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**Pro Bono Attorney for Plaintiffs**



BARBARA GONZALEZ, individually and as founder of the Bayshore Tea Party Group; ROBERT A. GORDON, individually and as Chairman of the Bayshore Tea Party Group; CONNIE J. SHERWOOD, CLARK SHERWOOD, NANCY PETERSON and TED PETERSON, individually and as leaders of the Ocean County Citizens for Freedom; DARYL BROOKS, JOSEPH ABBRUSCATO, ANTOINETTE DELGUIDICE, FRANK GONZALEZ, LYNN GORDON, BRIAN HEGARTY, HELENE HENKEL, SHELLY KENNEDY, CHARLES DRAKE MEASLEY, WILLIAM HANEY, DEBBIE SUTTON, PETER MICHAEL CARROLL, JIM LESKOWITZ, KELLY ANN HART, ADRIANNE S. KNOBLOCH, VINCENT AVANTAGIATO, PAUL ALBANESE, AL FRENCH, LINDA SHUTE, MICHAEL PIERONE, DANIEL BIRINGER, CATHERINE V. GIANCOLA, EDWARD J. SIMONSON, FRANK COTTONE, MICHELE TALAMO, CAROL J. GALLENTINE, DOUGLAS SALTERS, MARY LOGAN, EDWARD AUWARTER, SUSAN LORD, JOHN ANDREW YOUNG and BRENDA ROAMES,

Plaintiffs,

v.

STATE OF NEW JERSEY  
APPORTIONMENT COMMISSION;  
NILSA CRUZ-PEREZ, JOHN CRYAN,  
SHEILA OLIVER, ALAN ROSENTHAL,  
PAUL SARLO, JOHN WISNIEWSKI, in  
their official Capacity as Members of the  
State of New Jersey Apportionment

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION/OCEAN COUNTY

DOCKET NO.

CIVIL ACTION

VERIFIED COMPLAINT

Commission; KIM GUADAGNO, in her official capacity as Secretary of State of the State of New Jersey; PAULA DOW, in her official capacity as Attorney General of the State of New Jersey, ROBERT F. GILES, in his official capacity as Director, Division of Elections of the State of New Jersey,

Defendants.

Plaintiffs, Barbara Gonzalez, Robert A. Gordon, Connie J. Sherwood, Clark Sherwood, Nancy Peterson, Ted Peterson, Daryl Brooks, Joseph Abbruscato, Antoinette Delguidice, Frank Gonzalez, Lynn Gordon, Brian Hegarty, Helene Henkel, Shelly Kennedy, Charles Drake Measley, William Haney, Debbie Sutton, Peter Michael Carroll, Jim Leskowitz, Kelly Ann Hart, Adrienne S. Knobloch, Vincent Avantagiato, Paul Albanese, Al French, Linda Shute, Michael Pierone, Daniel Biringer, Catherine V. Giancola, Edward J. Simonson, Frank Cottone, Michele Talamo, Carol J. Gallentine, Douglas Salters, Mary Logan, Edward Auwarter, Susan Lord, John Andrew Young and Brenda Roames complain against the defendants and plead as follows:

FACTS AND ALLEGATIONS COMMON TO ALL CLAIMS

1. Plaintiff Barbara Gonzalez is a registered voter residing in the County of Monmouth and Founder of the Bayshore Tea Party Group.
2. Plaintiff Robert A. Gordon is a registered voter residing in the County of Monmouth and Chairman of the Bayshore Tea Party Group.
3. Plaintiff Connie J. Sherwood is a registered voter residing in the County of Ocean and a Founder of the Ocean County Citizens for Freedom.
4. Plaintiff Clark Sherwood is a registered voter residing in the County of Ocean and a Founder of the Ocean County Citizens for Freedom.

5. Plaintiff Nancy Peterson is a registered voter residing in the County of Ocean and a Founder of the Ocean County Citizens for Freedom.
6. Plaintiff Ted Peterson is a registered voter residing in the County of Ocean and a Founder of the Ocean County Citizens for Freedom.
7. Plaintiff Daryl Brooks is a registered voter residing in the County of Mercer and a member of the Trenton Tea Party.
8. Plaintiff Joseph Abbruscato is a registered voter residing in the County of Monmouth and a member of the Bayshore Tea Party Group.
9. Plaintiff Antoinette Delguidice is a registered voter residing in the County of Monmouth and a member of the Bayshore Tea Party Group.
10. Plaintiff Frank Gonzalez is a registered voter residing in the County of Monmouth and a member of the Bayshore Tea Party Group.
11. Plaintiff Lynn Gordon is a registered voter residing in the County of Monmouth and a member of the Bayshore Tea Party Group.
12. Plaintiff Brian Hegarty is a registered voter residing in the County of Monmouth and a member of the Bayshore Tea Party Group.
13. Plaintiff Helene Henkel is a registered voter residing in the County of Monmouth and a member of the Bayshore Tea Party Group.
14. Plaintiff Shelly Kennedy is a registered voter residing in the County of Monmouth and a member of the Bayshore Tea Party Group.
15. Plaintiff Charles Drake Measley is a registered voter residing in the County of Monmouth and a member of the Bayshore Tea Party Group.

16. Plaintiff William Haney is a registered voter residing in the County of Burlington and Founder of the West Jersey Tea Party.
17. Plaintiff Debbie Sutton is a registered voter residing in the County of Gloucester.
18. Plaintiff Peter Michael Carroll is a registered voter residing in the County of Middlesex and is the Co-Founder of the Raritan Valley Tea Party.
19. Plaintiff Jim Leskowitz is a registered voter residing in the County of Somerset.
20. Plaintiff Kelly Ann Hart is a registered voter residing in the County of Sussex and a member of the Bayshore Tea Party Group.
21. Plaintiff Adrienne S. Knobloch is a registered voter residing in the County of Sussex.
22. Plaintiff Vincent Avantagiato is a registered voter residing in the County of Union.
23. Plaintiff Paul Albanese is a registered voter residing in the County of Morris.
24. Plaintiff Al French is a registered voter residing in the County of Passaic and the Co-Founder of North Regional Tea Party.
25. Plaintiff Linda Shute is a registered voter residing in the County of Salem.
26. Plaintiff Michael Pierone is a registered voter residing in the County of Warren.
27. Plaintiff Daniel Biringer is a registered voter residing in the County of Ocean and an Organizer of the Jackson Tea Party.
28. Plaintiff Catherine V. Giancola is a registered voter residing in the County of Ocean.
29. Plaintiff Edward J. Simonson is a registered voter residing in the County of Ocean.
30. Plaintiff Frank Cottone is a registered voter residing in the County of Monmouth and Chairman of the Monmouth County Tea Party Coalition.

31. Plaintiff Michele Talamo is a registered voter residing in the County of Bergen.
32. Plaintiff Carol J. Gallentine is a registered voter residing in the County of Essex.
33. Plaintiff Douglas Salters is a registered voter residing in the County of Hudson.
34. Plaintiff Mary Logan is a registered voter residing in the County of Hunterdon and Co-Leader of the Hunterdon Conservative Forum.
35. Plaintiff Edward Auwarter is a registered voter residing in the County of Hudson.
36. Plaintiff Susan Lord is a registered voter residing in the County of Atlantic.
37. Plaintiff John Andrew Young is a registered voter residing in the County of Cape May.
38. Plaintiff Brenda Roames is a registered voter residing in the County of Cumberland.
39. Included in the Plaintiff group are registered Democrat, Republican, Third-Party, and unaffiliated voters.
40. Plaintiffs represent all 21 counties in the State of New Jersey.
41. Defendant Kim Guadagno is the Secretary of State of the State of New Jersey and has responsibility to ratify and implement any new apportionment plan.
42. Defendant Paula Dow is the Attorney General of the state of New Jersey and is empowered to faithfully execute the laws of the state of New Jersey, putting into effect apportionment plans related to realigning New Jersey's legislative districts following each decennial census.
43. Defendant Robert F. Giles is the Director of the Division of Elections of the State of New Jersey and has responsibility to implement all primary and general elections pursuant to any new apportionment plan and all necessary proceedings related to

such elections.

44. Defendant the State of New Jersey Apportionment Commission (hereinafter “the Commission”) is composed of 11 members, five from each of the two political parties whose gubernatorial candidates received the most votes at the last gubernatorial election and an 11th member appointed by the Chief Justice of the state of New Jersey.
45. Defendant Alan Rosenthal is the Democrat “eleventh member” of the Apportionment Commission and voted affirmatively to adopt the legislative map approved by the State of New Jersey Apportionment Commission on April 3, 2011.
46. Defendant Nilsa Cruz-Perez is a Democrat member of the Apportionment Commission and voted affirmatively to adopt the legislative map approved by the State of New Jersey Apportionment Commission on April 3, 2011.
47. Defendant Honorable Joseph Cryan is a Democrat member of the Apportionment Commission and voted affirmatively to adopt the legislative map approved by the State of New Jersey Apportionment Commission on April 3, 2011.
48. Defendant Honorable Sheila Oliver is a Democrat member of the Apportionment Commission and voted affirmatively to adopt the legislative map approved by the State of New Jersey Apportionment Commission on April 3, 2011.
49. Defendant Honorable Paul Sarlo is a Democrat member of the Apportionment Commission and voted affirmatively to adopt the legislative map approved by the State of New Jersey Apportionment Commission on April 3, 2011.
50. Defendant Honorable John Wisniewski is a Democrat member of the Apportionment Commission and voted affirmatively to adopt the legislative map

- approved by the State of New Jersey Apportionment Commission on April 3, 2011.
51. Honorable Jay Webber is a Republican member of the Apportionment Commission and voted against the adoption of the legislative map purportedly approved by the State of New Jersey Apportionment Commission on April 3, 2011.
  52. Irene Kim Asbury is a Republican member of the Apportionment Commission and voted against the adoption of the legislative map purportedly approved by the State of New Jersey Apportionment Commission on April 3, 2011.
  53. George R. Gilmore is a Republican member of the Apportionment Commission and voted against the adoption of the legislative map purportedly approved by the State of New Jersey Apportionment Commission on April 3, 2011.
  54. Honorable Kevin O'Toole is a Republican member of the Apportionment Commission and voted against the legislative map purportedly approved by the State of New Jersey Apportionment Commission on April 3, 2011.
  55. Bill Palatucci is a Republican member of the Apportionment Commission and voted against the legislative map purportedly approved by the State of New Jersey Apportionment Commission on April 3, 2011.
  56. The People's elected representatives, the state legislature, have delegated the responsibility to redraw New Jersey's State legislative districts to a commission of eleven members. Article 4, Section 3, Paragraph 1 of the New Jersey State Constitution created an Apportionment Commission. Pursuant to its charter, it is the duty of the Apportionment Commission to apportion legislative districts within the State of New Jersey consistent with law to give all New Jersey's citizens a voice in the governance of their affairs and to ensure them equal protection of the laws.

57. Pursuant to Article 4, Section 3, Paragraph 1 of the New Jersey State Constitution, the Apportionment Commission is comprised of ten members, five of whom are to be appointed by the Chairman of the State Committee of each of the two political parties whose candidates for Governor received the largest number of votes at the most recent gubernatorial election. In the present case, the Chairman of the Republican and Democrat State Committees were entitled to appoint five members each.
58. In the case at bar, each Party Chairman appointed themselves to the Commission.
59. Pursuant to Article 4, Section 3, Paragraph 1 of the New Jersey State Constitution, appointments to the commission must be made on or before November 15 of the year in which the United States decennial census is taken and certified by the Secretary of State on or before December 1 of the same year. The last decennial census was conducted in 2010.
60. Pursuant to Article 4, Section 3, Paragraph 1 of the New Jersey State Constitution, the Apportionment Commission, by a majority of the whole number of its members, shall certify the establishment of Senate and Assembly districts and the apportionment of senators and members of the General Assembly to the Secretary of State within one month of the receipt of the Governor of the official decennial census of the United States for New Jersey or on or before February 1 of the year following the year in which the census is taken whichever is later.
61. Pursuant to Article 4, Section 3, Paragraph 2 of the New Jersey State Constitution, if the Apportionment Commission fails to certify the establishment of Senate and Assembly Districts and the apportionment of senators and members of the General



Assembly to the Secretary of State on or before the date fixed for such certification, or, if prior to that date determines that it will be unable to do so, it is required to submit certification to that effect to the Chief Justice of the New Jersey Supreme Court, who then, by Constitutional direction, appoints an eleventh member to the commission.

62. Upon information and belief, on or about March 4, 2011, with the Apportionment Commission at an impasse, the Chief Justice of the New Jersey Supreme Court, pursuant to Article 4, Section 3, Paragraph 1 of the New Jersey State Constitution appointed Dr. Alan Rosenthal as the eleventh member. Upon information and belief, Dr. Rosenthal was the only name on both of the three person nomination lists submitted by the Democrat and Republican delegations.
63. Pursuant to Article 4, Section 3, Paragraph 2 of the New Jersey State Constitution, the Apportionment Commission is thereafter empowered to certify the establishment of Senate and Assembly districts and the apportionment of senators and members of the General Assembly to the Secretary of State within one month of the appointment of the eleventh member.
64. Unlike the state legislature as a whole which is accountable to all voters of the State of New Jersey – Democrat, Republican, Unaffiliated, and third party - the eleven-member commission is accountable only to Democrat and Republican party organization leadership and party organizational goals. Individual representatives selectively may or may not have input and are not accountable to The People during the redistricting process since they have no formal role.
65. Even more to the point, the delegation of the Legislature's responsibility is

- effectively entrusted to one person, the eleventh member, who sets criteria and chooses one of the maps submitted by the respective political parties.
66. At the final public hearing during which the Democrat map was adopted by a 6-5 vote that included the approval of the eleventh member, Defendant Rosenthal stated the personal orientation that he brought to the process, which was that New Jersey "*is essentially a Democrat[ic] state.*" Thus, The People's elected legislators have been replaced by a single person who views New Jersey as "*essentially a Democrat[ic] state*" and voted to adopt a map which he believed "*reflected the current distribution of partisan preferences in New Jersey*", despite the fact that a large plurality of New Jersey voters - 45% - are unaffiliated and the fact that New Jersey most recently elected a Republican Governor.
  67. The purpose of apportioning legislative districts is to ensure that the political process of legislating is equally open to all citizens of the State of New Jersey and to ensure the franchise of all New Jersey voters in meaningful legislative elections not manipulated for the purpose of the limited interests of the leadership of two political parties.
  68. Pursuant to N.J.S.A. 10:4-7, the Open Public Meetings Act, the Apportionment Commission is exempt from the Open Public Meetings Act.
  69. Pursuant to Article VI, Paragraph 1 of the Apportionment Commission's by-laws, the Apportionment Commission is required to hold at least three public meetings. Seven public meetings were held, four prior to the appointment of the eleventh member and three afterward.
  70. The Apportionment Commission held several private meetings at the Heldrich

Hotel in New Brunswick, New Jersey. As noted by Commission Member Honorable Senator Kevin O'Toole at the public hearing on April 3, 2011, "...you know, some of what you see in the Commission is very public and some of what you see is not very public." Upon information and belief, from the time the Eleventh member was appointed, the partisan delegations to the Commission each submitted several proposed maps to the eleventh member.

71. Upon the appointment of the Eleventh Member, the Bayshore Tea Party Group sent a letter to Defendant Rosenthal requesting a meeting, stating, "*Understanding your perspective and the knowledge you bring to this task will undoubtedly benefit us as we undertake our efforts to draw the map we will submit to you...*" The letter stated further that, "*[W]e support the drawing of state legislative districts that reflect the principles embodied in the New Jersey Constitution: contiguity, compactness, and equality of population. We oppose any districting map which results in noncompetitive districts due to the intentional gerrymandering of districts to benefit either political party, and we oppose any map drawn to protect incumbents of either party.*" The letter also expressed concern for giving "*voice to the community of interest composed of New Jersey voters who are not partisan Republicans or Democrats which forms the significant majority of New Jersey residents. Sadly, it appears from the self-interested conduct of the Apportionment Committee members at the hearings held thus far, that you may be the only advocate for this majority of New Jerseyans. It is time that we make the interests of the voters, and not the politicians, the priority.*" A copy of the letter is attached as **Exhibit A**. (Although the letter notes

a computer program was purchased to draw a map, the map that was drawn and submitted was ultimately done so by hand and without the aid of the computer program purchased).

72. By letter dated March 17, 2011, Defendant Rosenthal declined to meet with the Bayshore Tea Party Group, stating, *"With regards to your invitation for me to attend a meeting of your organization's Redistricting Committee, I must respectfully decline. A public process has been established by the commission in order to give all members of the public the same opportunity to bring their input and concerns to the commission's attention..."* A copy of the letter is attached as **Exhibit B**.
73. Upon information and belief, certain individuals and/or groups, not members of the Apportionment Commission, were selectively provided access to the private meetings at the Heldrich and/or provided draft maps for review. The Bayshore Tea Party Group was not provided such access or provided draft maps for review. Upon information and belief, not all members of the public were provided *"the same opportunity"* to bring their input and concerns to the Commission's attention.
74. Nearly half of New Jersey voters have chosen to exercise their Freedom of Association rights under the First Amendment of the United States Constitution by not affiliating with either the Democrat or Republican Party; they are "unaffiliated" voters. The Commission, both in its structure and application, did not provide any representation to unaffiliated voters. In New Jersey, approximately 34% of voters are registered Democrats and 21% are registered Republicans, leaving fully 45% of

voters as registered unaffiliated or “other”. Yet the Commission is made up of partisan Republican and Democrat party leadership. This effectively negates the voices of millions of registered New Jersey voters and removes accountability for the process from the legislators, also functioning far differently than an inclusive non-partisan, unelected citizen’s commission.

**Requirements of Legislative Districting Map: The Varied and Conflicting Statements of the Apportionment Commission Members**

75. At the Commission’s organizational meeting on January 18, 2011, Defendant Co-chairman Honorable Assemblyman John S. Wisniewski stated: *“It’s important that we recognize that we are creating a map for all of the people of the state of New Jersey, regardless of party affiliation...”* Republican Commission member Irene Kim Asbury stated at that meeting: *“...I feel we must redistrict in a manner compliant with State and Federal laws, and in a fair, equitable, and constitutional manner. All New Jersey residents deserve the right to be treated fairly, equitably, and constitutionally.”*
76. At the February 9, 2011 public hearing, Defendant Co-chairman Honorable Assemblyman John S. Wisniewski stated: *“In fact although the redistricting process in New Jersey and across the country has been considered a political exercise, it should be reminded that the responsibility in drafting this map is not for the political purpose but for the people. To that end, there are legal parameters and criteria that we must abide by in order to protect against improper map making. We must comply with the one man, one vote standard for legislative maps. Those districts that we create must be compact and they must be*

*contiguous....In short, the map we adopt must be fair and must be constitutional..."*

77. At the March 10, 2011, public hearing, in the Statehouse Annex, Trenton New Jersey, Defendant Rosenthal set forth the standards he would use to guide the redistricting process: *"Some of these standards are specified in the New Jersey Constitution, Article IV, Paragraph II. Others are in Section 2 of the Federal Voting Rights Act and decisions of the United States Supreme Court. **A few are not legally specified but make sense from the standpoint of what I think the public interest is.**"* (Emphasis supplied).
78. Plaintiffs are aware of no provision of law wherein an unelected, partisan private citizen has the power to redraw New Jersey's legislative district lines for the next decade "from the standpoint of what [he] think[s] the public interest is." Plaintiffs, likewise unelected, private citizens, submit that Defendant Rosenthal is unaware of what the "public interest is."
79. Defendant Rosenthal continued, *"...I will strive for districts that are as equal as possible, perhaps a 5% deviation - 2.5% above and 2.5% below the average district, if we can make it. No single district, I would hope, would deviate more than 10% from the norm."* "Secondly, the New Jersey Constitution requires that there be no division of municipalities, that they -- municipalities reside in one district or another and that Newark and Jersey City -- which are larger in population than a single legislative district -- be divided no more than once -- that is, in two parts. **And that, too, I think we are generally agreed on.**" "The third standard is contiguity: that each district not be scattered in several pieces

that it be connected with itself, allowing for an occasional body of water that separates a district, like Long Beach Island. The districts we come up with will be -- will meet the standard and be contiguous." "The fourth standard is compactness: as compact like a square, a circle, or a rectangle as possible. Although the whole town requirement of the Constitution makes perfect compactness from district to district impossible, we will strive for as much compactness as we can reasonably get."

80. Defendant Rosenthal then continued outlining several extra-Constitutional standards of which he took consideration: "**The fifth standard, although not specified in the New Jersey Constitution,** applies to communities of interest. That's also a standard that I will be guided by. Insofar as possible in drawing district lines, we'll try to recognize social, cultural, ethnic, and economic communities of interest." "**The sixth standard, also not specified in the New Jersey Constitution, is the standard of continuity of representation.** That means that a substantial proportion of the district's population from the old district continues in the new one. **Again, if it does not conflict with more important standards,** it is useful to foster as little disruption as is necessary." "**Seven: competitiveness is another standard that is not constitutionally or legally prescribed,** and yet there is agreement on the Commission, I believe, that the apportionment should attempt to establish a number of competitive districts, recognizing that most districts, because of where partisans tend to reside, will not be competitive. My own view is that we should absolutely not reduce the number of competitive districts and,

perhaps, increase the number a bit.” “The eighth standard relates to Section 2 of the U.S. Voting Rights Act, which requires that minority communities be afforded an equal opportunity to participate in the political process. The Voting Rights Act, as interpreted by the Federal courts, spells out prohibitions. States have discretion as to just how they apportion, as long as they do not violate the standards laid down by Federal law and its interpretation.” But in the last standard; **the eighth, “...and one that is mainly the responsibility of the 11th member is partisan fairness. Given the Constitutional provision in New Jersey that establishes the Apportionment Commission in the process, it is clear that a major, if not the major role of the 11th member is to help resolve differences between the Republican and Democratic Commissioners and arrive at a settlement that is fair to both sides.** My objective is to help the Democrats and Republicans, the Commissioners, reach agreement on a single map -- I hope -- that meets the standards just specified.” “Either way, we will all be striving to produce a plan that is constitutional, that fairly represents the populations in New Jersey, **and that makes sense as public policy.** I’ll have the special job of ensuring partisan fairness that neither party comes out ahead of the other party in this enterprise.” (Emphasis supplied).

81. Nowhere in the comments by Dr. Rosenthal is any reference whatsoever to the New Jersey Constitution provision restricting divisions of counties. Apparently, unlike with municipalities, the partisan delegations both desired to ignore the constitutional provision concerning county-division which would significantly



impede gerrymandering attempts, and as such the parties were “generally agreed on” not enforcing that constitutional provision, thereby attempting to determine what law to follow, what law to ignore and what the law would be. Sadly, it is for these reasons that it is left to a group of citizens to bring a non-partisan action seeking no affirmative relief other than a lawful and constitutional redistricting map.

82. At the March 10, 2011 hearing, Co-chairman Honorable Jay Webber stated, “We want a map that is constitutional and legal. Both Dr. Rosenthal and Chairman Wisniewski describe some of those parameters.... The maps that we propose the map that results from this Commission's work must obey the United States Constitution's requirements regarding one person, one vote; and our State constitutional requirements regarding the splitting of towns; and also must respect the Federal Voting Rights Act law.” “Unfortunately, the map that we are operating under today is neither fair nor constitutional...” “The current map is also unconstitutional. In 2001, the Commission drew a map that splits Newark and Jersey City twice, not once, and did it on a justification that has been overturned or rejected by the United States Supreme Court. Whatever map this Committee produces should address the issues in and around Newark and Jersey City, and also must balance the overpopulation of some of our districts, as our demographics have changed and shifted throughout the State.” “And one issue I want to point out -- and I think it's important to say. Chairman Wisniewski alluded to it, and other Commissioners from the Democratic side have alluded to it throughout the process. There is a lot of talk about how this map will affect the

*policies that will be enacted by future Legislatures -- what this means in terms of anything from tax policy, to gun control, to whatever policy you're interested in. Respectfully, I think that's the tail wagging the dog. The people of the State of New Jersey are the ones who determine what policies should be implemented, and they have that say by going to the ballot box every other November to elect their representatives who serve in Trenton. **We should not be drawing a map that tries to gerrymander particular policy results into the next decade.** What we should be doing is drawing a map that is both fair and constitutional, proportional and reciprocal, letting the people of New Jersey have their say at the ballot box, letting the map then express those preferences in the Legislature, and then letting the Legislature vote on those policies. This Commission should not be attempting to set those policies for the next 10 years."*

83. Chairman Webber did not, however, reference the limitation on county splits which, both on the plain language of the New Jersey Constitution and through contemporaneous construction, were required to be followed.
84. At the final public hearing on April 3 at the Statehouse, Defendant John S. Wisniewski stated, *"Through this process, Dr. Rosenthal approached, trying to bring the sides closer together and set very rigorous standards that he decided upon based **on well accepted academic principles** to create a map that was fair, to create a map that was constitutional, and to create a map that was forward-looking for the next decade and for the people of the State of New Jersey. The map that we are considering today, the Democratic map, is a map that improves population equality. The districts will be more equal, it avoids*

*fragmenting towns. It maintains contiguity of communities. It strives for compactness, making the districts more compact. It preserves communities and interests and puts together additional communities of interest that have grown since the last map was created. It maintains continuity of representation and it insures a competitive map, in which both political parties, given a (inaudible) will be able to have the opportunity to win seats in the Legislature. **Most importantly, it complies with our New Jersey Constitution, it complies with the United States Constitution, it complies with the Voting Rights Act. These are standards that Dr. Rosenthal created**, these are standards that he reiterated on several occasions in discussions with both members. These are standards by which he ultimately viewed the final product and chose the Democratic map. The map today is a product of meaningful compromise. This was not a product that was easy to come up with. This was a product that required hard decision-making. **It was a map that was based on the numbers. It was not based on personalities. It was not based on politics. ... It is a map that is more compact, less gerrymandered and has no targeted incumbents....** It is a map that will stand the test of time. It is constitutional.”*

85. Plaintiffs are unaware of any provision of law whereby amorphous “academic principles” are elevated above and beyond the redistricting requirements of the New Jersey Constitution.
86. Plaintiffs are unclear how Defendant Rosenthal “created” the constitutional requirements, was empowered to “create” any mapping requirements or imposed

his personal understanding of “*academic principles*” to the redistricting process, at the expense of clearly defined Constitutional provisions.

87. Also at the April 3<sup>rd</sup>, final public hearing, Co-chairman Jay Webber stated, “*At the end of the process, however, this was a choice between two maps. The map that the Democrats are putting up for vote and the map that the Republicans are putting up for a vote. One of those maps fixed the constitutional problems that were created 10 years ago with the splitting of Newark and Jersey City. One of those maps -- the map that was our map, the Republican map. The other map, the Democrat’s map, institutionalized the unconstitutionality of the previous map by protecting the incumbents in the districts that were created, unconstitutionally, 10 years ago.*” “*One of our two maps respects the population shift that New Jersey has experienced from North to South. That was our map, where the deviations between the regions are rather equal. The Democrat’s map does not respect that population shift and, in fact, systematically over populates Southern districts to their disadvantage, meaning that people in Southern New Jersey will have their votes count less than people in Northern New Jersey. Noting also that the population growth we expect will continue to happen in South Jersey and so that over time, residents, citizens of South Jersey will continue to gather votes undercounted, as compared with their neighbors in the North.*”
88. April 3<sup>rd</sup>, 2011: Defendant Rosenthal stated, “**My principal role the process was to try to assure that the map that was adopted would be fair in partisan terms.**” “*The Democratic map, I believe, was a more conservative,*

less disruptive map. **It reflected the current distribution of partisan preferences in New Jersey**, but it also allowed for change if the party preferences of the electorate shift. It is a map, I believe, that gives the minority party, a chance of winning control of the Legislature, **even in what is essentially a Democratic state.**”

89. April 3<sup>rd</sup>, 2011: Defendant Honorable Sheila Oliver stated, “The other thing that I would like to express is that reapportionment must happen, it is constitutional and maps must be created. But we are leaving out a very important aspect of who gets to represent and speak for constituencies in this State. **And that is the process of voting and elections.**”

90. April 3<sup>rd</sup>, 2011: Co-chairman Webber stated, “I want to comment on one thing that Dr. Rosenthal said because in 10 years, there will be another Commission and another map drawing process, and I think there is a fundamental issue we need to think about, going forward in that next process. **Dr. Rosenthal said that this is a Democratic State and should have a map that reflects that, and, respectfully we've made this argument before. The notion that you start from the premise that something is a Democratic State or the State is a Democratic State and draw the map to fit that, puts the cart before the horse and seems to be circular. I would think that you would draw a fair map and then run elections and see if the State really is a Democratic or Republican State** and in a State where we have a Republican governor, a State where in 2009, Republicans got more votes for the State Assembly than the Democrats. A State in which 2010, Republican

*Congressional candidates got more votes than Democratic Congressional candidates, I suggest that this State is not a blue State or red State, but a purple State. It's a competitive State and to start from the premise that this is a Democratic State, and to draw a map that reflects that, I think is a faulty premise and when we come back here in 10 years, well, I don't know if anyone is coming back in 10 years again except Dr. Rosenthal. When the next Commission meets, I think we have to think hard about those kinds of premises because, to assume that the State acts one way and to build the map accordingly, I think gets it backwards."*

91. April 3<sup>rd</sup>, 2011: Co-Chairman Webber continued: ***"I want to ask Dr. Rosenthal if he would entertain a couple of questions about his reasoning and other issues that have arisen during the map making process."***
92. ***Defendant Rosenthal stated "No, Mr. Chairman."***
93. Plaintiffs would like to know whether the map was based solely on the numbers (per Defendant Wisniewski) and not partisan politics or personalities or whether, working with the parties, did Defendant Rosenthal ensure that the map *"was fair in partisan terms"* and ensure *"continuity of representation"*. The People are entitled to the truth. The People can handle the truth.
94. Plaintiffs contend that the Commission Map could *not* have been created without subverting Constitutional requirements to non-Constitutional considerations like *"partisan fairness"* and *"continuity of representation"*.
95. Returning to April 3<sup>rd</sup>, Chairman Weber replied to Defendant Rosenthal, *"Certainly your prerogative, Mr. Rosenthal. It's disappointing. ... put a couple of*

*issues on the table now and get some explanations would be helpful but I want to point out again, before the final vote is cast, alongside the issues and questions that remain regarding statistical analyses and other measures of partisan fairness that, to this day, were not quite sure what they are, or how they were run, or how the Democrats ran them, we have a deviation, a population deviation problem in the map. Twelve of the 14 southernmost districts in this map are overpopulated. 14 of the 20 districts in the South in this map are over the ideal population. 14 of the 20 districts in the north were under populated. Again that means that, as, when the voters go to polls this year, the votes cast by people in the northern part of the State will count for more than the votes cast by the voters in the southern part of the State.”*

96. As a result of the makeup of the Commission, the partisan and self-serving process, and the unanswered questions, many members of the public have lost faith in their government. Plaintiffs come to this court for redress and enforcement of the law which will in turn help to restore public faith in government. A temporary stay of implementation of the Commission’s Map to allow defendants time to provide answers to the unanswered questions and conflicting statements of Commission members would be a meaningful start.
97. While Plaintiffs will suffer significant harm if a stay is not granted, defendants will suffer no discernible harm whatsoever in light of the fact that the primary election in other states, such as the State of Delaware, is held in September (and last year involved a U.S. Senate race), while in still others primaries are held in late August. In this case a stay will simply not be objectively harmful to the defendants.

98. Regarding the State of New Jersey Constitutional requirements, the New Jersey Constitution, Article IV, Section II, Paragraph 3 provides in relevant part:

*“The Assembly districts shall be composed of contiguous territory, as nearly compact and equal in the number of their inhabitants as possible, and in no event shall each such district contain less than eighty per cent nor more than one hundred twenty per cent of one-fortieth of the total number of inhabitants of the State as reported in the last preceding decennial census of the United States. **Unless necessary to meet the foregoing requirements**, no county or municipality shall be divided among Assembly districts unless it shall contain more than one-fortieth of the total number of inhabitants of the State, and no county or municipality shall be divided among a number of Assembly districts larger than one plus the whole number obtained by dividing the number of inhabitants in the county or municipality by one-fortieth of the total number of inhabitants of the State.” (Emphasis Supplied).*

99. The Commission Map over splits counties 31 times, seven *more* times than the 2001-2010 Map. **Sixteen out of New Jersey’s 21, or 76%**, of counties are over split, including **seven (7)** counties over split once, **five (5)** counties over split twice, **two (2)** counties over split three times, **two (2)** counties over split four times. Additionally fifteen (15) districts in the Commission Map are divided by two counties, nine (9) by three counties and three (3) by four counties.
100. Upon information and belief, the “Republican Map” created four majority-minority districts rather than two.
101. The Bayshore Tea Party Group submitted a map to the Commission for consideration on or about March 24, 2011 with a slightly revised map submitted on or about March 28, 2011. Upon information and belief, the map complies with all federal and state legal requirements. The map districts are contiguous and more compact than the Commission Map by an order of magnitude. A copy of the first map (hereinafter “The People’s Map I”) with its validation data is attached as



**Exhibits D.** The People's Map I contains three (3) county over splits.

102. Article V., Paragraph 1 of the Commission by-laws provides in part that "The Commission may, subject to the constraints of time and convenience, review the written plans for the establishment of legislative districts submitted by members of the general public." A large scale blown up picture of **Exhibit D** was hung on the wall in a Commission meeting room at the Heldrich Hotel, as seen in a still picture extracted from a video from Channel Nine news. Thus, the Commission had an example of a constitutional map and chose instead to ignore the law.
103. Attached hereto as **Exhibit E** is a second map produced by the Bayshore Tea Party Group. "The People's Map II" has 1) a narrower range of total population deviation from highest to lowest than the Commission Map, 2) a smaller mean relative deviation, and 3) a smaller absolute population deviation than the Commission Map. The districts are contiguous and more compact than the Commission Map. Upon information and belief, the map complies with all federal and state legal requirements. The map has a total of only six (6) county over splits, demonstrating that **31** county over splits are not required to achieve narrow population spreads and comply with the contiguous and compact requirements of the New Jersey Constitution.
104. **Exhibits D** and **E** provide two examples of maps which comply with Federal and State legal and constitutional requirements, including the county split provision.
105. The map adopted by the Commission over-populates the 14 southernmost counties (Districts 1-13 and 30) by over 18%. In the northern 26 districts, the Commission

Map under-populates by 40,574 for an aggregate population deviation of approximately 37%.

106. On April 3, 2011, the legislative apportionment commission voted on two proposed legislative redistricting maps. The "Republican Map," was moved and put to a vote first. The commission's vote on the Republican Map was five in favor, five opposed with one abstention, Defendant Rosenthal. Under the Commission's by-laws, six votes being required to approve of the legislative redistricting map, the Republican Map was not approved. Subsequently, the Democrat Map was moved and approved by the Commission on a vote of 6-5 for implementation as the New Jersey state legislative redistricting map for the next decade.

107. For all the foregoing reasons and for those that follow, Plaintiffs pray that this Court grant the relief requested below.

**CLAIMS UNDER THE UNITED STATES CONSTITUTION and FEDERAL LAW**

**COUNT ONE**

*Violations of Plaintiffs' rights to freedom of association and equal protection under the first and fourteenth amendments to the United States Constitution*

108. Plaintiffs repeat and reallege each and every fact and allegation in paragraphs 1-107 as if fully set forth herein.

109. The New Jersey Constitution Article II, Section IV, Paragraph 3 provides that the chairmen of the parties whose candidates received the two highest vote totals for the preceding Governor's election shall appoint all commission members. Thus, the New Jersey Constitution only provides for selection by two parties for any given commission, in this case the Democrat and Republican Party leaders.

110. This is a delegation of authority from elected representatives of all citizens of the State of New Jersey to a small group of partisan party organization leaders. Exclusion of the 45% of New Jersey voters who are unaffiliated and those that are third-party voters violates the freedom of association and equal protection rights of all unaffiliated and third party voters in the State of New Jersey.
111. The eleventh member, Defendant Alan Rosenthal, by starting the process with a pre-disposed bias to craft a map that reflects and ensures a “Democrat[ic] State”, likewise violated the freedom of association and equal protection rights of all unaffiliated and third party voters in the State of New Jersey.
112. Regularly throughout the process, members of the state Democrat and Republican Party organizations were provided access to Defendant Commission Members and Defendant Rosenthal during periods other than public meetings and/or closed sessions, whereas other members of the public were not. Thus, the functioning of the Committee, separate from its formation pursuant to the provisions of the New Jersey Constitution, entombs the plaintiffs’ rights under the first and 14<sup>th</sup> amendments while openly aggrandizing their violations.

*Wherefore*, Plaintiffs demand Judgment in their favor and as against Defendants; Declaring New Jersey Constitution Article II, Section IV, Paragraph 3 in violation of the United States Constitution pursuant to the Supremacy Clause; for a preliminary and permanent injunction, enjoining and restraining the defendants, their officers, agents, employees, servants, attorneys, and all those in action, concert or participation with them from a) employing, ratifying or in any way putting into effect, directly or indirectly, the Commission Map approved by the New Jersey Apportionment

Commission on April 3, 2011; **b)** from printing, distributing, disseminating or causing to be distributed or disseminated ballots or other means of effecting an election, primary or general, in connection with or under the premise of the New Jersey Legislative Districts as drawn under said Commission Map approved by the New Jersey Apportionment Commission on April 3<sup>rd</sup>, 2011; for such other and further relief as this Court may deem just and proper, including but not limited to enjoining and restraining defendants from holding any primary election for representatives to the New Jersey Legislature under the Map approved by the New Jersey Apportionment Commission;

## COUNT TWO

*Violation of the privileges and immunities clause and equal protection clause  
under the fourteenth amendment to the United States Constitution*

*and Violation of 42 U.S.C 1983*

113. Plaintiffs repeat and reallege each and every fact and allegation in paragraphs 1-112 as if fully set forth herein.

114. 42 U.S.C. 1983 provides:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

115. The Commission, under color of the New Jersey Constitution Article II, Section IV, Paragraph 3, subjected and caused to be subjected, the plaintiffs and all

unaffiliated and third-party voters of the State of New Jersey to the deprivation of rights, privileges, or immunities secured by the Constitution and laws, specifically the right to exercise the franchise.

**Wherefore**, Plaintiffs demand Judgment in their favor and as against Defendants; Declaring New Jersey Constitution Article II, Section IV, Paragraph 3 in violation of the United States Constitution pursuant to the Supremacy Clause; for a preliminary and permanent injunction, enjoining and restraining the defendants, their officers, agents, employees, servants, attorneys, and all those in action, concert or participation with them from **a)** employing, ratifying or in any way putting into effect, directly or indirectly, the Commission Map, approved by the New Jersey Apportionment Commission on April 3, 2011; **b)** from printing, distributing, disseminating or causing to be distributed or disseminated ballots or other means of effecting an election, primary or general, in connection with or under the premise of the New Jersey Legislative Districts as drawn under said Commission Map approved by the New Jersey Apportionment Commission; for such other and further relief as this Court may deem just and proper, including but not limited to enjoining and restraining defendants from holding any primary election for representatives to the New Jersey Legislature under the map approved by the New Jersey Apportionment Commission.

### **COUNT THREE**

*Violation of the XIVth Amendment's Equal Protection Clause  
and "one person, one vote" requirement- vote dilution*

116. Plaintiffs repeat and reallege each and every fact and allegation in paragraphs 1-115 as if fully set forth herein.

117. The XIVth Amendment to the U.S. Constitution states:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

118. The Supreme Court of the United States, in a series of cases beginning with Reynolds v. Sims, 377 U.S. 533 (1964), has consistently held that “an individual’s right to vote for state legislators is unconstitutionally impaired when its weight is in a substantial fashion diluted when compared with votes of citizens living in other parts of the State.”

119. The Commission Map effects this unconstitutional impairment for citizens in *both* the North and South of the State. The Commission Map, unconstitutionally and in violation of McNeil v. Apportionment Commission, 177 NJ 364 (N.J. 2003), removes two legislative districts from Newark and Jersey City and as a result, the 14 most Southern Districts 1 through 13 and 30 are over-packed thus diluting the relative strength of the votes of citizens in those districts.

120. Twelve of the 14 Southern districts in the Commission Map (district numbers 1-13 and 30), encompassing Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Monmouth, Ocean and Salem counties, are over the ideal district population of 219, 797. The total over-population is **40,638** or **18.48%** over the ideal population for those 14 districts of 3,077,158. (14 x 219,797).

121. The 26 most northern districts in the State are under-populated by a total of **40,574**, or **18.48%** of the total ideal population for those 26 districts of

5,714,722. (26 x 219,797). The Southern Districts, 1 through 13 and 30, were intentionally over packed thus diluting the votes of those voters and negating the population shift from the northern to southern part of the State as reflected in the 2010 census.

**Wherefore**, Plaintiffs demand Judgment in their favor and as against Defendants; for a preliminary and permanent injunction, enjoining and restraining the defendants, their officers, agents, employees, servants, attorneys, and all those in action, concert or participation with them from **a)** employing, ratifying or in any way putting into effect, directly or indirectly, the Commission Map approved by the New Jersey Apportionment Commission on April 3, 2011; **b)** from printing, distributing, disseminating or causing to be distributed or disseminated ballots or other means of effecting an election, primary or general, in connection with or under the premise of the New Jersey Legislative Districts as drawn under said Commission Map approved by the New Jersey Apportionment Commission; for such other and further relief as this Court may deem just and proper, including but not limited to enjoining and restraining defendants from holding any primary election for representatives to the New Jersey Legislature under the map approved by the New Jersey Apportionment Commission.

#### **COUNT FOUR**

*Violation of the XIVth Amendment's Equal Protection Clause  
and "one person, one vote" requirement*

122. Plaintiffs repeat and reallege each and every fact and allegation in paragraphs 1-121 as if fully set forth herein.
123. The XIVth Amendment to the U.S. Constitution states:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

124. The Supreme Court of the United States, in a series of cases beginning with Reynolds v. Sims, 377 U.S. 533 (1964), has consistently held that “an individual’s right to vote for state legislators is **unconstitutionally impaired when its weight is in a substantial fashion diluted when compared with votes of citizens living in other parts of the State.**”

125. The Commission Map effects this unconstitutional impairment of the Plaintiffs’ right to exercise the franchise by intentionally gerrymandering districts for partisan gain, thus effectively resulting in a standard of ‘one person, no vote’; this is vote nullification far more insidious than vote dilution. Together with “cleared primaries” and limitless terms, meaningful elections and the votes of all New Jersey voters have been effectively nullified and rendered moot in the interests of political party leadership and the continued employment of incumbent legislators.

**Wherefore**, Plaintiffs demand Judgment in their favor and as against Defendants; for a preliminary and permanent injunction, enjoining and restraining the defendants, their officers, agents, employees, servants, attorneys, and all those in action, concert or participation with them from **a)** employing, ratifying or in any way putting into effect, directly or indirectly, the Commission Map approved by the New Jersey Apportionment Commission on April 3, 2011; **b)** from printing, distributing, disseminating or causing to be distributed or disseminated ballots or other means of



effecting an election, primary or general, in connection with or under the premise of the New Jersey Legislative Districts as drawn under said Commission Map approved by the New Jersey Apportionment Commission; for such other and further relief as this Court may deem just and proper, including but not limited to enjoining and restraining defendants from holding any primary election for representatives to the New Jersey Legislature under the map approved by the New Jersey Apportionment Commission.

### **CLAIMS UNDER THE NEW JERSEY STATE CONSTITUTION**

#### **COUNT FIVE**

*Violations of the fundamental and inherent vesting of all political power within The People pursuant to Article I, Paragraph 2.a.*

126. Plaintiffs repeat and reallege each and every fact and allegation in paragraphs 1-125 as if fully set forth herein.

127. Article I, Paragraph 2.a. of the New Jersey Constitution provides:

All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right at all times to alter or reform the same, whenever the public good may require it.

128. The State of New Jersey, through its Constitution, provided for an Apportionment Commission consisting of members of the party organizational leadership of only two parties. The creation of such a Commission, however, was subject to the very narrow and specific districting constraints set forth in Article II, Section IV, Paragraph 3 of the New Jersey Constitution, including the enforcement of the limitation of splitting counties between districts, which effectively strangles the partisan Commission members abilities to effectuate extreme vote nullifying gerrymandering.

129. The New Jersey Constitutional provisions creating the Apportionment Commission and setting the standards for redistricting must therefore be read in concert. It is not for the members of the Commission to make a bi-partisan *Grand Bargain*, aided and abetted by the 11<sup>th</sup> member, or to toss aside legal and Constitutional requirements such as the limitation on county splits in exchange for self-serving or “academic” principles such as “continuity of representation”, i.e., incumbent protection, and “non-disruptive” mapping to guarantee a perpetual Democrat state with little or no competition within the legislative districts.
130. The Commission Map, severely and purposefully gerrymandered for partisan organizational advantage, effectively results in a standard of one person, no vote. Together with partisan-orchestrated “cleared primaries” and limitless terms, meaningful elections and the votes of all New Jersey voters have been effectively nullified and rendered moot.
131. Contrary to the New Jersey Constitution and as a result of the partisan commission functioning without any standards other than self-service, “all political power” is no longer inherent in the people, but rather vested in politicians. In turn, government is perpetuated for the protection, security and benefit of politicians and they maintain power at all times to manipulate it whenever their interests’ so desire.
132. As a result of the aforesaid, plaintiffs’ rights under Article I, Paragraph 2.a. of the New Jersey Constitution have been violated.

***Wherefore***, Plaintiffs demand Judgment in their favor and as against Defendants; for a preliminary and permanent injunction, enjoining and restraining the

defendants, their officers, agents, employees, servants, attorneys, and all those in action, concert or participation with them from **a)** employing, ratifying or in any way putting into effect, directly or indirectly, the Commission Map approved by the New Jersey Apportionment Commission on April 3, 2011; **b)** from printing, distributing, disseminating or causing to be distributed or disseminated ballots or other means of effecting an election, primary or general, in connection with or under the premise of the New Jersey Legislative Districts as drawn under said Commission Map approved by the New Jersey Apportionment Commission; for such other and further relief as this Court may deem just and proper, including but not limited to enjoining and restraining defendants from holding any primary election for representatives to the New Jersey Legislature under the map approved by the New Jersey Apportionment Commission.

#### COUNT SIX

*Violations of the Plaintiffs' rights to freely assembly, consult for the common good, make known their opinions to their representatives, and to petition for redress of grievances under Article I*

133. Plaintiffs repeat and reallege each and every fact and allegation in paragraphs 1-132 as if fully set forth herein.

134. Article I. of the New Jersey Constitution provides:

The people have the right freely to assemble together, to consult for the common good, to make known their opinions to their representatives, and to petition for redress of grievances.

This enumeration of rights and privileges shall not be construed to impair or deny others retained by the people.

135. Regularly throughout the process, members of the state Democrat and Republican Party Organizations were provided access to the Defendant Commission Members and Defendant Alan Rosenthal during periods other than public meetings and/or

closed sessions, while other members of the public who chose not to assemble with the Democrat and Republican Party organizations were not provided such access.

136. Regularly throughout the process, members of the state Democrat and Republican Party Organizations were provided access to Defendant Commission Members and Defendant Alan Rosenthal during periods other than public meetings and/or closed sessions to consult for their common good, to make known their opinions to their representatives and to petition for redress of grievances, while other members of the public were not provided such constitutionally guaranteed rights.

137. As a result of the foregoing, the Plaintiffs' rights under Article I of the New Jersey Constitution have been systemically violated, dismembered and neutered.

*Wherefore*, Plaintiffs demand Judgment in their favor and as against Defendants; Declaring New Jersey Constitution Article II, Section IV, Paragraph 3 in violation of the United States Constitution pursuant to the Supremacy Clause; for a preliminary and permanent injunction, enjoining and restraining the defendants, their officers, agents, employees, servants, attorneys, and all those in action, concert or participation with them from **a)** employing, ratifying or in any way putting into effect, directly or indirectly, the Commission Map approved by the New Jersey Apportionment Commission on April 3, 2011; **b)** from printing, distributing, disseminating or causing to be distributed or disseminated ballots or other means of effecting an election, primary or general, in connection with or under the premise of the New Jersey Legislative Districts as drawn under said Commission Map approved by the New Jersey Apportionment Commission; for such other and further relief as this Court may deem just and proper, including but not limited to enjoining and restraining defendants from

holding any primary election for representatives to the New Jersey Legislature under the map approved New Jersey Apportionment Commission.

### COUNT SEVEN

*Violation of the compact/contiguous clause of Art. IV, s. 2, para. 3*

138. Plaintiffs repeat and reallege each and every fact and allegation in paragraphs 1-137 as if fully set forth herein.

139. New Jersey State Constitution, Article IV, Sec. 2, Para. 3 states in pertinent part:

The Assembly districts shall be composed of contiguous territory, as nearly compact and equal in the number of their inhabitants as possible, and in no event shall each such district contain less than eighty per cent nor more than one hundred twenty per cent of one-fortieth of the total number of inhabitants of the State as reported in the last preceding decennial census of the United States.

140. The Commission Map violates the compactness requirement as a comparison of the number of county over splits and a visual examination of the two People's Maps and the Commission Map demonstrates.

**Wherefore**, Plaintiffs demand Judgment in their favor and as against Defendants; for a preliminary and permanent injunction, enjoining and restraining the defendants, their officers, agents, employees, servants, attorneys, and all those in action, concert or participation with them from **a)** employing, ratifying or in any way putting into effect, directly or indirectly, the Commission Map approved by the New Jersey Apportionment Commission on April 3, 2011; **b)** from printing, distributing, disseminating or causing to be distributed or disseminated ballots or other means of effecting an election, primary or general, in connection with or under the premise of the New Jersey Legislative Districts as drawn under said Commission Map approved by the New Jersey Apportionment Commission; for such other and further relief as this Court

may deem just and proper, including but not limited to enjoining and restraining defendants from holding any primary election for representatives to the New Jersey Legislature under the map approved New Jersey Apportionment Commission.

### COUNT EIGHT

#### *Violation of the compact/contiguous clause of Art. IV, s. 2, para. 3*

141. Plaintiffs repeat and reallege each and every fact and allegation in paragraphs 1-140 as if fully set forth herein.

142. New Jersey State Constitution, Article IV, Sec. 2, Para. 3 states in pertinent part:

The Assembly districts shall be composed of contiguous territory, as nearly compact and equal in the number of their inhabitants as possible, and in no event shall each such district contain less than eighty per cent nor more than one hundred twenty per cent of one-fortieth of the total number of inhabitants of the State as reported in the last preceding decennial census of the United States.

143. Upon information and belief, The Commission Map is not contiguous, as East Orange and Montclair do not share a border and Fieldsboro and Burlington are separated by Mansfield.

**Wherefore**, Plaintiffs demand Judgment in their favor and as against Defendants; for a preliminary and permanent injunction, enjoining and restraining the defendants, their officers, agents, employees, servants, attorneys, and all those in action, concert or participation with them from **a)** employing, ratifying or in any way putting into effect, directly or indirectly, the Commission Map approved by the New Jersey Apportionment Commission on April 3, 2011; **b)** from printing, distributing, disseminating or causing to be distributed or disseminated ballots or other means of effecting an election, primary or general, in connection with or under the premise of the New Jersey Legislative Districts as drawn under said Commission Map approved by the

New Jersey Apportionment Commission; for such other and further relief as this Court may deem just and proper, including but not limited to enjoining and restraining defendants from holding any primary election for representatives to the New Jersey Legislature under the map approved by the New Jersey Apportionment Commission.

#### COUNT NINE

*Violation of the county over split clause of Art. IV, s. 2, para. 3*

144. Plaintiffs repeat and reallege each and every fact and allegation in paragraphs 1-143 as if fully set forth herein.

145. New Jersey State Constitution, Article IV, Sec. 2, Para. 3 states in pertinent part:

**Unless necessary to meet the foregoing requirements**, no county or municipality shall be divided among Assembly districts unless it shall contain more than one-fortieth of the total number of inhabitants of the State, and no county or municipality shall be divided among a number of Assembly districts larger than one plus the whole number obtained by dividing the number of inhabitants in the county or municipality by one-fortieth of the total number of inhabitants of the State.

146. The Commission Map violates the aforementioned provision in 31 unique instances.

147. The Commission has not produced nor can they produce a Constitutional or other legally justifiable reason why the 31 county over-splits were “necessary” to meet any of the “foregoing requirements” or any other provision of State or Federal law.

**Wherefore**, Plaintiffs demand Judgment in their favor and as against Defendants; for a preliminary and permanent injunction, enjoining and restraining the defendants, their officers, agents, employees, servants, attorneys, and all those in action, concert or participation with them from a) employing, ratifying or in any way putting into effect, directly or indirectly, the Commission Map approved by the New Jersey

Apportionment Commission on April 3, 2011; **b)** from printing, distributing, disseminating or causing to be distributed or disseminated ballots or other means of effecting an election, primary or general, in connection with or under the premise of the New Jersey Legislative Districts as drawn under said Commission Map approved by the New Jersey Apportionment Commission; for such other and further relief as this Court may deem just and proper, including but not limited to enjoining and restraining defendants from holding any primary election for representatives to the New Jersey Legislature under the map approved by the New Jersey Apportionment Commission.

**CLAIMS UNDER NEW JERSEY STATUTES ANNOTATED**

**COUNT TEN**

*Violation of NJSA 19:34-29 (Obstructing or interfering with voter)*

148. Plaintiffs repeat and reallege each and every fact and allegation in paragraphs 1-147 as if fully set forth herein.

149. NJSA 19:34-29 states:

No person shall by abduction, duress or any forcible or fraudulent device or contrivance whatever, impede, prevent or otherwise interfere with the free exercise of the elective franchise by any voter; or compel, induce or prevail upon any voter either to vote or refrain from voting at any election, or to vote or refrain from voting for any particular person or persons at any election.

150. The Commission, by egregiously and intentionally over-splitting counties 31 times, by intentionally removing a district each from Newark and Jersey City, by colluding amongst themselves to draw legislative district lines for partisan advantage and the protection of incumbents and by engaging in other unlawful and unconstitutional practices, has contrived to impede and interfere with the free exercise of the elective franchise of New Jersey voters.



*Wherefore*, Plaintiffs demand Judgment in their favor and as against Defendants; for a preliminary and permanent injunction, enjoining and restraining the defendants, their officers, agents, employees, servants, attorneys, and all those in action, concert or participation with them from a) employing, ratifying or in any way putting into effect, directly or indirectly, the Commission Map approved by the New Jersey Apportionment Commission on April 3, 2011; b) from printing, distributing, disseminating or causing to be distributed or disseminated ballots or other means of effecting an election, primary or general, in connection with or under the premise of the New Jersey Legislative Districts as drawn under said Commission Map approved by the New Jersey Apportionment Commission; for such other and further relief as this Court may deem just and proper, including but not limited to enjoining and restraining defendants from holding any primary election for representatives to the New Jersey Legislature under the map approved New Jersey Apportionment Commission.

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to Rule 4:25-4, Russell Cote, Esq., is hereby designated as trial counsel for plaintiffs in the within matter.

**CERTIFICATION PURSUANT TO R. 4:5-1**

Pursuant to Rule 4:5-1, I certify to the best of my knowledge, no action is pending or is contemplated in any Court or Arbitration proceeding with respect to the attached pleading and no other parties should be joined in this action.

Russell E. Cote, Esq.  
Attorney for Plaintiffs

By:   
Russell E. Cote, Esq.


Dated: April 19, 2011

**CERTIFICATION OF VERIFICATION AND NON-COLLUSION**

Barbara Gonzalez of full age, hereby certifies as follows:

I am a plaintiff in the foregoing civil action. The allegations of the Verified Complaint are true to the best of my knowledge, information and belief, except for allegations made upon information and belief. The said Verified Complaint is made in truth and good faith without collusion for the causes set forth therein.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

  
Barbara Gonzalez

Dated: April 19, 2011