are threatened with the denial of their Constitutional right to voting in equally apportioned Congressional. Nairne Aff. at ¶¶2-4; Soulé Aff. at ¶¶ 3-5; Washington Aff. at ¶¶3-4; Lowe Aff. at ¶¶ 3-5.

50. The use of Louisiana’s current Congressional map in any future election will unconstitutionally dilute the voting strength of those members of the Louisiana NAACP who are registered voters residing in overpopulated Congressional Districts. McClanahan Aff. at ¶5. Threat of the denial of their Constitutional right to vote in equally apportioned Congressional threatens Louisiana NAACP members with immediate and imminent irreparable harm. *Id.*

51. The use of Louisiana’s current Congressional map in any future election will unconstitutionally dilute the voting strength of those members and constituents of the Power Coalition who are registered voters residing in overpopulated Congressional Districts. Threat of the denial of their Constitutional right to vote in equally apportioned Congressional threatens these constituents with immediate and imminent irreparable harm. Shelton Aff. at ¶¶3,5,6,8,11,16.

52. The use of Louisiana’s current Congressional map in any future election also injure both

Louisiana NAACP and Power Coalition because it will require these Plaintiffs to divert resources from their broader voter registration and community empowerment initiatives toward educating and activating their members and constituents in overpopulated districts to protect their representation and interests, as well as to try to counteract their negative effects of vote dilution. *McClanahan Aff.* at ¶¶2,4,5,12; *Shelton Aff.* at ¶3,5,6,8,11,16. The diversion of these resources will cause ongoing, and immediate and imminent irreparable harm.

53. Defendant R. Kyle Ardoin, as Secretary of State of Louisiana, is the “chief election officer of the state.” La. Rev. Stat. § 18:421(A). In this role, the Secretary of State has been held to be sufficiently connected to the enforcement of election plans and “involved in providing, implementing and/or enforcing whatever injunctive or prospective relief may be granted” with respect to the conduct of elections. *Hall v. Louisiana*, 974 F. Supp. 2d 978, 993 (M.D. La. 2013). Defendant Ardoin, in his official capacity as chief election officer of the state is sufficiently connected to the enforcement of La. Rev. Stat. § 18:1276.1, the unconstitutionally malapportioned Louisiana Congressional districting plan, to be the proper subject of the prohibitory and mandatory injunction sought here.

54. In the absence of action by this Court, because of the impasse between the Governor and the Legislature, the Defendant will conduct the November 2022 general Congressional election under an unconstitutionally malapportioned Louisiana Congressional districting plan. *See* La. Stat. Ann. § 18:1276.1.

55. Plaintiffs initially request only prohibitory injunctive relief prior to a hearing in this case. *See Maestri v. Destrehan Veterinary Hospital*, 554 So.2d 805, 808 (La. App. 5 Cir. 1989) (a mandatory injunction cannot be issued without a hearing on the merits). Specifically, Plaintiffs request pre-hearing relief to preliminarily enjoin Defendant Kyle Ardoin, in his official capacity as Secretary of State of Louisiana, and all persons acting on his behalf or in concert with him from implementing, enforcing, or conducting any Congressional elections under La. Rev. Stat. § 18:1276.1, Louisiana’s current malapportioned congressional districts.

56. Plaintiffs have requested this Court set a preliminary injunction hearing on March 21, 2022, to determine Plaintiffs’ entitlement to a preliminary injunction, followed by a remedial procedure through which the Court would review proposed interim redistricting plans submitted by the parties, and would then adopt a remedial plan. Only then do the Plaintiffs seek a mandatory

injunction requiring the defendant to use the properly apportioned, legally compliant plan adopted by the Court.

57. The Court need not and should not wait until after the Regular Legislative Session adjourns to commence its consideration of the issues presented by this motion or begin the process of developing a remedial Congressional redistricting plan. The candidate qualifying period for the 2022 Congressional election commences on July 20, 2022. Delaying consideration of this motion until after the Regular Legislative Session adjourns will deprive the Court of the time needed to consider and rule on the issues presented by this motion (and for any appellate proceedings to take place) before that deadline. Delaying the process will thus unnecessarily interfere with the orderly progress of the election and deprive candidates and voters of adequate time to for the election to unfold.

58. Moreover, there is no indication that impasse between the State Legislature and the Governor will be broken in time for a new Congressional map will to be enacted before the Open Congressional candidate qualifying period.

V. The Equities Weigh in Favor of Granting Plaintiffs' Motion For a Preliminary Injunction Because it is in the Public Interest and the Harm Faced by Plaintiffs Outweighs the Potential for Harm or Inconvenience to the Defendant.

59. The equities clearly weigh in favor of Plaintiffs, who are likely to succeed on the merits of their malapportionment claim under Article I, Section 2 of the U.S. Constitution, and preliminary injunctive relief is appropriate and necessary. The chaos and harm caused to Louisiana voters, candidates, political parties greatly outweighs any inconvenience to the Defendant, Secretary Ardoin, of preventing the implementation, enforcement, or conduct of any elections under La. Rev. Stat. § 18:1276.1, the now malapportioned Louisiana Congressional districting plan.

60. The harm Plaintiffs' face here is clearly and undeniably a denial of their constitutional rights to equal representation and political association. Because Plaintiffs' face denial of a constitutional right, the imminent harm is irreparable.

61. These harms flow from the willful and intentionally discriminatory refusal of the Louisiana legislature to enact a map that complies with the Voting Rights Act of 1965 despite repeated requests from Louisiana voters, legislators, and the Governor, and in the face of looming Congressional election deadlines. As a result of this impasse, it will serve the public interest for Defendant Ardoin to be prohibited from enforcing, implementing, or conducting elections under La. Rev. Stat. § 18:1276.1, the now malapportioned map.

62. Moreover, where, as here, the defendant is a government actor, the Louisiana Secretary of State, the equities weigh even more strongly in favor of upholding Plaintiffs' constitutional right to vote under districts complying with the "one person, one vote" principle enshrined in the U.S. Constitution and the fundamental equality interests protected by the Voting Rights Act, over any administrative inconvenience to the Secretary of State that may follow from the need to adopt a lawful and constitutional Congressional map and having to appear before this Court to ensure a proper interim remedy.

63. For the foregoing reasons, Plaintiffs respectfully urge this Court to order the preliminary injunctive relief Plaintiffs' have requested in their Motion for Preliminary Injunctive Relief.

By: /s/John Adcock

John Adcock
Adcock Law LLC
L.A. Bar No. 30372
3110 Canal Street
New Orleans, LA 70119
Tel: (504) 233-3125
Fax: (504) 308-1266
jnadcock@gmail.com

Leah Aden*
Stuart Naifeh*
Kathryn Sadasivan*
Victoria Wenger*
NAACP Legal Defense and Educational Fund,
Inc.
40 Rector Street, 5th Floor
New York, NY 10006
Tel: (212) 965-2200
laden@naacplef.org
snaifeh@naacpldf.org
ksadasivan@naacpldf.org
vwenger@naacpldf.org

Robert A. Atkins*
Yahonnes Cleary *
Jonathan H. Hurwitz*
Daniel S. Sinnreich*
Amitav Chakraborty*
Adam P. Savitt*
PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP
1285 Avenue Of The Americas, New York,
NY 10019
Tel.: (212) 373-3000
Fax: (212) 757-3990
ratkins@paulweiss.com
ycleary@paulweiss.com
jhurwitz@paulweiss.com
dsinnreich@paulweiss.com
achakraborty@paulweiss.com
asavitt@paulweiss.com

Nora Ahmed*
Megan E. Snider
LA. Bar No. 33382
ACLU Foundation of Louisiana
1340 Poydras St, Ste. 2160
New Orleans, LA 70112
Tel: (504) 522-0628
nahmed@laaclu.org
msnider@laaclu.org

Tracie Washington
LA. Bar No. 25925
Louisiana Justice Institute
Suite 132
3157 Gentilly Blvd
New Orleans LA, 70122
Tel: (504) 872-9134
tracie.washington.esq@gmail.com

T. Alora Thomas*
Sophia Lin Lakin*
Samantha Osaki*
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004
athomas@aclu.org
slakin@aclu.org
sosaki@aclu.org

Sarah Brannon*
American Civil Liberties Union Foundation
915 15th St., NW
Washington, DC 20005
sbrannon@aclu.org

**Pro hac vice applications forthcoming*

Counsel for Plaintiffs