

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

AMBER SHERMAN, RACHAEL SPRIGGS,
KERMIT MOORE, BLACK CLERGY
COLLABORATIVE OF MEMPHIS, MEMPHIS
A. PHILIP RANDOLPH INSTITUTE, THE
EQUITY ALLIANCE,

Plaintiffs,

v.

TRE HARGETT, in his official capacity as
Secretary of State of Tennessee, MARK GOINS,
in his official capacity as Coordinator of Elections
for Tennessee, STATE ELECTION
COMMISSION, and DONNA BARRETT, JUDY
BLACKBURN, JIMMY ELDRIDGE, MIKE
MCDONALD, SECONDR A MEADOWS,
VANECIA BELSER KIMBROW, and KENT
YOUNCE, in their official capacities as members
of the State Election Commission,

Defendants.

THREE-JUDGE PANEL

Civil Action No. 26 Civ. 616

Judges Campbell, Stivers, and Nalbandian

BRIEF IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS

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INTRODUCTION

In May, an all-White faction of legislators in the Tennessee General Assembly targeted and destroyed the State's only Black-majority congressional district, a naturally occurring, Memphis-based district that has existed in some form for a century. This faction has repeatedly and recently attacked self-government by Black citizens in majority-Black Memphis; its members have expressed racial animus and stoked racial division from their perches at the Capitol. While redistricting wars have been raging across country for years, the Tennessee General Assembly's assault on the Memphis district, where nearly half the State's Black population lives, only began the moment the U.S. Supreme Court issued a decision in *Louisiana v. Callais*, a case involving court-ordered Black-majority districts. The Memphis district was targeted because of its racial composition. The May 2026 Map foreseeably and obviously dilutes the votes of Black Memphians, surgically dividing the Black population of Memphis across three districts in a textbook example of "cracking." The frenzied, unprecedented, three-day redistricting process from which it emerged broke with all norms and traditions, steamrolling a decades-old ban on mid-decade redistricting and hiding the map and basic data about it from the public and from Black legislators until virtually the moment the plan was enacted. Sponsors and supporters would not disclose (and still have not disclosed) who drew the map or identify what—if any—partisan or political data they used (despite claimed partisan goals); they dissembled and made robotic, canned statements when asked basic questions. One of the members of the House redistricting committee openly mused that cracking Memphis would reduce crime, an obviously racist remark.

Plaintiffs filed a sixty-page, heavily footnoted, Verified Complaint detailing all these facts and more. Compl. ¶¶ 1–6, 28–109. Taken together, as the law says they must be, in making a fact-sensitive intent inquiry, the extensive allegations in the Complaint support the inference that

racial discrimination was a motivating factor in driving the General Assembly's enactment of the May 2026 Map. They support the inference that the General Assembly passed this map, in this moment, in this manner, in part because it would dilute the votes of Black Memphians and destroy their political power, and not merely in spite of that utterly obvious and foreseeable result.

Defendants' motion to dismiss misapplies the Rule 12(b)(6) standard, misconstrues the law of racial discrimination under *Arlington Heights* and its progeny, and fails to reckon with or outright ignores the totality of the detailed allegations in the Complaint. It cannot be granted. Indeed, to shut the courthouse door on Black Memphians in the face of these allegations would disserve all Tennesseans. The prohibition against intentional racial discrimination by the government is a moral north star and a constant thread across the Supreme Court's jurisprudence, from jury selection to redistricting to affirmative action. *E.g.*, *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.* ("*SFFA*"), 600 U.S. 181, 206 (2023) ("The clear and central purpose of the Fourteenth Amendment was to eliminate all official state sources of invidious racial discrimination in the States." (quoting *Loving v. Virginia*, 388 U.S. 1, 10 (1967))).

The discovery and trial procedures set forth in the Federal Rules exist to determine the truth in matters of public importance like this one. All Tennesseans, and especially Black Memphians, deserve the truth here about General Assembly's unprecedented and alarming actions. On the strength of the detailed and comprehensive allegations supporting discriminatory intent in the pleadings, the Court should deny the motion and this case should move forward.

ARGUMENT

In considering a motion to dismiss under Rule 12(b)(6), courts must take all well-pleaded factual allegations in the complaint as true. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). The complaint survives a motion to dismiss when it states a claim that is plausible on its face. *Id.* To

be facially plausible, the pleadings must contain sufficient factual content, taken as true, for the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. *Id.*

Plausibility means more than mere “possibility,” but does not require “probability.” *Iqbal*, 556 U.S. at 678. Indeed, “a well-pleaded complaint may proceed even if it strikes a savvy judge that actual proof of those facts is improbable, and ‘that a recovery is very remote and unlikely.’” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556 (2007). Moreover, on a Rule 12(b)(6) motion, the pleadings must be construed in the light most favorable to the plaintiff and all reasonable inferences drawn in plaintiff’s favor. *E.g., Asurion, LLC v. SquareTrade, Inc.*, 407 F.Supp.3d 744, 748 (M.D. Tenn. 2019) (citing *Directv, Inc. v. Treesh*, 487 F.3d 471, 476 (6th Cir. 2007)).¹

I. PLAINTIFFS HAVE STANDING.

Defendants barely contest Plaintiffs’ standing and rightly so. Plaintiffs challenge the cracking of Memphis-based Congressional District 9—in which each of the individual Plaintiffs lived prior to the gratuitous mid-decade districting of May 2026, Compl. ¶¶ 10–12, and in which two of the organizational Plaintiffs have members, *id.* ¶¶ 14, 18—across new Districts 5, 8, and 9. As residents of former District 9, Plaintiffs have standing to challenge this cracking as a matter of black letter law. *See, e.g., Harding v. Cnty. of Dallas*, 948 F.3d 302, 307 (5th Cir. 2020) (the “harm arises from the particular composition of the voter’s own district” (quoting *Gill v. Whitford*, 585 U.S. 48, 67 (2018)); *United States v. Hays*, 515 U.S. 737, 744–45 (1995). *Cf. Gomillion v. Lightfoot*, 364 U.S. 339, 341 (1960) (voters injured when government “fenc[es]” them out of district “so as to deprive them of their pre-existing . . . vote”).

¹ At the preliminary injunction hearing held on May 18, 2026, Plaintiffs distributed to the Court and opposing counsel a chart with updated timestamps to the legislative record, which was necessitated because certain videos from the legislative record that were cited in the Verified Complaint were re-cut to remove dead space after the Verified Complaint was filed. A copy of the chart is appended to this brief as Exhibit A.

Defendants acknowledge that Plaintiffs and their members can challenge the districts that crack Memphis. MTD Br. 6. But they appear to argue that, because Plaintiffs use of the shorthand “May 2026 Map” in describing the new plan put into place to effectuate that cracking, they must have additional, non-Memphis Plaintiffs in order to get through the Courthouse door. *Id.*

That makes no sense. Plaintiffs challenge the destruction of the State’s lone Black opportunity district in federal elections. *See, e.g.*, Compl. ¶¶ 1–2; 47–49; 84–99. Indeed, Plaintiffs allege (and Defendants do not contest in their motion) that the only reason why the Tennessee General Assembly took up mid-decade, mid-election cycle redistricting in May of 2026 was to target and destroy District 9 by dividing Memphis and Shelby County into thirds. *See, e.g.*, Compl. ¶¶ 46–51, 60, 66; *accord* MTD Br. 3. Unlike in *Gill*, where plaintiffs challenged the partisan breakdown of Wisconsin’s congressional seats *on a statewide basis*, 585 U.S. at 67–69, Plaintiffs here do *not* challenge whatever ripple-effect changes the General Assembly happened to make to districts on the other side of the state as they cracked District 9. Plaintiffs undoubtedly have standing to challenge the cracking of Memphis, and that is what they challenge in this lawsuit.

II. PLAINTIFFS HAVE PLEADED INTENTIONAL DISCRIMINATION.

A. Fact-Intensive Intentional Discrimination Cases Like This One Are Ill-Suited for Resolution on a Motion to Dismiss.

Government action is unlawful whenever an “invidious discriminatory purpose was a motivating factor” in the decision to undertake it. *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265–66 (1977). Discrimination need only be a motivating factor, because “[r]arely can it be said that a legislature or administrative body operating under a broad mandate made a decision motivated solely by a single concern, or even that a particular purpose was the ‘dominant’ or ‘primary’ one.” *Id.* at 265.

Impermissible intent may be inferred from all “relevant circumstances that bear upon the

issue of racial discrimination.” *Flowers v. Mississippi*, 588 U.S. 284, 302 (2019). Courts thus consider all of the circumstances in determining whether discrimination was a motivating factor, including both direct and circumstantial evidence. Traditional considerations, sometimes called the “*Arlington Heights* factors,” include the challenged law’s “impact” on different racial groups; the context and timing for the challenged action, as evidenced by the “historical background” and the “sequence of events leading up to the challenged” law’s enactment; “[d]epartures from the normal procedural sequence,” and the “legislative . . . history,” including “contemporary statements by members of the decision making body” or other decisionmakers. *Arlington Heights*, 429 U.S. at 265–68. Additional relevant factors include the foreseeability of the disparate impact and knowledge of that impact. *See Columbus Bd. of Educ. v. Penick*, 443 U.S. 449, 464 (1979); *NAACP v. Lansing Bd. of Educ.*, 559 F.2d 1042, 1047–48 (6th Cir. 1977).

“[D]iscriminatory intent need not be proved by direct evidence.” *Rogers v. Lodge*, 458 U.S. 613, 618, 625 (1982). “Outright admissions of impermissible racial motivation are infrequent and plaintiffs often must rely upon other evidence.” *Hunt v. Cromartie*, 526 U.S. 541, 553 (1999); *accord Flowers*, 588 U.S. at 302. Thus, courts have repeatedly found intentional discrimination based on circumstantial evidence alone in voting cases. *See, e.g., Lodge*, 458 U.S. at 618, 625 (affirming finding of intentional racial vote dilution); *see also, e.g., North Carolina v. Covington*, 585 U.S. 969, 977 (2018); *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 440 (2006) (“*LULAC*”); *City of Pleasant Grove v. United States*, 479 U.S. 462, 469 (1987).

Especially in the districting context, the shape of the district lines at issue may demonstrate in themselves “a clear pattern, unexplainable on grounds other than race,” to disadvantage one racial group. *Arlington Heights*, 429 U.S. at 266–67; *see Gomillion*, 364 U.S. at 340, 346 (“uncouth” municipal lines demonstrated invidious intent supporting Fifteenth Amendment

violation). The effect of the challenged scheme in diluting Black voters' political power, and the context in which it is enacted or maintained, may also be powerful evidence. *See, e.g., Lodge*, 458 U.S. at 618, 625.

Determining whether discriminatory intent motivated government action is a fact-intensive process, which “demands a sensitive inquiry into such circumstantial and direct evidence of intent as may be available.” *Arlington Heights*, 429 U.S. at 266; *see also Hunt*, 526 U.S. at 549; *Greater Birmingham Ministries v. Sec’y of State for Ala.*, 992 F.3d 1299, 1322 n.33 (11th Cir. 2021) (“The *Arlington Heights* factors require a fact intensive examination of the record”); *Rothmeier v. Investment Advisers, Inc.*, 85 F.3d 1328, 1335 (8th Cir. 1996) (discrimination claims require a “fact-intensive determination and must be decided on a case-by-case basis”). “[C]ourts hesitate to grant motions to dismiss” in such cases, when the legal claim involves “a deeply fact-intensive inquiry.” *E.g., Nat’l Hockey League Players Ass’n v. Plymouth Whalers Hockey Club*, 419 F.3d 462, 472 n.3 (6th Cir. 2005).

The central question for purposes of this motion is whether, based on detailed factual allegations that the Court must accept as true, racial discrimination was one motivating factor in the Tennessee General Assembly’s decision to steamroll existing state law and destroy the state’s only majority-Black congressional district the moment after the U.S. Supreme Court decided a case about judicially-ordered Black-majority districts. *See* Compl. ¶¶ 28–99. The fact-intensive nature of that question militates strongly against resolving it at the pleadings stage.

B. Defendants Mangle the Legal Standard for Intentional Discrimination.

Defendants’ approach to the pleadings and the intentional discrimination framework is infected with multiple category errors that are worth correcting at the outset.

First, Defendants overstate the extent to which racial animus must taint the legislative process to violate the Constitution. For example, they selectively quote the factual finding in

Hunter v. Underwood that the “zeal for white supremacy ran rampant at the [1901 Alabama Constitutional Convention],” 471 U.S. 222, 229 (1985), to suggest that nothing less dramatic will suffice to plead or prove liability under *Arlington Heights*, see MTD Br. 12–13. But the impermissible consideration of race can unconstitutionally infect official decision-making processes in subtler, less cartoonish ways. Take *SFFA*, in which the Supreme Court held that universities’ admissions processes that considered race violated the Equal Protection Clause. 600 U.S. 181 (2023). The Court recognized “student body diversity [as] a compelling state interest.” *Id.* at 211 (quoting *Grutter v. Bollinger*, 539 U.S. 306, 325 (2003)). But despite that compelling interest, the Court found that the consideration of race in admissions was impermissible discrimination. *Id.* at 217. The Court did not accuse university administrators of having any “zeal for racial supremacy.” In fact, the Court suggested that these admissions systems may have been “well intentioned and implemented in good faith.” *Id.* at 213. Plaintiffs do not need to establish widespread racial hatred, or to show that partisan motivations were a sham or a pretext, as Defendants wrongly suggest, MTD Br. 1, 7, 9, 20—only that, based on all the facts pleaded, racial discrimination and specifically the desire to dilute Black Memphians’ political strength was one of its motivating factors in when, how, and whether to pass the May 2026 Map.

Second, and relatedly, Defendants dramatically over-rely on the presumption of good faith. They suggest that every fact pleaded may be disregarded, dismissed, or isolated and then reframed in the light most favorable to the General Assembly because the presumption somehow mandates that approach, repeatedly quoting the three-judge panel decision in *Lee* for the proposition that, as to one subset of factual allegations or another, the Court must simply assume that “the more straightforward ‘explanation’” is “naked partisanship.” MTD Br. 1, 4, 8, 10, 12, 19 (quoting *Tenn. State Conf. of the NAACP v. Lee*, 746 F. Supp. 3d 473, 504 (2024)). But each time Defendants use

this quotation, they conveniently omit the next sentence: All Plaintiffs must do “to rebut the presumption of good faith” is to show “that racial discrimination was a ‘motivating factor’ for the challenged map.” *Lee*, 746 F. Supp. 3d at 504 (emphasis added). *See also Mitchell v. Conrad*, 176 F.4th 484, 490 (6th Cir. 2026) (“[G]ood faith is just a presumption that exists absent evidence of bad faith.”). Plaintiffs need not, and do not, argue that partisanship had nothing to do with the General Assembly passing the 2026 Map. Rather, they argue that racial discrimination was also a motivating factor, serving as an impermissible means or complement to the achievement of partisan ends. *See generally SFFA*, 600 U.S. at 211. That is all Plaintiffs need to plead and prove.

Third, Defendants rely far too heavily on *Lee*, essentially framing this case as *Lee* 2.0. *Lee* is not binding on this Court. But more important are the critical differences between *Lee* and this case. *Lee* concerned the redistricting of districts in Davidson County that were *not* majority-Black, *see* 746 F. Supp. 3d at 485; this case concerns the cracking of a longstanding, naturally occurring majority-Black district in Memphis and Shelby County, an area whose large Black population the White-dominated majority faction in the General Assembly has repeatedly singled out and targeted for political disempowerment, *see* Compl. ¶¶ 37, 44–45, 69, 87–95; *see also infra* Part II.C.1.² Moreover, *Lee* concerned Tennessee’s normal, once-per-decade redistricting process, *see* 746 F.

² Defendants are wrong to suggest this case is “more straightforward than . . . *Lee*” because here legislators expressly claimed they were engaging in partisan gerrymandering. MTD Br. 8. Here, unlike in *Lee*, legislators were knowingly targeting a Black-majority congressional district in unprecedented mid-decade, mid-cycle, special session redistricting, and had to come up with some reason other than race for that course of action. *See, e.g., Erwin v. Potter*, 79 Fed. App’x 893, 896–97 (6th Cir. 2003) (noting that “[d]irect evidence of discrimination is rare because” those doing the discriminating “generally do not announce that they are acting on prohibited grounds.”); *Veasey v. Abbott*, 830 F.3d 216, 235–36 (5th Cir. 2016) (“To require direct evidence of intent would essentially give legislatures free rein to racially discriminate so long as they do not overtly state discrimination as their purpose and so long as they proffer a seemingly neutral reason for their actions.”). And in any case, beyond stating a general desire for a 9-0 Republican map, legislators made numerous statements raising serious doubt about the true role of race in the map-drawing process. *See* Compl. ¶¶ 60–63, 68–70; *see also infra* Part II.C.6.

Supp. 3d at 484, while this case concerns the unprecedented decision steamrolling of a longstanding prohibition on mid-decade redistricting to redraw the congressional lines in a chaotic, seventy-two-hour special session, mere days after the Supreme Court issued a decision about federal protections for majority-Black districts, *see* Compl. ¶¶ 46–86; *see also infra* Part II.C.4–5. The stark differences between the pleadings in *Lee* and this case speak volumes.

Fourth, Defendants misunderstand the nature of the *Arlington Heights* inquiry, attempting to disaggregate each of the pleaded facts and argue why one particular allegation or another, on its own, does not conclusively establish discriminatory purpose. *See, e.g.*, MTD Br. at 10 (arguing pleadings regarding discriminatory impact on their own do “not plausibly allege racial purpose”), 15 (noting evidence of past discrimination alone is not sufficient). That is not how *Arlington Heights* works. Courts do not and must not “consider[] each piece of evidence in a vacuum” in evaluating discriminatory purpose; rather, they consider the evidence “cumulative[ly]” and in “totality.” *E.g., N. Carolina State Conf. of NAACP v. McCrory*, 831 F.3d 204, 231, 233 (4th Cir. 2016). Each piece and category of relevant evidence is part of a whole. An “invidious discriminatory purpose may often be inferred from the totality of the relevant facts, including the fact, if it is true, that the [practice] bears more heavily on one race than another,” *Farm Labor Org. Comm. v. Ohio State Highway Patrol*, 308 F.3d 523, 534 (6th Cir. 2002) (quoting *Washington v. Davis*, 426 U.S. 229, 242 (1976)); *see also King v. City of Eastpointe*, 86 Fed. App’x 790, 802 (6th Cir. 2003) (“[C]ourts may infer discriminatory purpose from the totality of the circumstances.”). Viewed in their totality, the extensive pleadings here easily survive Defendants’ motion.

C. Plaintiffs Have Plausibly Alleged Intentional Discrimination.

The pleadings offer detailed factual allegations as to each of the *Arlington Heights* categories of evidence, and in totality support the inference that, while partisan gain may have been one goal, race and racial discrimination were also a motivating factor in the enactment of the

May 2026 Map and the cracking of Memphis.³

1. *Discriminatory Effects and the Foreseeability of Discriminatory Effects*

The discriminatory impact of a challenged action is an “‘important starting point’ for assessing discriminatory intent under *Arlington Heights*.” *E.g. Reno v. Bossier Par. Sch. Bd.*, 520 U.S. 471, 488–89 (1997) (citation omitted). “[A]ctions having foreseeable and anticipated disparate impact are relevant evidence to prove the ultimate fact, forbidden purpose.” *Penick*, 443 U.S. at 464. This is because actors reasonably intend the natural, foreseeable results of their actions.

Here, the natural consequences of cracking Memphis and Shelby County with respect to Black political power are obvious and uncontested. The 2026 Map cracks a longstanding, naturally occurring majority-Black district in Memphis, dividing the Black population into three districts White-majority districts that stretch hundreds of miles to heavily white areas outside Nashville. Compl. ¶¶ 37, 69, 87–95. In Tennessee, where White voters will not vote for the candidates supported by Black voters, *see id.* ¶ 36, the cracking of Memphis and the distribution of Black Memphians across three White-majority districts dilutes the political power of Black Memphians and prevents them from electing a preferred candidate to Congress, *see, e.g., id.* ¶ 107. The disparate impact from this textbook cracking was foreseeable and the General Assembly had knowledge of it. It is common knowledge that Memphis and Shelby County are majority-Black, *see id.* ¶ 28, and the *acknowledged* purpose of this mid-decade redistricting was to dismantle majority-Black District 9, *see, e.g., id.* ¶¶ 46–50. Plaintiffs plainly allege that Black Memphians

³ Where a plaintiff demonstrates that discriminatory intent was a motivating factor in the challenged decision, the evidentiary burden shifts to the defendant to “establish[] that the same decision would have resulted even had the impermissible purpose not been considered.” *Arlington Heights*, 429 U.S. at 270 n.21. Defendants do not argue that they would be entitled to dismissal even if the Complaint supported the required inference of invidious discriminatory motives (which it does). Nor could they on the basis of the pleadings and the legislative record.

have “less opportunity” to participate and elect candidates of choice under the May 2026 Map. *E.g., White v. Regester*, 412 U.S. 755, 766 (1973).

Defendants cannot, and do not, contest the extensive and well-pleaded allegations of discriminatory effect or its foreseeability, essentially conceding the May 2026 Map’s “racial effects” and that “legislators were aware of these disparate effects” on the Black population. MTD Br. 10–12; *see also id.* at 7, 13. Defendants’ only argument is that, in order to show discriminatory effects, Plaintiffs must also plead satisfaction of the entire Section 2 vote dilution test, which means “accounting for the State’s ‘permissible criteria,’ which ‘include[] partisan advantage.’” *Id.* at 20 (quoting *Louisiana v. Callais*, 146 S. Ct. 1131, 1154–55, 1157 (2026)). *Lee*, which Defendants elsewhere rely on, rejected this exact argument. 746 F. Supp. 3d at 500–01.⁴ And in any event, Defendants’ attempt to shoehorn a snippet from *Callais* into the *Arlington Heights* inquiry makes no sense as matter of first principles, either.

In the section of *Callais* that Defendants draw on, the Court “update[d]” the vote-dilution test under Section 2 of the Voting Rights Act and required Section 2 plaintiffs to account for criteria like partisanship in drawing their required alternative maps, specifically because Section 2 claims do *not* require intentional discrimination. *Callais*, 146 S. Ct. at 1159. But there is no need to satisfy the various technical requirements of the Section 2 test where a plaintiff meets the separate and demanding requirement of pleading (and ultimately proving) discriminatory intent. *See, e.g., Lodge*, 458 U.S. at 625. Under Defendants’ theory, even explicit, admitted intentional racial

⁴ Defendants, relying on *Lee*, frame discriminatory impact as a separate element of an intentional vote dilution claim. *See* MTD Br. 6–7, 20 (citing *Lee*, 746 F. Supp. 3d at 499). It is irrelevant whether one considers discriminatory effect as a standalone element, or as part of the inquiry into discriminatory purpose, or as relevant to both. Defendants do not dispute that—as the Complaint lays out in extensive detail—Black Memphians previously were able to elect candidates of their choosing to Congress, but under the new lines they no longer can do so. *See* Compl. ¶¶ 11–12, 14, 21, 24, 35–38, 84–97, 122.

discrimination by a legislative body would be immunized so long as some technical element of the Section 2 effects test was unmet. That is not and cannot be the law. Intentional racial discrimination is *never* permissible, even for partisan reasons. If anything, *that* is the teaching of *Callais* that is relevant in this case.

2. *Visual and Statistical Evidence*

The pleadings regarding the May 2026 Map’s foreseeably dilutive racial effects are further supported by additional, specific allegations that the Black population of Memphis was carved up with “almost surgical precision.” *McCrary*, 831 F.3d at 214. This includes visual and geographic evidence that historic Black neighborhoods like Whitehaven in South Memphis were cut right down the middle. Compl. ¶ 90. It also includes the extremely precise division of Memphis and Shelby County’s Black population across the three districts, with, for example, the two pincer districts that divide the most densely Black portions of Memphis divvying the bulk of the city’s Black population into near exact halves. Compl. ¶¶ 92–94. It also includes the calibration of the Black population percentage in each of the three districts in a narrow band in the high 20s or low 30s (28%, 29%, and 32%), ensuring Black voters cannot exert power or influence. Compl. ¶ 87. Defendants do not even attempt to address these allegations.

3. *Historical Background and Context*

As to the historical background, the pleadings support the conclusions that the Tennessee General Assembly is a political environment that is shot through with racial division, that racial animus is currently present and able to flourish among members of the White-dominated supermajority faction that controls the General Assembly, and that this faction has used its power to demean and subordinate Black Memphians. *E.g.*, Compl. ¶¶ 39–45.

Plaintiffs plead numerous explicitly racist statements that legislators from the White-dominated supermajority have made in just the past decade, including stating that a Black

colleague was not paying attention because he was looking for a fried chicken recipe, referring to Black activist and lawmakers as “baboons,” and “joking” that the state should consider adding “hanging by a tree” to its list of execution methods. Compl. ¶ 40. And Plaintiffs allege that the White-dominated supermajority has recently and repeatedly acted based on racial stereotypes about Black Tennesseans or rejected the existence of racism altogether, for example rejecting a resolution commemorating the death of a seventeen-year-old Black girl after a member of the White-dominated supermajority made unproven allegations that the teenager participated in a marijuana sale, or amending a resolution honoring Martin Luther King Jr. Day to omit mention of Dr. King’s efforts to combat racism. *Id.* ¶ 41. The supermajority’s members, including its leaders, engaged in a yearslong campaign of support for public monuments to Nathan Bedford Forrest, who massacred surrendering Black troops during the Civil War and then became the first Grand Wizard of the Ku Klux Klan, despite Black Tennesseans’ outcries. Compl. ¶¶ 40(d), 44(a).

Perhaps most significantly, the White-dominated supermajority has recently and repeatedly singled-out the majority-Black city of Memphis and sought to strip Memphians of the ability to govern themselves. It has clawed back funding from the City for voting to remove statutes of KKK founder Forrest and Confederate President Jefferson Davis. Compl. ¶ 44(a). It has nullified or attempted to nullify locally enacted policing reforms and gun control measures. Compl. ¶¶ 44(b)–(c). And just this past session, it authorized an unprecedented takeover of Shelby County schools from its majority-Black school board and sought to replace Shelby County’s elected DA, relying on tropes about Black officials being “incompetent” and Memphis, a Black-majority city, being dangerous and crime-ridden. Compl. ¶¶ 44–45. Legislators never even tried to explain why they were concerned about schools or crime in Memphis but nowhere else. Compl. ¶ 44(e). These recent, repeated attempts to disrupt and destroy Black self-governance in Memphis, including right

in the runup to the passage of the May 2026 Map, are corroborative of discriminatory intent in the cracking of Memphis and the destruction of Black political power in congressional elections.⁵

Defendants’ attempts to minimize the importance of these undisputed allegations fail.

First, Defendants point out that some (but not all) of the racist statements and actions by lawmakers that are referenced in the Complaint were also pleaded in *Lee*, and argue that the Court can just ignore the more detailed and extensive pleadings here because expressly racist statements were not made by the full General Assembly. *See* MTD Br. 17–18. *Lee* does not stand for that proposition and, in any case, it is not the law. *See Arlington Heights*, 429 U.S. at 268 (“contemporary statements by *members* of the decisionmaking body” are relevant (emphasis added)); *see also, e.g., Arce v. Douglas*, 793 F.3d 968, 978–79 (9th Cir. 2015) (individual Arizona legislators’ comments evidenced racial animus against Mexican-American students and “especially when coupled with the administrative history . . . that immediately preceded enactment, raise[d] at least a plausible inference that racial animus underlay passage of the legislation.”); *GRACE, Inc. v. City of Miami*, 730 F. Supp. 3d 1245, 1257 (S.D. Fla. 2024) (statements from City Commissioners that explicitly expressed an intent to maintain impermissible race-based electoral maps in Miami supported finding of discriminatory intent).

As for the allegations of a pattern of recent, repeated attacks on self-government in majority-Black Memphis, which were not pleaded in *Lee* but are strong evidence of impermissible discriminatory intent here, Defendants baldly assert that these are just “not entitled to the

⁵ As the above makes clear, Plaintiffs do not rely on any “cat’s paw” theory of intent, whereby a single statement of intent by one actor within a public body is attributed to the body as a whole. MTD Br. 12–14; *see Brnovich v. Democratic Nat’l Comm.*, 594 U.S. 647, 689 (2021). To the contrary, the allegations regarding the statements of numerous individual legislators *and* numerous actions by the Tennessee General Assembly are just one of multiple categories of evidence supporting an inference of discriminatory motives in the cracking of Memphis.

presumption of truth.” MTD Br. 12 (quoting *Lee*, 746 F. Supp. 3d at 506). Why not? Non-conclusory factual allegations *are* entitled to the presumption of truth on a motion to dismiss, *see Fisher v. Perron*, 30 F.4th 289, 294 (6th Cir. 2022), and Defendants ignore entirely the many specific, detailed examples cited in the pleadings and referenced above. *See* Compl. ¶¶ 44–45.

Defendants take great umbrage at the allegations that the legislative supermajority that has acted to demean and harm Black Tennesseans is an all-White faction. *See* MTD Br. at 15–18. But the shoe fits—and Plaintiffs’ allegations are about far more than the White race of certain powerful Tennessee politicians. In Tennessee, a political faction made up solely of White officials, without any Black members, controls all the levers of political power. Compl. ¶¶ 35–36. This faction is not responsive to the desires of Black Tennesseans, and has repeatedly attacked the political power of Black voters and Black Memphians, in particular, through legislative action. Compl. ¶¶ 41–44. Its members have repeatedly made racist remarks while holding public office, including recently and in the context of this legislation. *E.g.*, Compl. ¶¶ 40, 70. It excludes and ignores Black Tennesseans. *E.g.*, Compl. ¶¶ 11–12, 21, 36, 84.

This iron-fisted control of the decision-making body at issue by a “white-dominated organization” that has acted to undercut racial minorities’ political power, and whose members have expressed anti-Black sentiments and stereotypes in the recent past, is surely relevant to whether the challenged dilution of Black Memphians’ power in federal elections was done with discriminatory intent, just as the Supreme Court held such facts were in *White v. Regester*, 412 U.S. at 766. Defendants say *Regester* was about intra-party discrimination in Dixiecrat Texas, MTD Br. 16 n.6, but that is irrelevant: Intentional racial discrimination is constitutionally impermissible, regardless of the configuration or positioning of any political party or parties. And where an all-White faction controls an official body, creates an environment in which shocking

racial animus repeatedly surfaces, and repeatedly acts to disempower Black citizens, as alleged here in detail, that is relevant to determining if that body acted with discriminatory purpose.

4. *Timing and Sequence of Events*

The timing of the General Assembly's actions is also probative of an intention to hurt Black voters in Memphis by destroying a Black-majority district. Just two days after the Supreme Court issued its decision in *Callais*, the Governor called a special session to redraw the congressional lines, even though doing so was, at the time, expressly forbidden under state law. Compl. ¶¶ 46–51. The calls to redistrict began mere hours after *Callais* came down. *Id.* Indeed, key legislators admitted that but for *Callais*, a case about when federal law requires the creation of Black-majority district, the special session would not have happened. *Id.* ¶ 49.

There had been a compact, Black-majority district in Memphis for decades. Compl. ¶¶ 30, 37, 47, 61, 89, 108(h). This district was a naturally occurring district that was not drawn by any court and that has always been located in Memphis and Shelby County because over 40% of the State's Black population lives in Shelby County, in the southwest corner of the State. Compl. ¶¶ 28, 29, 37, 47, 69. In 2022, when the General Assembly redrew the lines around Nashville for Republican partisan gain, it did not destroy the naturally-occurring Black-majority district in Memphis. In 2025, when President Trump called for the creation of additional Republican congressional seats, and states like Texas heeded the call, the General Assembly did not destroy the naturally occurring Black-majority district in Memphis. But almost immediately after this Supreme Court decision having to do with court-ordered Black-majority districts came out, the supermajority faction set about attacking the state's one Black-majority congressional district. Compl. ¶¶ 46–51. The sequence here makes it clear that the racial composition of District 9, based in majority-Black Memphis, drove the General Assembly's decision to redistrict, and supports the conclusion that the General Assembly targeted District 9 because it was majority-Black.

Defendants try to refute the obvious inference that the General Assembly only attacked a Black-majority district after *Callais*, a case about court-ordered Black-majority districts, by misreading *Callais* as permitting intentional targeting of Black-majority districts. They argue that *Callais* freed the General Assembly to “advance political goals in redistricting without being faulted for an unintended violation of §2 of the Voting Rights Act,” MTD Br. 18–19, a dubious claim that is not substantiated by any statements in the legislative record. *Callais* did not involve the mid-decade destruction of existing, naturally occurring majority-minority districts, and did not in any way countenance the intentional targeting of Black voters for subordination and vote dilution. Indeed, such discriminatory action contravenes “the ideal of a color-blind Constitution.” *Holder v. Hall*, 512 U.S. 874, 905-06 (1994) (Thomas, J., concurring).

5. Departures from Normal Procedures

The enactment of the May 2026 map involved massive procedural irregularities that further support the inference of discriminatory purpose. Even though it was May of an election year, and the qualifying deadline for congressional elections had already passed, and even though state law *affirmatively banned mid-decade redistricting*, the General Assembly launched into a special session immediately following *Callais*, passing a new congressional plan via an ultra-rushed process that was antithetical to all existing procedures for redistricting in Tennessee. Compl. ¶¶ 46–83, 108; *see also id.* ¶¶ 31–32; Tenn. Code Ann. § 2-16-102 (fifty-year-old statute stating “districts may not be changed between apportionments”).

The process was so rushed and lacking in transparency that Black lawmakers were never told who drew the maps, and were given no time to introduce amendments or alternatives, or to hold normal hearings. On the first day, the General Assembly hurriedly repealed the 1972 law prohibiting mid-decade redistricting, restricted public access to view the new map, rejected proposals for transparency, and adopted rules to punish dissent, all while declining to make any

proposed maps available to Black members of the General Assembly. Compl. ¶¶ 51–59. Maps were not released to Black lawmakers until the second day of the three-day session, less than forty-eight hours before they were enacted into law. *Id.* ¶¶ 60, 80. While rushing the map to a vote, the General Assembly rapidly repealed the existing residency requirement and altered the qualifying period to run for Congress. *Id.* ¶¶ 71–81. The May 2026 map was jammed through while refusing to consider numerous amendments and alternative maps and ignoring traditional districting criteria and the fierce protests of Black lawmakers. *See id.* ¶¶ 54–55, 71–81. Nothing remotely like this had ever happened before in the history of redistricting in Tennessee. This unprecedented melee was the very definition of an irregular process. *Id.* ¶¶ 46–83, 108.

Defendants do not contest that the General Assembly engaged in a highly irregular process and there was a highly irregular sequence of events leading to the 2026 Map’s passage. As they do elsewhere, they attempt to isolate this evidence and argue that partisanship might also explain the frantic jettisoning of all procedure and tradition. MTD Br. 19–20. But that approach is badly flawed. Regularity, transparency, and deliberation make it harder to enact policy with discriminatory motivations; conversely, when policymakers act hastily, behind closed doors, or outside normal procedures, impermissible motivations can be acted on. That is why departures from normal procedure can help give rise to an inference that the legislative process was tainted by racial discrimination and “that improper purposes are playing a role.” *McCrory*, 831 F.3d at 227; *accord Arlington Heights*, 429 U.S. at 267; *see also Cooper v. Harris*, 581 U.S. 285, 308 (2017) (courts must conduct “a sensitive inquiry into all circumstantial and direct evidence of intent.”) (internal quotation marks omitted).

The Fourth Circuit’s decision in *McCrory* is instructive. As here, the bill at issue in *McCrory* moved through the General Assembly in just three days and bypassed the normal

amendment process, a “hurried pace” that “strongly suggest[ed] an attempt to avoid in-depth scrutiny.” 831 F.3d at 228; *see also Veasey v. Abbott*, 830 F.3d 216, 237–38 (5th Cir. 2016) (swift “three-day passage” probative of discrimination). The court also found probative the “law’s proximity to the” Supreme Court’s decision in *Shelby County v. Holder*, which invalidated the Voting Rights Act’s preclearance formula. *McCrory*, 831 F.3d at 228. The court did not conclude these procedural irregularities themselves were racially motivated; rather, the irregularities, the rushed process, the sequence of events, and the proximity to a decision removing Voting Rights Act protections supported the inference that discrimination was at work. *Id.* at 228–29. So too here.

6. Legislative history and direct statements

Plaintiffs also plausibly allege that the legislative history and legislators’ direct statements about the May 2026 Map are probative of racial discrimination and bad faith. Compl. ¶¶ 53–86.

Defendants address almost none of these allegations. They do not address the transparently dishonest statements from the map’s Senate sponsor that he—a lifelong Tennessean who attended law school in Memphis—was unaware that Memphis is majority-Black and did not know whether Black Memphians were being split across multiple districts in the May 2026 Map. Compl. ¶ 61. They do not address legislators’ robotic statements that, for example, the “proposed map mitigates the risk of litigation,” which were repeated over and over despite requests for further explanation.⁶ *See id.* ¶¶ 67–69. And they do not address that legislators hid basic information, like who drew the map and what data the map drawer used in doing so. *See id.* ¶¶ 63, 65. All of these otherwise inexplicable statements and actions are evidence of bad faith and hidden racial motives.

⁶ There is no attempt in the record to explain the nonsensical suggestion that Tennessee somehow risked incurring litigation costs *unless* it engaged in a mad-dash, mid-decade, mid-election cycle post-*Callais* redistricting session to destroy a naturally occurring Memphis-based congressional district that was not created pursuant to the Voting Rights Act in the first place. This incoherent assertion is further evidence of bad faith and impermissible racial motivations.

Defendants also ignore the allegations in the Complaint that the sponsors and supporters of the May 2026 Map, while claiming to have partisan motivations, failed to explain what if any partisan data or metrics were actually used to create the maps, even as they acknowledged using Census data, which includes racial data. Compl. ¶¶ 65, 78, 108(g). Especially when combined with legislators’ dissembling and lack of transparency on basic aspects of the May 2026 Map, along with the precision with which the May 2026 Map dilutes and cracks Memphis, *see supra* Part II.C.1–2, the pleadings plausibly suggest racial considerations in constructing the plan.

The one aspect of the legislative history that Defendants unavailingly attempt to address is the statement from a member of the House Congressional Redistricting Committee stating that cracking Memphis would make Memphis “safer” and lead to a “crime reduction.” Compl. ¶ 70. Such a comment, of course, plays heavily on the stereotypical link between Black people and criminality. *Cf. SFFA*, 600 U.S. at 218 (Equal Protection Clause mandates “that race . . . may not operate as a stereotype.”). The idea that cracking Memphis and taking political power away from Black Memphians would somehow reduce crime, or that the frenzied round of mid-decade redistricting was a public safety measure, is unserious and inexplicable on non-racial grounds.

In response to this powerful direct evidence of discriminatory intent in the redistricting process, Defendants quote *Lee* out of context, arguing that “[i]f the legislature enacted the law to deter crime, the law would pass muster.” MTD Br. at 14 (quoting *Lee*, 746 F. Supp. 3d at 502). But *Lee* proves Plaintiffs’ point: The court there was referencing criminal deterrence as a neutral and potentially legitimate justification for a hypothetical *capital punishment law* even though it “disparately affects minority defendants.” *Lee*, 746 F. Supp. 3d at 502. Criminal deterrence has *nothing* to do with redistricting and Defendants do not argue otherwise.

The totality of all the facts pleaded plausibly suggest that, while partisan gain may have

been one goal in the enactment of the May 2026 Map, racial discrimination and the desire to dilute the political power of Black Memphians also motivated the General Assembly's decision to do what it did, when it did it, and the way it did it. Defendants' motion must be denied.

III. PLAINTIFFS HAVE PLEADED FIRST AMENDMENT RETALIATION.

The Complaint also plausibly pleads that the General Assembly initiated gratuitous mid-decade redistricting to retaliate against Black Memphians, including Plaintiffs and their members, for their associational activities in organizing to build and wield Black political power in Memphis and Shelby County. Compl. ¶¶ 110–24. The government may not punish citizens for their protected speech and expression. *Nat'l Rifle Ass'n of Am. v. Vullo*, 602 U.S. 175, 198 (2024). Thus, while “a legislature may pursue partisan ends when it engages in redistricting,” *Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1, 6 (2024), it may not initiate the redistricting process to punish citizens for exercising their First Amendment rights.

A. Plaintiffs' First Amendment Retaliation Claim is Justiciable.

Defendants mainly seek dismissal of Plaintiffs' retaliation claim on justiciability grounds, wrongly claiming that *Rucho v. Common Cause*, 588 U.S. 684 (2019) controls. MTD Br. 21. But the partisan gerrymandering line of cases is inapposite here. In all those cases, state legislators had non-retaliatory reasons to draw new electoral maps, including (1) the release of the Census (*Gill*, 585 U.S. at 54–55); (2) replacing a map that had been invalidated by a court (*Rucho v. Common Cause*, 588 U.S. 684, 691 (2019)); or (3) replacing a court-drawn map with a legislature-drawn map (*LULAC*, 548 U.S. at 412–13). Because the decision to initiate redistricting was itself non-retaliatory and, in some instances, required, those cases focused on whether the particular lines that were drawn were overly partisan in their effects. Such claims necessarily implicate a question of “degree: How to ‘provid[e] a standard for deciding how much partisan dominance is too much.’” *Rucho*, 588 U.S. at 704 (quoting *LULAC*, 548 U.S. at 420). That how-much-partisanship-is-too-

much question is “beyond the reach of the federal courts.” *Id.* at 684.

But Plaintiffs do not bring a partisan gerrymandering claim at all; they do not ask the how-much-partisanship-is-too-much question or seek a remedy “to rearrange the challenged districts to achieve that end.” *Rucho*, 588 U.S. at 705. Plaintiffs challenge the decision to target Memphis and District 9 at all—and that claim is resolvable by applying straightforward First Amendment retaliation principles. Just as with any other official action, the Constitution forbids the government from redrawing district lines in order “to punish or suppress speech.” *Vullo*, 602 U.S. at 198. No complex metrics or subjective assessments of “partisanship” are required to determine whether the government action here was motivated by a retaliatory purpose.

B. Plaintiffs Have Pleaded a Valid First Amendment Retaliation Claim.

On the merits, Plaintiffs have alleged that Defendants cracked former District 9 to punish Black voters in Memphis and Shelby County for exercising their First Amendment rights. *See, e.g.*, Compl. ¶¶ 110–24. “[T]he First Amendment prohibits government officials from subjecting an individual to retaliatory actions” for engaging in protected activity, including speech, petition, and association. *Hartman v. Moore*, 547 U.S. 250, 256 (2006). To prevail on a First Amendment retaliation claim, a plaintiff must establish “(1) that she engaged in First Amendment protected activity; (2) that [defendants] undertook ‘an adverse action’ that would deter ‘a person of ordinary firmness from continuing to engage in that conduct’; and (3) that there is a ‘causal connection’ between [the] protected activity and [the] adverse action.” *MacIntosh v. Clous*, 69 F.4th 309, 315 (6th Cir. 2023). Here, Plaintiffs plead all three elements, and Defendants’ one-paragraph argument to the contrary does not engage with the well-pleaded allegations. MTD Br. 24.

Protected Activity. “[P]olitical belief and association constitute the core of those activities protected by the First Amendment.” *Elrod v. Burns*, 427 U.S. 347, 356 (1976) (plurality opinion); *see also NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 460 (1958). That expression includes

“the freedom to join together in furtherance of common political beliefs.” *Cal. Democratic Party v. Jones*, 530 U.S. 567, 574 (2000) (citation omitted).

Here, Black voters in former District 9, including Plaintiffs, engaged in protected expression and association when they organized to build political power in Black communities in Memphis and Shelby County. *See* Compl. ¶¶ 10–12, 15–17, 19–24. That includes voting for and encouraging others to vote for candidates and policies not favored by the White-dominated supermajority in control of the General Assembly. *See id.* It also includes building political power—and in particular Black political power—through other associational conduct, such as mobilizing voters and citizens for civic engagement, engaging voters by strengthening and leveraging social, family, and professional networks in and around Memphis, and organizing in Plaintiffs’ neighborhoods and communities. Compl. ¶¶ 10–12, 15–17, 19–24, 36–37, 116–18.

Causal Relationship. To establish causation, Plaintiffs must demonstrate that their protected First Amendment activity “was a ‘substantial’ or ‘motivating’ factor in the defendant[s]’ decision to take action against [them],” in which case “the burden shifts to the defendant[s] . . . to show that [they] would have taken the same adverse action even in the absence of the protected [First Amendment activity].” *Gonzalez v. Trevino*, 602 U.S. 653, 662–63 (2024) (Alito, J., concurring) (quoting *Mt. Healthy City Sch. Dist. Bd. of Ed. v. Doyle*, 429 U.S. 274, 287 (1977)).

Here, in the General Assembly’s own telling, it redistricted to retaliate against Plaintiffs and other Black Memphians for their protected speech and activity. The General Assembly supermajority cracked District 9 across three separate congressional districts to punish Black Memphians for organizing to build a powerful working majority in the Memphis area, and for using that power to oppose policies harmful to the Black community and to ensure Black Memphians had a voice in government, including by supporting and electing candidates disfavored

by the state elected officials. Compl. ¶¶ 60, 63–64, 87–97. The General Assembly sought to disrupt Plaintiffs’ and Black Memphians’ ability to succeed in these efforts. *Id.* Defendants claim that the General Assembly had partisan aims, MTD Br. 24, but that is not inconsistent: Plaintiffs and Black Memphians engaged in political activity adverse to the General Assembly majority’s partisan goals, and the General Assembly spun up the redistricting process to punish them for it.

Adverse Action. Finally, the General Assembly “undertook an ‘adverse action’ that would deter ‘a person of ordinary firmness from continuing to engage in that conduct.’” *MacIntosh*, 69 F.4th at 315. Because “nothing justifies ‘harassing people for exercising their constitutional rights,’ . . . the deterrent effect on speech ‘need not be great’ to be actionable.” *Anders v. Cuevas*, 984 F.3d 1166, 1176 (6th Cir. 2021) (citation omitted). Indeed, “government actions, which standing alone do not violate the Constitution, may nonetheless be constitutional torts if motivated in substantial part by a desire to punish an individual for exercise of a constitutional right.” *MacIntosh*, 69 F.4th at 316. Here, Plaintiffs plead at least two adverse actions, each of which has chilled—and will continue to chill—Plaintiffs from exercising their First Amendment rights.

First, Defendants removed certain Plaintiffs from District 9 and reassigned them to other districts, thereby depriving them of the right to vote for—and be represented by—their sitting congressional representative. Compl. ¶ 122; *see Lubin v. Panish*, 415 U.S. 709, 716 (1974) (“[A] voter hopes to find on the ballot a candidate who comes near to reflecting his policy preferences on contemporary issues.”); *see also Burdick v. Takushi*, 504 U.S. 428, 433–34 (1992) (First Amendment implicated when state prevents voter from casting ballot for a particular candidate).

Second, Defendants deprived Plaintiffs of the right to associate with like-minded citizens in their neighboring communities. Compl. ¶¶ 111, 114–17, 120, 123; *see Jones*, 530 U.S. at 574; *see also Ill. State Bd. of Elections v. Socialist Workers Party*, 440 U.S. 173, 186 (1979) (“[A]n

election campaign is a means of disseminating ideas as well as attaining political office.”). Plaintiffs have spent decades strengthening community ties and building political power to advance their interests at the ballot box, as individuals and through associations like the organizational Plaintiffs, and they engage in substantial organizing and voter engagement activities, leveraging networks they have cultivated for years. Compl. ¶¶ 10–12, 15–17, 19–24, 36–37, 116–18. The May 2026 Map burdens their associational activity, breaking up communities that have long been tied together and materially increasing the difficulty of Plaintiffs’ disfavored organizing and expression. *See Rutan v. Republican Party of Ill.*, 497 U.S. 62, 73 (1990) (upholding retaliation claim of employees “denied transfers to workplaces reasonably close to their homes” who “will feel a daily pressure from their long commutes”). That is First Amendment retaliation.

These actions would moreover deter a person of ordinary firmness. The cracking of Memphis will cause voter apathy among Black Memphians because they feel that the General Assembly is shutting them out of the democratic process. Compl. ¶¶ 97, 122, 124.

The General Assembly’s authority to draw and redraw congressional maps does not allow it “to dictate electoral outcomes, to favor or disfavor a class of candidates, or to evade important constitutional restraints.” *Cook v. Gralike*, 531 U.S. 510, 523 (2001) (citation omitted). Those important restraints include the firm bar on spinning up the machinery of government “to punish or suppress speech.” *Vullo*, 602 U.S. at 198. The General Assembly’s initiating the redistricting process to retaliate against Plaintiffs and Black Memphians for speaking out, organizing, and voting and expressing political views in disfavored ways was unlawful.

CONCLUSION

For the foregoing reasons, the Court should deny Defendants’ motion to dismiss.

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Respectfully submitted,

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