

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA

DR. DOROTHY NAIRNE, *et al.*,

Plaintiffs,

v.

R. KYLE ARDOIN, in his official capacity as
Secretary of State of Louisiana,

Defendant.

Civil Action No. 3:22-CV-00178-SDD-SDJ

Chief Judge Shelly D. Dick

Magistrate Judge Scott D. Johnson

JOINT STATEMENT OF UNDISPUTED MATERIAL FACTS

Pursuant to Local Civil Rule 56(b), Defendant R. Kyle Ardoin, in his official capacity as Secretary of State of Louisiana; Defendant Intervenors Patrick Page Cortez and Clay Schexnayder in their respective official capacities as President of the Louisiana Senate and Speaker of the Louisiana House of Representatives; and Intervenor-Defendant the State of Louisiana, through Louisiana Attorney General Jeff Landry (collectively “Defendants”), respectfully submit the following Joint Statement of Undisputed Material Facts in support of their joint motion for summary judgment:

A. This Lawsuit

1. This case involves a single cause of action under Section 2 of the Voting Rights Act challenging the Louisiana house and senate redistricting plans the Legislature enacted in 2022. *See* Amend. Compl., Rec. Doc. 14, at 56–58.

2. The operative complaint lists six individuals as Plaintiffs: Dr. Dorothy Nairne, Jarrett Lofton, Rev. Clee Earnest Lowe, Dr. Alice Washington, Steven Harris, and Alexis Calhoun. *Id.* at ¶¶ 14–25.

3. Plaintiffs Lofton and Calhoun have since voluntarily dismissed their claims. *See* Rec. Doc. 133. The four individuals who remain as Plaintiffs are Dr. Nairne, Rev. Lowe, Dr. Washington, and Mr. Harris (the “Individual Plaintiffs”).

4. The Individual Plaintiffs allege that they reside in HD25, HD60, HD66, and HD69. Amend. Compl., Rec. Doc. 14, at ¶¶ 15, 19, 21, 23.

5. The Individual Plaintiffs allege that they reside in SD2, SD5, SD16, and SD29. *See* Ex. 1¹ at 4, 29, 51, 72. No Individual Plaintiff resides in any state legislative district other than HD25, HD60, HD66, HD69, SD2, SD5, SD16, or SD29. *See id.* Several of these districts are already majority-minority districts. *See* Ex. 2² at 1–2.

6. The operative complaint lists two Entity Plaintiffs, Black Voters Matter Capacity Building Institute (“BVM”) and the Louisiana State Conference of the National Association for the Advancement of Colored People (the “Louisiana NAACP”). Amend. Compl., Rec. Doc. 14, at ¶¶ 26, 39.

7. The Entity Plaintiffs are both non-profit corporations. *See* NAACP Dep. Tr.³ 21:10–12; 22:21–23:23; 50:2–4; BVM Dep. Tr.⁴ 12:11–13:7.

¹ Individual Plaintiffs’ Responses to Def. Ardoin’s First Set of Discovery are attached as Exhibit 1. Citations to the combined discovery responses will be designated as “Ex. 1 at ___”. Individual Plaintiffs’ personal home addresses and dates of birth have been redacted in Exhibit 1 out of an abundance of caution.

² Attached as Exhibit 2 are Corrected Exhibits H-1 and I-1 to Mr. William S. Cooper’s sworn Corrected Expert Report dated August 11, 2023. Citations to these combined exhibits will be designated as “Ex. 2 at ___”.

³ Attached as Exhibit 3 are pertinent excerpts from the Louisiana State Conference of the NAACP 30(b)(6) Deposition Transcript, for which President Michael McClanahan served as the 30(b)(6) designee. Citations to these transcript excerpts will be designated as “NAACP Dep. Tr.”

⁴ Attached as Exhibit 4 are pertinent excerpts from Black Voters Matter Capacity Building Institute 30(b)(6) Deposition Transcript, for which Ms. Omari Ho-Sang served as the 30(b)(6) designee. Citations to these transcript excerpts will be designated as “BVM Dep. Tr.”

8. Plaintiffs ask the Court to declare both house and senate redistricting plans invalid in their entirety and enjoin them in full. *See* Amend. Compl., Rec. Doc. 14, Prayer for Relief ¶¶ A and B.

B. Plaintiff BVM

9. Headquartered in Atlanta, Georgia, BVM is a general advocacy organization focusing on the goal of increasing the outreach capacity of other organizations engaged in voter participation and increasing black voter turnout. BVM Dep. Tr. 10:22–11:3; 18:7–25; 25:2–23; 27:3–7. BVM operates in twenty-five states across the country. *Id.* at 18:7–25. BVM maintains an office in Shreveport, Louisiana. *Id.* at 19:22–24; 20:14–19.

10. BVM does not have individual members. *Id.* at 24:12–15.

11. BVM works with community “partners,” which it defines as organizations who “work with or around increasing voter participation.” *Id.* at 11:11–20. BVM estimates that it has between 50 to 58 partners in Louisiana. *Id.* at 24:16–18.

12. Partners are entities BVM “support[s]” with financing or assistance “with the planning process” of “partner initiatives.” *Id.* at 27:20–23.

13. BVM does not have partners in every parish in Louisiana. *Id.* at 62:7–10.

14. Not all BVM partners are involved with initiatives relating to redistricting or the redistricting cycle. *Id.* at 26:25–27:14.

15. BVM claims that, as a result of the redistricting process, it diverted time and funds it might have otherwise used towards funding its partners’ non-redistricting purposes and missions. *Id.* at 47:15–48:25. Specifically, BVM points to costs associated with a bus tour it coordinated during the legislative redistricting and related events from before the maps became law. *Id.* at 50:13–52:4.

16. BVM also claims that the redistricting process has created an “increasing sentiment” amongst communities that their votes do not count, which BVM asserts requires a “nuanced approach” to initiatives and events. *Id.* at 49:1–13.

17. BVM has continued funding and providing grants for its partners. *Id.* at 57:13–58:2. BVM cannot identify any specific grants or grant applications that did not receive funding as a result of the challenged redistricting plans. *Id.* at 58:3–8.

C. Plaintiff Louisiana NAACP

18. The Louisiana NAACP is a volunteer-based 501(c)(4) organization, run by a statewide executive committee. NAACP Dep. Tr. 21:10–12; 22:21–23:23; 50:2–4. Within Louisiana, there are eight NAACP districts. *Id.* at 23:24–24:3.

19. The Louisiana NAACP itself does not have individual members, nor does it maintain membership lists. *Id.* at 29:11–15; 37:9–14; 38:16–21. Instead, individual NAACP members belong to their local chapters, or branches, *id.* at 37:11–38:15, which are separate 501(c)(4) organizations, *id.* at 50:9–11, and those local chapters are monitored by the national NAACP, the Louisiana NAACP’s parent organization, *id.* at 32:5–7; 20:8–20. There are estimated to be roughly 40 branches of the NAACP in Louisiana. *Id.* at 19:18–23.

20. The national office of the NAACP is responsible for monitoring which branches and units are deemed out of compliance with any of the organization’s standards. *Id.* at 20:8–20. The Louisiana NAACP does not receive lists or rosters of branches or members who are not in good standing, nor does the Louisiana NAACP do anything to independently verify standing status with the national organization. *Id.* at 36:11–37:8.

21. At least one Louisiana NAACP branch is not in good standing. *Id.* at 30:10–31:6.

22. Membership in an NAACP branch simply requires dues payments. *Id.* at 28:11–16. There are no age or race requirements for membership. *Id.* at 28:11–29:1. One does not need to be a registered voter in order to be a member. *Id.* at 29:2–4; 29:11–30:4. Even “a baby” could join an NAACP branch. *Id.* at 28:19–21.

23. The Louisiana NAACP does not receive notices when NAACP members pass away, *id.* at 34:9–21, nor is the organization aware of how—or even if—each branch updates their membership roster when a death occurs, *id.* at 34:21–25.

24. The Louisiana NAACP asserts that its president, Michael McClanahan, has identified branch members in specific house and senate districts challenged in this case. *See* Ex. 5⁵. The Louisiana NAACP declines to identify branch members or permit discovery concerning them. *See, e.g.,* Rec. Doc. 119.

25. Mr. McClanahan does not know how many senate districts the state of Louisiana has, *id.* at 62:24–63:4, nor can he identify the addresses of any branch members, *id.* at 66:5–68:14.

26. Mr. McClanahan does not know how many house districts Louisiana has, *id.* at Tr. 81:12–16.

27. Mr. McClanahan does not have a membership list for the Louisiana NAACP, nor did he review or reference any list or roster prior to asserting that the Louisiana NAACP has members in the districts challenged in this lawsuit. *Id.* at 74:6–16; 81:24–82:2; 82:11–15; 82:25–83:21.

⁵ Attached as Exhibit 5 are Louisiana State Conference of the NAACP’s Supplemental Response to Interrogatory No. 3, served on September 1, 2023. Citations to this exhibit will be designated as “Ex. 5 at ____”.

28. Mr. McClanahan does not know whether branch members have moved since he allegedly became aware of their presence in the specific districts or if the members are registered to vote or are even Black. *Id.* at 84:17–85:14; 89:5–13.

29. The Louisiana NAACP alleges injury from the challenged redistricting plan based on the expenditures of time and money the organization spent to mobilize members to attend events such as the legislative roadshows and get its members “excited” about more majority-minority districts—which occurred before the plans were enacted. *Id.* at 97:19–99:3. The Louisiana NAACP cites the “emotional[] distress” branch members felt when they allegedly realized that the enacted maps were not going to provide them with the additional majority-minority districts the Louisiana NAACP apparently told them to expect. *Id.* at 99:4–101:24.

30. The Louisiana NAACP also asserts it felt compelled “to shift” its “action plan” after the legislative maps included fewer majority-minority than it hoped, *id.* at 97:24–98:2, *see also id.* at 98:11–23, choosing “not to spend” in some places and “to double up” in others, *id.* at 103:1–6.

31. Mr. McClanahan could not identify specific resources diverted because of the challenged plans. *Id.* at 102:15–21; 104:9–21.

Respectfully submitted, this the 6th day of October, 2023.

/s/ Phillip J. Strach

Phillip J. Strach*

Lead Counsel

Thomas A. Farr*

John E. Branch, III*

Alyssa M. Riggins*

Cassie A. Holt*

**NELSON MULLINS RILEY &
SCARBOROUGH LLP**

301 Hillsborough Street, Suite 1400

Raleigh, North Carolina 27603

Ph: (919) 329-3800

phil.strach@nelsonmullins.com
tom.farr@nelsonmullins.com
john.branch@nelsonmullins.com
alyssa.riggins@nelsonmullins.com
cassie.holt@nelsonmullins.com

/s/ John C. Walsh

John C. Walsh, LA Bar Roll No. 24903
John C. Conine, Jr., LA Bar Roll No. 36834
SHOWS, CALL & WALSH, L.L.P.
628 St. Louis St. (70802)
P.O. Box 4425
Baton Rouge, LA 70821
Ph: (225) 346-1461
Fax: (225) 346-1467
john@scwllp.com
coninej@scwllp.com

** Admitted pro hac vice*

*Counsel for Defendant R. KYLE ARDOIN, in his
official capacity as Secretary of State of Louisiana*

By: /s/Michael W. Mengis
LA Bar No. 17994
BAKERHOSTETLER LLP
811 Main Street, Suite 1100
Houston, Texas 77002
Phone: (713) 751-1600
Fax: (713) 751-1717
Email: mmengis@bakerlaw.com

E. Mark Braden*
Katherine L. McKnight*
Richard B. Raile*
BAKERHOSTETLER LLP
1050 Connecticut Ave., N.W., Ste. 1100
Washington, D.C. 20036
(202) 861-1500
mbraden@bakerlaw.com
kmcknight@bakerlaw.com
rraile@bakerlaw.com

Patrick T. Lewis*

Jeff Landry
Louisiana Attorney General
By: /s/ Jeffrey M. Wale
Elizabeth B. Murrill (LSBA No. 20685)
Solicitor General
Shae McPhee (LSBA No. 38565)
Angelique Duhon Freel (LSBA No. 28561)
Carey Tom Jones (LSBA No. 07474)
Amanda M. LaGroue (LSBA No. 35509)
Jeffrey M. Wale (LSBA No. 36070)
OFFICE OF THE ATTORNEY GENERAL
LOUISIANA DEPARTMENT OF JUSTICE
1885 N. Third St.
Baton Rouge, LA 70804
(225) 326-6000 phone
(225) 326-6098 fax
murrille@ag.louisiana.gov
mcphees@ag.louisiana.gov
freela@ag.louisiana.gov
jonescar@ag.louisiana.gov
lagrouea@ag.louisiana.gov
walej@ag.louisiana.gov

BAKERHOSTETLER LLP
127 Public Square, Ste. 2000
Cleveland, Ohio 44114
(216) 621-0200
plewis@bakerlaw.com

Erika Dackin Prouty*
Robert J. Tucker*
BAKERHOSTETLER LLP
200 Civic Center Dr., Ste. 1200
Columbus, Ohio 43215
(614) 228-1541
eprouthy@bakerlaw.com
rtucker@bakerlaw.com

* *Admitted pro hac vice*

Counsel for Legislative Intervenors, Clay Schexnayder, in his Official Capacity as Speaker of the Louisiana House of Representatives, and of Patrick Page Cortez, in his Official Capacity as President of the Louisiana Senate

Jason B. Torchinsky (DC Bar No 976033)*
HOLTZMAN VOGEL BARAN
TORCHINSKY & JOSEFIK, PLLC
2300 N Street, NW
Suite 643A
Washington, DC 20037
Tel: 202-737-8808
Email: jtorchinsky@holtzmanvogel.com

Phillip M. Gordon (DC Bar No. 1531277)*
HOLTZMAN VOGEL BARAN
TORCHINSKY & JOSEFIK, PLLC
15405 John Marshall Hwy.
Haymarket, VA 20169
Telephone: (540) 341-8808
Facsimile: (540) 341-8809
Email: pgordon@holtzmanvogel.com

**Admitted pro hac vice*