

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

REPRESENTATIVE RONNY JACKSON,

Plaintiff,

v.

SHIRLEY N. WEBER, in her official capacity as
California Secretary of State and GAVIN
NEWSOM, in his official capacity as Governor of
California,

Defendants.

Case 2:25-cv-00197-Z

Hon. Matthew J. Kacsmaryk

**PLAINTIFF'S BRIEF IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS
AND IN FURTHER SUPPORT OF MOTION FOR A PRELIMINARY INJUNCTION**

Daniel Zachary Epstein
Epstein & Co. LLC
8903 Glades Rd
Ste A8 #2090
Boca Raton, FL 33434
(510) 239-7430
dan@epsteinco.co

Edward Andrew Paltzik
TX Bar No. 24140402
Taylor Dykema PLLC
925 E. 25th Street
Houston, TX 77009
(516) 526-0341
edward@taylordykema.com

(pro hac vice)

Chris D. Parker
TX Bar. No. 15479100
Farris Parker & Hubbard
A Professional Corporation
P.O. Box 9620
Amarillo, TX 79105-9620
(806) 374-5317
cparker@pf-lawfirm.com

*Counsel to Plaintiff
Representative Ronny Jackson*

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INTRODUCTION

Plaintiff, Representative Ronny Jackson, respectfully submits this Brief in Opposition to Defendants Secretary Shirley N. Weber (“Secretary Weber”) and Governor Gavin Newsom’s (“Governor Newsom”) Motion to Dismiss and in Further Support of Plaintiff’s Motion for a Preliminary Injunction. On November 4, 2025, pursuant to California’s “Election Rigging Response Act” (the “ERRA”), California will conduct a Statewide Special Election in which voters will decide on Proposition 50 (“Prop 50”), a legislatively referred constitutional amendment to the California Constitution. But under the California Constitution, the Citizens Redistricting Commission, not the Legislature, is tasked with adjusting the boundaries of congressional, Senate, and Assembly districts once every decade, in the year following the national census. Prop 50 would temporarily override the Commission’s authority; specifically, Prop 50 would require California to use the district boundaries adopted in Assembly Bill 604 of the 2025-26 Session for all congressional elections until the Commission redraws distinct boundaries in 2031.

Defendants contend, *inter alia*, that “state courts, not federal courts, are the appropriate first fora for examining claims premised solely on allegations of state law violations” and point to the California Supreme Court’s summary denial of two petitions presenting similar issues. DEFENDANTS’ COMBINED BRIEF IN SUPPORT OF THEIR MOTION TO DISMISS PLAINTIFF’S COMPLAINT AND IN OPPOSITION TO PLAINTIFF’S MOTION FOR A PRELIMINARY INJUNCTION, ECF 33 at 1-2. (“DEF. BR”). Defendants also argue that this Court lacks personal jurisdiction, that Texas federal court is not a proper venue, that this Court lacks subject matter jurisdiction, and that the placement of Prop 50 on the ballot does not violate the California Constitution. But, if Defendants’ view of the law were accepted, no level of state political decision-making would be subject to federal judicial oversight. A win, under the Defendants’ view, means elections can be engineered to foreclose the

will of the people or even subvert the U.S. Constitution itself. But Defendants' view is not the American constitutional view. When a Governor acts in retaliation toward a sister state in a manner that ignores clearly stated laws, the Constitution assigns the resolution of such matters to the federal judiciary. This case is not solely about the result of a vote that Defendants want to occur in November 2025. It is about ballots being sent to the voters, violating California law, to retaliate against Texas and one of its representatives, Plaintiff. And that violation of California law harms Plaintiff: not only because of the result that could occur in November 2026, but because of the result that will occur absent relief. Absent preliminary injunctive relief, states will be emboldened to routinely violate their well-established electoral procedures to advance partisan goals. That is precisely why judicial review is needed here.

ARGUMENT

I. THIS COURT HAS PERSONAL JURISDICTION OVER DEFENDANTS

As a preliminary matter, Defendants argue that the Plaintiff must assert personal jurisdiction over each Defendant separately. DEF. BR. at 10 (citing *Rumble, Inc. v. World Fed'n of Advertisers*, No. 7:24-CV-0115-B, 2025 U.S. Dist. LEXIS 156377, at *4 (N.D. Tex. Aug. 13, 2025) (each defendant's forum contacts must be assessed individually and may not be aggregated)). But this overlooks the uniqueness of questions of personal jurisdiction over state executive officers. It also overlooks the reality that Secretary Weber is enforcing Prop 50's placement on the November 2025 ballot—and doing so under the direction of Governor Newsom. What role defendants had in the drafting of the ERRA (ECF. 33 at 4, note 5) is irrelevant. State executive officials obviously are not responsible for legislation. *Cf.* DEF. BR at 20.

Two facts illustrate why personal jurisdiction over California's chief law enforcement officer—Governor Newsom—is outcome determinative as applied to Secretary Weber: (1)

Governor Newsom directs Secretary Weber and in this case, she is the Governor’s alter ego, and (2) Secretary Weber is the key executive official involved in providing guidance to voters concerning the November special election and oversees the actual distribution and tabulation of the ballots. As such, enjoining Governor Newsom means, as applied to the November 2025 special election, Secretary Weber is also enjoined from exercising her authority over that special election. Because Secretary Weber acts at the instruction of Governor Newsom, evidence of the Governor’s harmful acts aimed at Texas is sufficient for haling him and his relevant subordinate officers in Texas courts.

A. Defendants Reasonably Anticipated Being Haled Into Texas Courts

Defendants readily acknowledge that the ERRA is an attempt “to neutralize the partisan gerrymandering being threatened by Republican-led states.” DEF. BR at 4. And California’s retaliatory conduct is primarily aimed at Texas.

Plaintiff’s Complaint (“COMPL.”), ECF 1; PLAINTIFF’S BRIEF IN SUPPORT OF MOTION FOR A PRELIMINARY INJUNCTION (“PL. BR.”), ECF 5; and PLAINTIFF’S DECLARATION IN SUPPORT OF MOTION FOR A PRELIMINARY INJUNCTION (“PL. DECL.”), ECF 4-1, all show that Governor Newsom’s push for a special election vote on ERRA was aimed at Texas. COMPL. at ¶ 18; PL BR. at 8; PL DECL. at ¶¶ 7-11, 13. Plaintiff’s arguments included a press release from Governor Newsom on August 14, 2025, titled “Governor Newsom launches statewide response to Trump rigging Texas’ elections”. *See id.*; Governor Gavin Newsom, News, *Governor Newsom launches statewide response to Trump rigging Texas’ elections*, (Aug. 14, 2025), <https://perma.cc/DC6T-MU8H> (last visited Oct. 4, 2025).

That release included the following: California will preserve its “current congressional maps if Texas or other states also keep their original maps”; “In July and in August, Governor

Newsom hosted Texas state leaders to discuss the special session currently underway in the Lone Star State, the real threats to democracy Governor Abbott is pursuing behind closed doors at the request of President Trump”; “President Trump has publicly and repeatedly pressured an uneasy state legislature to redraw their congressional map — mid cycle — to more favorably support Republicans. And, recent polling found 63% of likely Texas voters view its Trump-backed redistricting plan as unnecessary”; “Earlier this week, Governor Newsom offered President Trump an off-ramp, a chance to de-escalate. Rather than put this country and our founding values first, Trump chose personal power, and Californians will now be presented with the chance to nullify any gains he seeks from Texas, or any other state that tries to rig its congressional maps”; ““President Trump and Texas Republicans are responsible for all of this. This is not a fight California chose, but it’s a fight California can’t run from,’ said Senate President pro Tempore Mike McGuire. ‘Trump chose to rewrite the rules and Texas Republican leaders are all too happy to do his dirty work’”; “California will not stand idly by while Donald Trump tries to dictate the result of the next election in advance. If Texas moves forward with their new lines, California must respond. We will ask voters to fight fire with fire, and ensure they are not made irrelevant by the pernicious actions of Trump and Texas Republicans [Statement of Senator Adam Schiff]”; “If Texas and other Republican states move forward with their efforts to redraw the maps mid-cycle, so will California. We are ready to fight back” [Statement of Representative Zoe Lofgren]. *Id.*

This should be enough to survive a Motion to Dismiss and for a preliminary injunction to be granted. Additional public information may be judicially noticed. Defendant Newsom made retaliatory statements aimed at Texas even before the ERRA became law on August 21, 2025. On August 9, 2025, he stated, “We are talking about emergency measures to respond to what’s happening in Texas, and we will nullify what happens in Texas.” Khaleda Rahman, *Newsom*

Threatens Response in Texas Redistricting Battle: ‘We Will Nullify’, Newsweek (Aug. 9, 2025), <https://perma.cc/4QHV-RD5G> (last visited Oct. 4, 2025). In an August 12, 2025, social media post, Governor Newsom stated that President Trump “‘missed’ the deadline” to instruct Texas to stand down from redistricting, claiming California “will end the Trump presidency”. Governor Newsom Press Office, @GovPressOffice, (Aug. 12, 2025), <https://archive.is/fAs6R> (last visited Oct. 4, 2025); Governor Newsom also suggested that states like Texas had “illegal crooked maps”. Governor Newsom Press Office, @GovPressOffice, (Aug. 12, 2025), <https://archive.is/UVMzI> (last visited Oct. 4, 2025); on August 14, 2025 Defendant Governor Newsom stated his justification for ERRA: “We’re doing this in reaction to a president of the United States that called a sitting governor of the state of Texas and said, ‘Find me five seats’” Oren Oppenheim, *California will move forward with redistricting vote to counter Texas, Newsom says*, ABC News (Aug. 14, 2025), <https://perma.cc/CKP4-PAD3> (last visited Oct. 4, 2025); “We’re asking the voters for their consent to do midterm redistricting in 2026, 2028 and 2030 for the congressional maps to respond to what’s happening in Texas.” *Id.* After the Texas House voted 88-52 to approve the redistricting map on August 20, Newsom posted a two-word challenge on August 20, 2025: “It’s on, Texas.” @GavinNewsom, (Aug. 20, 2025), <https://perma.cc/5ZZ3-SSNJ> (last visited Oct. 4, 2025); on August 21, 2025, in a video posted on his X.com account, Defendant Governor Newsom condemned “Donald Trump’s attempts to rig the 2026 elections by having Republicans further gerrymander states like Texas.” @GavinNewsom, (Aug. 21, 2025), <https://perma.cc/6HQT-WSUV> (last visited Oct. 4, 2025).

These admissions are fatal to the Secretary and Governor’s jurisdictional defense. When state officials deliberately craft legislation targeting another state’s political processes—and

explicitly name that state in their legislative findings—they cannot claim surprise or due process violations when haled into that state’s federal courts.

The ERRA itself acknowledged that redistricting can “rig the outcome of the 2026 United States midterm elections.” Defendants therefore believe that because “The State of Texas has convened a special session of its Legislature to redraw congressional district maps to unfairly advantage Republicans” and given that “California has a duty to defend democracy” it follows that “California’s temporary maps [must] be designed to neutralize the partisan gerrymandering being threatened by Republican-led states.” *Id.* These are not speculative claims; this is the causal logic of the ERRA being referred to California voters through its placement on Prop 50. *Id.*

But the ERRA is even more explicit that California is aiming its actions toward Texas. Section 4(b) of the Act states, “[i]n response to the congressional redistricting in Texas in 2025, and notwithstanding any other provision of this Constitution or existing law, the single-member districts for Congress reflected in Assembly Bill 604 of the 2025–26 Regular Session pursuant to the requirements of Chapter 5 (commencing with Section 21400) of Division 21 of the Elections Code shall temporarily be used for every congressional election for a term of office commencing on or after the date this subdivision becomes operative and before the certification of new congressional boundary lines drawn by the Citizens Redistricting Commission pursuant to subdivision (d).”

The Supreme Court’s precedent in *Calder v. Jones*, 465 U.S. 783 (1984), controls here. Defendants attempt to distinguish *Calder* by arguing that ERRA does not explicitly target Plaintiff personally (“It [the ERRA] does not reference Plaintiff at all, much less make him its ‘focus.’”). DEF. BR at 12-13. However, this misses the critical point: California’s legislation specifically targets Texas’s redistricting efforts and explicitly seeks to counteract Texas’s political decisions.

The legislative text names Texas as the primary catalyst for California's actions. Minimum contacts are established when a state deliberately aims its legislative artillery at another state's political processes.

Moreover, Governor Newsom's sustained campaign targeting Texas refutes any claim of insufficient contacts. His social media posts reached Texas citizens, his public statements were directed at Texas voters, and his explicit framing of California's redistricting in response to Texas's actions all demonstrate purposeful availment of this forum. Defendants cannot engage in interstate political warfare and then claim immunity from the targeted state's jurisdiction.

B. The Effects Test Properly Applies to Interstate Political Targeting

Defendants' narrow reading of the "effects test," DEF. BR at 12, ignores the unique context of interstate political retaliation. When one state executive explicitly encourages and then enforces legislation to counteract another state's political decisions, the effects are not merely incidental but the entire purpose. California admits its legislation aims to "neutralize" Texas's redistricting gains. This is not a random effect; this is a targeted impact.

The Fifth Circuit has recognized that purposeful direction toward a forum can be established when defendants' actions are specifically intended to affect interests within that forum. *Fielding v. Hubert Burda Media, Inc.*, 415 F.3d 419, 427 (5th Cir. 2005). Here, California's admitted goal is to offset Republican gains from Texas redistricting. This deliberate interstate targeting satisfies any effects analysis.

Defendants point this Court to the Fifth Circuit's decision in *Johnson v. TheHuffingtonPost.com, Inc.* 21 F.4th 314, 321 (5th Cir. 2021). DEF. BR at 13. In *HuffingtonPost*, the Court stated, "What matters is whether HuffPost aimed *the alleged libel* at Texas." There is no question that Governor Newsom aimed his conduct at Texas. Defendants cherry-pick phrases from

an impressive sampling of case law in this District and Circuit without recognizing the doctrinal principles informing the reasoning of these decisions. Indeed, the *HuffingtonPost* Court’s “aimed . . . at” test is informed by the Court’s concern that a defendant have “[f]air warning” that it may be required to answer for its conduct in Texas. 21 F.4th, *supra* at 322. Governor Newsom “may avoid the authority of Texas’s courts by not purposefully directing at Texas the conduct that produced [Congressman Jackson’s] suit.” And yet, Newsom’s conduct was aimed at Texas. *Accord. id.* at 323.

Plaintiff predicted that the primary case Defendants would rely upon in arguing for lack of personal jurisdiction would be *Walden v. Fiore*. 571 U.S. 277 (2014); *Compare* PL. BR. at 7 to DEF. BR. at 8-9, 12-13. But *Walden* says nothing about the jurisprudence focusing on cases like the one here, where the defendant’s conduct “aimed at” Texas is sufficient for personal jurisdiction as long as minimum contacts are present. *Accord* DEF. BR. at 12-13.

Defendants construe *Bulkley & Assocs., LLC v. Dep’t of Indus. Rels.*, 1 F.4th 346, 351 (5th Cir. 2021) as mandating the traditional factors for a finding of personal jurisdiction (“[t]o maintain personal jurisdiction, all three questions must be answered ‘in the affirmative,’ *id.*”) (relying, ultimately, upon *Daimler AG v. Bauman*, 571 U.S. 117, 128 (2014)). DEF. BR. at 9. That construction of the Fifth Circuit’s opinion is inaccurate.¹ The Court instead prefaced “in the affirmative” with “[i]f we answer all three questions”; those standards satisfy “due process,” but they are certainly not the exclusive requirements for finding personal jurisdiction. *Bulkley & Assocs., L.L.C.*, 1 F.4th at 351. Nevertheless, together with *Bulkley*, the Fifth Circuit has only examined Texas courts’ personal jurisdiction over out-of-state government officials in four cases,

¹ Defendants also miscited the text of the opinion (“the exercise of personal jurisdiction is fair and reasonable” (*Buckley & Assocs., LLC*, 1 F.4th *supra* at 351) versus “the exercises of personal jurisdiction are fair and reasonable” (Def’s Br. at 9)).

all involving out-of-state officials sending a Texas business some form of regulatory noncompliance notice. *See id.* at 353 (collecting cases). What is unique about the Defendants' behavior here is that their interest in their state law is entirely contingent on Texas's own in-state actions. *See* § I.A., *infra*. Instructive here is *Defense Distributed v. Grewal*, 971 F.3d 485, 493 (5th Cir. 2020): the Fifth Circuit found personal jurisdiction when an out-of-state action intentionally targeted within-Texas activity and where the out-of-state defendants confirmed an "intent to crush [plaintiff's] operations." *Compare Def. Distributed* to § I.A., *supra* ("fight" "neutralize" "nullify" "fight fire with fire").

Here, where Representative Jackson alleges constitutional harms made by Defendants against Texas and that affect him, and where Defendants' intentionally retaliatory communications and actions gave rise to that harm, the Fifth Circuit has been likely to find no due process violation in haling the defendants into court. *See Def. Distributed*, 971 F.3d at 494 (citing *Wien Air Alaska, Inc. v. Brandt*, 195 F.3d 208, 211 (5th Cir. 1999)); *accord. Calder*, 465 U.S. at 789 (where "intentional conduct" in one state "calculated to cause injury" in another state permitted personal jurisdiction in the targeted state).

II. VENUE IS PROPER IN THIS DISTRICT

Because personal jurisdiction exists over Defendants, venue is necessarily proper under 28 U.S.C. § 1391(b)(1). Additionally, venue is proper under § 1391(b)(2) because a substantial part of the events giving rise to this claim—the targeted political harm to Texas's redistricting efforts—occurred and will occur in this District. When California explicitly legislates to counteract Texas's political decisions, the effects of that legislation are felt where Texas's representatives serve.

While Defendants request the opportunity to brief a motion for transfer "[s]hould the Court nonetheless find that venue is proper in this district," Def's Br. at 14, that is not how 28 U.S.C. §§

1404(a) and 1406(a) work. Once the Court finds that venue is proper in the Northern District of Texas, transfer is unnecessary. *Freedom Coal. of Drs. for Choice v. CDC & Prevention*, No. 2:23-CV-102-Z, 2023 U.S. Dist. LEXIS 232297, at *3 (N.D. Tex. Nov. 3, 2023) (“Because the Court determines that Plaintiff’s principal place of business is in Amarillo, Texas, venue is proper. Accordingly, neither dismissal nor transfer is warranted”).

III. THIS COURT HAS SUBJECT MATTER JURISDICTION

The first federal court adjudication in our nation’s history, the 1782 decision of *Pennsylvania v. Connecticut*, involved a dispute over land rights between Pennsylvania and Connecticut concerning what was then the Wyoming Valley, a fertile crescent-shaped region along the Susquehanna River in present-day northeastern Pennsylvania.² See e.g., <https://perma.cc/S7K9-2ZV6> (last visited Oct. 4, 2025). Upon Pennsylvania’s petition, the state of Connecticut was haled into a federal court outside its territory. Judicial review in a non-Connecticut court was exercised over Connecticut over a question of state law. (“[I]n 1754, when the Susquehanna Company acquired the land for 2,000 pounds from an Iroquois delegation at a conference in Albany, New York, many called the validity of the transaction into question”). Connecticut History, *The Susquehanna Settlers*, <https://perma.cc/BEL5-HY9L> (last visited Oct. 4, 2025).

This case is referenced in Alexander Hamilton’s Federalist Paper 7. THE FEDERALIST PAPERS: NO. 7 (HAMILTON), https://avalon.law.yale.edu/18th_century/fed07.asp (last visited Oct. 4, 2025) (“The circumstances of the dispute between Connecticut and Pennsylvania, respecting the land at Wyoming, admonish us not to be sanguine in expecting an easy accommodation of such difference.”). In advocating for a constitution to supersede the Articles of Confederation, Hamilton

² Decided December 30, 1782 by a special Court of Commissioners established pursuant to Article IX of the Articles of Confederation.

argued for a strengthening, not a weakening, of the idea of one state having legal claims against another that affects that state's interests. And it was this case that led the constitutional framers to extend the federal judicial power to "Controversies between two or more States." U.S. CONST. ART. III, § 2, CL. 1.

What Defendants have done in retaliation against Texas is precisely the sort of injury Hamilton identified as requiring judicial review. *THE FEDERALIST PAPERS*: NO. 7 (HAMILTON).³ And Hamilton foresaw this need precisely in the context of one state's laws that affected the interests of another state. *Id.* ("We are not authorized to expect that a more liberal or more equitable spirit would preside over the legislations of the individual States hereafter, if unrestrained by any additional checks, than we have heretofore seen in too many instances disgracing their several codes. We have observed the disposition to retaliation excited in Connecticut in consequence of the enormities perpetrated by the Legislature of Rhode Island; and we reasonably infer that, in similar cases, under other circumstances, a war, not of **PARCHMENT**, but of the sword, would chastise such atrocious breaches of moral obligation and social justice"). (Emphasis in original).

To say the present dispute is not within the expertise of the federal courts ignores the history and tradition supporting the resolution of interstate retaliation. As shown below, Defendants' arguments that neither the Guarantee Clause nor the Elections Clause is justiciable are unavailing. *See generally* DEF. BR. Governor Newsom and Secretary Weber ignored the state's constitutional and statutory mandates to coordinate legislation and voting in retaliation against a sister state. This is not a question of partisan gerrymandering or any within-state matter: it is the kind of issue that

³ With emphasis concerning injuries by one state against another, Hamilton, in *THE FEDERALIST* NO. 7, stated "**WE SHOULD BE READY TO DENOMINATE INJURIES THOSE THINGS WHICH WERE IN REALITY THE JUSTIFIABLE ACTS OF INDEPENDENT SOVEREIGNTIES CONSULTING A DISTINCT INTEREST**"). (Emphasis in original).

raises national interests that strike at the heart of structural considerations of the Constitution and for which judicial review is necessary.

A. Plaintiff States Justiciable Federal Claims

1. The Guarantee Clause Provides a Backdrop for Elections Clause Analysis

While Plaintiff acknowledges the tradition of nonjusticiability of Guarantee Clause claims, and notwithstanding the grounds raised in Plaintiff's brief in support of his preliminary injunction for revisiting that doctrine, *see e.g., New York v. United States*, 505 U.S. 144, 184 (1992), the clause provides essential context for understanding the scope of permissible state action under the Elections Clause. When a state abandons republican principles by allowing its legislature to violate express constitutional constraints, federal courts need not blind themselves to such violations when evaluating Elections Clause violations.

2. The Elections Clause Creates Judicially Enforceable Limits on State Power

The Elections Clause requires states like California to follow their own procedures instead of breaching them to retaliate against another state's electorate. Plaintiff alleges California failed to follow its own procedures as required by the Constitution. Procedural review is justiciable. And it is justiciable because legal consequences flowed against Representative Jackson due to the Defendants' retaliation-informed procedural violations. One of the reasons preliminary relief is ripe is because of the risk of ballot errors that further affect Representative Jackson. Consider that on September 30, 2025, the voter guide for the November special election contained errors regarding Prop 50. Seema Mehta, *California voters mailed inaccurate guides ahead of November special election*, Los Angeles Times (Sept. 30, 2025), <https://archive.is/y3jdx> (last visited Oct. 4,

2025). As a Democratic redistricting expert said, “It is unfortunate that it was incorrect on the statewide map in the voter guide[.]” *Id.*

Unlike the Elections Clause issue in *Lance v. Coffman* (DEF. BR. 15, 16, 20), this one is not undifferentiated or generalized but is tailored to the Defendants’ impact on Representative Jackson himself. 549 U.S. 437, 442 (2007). Indeed, Defendants’ reading of *Texas Voters Alliance v. Dallas Cnty.*, 495 F. Supp. 3d 441, 462 (E.D. Tex. 2020), is misplaced: for Elections Clause purposes, the identification of “individual rights” is not made in the context of a remediable injury but instead one that is generalized rather than unique to a directly affected party. *Id.* (conflating “private citizens” “private litigants” and “individual rights”). Representative Jackson is a current Congressman who is harmed by Defendants’ retaliatory conduct aimed at Texas for the purpose of flipping the U.S. House of Representatives and depriving Representative Jackson of his seat and, indeed, of his affiliations and chairmanships. PL. DECL. at ¶¶ 9-11.

Further, the Supreme Court’s 2019 opinion in *Rucho v. Common Cause*, 588 U.S. 684, 703 (2019), is irrelevant to this dispute: this is not a partisan gerrymandering case but a controversy about Defendants’ retaliatory conduct that transgressed procedural expectations and the law to punish the Texas electorate, including those represented by Congressman Jackson. *Rucho* was limited by its terms to “cases involving allegations of partisan gerrymandering.” *Id.* And, notwithstanding this irrelevancy, courts within this Circuit have recently distinguished *Rucho* as not foreclosing related constitutional claims. *See League of United Latin Am. Citizens v. Abbott*, 767 F. Supp. 3d 393, 400 (W.D. Tex. 2025) (describing one exception to the *Rucho* rule that redistricting matters are nonjusticiable political questions regarding race-based discrimination in elections).

Defendants also fundamentally misread the Supreme Court’s recent decision in *Moore v. Harper*, 600 U.S. 1 (2023). Far from barring federal review of state legislative compliance with state law, *Moore* explicitly recognized that federal courts must ensure state actors do not “transgress the ordinary bounds of judicial review” when interpreting election laws. *Id.* at 36. Note that Secretary Weber oversees enforcing both state and federal law, implicating questions of justiciability unaddressed in *Rucho* and *Moore*. Here, Defendants have intentionally directed their conduct to affect federal elections in Texas. Any interpretation of *Moore* by Defendants that suggests judicial review must be channeled through the California Supreme Court before federal judicial review can be had by the Supreme Court of the United States has nothing to do with justiciability—instead raising a question of abstention. Defendants’ apparent position is to create an absurd asymmetry where federal courts police state judicial interpretations but ignore state legislative violations. The issues raised in this dispute are unquestionably within the federal judiciary’s expertise. *Accord. League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 404 (2006) (finding that “[n]either the Constitution nor Congress has stated any explicit prohibition of mid-decade redistricting to change districts drawn earlier in conformance with a decennial census. Although the legislative branch plays the primary role in congressional redistricting, courts have an important role when a districting plan violates the Constitution”).

Defendants’ abuse of state processes to affect out-of-state federal elections directly implicates the Supreme Court’s principle that “when States regulate parties’ internal processes they must act within limits imposed by the Constitution.” *Cal. Democratic Party v. Jones*, 530 U.S. 567, 572–73 (2000).

B. Plaintiff Has Article III Standing

Implementing a legally suspect⁴ state law motivated by retaliation against Texas, and where ballots enshrining that law will begin being sent to voters on October 6, 2025, unmistakably causes immediate, irreparable harm to a Republican Texas congressman. Courts recognize that the violation of constitutional rights “for even minimal periods of time” constitutes irreparable injury. *BST Holdings, L.L.C. v. OSHA*, 17 F.4th 604, 618 (5th Cir. 2021); *Tandon v. Newsom*, 593 U.S. 61, 64 (2021). Here, enforcement of the ERRA would violate Plaintiff’s rights and the structural constitutional principles that protect all citizens.

1. Plaintiff Suffers and Will Suffer Concrete and Particularized Injury

Defendants attempt to characterize Plaintiff’s injury as speculative, but their own admissions reveal the immediate and concrete nature of the harm. California is currently conducting an election—ballots will be sent on October 6; votes will soon be cast—on a measure that violates California’s Constitution. With its transparent motive, this ongoing violation of the law is itself an injury to Plaintiff’s interests as a Member of Congress. As briefed above, *supra*, Plaintiff—together with all Republican members in Texas—is targeted for punishment by Defendants. This is not conjectural – Defendants have put Plaintiff on notice that he will be subject to retribution. § I.A., *infra* (“It’s on, Texas”).

The Supreme Court in *Powell v. McCormack*, 395 U.S. 486 (1969), recognized that Members of Congress have standing to challenge actions that affect their political interests and institutional prerogatives. California’s admitted attempt to “neutralize” Republican congressional gains directly targets those interests. Unlike the diffuse political concerns in *Raines v. Byrd*, 521

⁴ See e.g., *Strickland v. Weber* No. S292490, 2025 Cal. LEXIS 5421 (Cal. Aug. 20, 2025); *Sanchez v. Weber* No. S292592, 2025 Cal. LEXIS 5694 (Cal. Aug. 27, 2025); *Hilton v. Secretary of State Weber and Governor Newsom*, No. 25-cv-01988 (C.D. CA Sept. 4, 2025).

U.S. 811 (1997), this case involves targeted retaliation against Texas’s redistricting. This is not a case of Plaintiff claiming standing “simply because [he] believes that [they are] acting illegally”—DEF. BR. at 20 (quoting *Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367, 381 (2024)) because, of course, he is not simply a “citizen.” *See id.* (full quote: “citizen does not have standing to challenge a regulation simply because the plaintiff believes that the government is acting illegally”; “[a] citizen may not sue based on an ‘asserted right to have the Government act in accordance with law’”) (internal citations omitted). Representative Jackson is not an everyday citizen—he is a Congressman from Texas who is the immediate target of Defendant’s political vitriol.⁵

Furthermore, Plaintiff’s injury is neither abstract nor contingent on future election results. The injury occurs now, as California conducts an unconstitutional election process. Every ballot cast pursuant to an unlawful procedure deepens the constitutional violation and the injury to Plaintiff’s protected interests.⁶

2. Causation and Redressability Are Satisfied

Defendants cannot escape causation by pointing to a manufactured litany of hypotheticals. Every Republican member in Texas was affected by the Defendants’ actions. Consider that if California exacted tariffs against imports into the state from Texas businesses, and only one business sued, even though dozens were affected, would causation be too speculative? Clearly not. When a state acts through retaliatory measures endorsing unlawful procedures, the violation of the law itself causes injury regardless of the outcome. Threats cause harm. *Burlington Northern &*

⁵ Defendants seem to think that all Republican members of the House of Representatives have chairmanships on Committees or subcommittees. *See* DEF. BR. at 22. That is not the case. Before this Court, Plaintiff served as a co-plaintiff with President Donald J. Trump in litigation against CBS and Paramount, and as a plaintiff in a case against the State Department (citations omitted). These opportunities are rooted in Plaintiff’s committee leadership positions and reputation within the Republican majority of the House.

⁶ Defendants’ reliance on *Texas v. Pennsylvania*, DEF. BR. at 21-22, is misplaced given such controversies are within the Supreme Court’s original, not appellate, jurisdiction.

Santa Fe Ry. Co. v. White, 548 U.S. 53, 64 (2006) (recognizing that retaliation claims require only materially adverse actions that would deter a reasonable employee from engaging in protected activity, not discriminatory actions that affect the terms and conditions of employment). The law is rife with doctrines that recognize the harms of retaliation and breaches of procedure, independent of whether Courts routinely enjoin unlawful election procedures without requiring proof of electoral outcome.

The remedy is straightforward: enjoin the submission of Prop 50 ballots to California voters. This Court need not predict election results to remedy ongoing legal violations. And that remedial scheme is necessary before the November 2025 special election. The remedy requested by Plaintiff's complaint and motions seeks to stop Defendants' retaliatory actions, which were intended, designed, and implemented to deprive those, like Representative Jackson, who fell within the presaged zone of danger of such actions.

C. Sovereign Immunity Does Not Bar This Action

The *Ex parte Young* doctrine squarely applies because Plaintiff challenges ongoing violations of federal law—specifically, the Elections Clause requirement that state legislatures act within their constitutional authority. While Defendants characterize this as a state law claim in federal dress, *Moore*, 600 U.S. 1, definitively establishes that state legislative compliance with state constitutional constraints when exercising Elections Clause powers is a federal question. And, notwithstanding, *Ex parte Young* is more nuanced than the simplified reading by Defendants. As stated by Justice Peckham:

We have, therefore, upon this record, the case of an unconstitutional act of the state legislature and an intention by the attorney general of the state to endeavor to enforce its provisions, to the injury of the company, in compelling it, at great expense, to defend legal proceedings of a complicated and unusual character, and involving questions of vast importance to all employees and officers of the company, as well as to the company itself. The question that arises is whether there is a remedy that the parties interested may resort

to, by going into a Federal court of equity, in a case involving a violation of the Federal Constitution, and obtaining a judicial investigation of the problem, and, pending its solution, obtain freedom from suits, civil or criminal, by a temporary injunction, and, if the question be finally decided favorably to the contention of the company, a permanent injunction restraining all such actions or proceedings.

209 U.S. 123, 149 (1908).

Ex parte Young involved a state executive enforcing unconstitutional provisions of the state legislature in a case involving federal constitutional violations, and where an injunction was sought. *See id.* This dispute raises federal constitutional violations rooted in retaliatory and procedurally irregular state action. It squarely fits within *Ex parte Young*. The key insight of *Ex parte Young* is that when a state officer claims to be acting under state authority but acts in contravention of the Constitution, the officer proceeds without the state’s authority and is stripped of his official character. 209 U.S. at 160. This is precisely what happened here.

It would be a doctrine incongruent with American constitutional law to suppose that when a “cause of action seeks to remedy alleged violations of *state* law,” the plaintiff is barred under sovereign immunity. *See e.g.*, DEF. BR at 27 (emphasis in original). State laws can violate the Constitution. Governor Newsom’s enforcement authority is demonstrated by his active promotion and championing of ERRA. A simple instruction to his alter ego for ERRA purposes—Secretary Weber—to stop the distribution of ballots and halt the special election is sufficient to establish the requisite enforcement connection for *Ex parte Young* purposes. And Defendants suggest as much, *see* DEF. BR at 28-29 (“Secretary of State’s implementation or enforcement of the provisions of ACA 8”).

Defendants fare no better with their reliance on *Legislature v. Deukmejian*, 34 Cal. 3d 658, 680 (1983). Defendants cite the case for the proposition that the people of California are “the ultimate source of legitimate political power” and are “free through *constitutional amendment* to

adopt whatever changes in the existing system they consider appropriate, subject only to limitations contained in the Constitution of the United States.” DEF. BR at 30 (citing *Deukmejian*, 34 Cal. 3d at 680 (emphasis by Defendants)). That proposition is bookended by the following:

Real parties argue that we should exempt initiatives from the once-a-decade principle, suggesting at the same time that we might ‘create’ a new rule which would allow two opportunities to redistrict each decade, once by the Legislature and once by initiative, provided the Legislature acts first. This we decline to do . . . Under the well-established constitutional principles that we have reviewed, it is clear that because one presumptively valid redistricting plan based on the 1980 census has already been adopted, article XXI prohibits the adoption of a second redistricting plan either by the Legislature or by initiative.”

Id. at 680

IV. PLAINTIFF STATES VALID CLAIMS ON THE MERITS

A. California’s Legislature Exceeded Its Constitutional Authority

The California Supreme Court’s decision in *Deukmejian*, *supra*, supports Plaintiff’s position when read carefully. While *Deukmejian* acknowledged that constitutional amendments could alter redistricting procedures, it emphasized that such amendments must follow proper constitutional processes. Here, California circumvented those processes by having its legislature directly enact new maps while disguising this action as a referendum on future procedures.

The critical distinction: Article XXI of California’s Constitution specifically assigns redistricting authority to the Citizens Redistricting Commission and removes it from the legislature. The legislature cannot reclaim this authority through a simple majority vote disguised as a constitutional amendment process. The substantive redistricting decision—drawing specific district lines—has already been made by the legislature in AB 604, not by the voters. The ballot measure merely asks voters to ratify a completed redistricting, not to decide whether to authorize one.

B. The Elections Clause Prohibits Procedural Manipulation to Achieve Partisan Ends Against a Sister State

The Elections Clause does not grant states unlimited discretion to manipulate their own procedures to achieve partisan objectives. When a state admits, as California does here, that its actions are designed to counteract another state's political decisions, it exceeds the federalism balance embodied in the Elections Clause.

The Framers assigned election regulation to state legislatures with congressional oversight precisely to prevent the kind of interstate political warfare California now wages. *See* § III., *supra*. The Elections Clause creates a framework for state sovereignty within the federal system, not a license for retaliatory manipulation of election procedures.

V. INJUNCTIVE RELIEF IS WARRANTED

A. Irreparable Harm Is Immediate

Once Defendant Weber sends out ballots beginning on October 6, ballots will be cast pursuant to unconstitutional procedures, which deepens the irreparable harm. Defendants' argument that harm won't occur until 2026 ignores the present reality: an unconstitutional election is happening now. Once completed, this constitutional violation cannot be undone.

The harm to the constitutional structure and the rule of law is inherently irreparable. When states violate their own constitutions to achieve partisan ends and explicitly target sister states' political processes, immediate judicial intervention is essential to preserve constitutional order.

B. The Balance of Equities Favors Preserving Constitutional Governance

While the Defendants invoke administrative burden and voter confusion (*see* DEF. BR at 35), these concerns cannot override constitutional requirements. Indeed, as stated above, Defendants' actions have already led to the electorate being provided with erroneous documents

on the special election. California chose to rush this unconstitutional procedure; it cannot now claim that its own haste prevents judicial review.

Moreover, appropriate remedial orders can minimize disruption while ensuring constitutional compliance. *Milliken v. Bradley*, 418 U.S. 717 (1974). This Court has broad equitable powers to fashion relief that respects both practical realities and constitutional imperatives. *Swann v. Charlotte-Mecklenburg Bd. of Ed.*, 402 U.S. 1 (1971).

C. The Public Interest Demands Judicial Enforcement of Constitutional Limits

Allowing unconstitutional procedures to continue never serves the public interest. *Choice v. Paxton*, 658 F. Supp. 3d 377, 415 (W.D. Tex. 2023). Plaintiff Representative Jackson has a concrete interest and “personal stake” in preventing interstate political retaliation threatening his job and associated leadership benefits.⁷ *Raines*, 521 U.S. at 819.

When one state explicitly targets another’s political processes through admitted retaliatory legislation, federal courts must act to preserve the constitutional balance. *U.S. Steel Corp. v. Multistate Tax Comm’n*, 434 U.S. 452, 470 n. 21 (1978). To hold otherwise would unleash a spiral of interstate political warfare that would ultimately destroy our federal system. *Bond v. United States*, 564 U.S. 211, 222 (2011); *Accord*. FEDERALIST NO. 7, *supra*.

CONCLUSION

Defendants ask this Court to blind itself to an admitted campaign of interstate political retaliation conducted through unconstitutional means. They invoke procedural barriers and jurisdictional doctrines, but these cannot obscure the fundamental reality: California is explicitly targeting Texas by rushing a special election based upon a state constitutional violation to achieve a national political outcome for which Plaintiff is within the zone of affected targets.

⁷ Not to mention the additional campaign costs endured in fighting against the effects of ERRA. *Accord*. *FEC v. Ted Cruz for Senate*, 596 U.S. 289, 319 (2022).

The Constitution does not permit such conduct. Federal courts exist precisely to check such state overreach and preserve our constitutional order. This Court should deny Defendants' motion to dismiss and grant Plaintiff's motion for preliminary injunction.

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Respectfully submitted,

/s/Daniel Zachary Epstein
Daniel Zachary Epstein
Epstein & Co. LLC
8903 Glades Rd
Ste A8 #2090
Boca Raton, FL 33434
dan@epsteinco.co

(pro hac vice)

/s/Edward Andrew Paltzik
Edward Andrew Paltzik
Texas Bar No. 24140402
Taylor Dykema PLLC
925 E. 25th Street
Houston, Texas 77009
(516) 526-0341
edward@taylordykema.com

/s/Chris D. Parker
Chris D. Parker
TX Bar. No. 15479100
Farris Parker & Hubbard
A Professional Corporation
P.O. Box 9620
Amarillo, TX 79105-9620
(806) 374-5317
cparker@pf-lawfirm.com

Counsel to Plaintiff
Representative Ronny Jackson