

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

REPRESENTATIVE RONNY JACKSON,  
in his individual capacity and as U.S.  
Representative for Texas's 13th  
Congressional District, and  
REPRESENTATIVE DARRELL ISSA, in  
his individual capacity and as U.S.  
Representative for California's  
48th Congressional District,

Plaintiffs,

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 NO. 2:25-CV-00236-Z**

**JURY TRIAL DEMANDED**

**PLAINTIFFS' BRIEF IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**

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

Christopher 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](mailto:cparker@pf-lawfirm.com)

*Counsel to Plaintiffs  
Representatives Ronny Jackson and Darrell  
Issa*

## TABLE OF CONTENTS

<b>INTRODUCTION.....</b>	<b>1</b>
<b>FACTUAL BACKGROUND.....</b>	<b>3</b>
<b>THRESHOLD ARGUMENTS .....</b>	<b>9</b>
<b>I. PLAINTIFFS HAVE ARTICLE III STANDING .....</b>	<b>9</b>
<b>A. Plaintiffs Suffer Concrete and Particularized Injury .....</b>	<b>10</b>
<b>B. Causation and Redressability Are Satisfied .....</b>	<b>11</b>
<b>II. THIS COURT HAS PERSONAL JURISDICTION OVER DEFENDANTS.....</b>	<b>12</b>
<b>A. The Effects Test Properly Applies to Interstate Political Targeting.....</b>	<b>17</b>
<b>SUBSTANTIVE ARGUMENTS .....</b>	<b>18</b>
<b>I. Plaintiffs Are Substantially Likely to Succeed on the Merits .....</b>	<b>18</b>
<b>A. <i>The Equal Protection Claim (One Person, One Vote)</i>.....</b>	<b>18</b>
<b>B. <i>The Elections Clause Claim</i>.....</b>	<b>20</b>
<b>C. <i>The Guarantee Clause Claim</i>.....</b>	<b>25</b>
<b>II. Plaintiffs Will Suffer Irreparable Harm Absent Preliminary Relief .....</b>	<b>29</b>
<b>A. <i>Plaintiff Jackson’s Irreparable Harm</i>.....</b>	<b>30</b>
<b>B. <i>Plaintiff Issa’s Irreparable Harm</i> .....</b>	<b>31</b>
<b>III. The Balance of Harms Tips Sharply in Plaintiffs’ Favor.....</b>	<b>32</b>
<b>IV. The Public Interest Favors Preliminary Relief .....</b>	<b>33</b>
<b>CONCLUSION.....</b>	<b>35</b>

## TABLE OF AUTHORITIES

Cases	Page(s)
<i>A.C. by Waithe v. McKee</i> , 23 F.4th 37 (1st Cir. 2022) .....	26
<i>Arizona State Legislature v. Arizona Indep. Redistricting Comm’n</i> , 997 F. Supp. 2d 1047 (D. Ariz. 2014) .....	25
<i>Awad v. Ziriox</i> , 670 F.3d 1111 (10th Cir. 2012) .....	9
<i>Baker v. Carr</i> , 369 U.S. 186 (1962) .....	26
<i>Bluefield Water Ass’n v. City of Starkville</i> , 577 F.3d 250 (5th Cir. 2009) .....	9
<i>BST Holdings, L.L.C. v. Occupational Safety &amp; Health Admin., United States Dep’t of Lab.</i> , 17 F.4th 604 (5th Cir. 2021) .....	9, 29
<i>Burlington Northern and Santa Fe Ry. Co. v. White</i> , 548 U.S. 53 (2006) .....	11
<i>Butler v. Thompson</i> , 97 F. Supp. 17 (E.D.Va. 1951) .....	26
<i>Byrum v. Landreth</i> , 566 F.3d 442 (5th Cir. 2009) .....	8
<i>California Democratic Party v. Jones</i> , 530 U.S. 567 (2000) .....	22
<i>Duncan v. McCall</i> , 139 U.S. 449 (1891) .....	26
<i>Elrod v. Burns</i> , 427 U.S. 347 (1976) .....	29
<i>Fielding v. Hubert Burda Media, Inc.</i> , 415 F.3d 419 (5th Cir. 2005) .....	17
<i>Food &amp; Drug Admin. v. All. for Hippocratic Med.</i> , 602 U.S. 367 (2024) .....	10

<i>Hollingsworth v. Perry</i> , 558 U.S. 183 (2010) .....	35
<i>Jackson Women’s Health Org. v. Currier</i> , 760 F.3d 448 (5th Cir. 2014) .....	9
<i>Johnson v. TheHuffingtonPost.com</i> , 21 F.4th 314 (5th Cir. 2021) .....	17, 18
<i>Karcher v. Daggett</i> , 462 U.S. 725 (1983) .....	19
<i>Lake Charles Diesel, Inc. v. Gen. Motors Corp.</i> , 328 F.3d 192 (5th Cir. 2003) .....	9
<i>Lance v. Coffman</i> , 549 U.S. 437 (2007) .....	24
<i>Largess v. Supreme Jud. Ct. for State of Mass.</i> , 373 F.3d 219 (1st Cir. 2004) .....	26
<i>League of United Latin American Citizens v. Perry (LULAC)</i> , 548 U.S. 399 (2006) .....	19
<i>Legislature v. Deukmejian</i> , 34 Cal. 3d 658 (1983) .....	23
<i>Luther v. Borden</i> , 48 U.S. 1 (1849) .....	25, 26, 27
<i>Moore v. Harper</i> , 600 U.S. 1 (2023) .....	20, 21
<i>New York v. United States</i> , 505 U.S. 144 (1992) .....	27
<i>Nken v. Holder</i> , 556 U.S. 418 (2009) .....	9
<i>Pacific States Tel. &amp; Tel. Co. v. Oregon</i> , 223 U.S. 118 (1912) .....	25, 29
<i>Powell v. McCormack</i> , 395 U.S. 486 (1969) .....	10
<i>Raines v. Byrd</i> , 521 U.S. 811 (1997) .....	10, 30

<i>Reynolds v. Sims</i> , 377 U.S. 533 (1964) .....	27, 31
<i>Romer v. Evans</i> , 517 U.S. 620 (1996) .....	23, 34
<i>Rucho v. Common Cause</i> , 588 U.S. 684 (2019) .....	25
<i>Sanchez v. Weber</i> , No. S292592, 2025 Cal. LEXIS 5694 (Cal. Aug. 27, 2025) .....	9
<i>Smiley v. Holm</i> , 285 U.S. 355 (1932) .....	21
<i>Smith v. Allwright</i> , 321 U.S. 649 (1944) .....	22
<i>Snowden v. Hughes</i> , 321 U.S. 1 (1944) .....	27
<i>State of Ohio ex rel. Bryant v. Akron Metro. Park Dist. for Summit Cnty.</i> , 281 U.S. 74 (1930) .....	25
<i>State of Ohio ex rel. Davis v. Hildebrant</i> , 241 U.S. 565 (1916) .....	24
<i>Strickland v. Weber</i> , No. S292490, 2025 Cal. LEXIS 5421 (Cal. Aug. 20, 2025) .....	9
<i>Tandon v. Newsom</i> , 593 U.S. 61 (2021) .....	9, 29
<i>Texas v. White</i> , 74 U.S. 700 (1868) .....	26
<i>United States v. Morrison</i> , 529 U.S. 598 (2000) .....	5
<i>Valley v. Rapides Par. Sch. Bd.</i> , 118 F.3d 1047 (5th Cir. 1997) .....	29
<i>Voting for Am., Inc. v. Steen</i> , 732 F.3d 382 (5th Cir. 2013) .....	8
<i>Wesberry v. Sanders</i> , 376 U.S. 1 (1964) .....	18

## Statutes

42 U.S.C. § 1983.....	2
Cal. Const. Art. XXI, § 2(e).....	4
Pub. L. No. 62-5, 37 Stat. 13 (1911).....	24
U.S. Const. Art. I, § 4, Cl. 1.....	20
U.S. Const. Art. III, § 2, Cl. 1.....	13
U.S. Const. Art. IV, § 4.....	29

## Other Authorities

Cal. Assem. Bill 604, 2025-2026 Sess., ch. 96, 2025 Cal. Stat. ....	<i>Passim</i>
Assembly Constitutional Amendment 8 .....	1, 23
<i>Federalism As Intersystemic Governance: Legitimacy in A Post-Westphalian World</i> , 57 EMORY L.J. 115 (2007) .....	21
<i>Judging Partisan Gerrymanders Under the Elections Clause</i> , 114 YALE L.J. 1021 (2005).....	22
<i>The Central Meaning of Republican Government: Popular Sovereignty, Majority Rule, and the Denominator Problem</i> , 65 U. COLO. L. REV. 749 (1994) .....	26
<i>The Independent State Legislature Doctrine, Federal Elections, and State Constitutions</i> , 55 GA. L. REV. 1 (2020) .....	20, 21
<i>The “Whip Hand”: Congress’s Elections Clause Power As the Last Hope for Redistricting Reform After Rucho</i> , 88 FORDHAM L. REV. 2085 (2020) .....	21
<i>Toward a Theory of Interactive Federalism</i> , 91 Iowa L. Rev. 243 (2005).....	5
<i>Who Is Responsible for Republican Government?</i> , 65 U. COLO. L. REV. 709 (1994) .....	27

## INTRODUCTION

This case presents an existential threat to representative democracy: one state’s deliberate attempt to manipulate its congressional districts mid-decade to nullify other states’ electoral choices and seize control of the United States House of Representatives.

California’s scheme is breathtakingly brazen. The “Election Rigging Response Act” openly admits its purpose: to “neutralize partisan gerrymandering” by Republican states and ensure Democrats can “provide an essential check and balance” in Congress. The redistricting map was drawn not by California’s independent, nonpartisan Citizens Redistricting Commission—which voters specifically created to prevent this kind of manipulation—but by the partisan California Legislature for explicitly partisan ends.

Plaintiffs seek a preliminary injunction to prevent the enforcement of California’s blatantly unconstitutional “Election Rigging Response Act” (the “ERRA”). On November 4, 2025, pursuant to the ERRA, California will conduct a Statewide Special Election in which voters will decide on Proposition 50, a legislatively referred constitutional amendment (Assembly Constitutional Amendment 8) 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, Assembly, and State Board of Equalization districts once every decade, in the year following the national census. Proposition 50 would temporarily override the Commission’s authority regarding congressional districts. Specifically, it 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.

By its design and intent, the ERRA strikes at the heart of the Constitution’s framework for federal elections and republican governance.

First, it violates the 42 U.S.C. § 1983 and the Fourteenth Amendment by depriving Plaintiff Darrell Issa of his vote being counted equally after redistricting, consistent with equal protection. *See* Complaint at ¶¶ 59-82. Second, it violates the Elections Clause (Article I, § 4) by usurping power that the California Legislature does not lawfully possess under its own state constitution. Complaint at ¶¶ 84-93. And third, the ERRA violates the Guarantee Clause (Article IV, § 4) by sabotaging fundamental principles of republican government. California's scheme, carried out in defiance of checks imposed by the state's own constitution and aimed at disenfranchising sister-state voters, subverts democratic principles and eliminates checks on its power, thereby straying from a republican form of governance. Complaint at ¶¶ 95-101.

By diluting Plaintiffs' legislative power and the voice of Texas and California voters, the law would cause injury that could not be later undone. As set forth below, the standards for preliminary injunctive relief are fully satisfied here. Accordingly, Plaintiffs ask this Court to preliminarily enjoin Defendants from placing Proposition 50 on the ballot and otherwise implementing the ERRA.

Plaintiffs are uniquely positioned to challenge this unconstitutional scheme: Representative Ronny Jackson serves as Chairman of two congressional subcommittees overseeing intelligence and special operations. He supervises and controls professional staff members, has budget authority, classified briefing access, and subpoena power, which enable him to represent his Texas constituents' interests in tangible, concrete ways. When California's redistricting succeeds in flipping House control, he will immediately and automatically lose these authorities on January 3, 2027.



Representative Darrell Issa faces dual injuries: as a senior Member of Congress who will lose seniority-based authorities if Democrats take control, and as a California voter whose own vote will be diluted by districts drawn in violation of constitutional and state law requirements.

These injuries are neither speculative nor remote. California voters will decide Proposition 50 on November 4, 2025—just days from now. If approved, the new map takes effect for the 2026 congressional elections. Candidate filing begins in December 2025. The primary election occurs on June 2, 2026. The general election follows on November 3, 2026. Any shift in House control happens automatically on January 3, 2027.

The timeline is compressed. The injuries are imminent. Preliminary injunctive relief is essential.

### **FACTUAL BACKGROUND**

#### *The ERRA's Enactment and Purpose*

The ERRA incorporates a new congressional district map drawn by the Legislature in Assembly Bill 604, thereby replacing the map created earlier in the decade by California's Independent Redistricting Commission. The stated aim of this extraordinary measure is to counteract Texas's alleged redistricting strategy. The ERRA's text proclaims that "in response to the congressional redistricting in Texas in 2025," California will temporarily use new districts designed "to neutralize" the partisan gains Republicans seek in other states. Complaint ¶ 18. California is thus unilaterally eschewing its own legal procedures to boost its partisan allies in Congress and engineer a Democratic majority in Congress. Indeed, the Legislature left no doubt about the aim of the ERRA, which itself states provocatively, *inter alia*: "The State of Texas has convened a special session of its Legislature to redraw congressional district maps to unfairly advantage Republicans" and "President Trump and Republicans are attempting to gain enough

seats through redistricting to rig the outcome of the 2026 United States midterm elections regardless of how the people vote.” *Id.* ¶ 17. The statement of purpose continues with further exposition of the Legislature’s true intent: “President Trump’s election-rigging scheme is an emergency for our democracy” and “[t]he 2026 United States midterm elections are voters’ only chance to provide an essential check and balance against President Trump’s dangerous agenda.” *Id.*

*The ERRA Violates California Law*

California’s rush to place Proposition 50 on the November ballot runs roughshod over the state’s constitutional constraints. Under Article XXI, § 2(e) of the California Constitution, congressional redistricting is entrusted to an independent Citizens Redistricting Commission, and prohibits drawing districts to favor or discriminate against a political party. Complaint ¶¶ 20, 22. That provision—adopted by California voters to curb gerrymandering— unequivocally removed from the Legislature the power to redraw congressional lines for partisan purposes. *Id.* Yet the California Legislature did precisely what the California Constitution prohibits – it drew a partisan map to favor Democrats, when it had no authority to redraw lines. *Id.* The Legislature also ignored procedural requirements such as the state constitutional waiting period for enacting new laws. *Id.* ¶ 88. While ultimately unsuccessful and irrelevant to this dispute, California Senator Tony Strickland and other co-plaintiffs challenged the ERRA and AB 604 in the California Supreme Court, describing these laws as an “unlawful attempt in several respects to exercise authority that the Legislature does not possess.” *Id.* ¶ 87.

That state court petition underscores that the ERRA is ultra vires under California law, as the Legislature’s actions blatantly violated the California Constitution’s allocation of redistricting power. Consistent with principles of federalism, the Elections Clause permits this Court to assess

whether California acted contrary to the national interest of predictability and regularity in election procedures by snubbing its own legislative and constitutional mandates. *Compare United States v. Morrison*, 529 U.S. 598, 617–18 (2000) (“The Constitution requires a distinction between what is truly national and what is truly local.”) with Robert A. Schapiro, *Toward a Theory of Interactive Federalism*, 91 IOWA L. REV. 243, 285-88 (2005) (recognizing the division between states and the national government as part of American federalism but identifying contemporary jurisprudence recognizing the role the federal courts have in ensuring state law does not encroach upon national interests).

*Harm to Plaintiff Representative Ronny Jackson and Texas Voters*

Plaintiff Ronny Jackson is a U.S. Representative from Texas’s 13th Congressional District and currently serves as Chairman of two House subcommittees. Jackson Decl. ¶¶ 1, 5–6, 8-9. If not enjoined, the ERRA will cause the U.S. House of Representatives to shift from its Republican majority to a Democratic majority by the term beginning in 2027 (after the November 2026 elections). *Id.* ¶ 24. California holds the largest number of House seats; by illegally gerrymandering those seats, Defendants aim to flip several House seats in California from Republican to Democrat in 2026, likely determining the majority in 2027. *Id.*

The consequences for Representative Jackson are direct and personal. Losing the House majority means Plaintiff Jackson immediately loses his subcommittee chairmanships and the attendant legislative authority. *Id.* ¶¶ 24, 28. Unlike other Texas representatives, when Representative Jackson is relegated to the minority membership of his committees, it will mean Jackson will no longer be able to serve the unique needs of his constituents whose work and needs in national security and the military correspond with Jackson’s committee roles. *Id.* ¶ 14, 20, 23. The loss of committee leadership posts not only diminishes Representative Jackson’s influence

and opportunities to advance legislation important to his Texas constituents but also impairs his ability to obtain full and frank advice (since majority and minority committee staff numbers differ markedly). *Id.* These harms to Representative Jackson's effectiveness as an elected official are tangible and cannot be recompensed after an election outcome.

Moreover, the ERRA will dilute the representation and policy voice of Jackson's voters whom he represents. Those voters, because they plan to elect Ronny Jackson, have been uniquely targeted by Defendants.

These harms could not materialize but for California's ignoring of the legal strictures on its redistricting and legislative process. The 2026 midterms hinge on judicial review of California's illegal acts, without consideration of the politics underlying any such decisions. Such judicial review is necessary when state legislatures, acting ultra vires, affect the national interest. In sum, absent judicial intervention, Plaintiff Jackson and his constituents will suffer irreparable injury through the loss of political representation, disruption of the constitutional balance of power, and the setting of an unlawful precedent that one state may, for partisan ends, manipulate the national legislature despite a clear state constitutional mandate that such acts cannot be countenanced.

*Harm to Plaintiff Darrell Issa and Texas Voters*

Plaintiff Darrell Issa, currently representing California's 48th Congressional District, has served the House of Representatives for over 20 years and had leadership positions on the House Committee on Foreign Affairs and the Committee on Judiciary. Issa Decl. ¶ 4. Representative Issa, based on his current seniority as a majority member, has priority in questioning witnesses during committee hearings, enhanced staff allocation and influence over committee agendas. *Id.* ¶¶ 8, 9.

Representative Issa's committee positions, his leadership within them, and his seat itself are essential to serving the substantial military and veteran populations, the immigrant

communities, the technology and innovation sectors, and the international business interests of the 48th Congressional District. *Id.* ¶ 9.

Representative Issa is a California voter who will be directly affected by AB 604's redistricting map. He is registered to vote in California at his residence, which is located within what would become proposed Congressional District 49 under AB 604. *Id.* at ¶ 16. Through AB 604, his vote will be diluted by districts drawn using stale 2020 Census data that fails to account for five years of population changes. *Id.* ¶ 18. Significant population changes have occurred since 2020, including: devastating wildfires in 2024 and 2025 that displaced tens of thousands of California residents from Pacific Palisades, Malibu, Altadena, and other communities; continued net out-migration from California, particularly from coastal urban areas; natural population changes through births, deaths, and migration; and economic factors affecting population distribution. *Id.*

Representative Issa's constitution-backed expectations were violated by Defendants. The California Constitution reflects voters' judgment about when and how redistricting should occur and mid-decade redistricting disrupts settled expectations and manipulates electoral outcomes mid-cycle, forcing Representative Issa to vote in a district drawn contrary to California's constitutional requirements, depriving him of a lawful redistricting process. *Id.* at ¶ 22. Plaintiff Issa's vote in future elections will be manipulated by districts drawn for partisan advantage rather than fair representation. *Id.* at ¶ 23. Proposed District 49 (in which Representative Issa would reside in and is registered to vote) was drawn to contain 760,066 persons according to 2020 Census data. *Id.* at ¶ 27. However, since 2020, significant population changes have occurred in Southern California, including in areas that comprise proposed District 49. Plaintiff Issa does not know whether proposed District 49's current actual population is above or below the ideal district size,

because the Legislature conducted no analysis of current population. *Id.* at ¶¶ 25-27. If District 49's current population is below the ideal, then Plaintiff Issa's vote carries more weight than voters in districts with higher population, violating equal protection. *Id.* If District 49's current population is above the ideal, then Plaintiff Issa's vote carries less weight than voters in districts with lower population, also violating equal protection. *Id.* Either way, Plaintiff Issa cannot know whether his vote is equal to other California voters' votes, because AB 604's districts were drawn without regard to current population equality.

Representative Issa's injuries are irreparable because as a voter, once he casts votes in unconstitutionally drawn districts, that constitutional violation cannot be undone: the votes will have been counted; representatives will have been elected; those representatives will serve full two-year terms regardless of the districts' constitutionality; and courts will not grant Plaintiff Issa full or adequate relief once the election occurs. As a Member of Congress, Plaintiff Issa's diminished capacity cannot be undone: he cannot be restored to majority party status mid-Congress if Democrats gain control through unconstitutional redistricting; Committee assignments remain fixed for the entire two-year Congress; and his constituents' loss of effective representation cannot be remedied retroactively. *Id.* at ¶¶ 41-42.

### LEGAL STANDARD

A preliminary injunction is an extraordinary remedy that may be granted only upon a clear showing by the movant of four factors. The plaintiff must establish: (1) a substantial likelihood of success on the merits; (2) a substantial threat of irreparable injury if the injunction is not granted; (3) that the threatened injury to the plaintiff outweighs any harm the proposed injunction may cause the defendants; and (4) that granting the injunction will not disserve (and indeed will serve) the public interest. *Voting for Am., Inc. v. Steen*, 732 F.3d 382, 386 (5th Cir. 2013); *Byrum v.*

*Landreth*, 566 F.3d 442, 445 (5th Cir. 2009); *Lake Charles Diesel, Inc. v. Gen. Motors Corp.*, 328 F.3d 192, 195-96 (5th Cir. 2003). In this Circuit, the movant must clearly carry the burden of persuasion on all four elements. *Bluefield Water Ass’n v. City of Starkville*, 577 F.3d 250, 252–53 (5th Cir. 2009). However, where, as here, the party opposing the injunction is a governmental entity or official, the third and fourth factors (harm to the opposing party and the public interest) merge. *Nken v. Holder*, 556 U.S. 418 (2009). The public’s interest in the enforcement of laws must be weighed against the public’s interest in preventing constitutional violations. However, “it is always in the public interest to prevent the violation of a party’s constitutional rights.” *Jackson Women’s Health Org. v. Currier*, 760 F.3d 448, 458 n.9 (5th Cir. 2014) (citing *Awad v. Ziriach*, 670 F.3d 1111, 1132 (10th Cir. 2012)). Thus, if a constitutional violation is likely to occur where, such as here, the “harm” to the defendant is the burden of having to comply with California’s legislative and constitutional requirements, that conclusion supports a finding that the burden has been met with respect to the last two prongs.

## THRESHOLD ARGUMENTS

### I. PLAINTIFFS HAVE ARTICLE III STANDING

Implementing a legally suspect<sup>1</sup> state law motivated by retaliation against Texas, and where ballots enshrining that law were 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. Occupational Safety & Health Admin., United States Dep’t of Lab.*, 17 F.4th 604, 618 (5th Cir. 2021); *Tandon v. Newsom*, 593 U.S. 61, 64 (2021). Here, enforcement of the

---

<sup>1</sup> 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).

ERRA would violate Plaintiffs’ rights and the structural constitutional principles that protect all citizens.

### **A. Plaintiffs Suffer Concrete and Particularized Injury**

California is currently conducting an election—ballots were sent on October 6; votes have already been cast—on a measure that violates California’s Constitution. With its transparent motive, this ongoing violation of the law is itself an injury to Plaintiffs’ interests as Members of Congress. As briefed above, *supra*, Plaintiffs are targeted for punishment by Defendants. This is not conjectural – Defendants have put Plaintiff Jackson on notice that he will be subject to retribution.

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 U.S. 811 (1997), this case involves targeted retaliation against Texas’s redistricting. This is not a case of Plaintiffs claiming standing “simply because [they] believes that [they are] acting illegally”—*Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367, 381 (2024))—because, of course, Plaintiffs are not simply “citizen[s].” *See id.* They are Congressmen who are the immediate targets of Defendants’ political vitriol. Plaintiffs stand to suffer immediate injuries should Defendants’ partisan redistricting come to fruition. *See* Issa Decl. ¶¶ 10–14, Jackson Decl. ¶¶ 10–13; *infra* § II. Plaintiffs’ injuries are 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



Plaintiffs' protected interests. Furthermore, these harms extend to harms suffered by Plaintiff Issa as a California voter. *See* Issa Decl. ¶¶ 15–28; *infra* § II.

### **B. 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 and 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 Plaintiffs' Complaint and motions seeks to stop Defendants' retaliatory actions, which were intended, designed, and implemented to deprive those, like Plaintiffs, who fell within the presaged zone of danger of such actions.

## II. THIS COURT HAS PERSONAL JURISDICTION OVER DEFENDANTS

As a preliminary matter, 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 Defendant Governor Newsom means, as applied to the November 2025 special election, Defendant Weber is also enjoined from exercising her authority over that special election. Because Secretary Weber acts at the instruction of the Governor, evidence of the Governor’s harmful acts aimed at Texas is sufficient for haling him and his relevant subordinate officers in Texas courts.

History also speaks to the necessity of personal jurisdiction being found in this case. 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.<sup>2</sup> See e.g., <https://perma.cc/S7K9-2ZV6> (last visited Oct. 28, 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. 28, 2025).

---

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

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](https://avalon.law.yale.edu/18th_century/fed07.asp) (last visited Oct. 28, 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 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).<sup>3</sup> 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. Governor Newsom and Secretary

---

<sup>3</sup> 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).

Weber ignored the state’s constitutional and statutory mandates to coordinate legislation and voting in retaliation against a sister state. As applied to Plaintiff Darrell Issa, this is retaliatory vote dilution. As applied to Plaintiff Ronny Jackson, this is not a question of partisan gerrymandering or any within-state matter: it is the kind of issue that raises national interests that strike at the heart of structural considerations of the Constitution and for which judicial review is necessary.

#### **A. Defendants Reasonably Anticipated Being Haled Into Texas Courts**

ERRA is an attempt “to neutralize the partisan gerrymandering being threatened by Republican-led states”. COMPL. ¶ 18. And California’s retaliatory conduct is primarily aimed at Republican Texas voters. On August 14, 2025, Defendant Newsom issued a press release titled “Governor Newsom launches statewide response to Trump rigging Texas’ elections.” 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. 29, 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 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.” Khalesa Rahman, *Newsom Threatens Response in Texas Redistricting Battle: ‘We Will Nullify’*, Newsweek (Aug. 9, 2025), <https://perma.cc/4QHV-RD5G> (last visited Oct. 28, 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. 28, 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. 28, 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. 28, 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. 28, 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. 28, 2025).

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).”

Governor Newsom’s sustained campaign targeting Texas reveals sufficient contacts with the forum. 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.

#### **A. The Effects Test Properly Applies to Interstate Political Targeting**

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.

In *Johnson v. TheHuffingtonPost.com*, the Fifth Circuit stated, “What matters is whether HuffPost aimed *the alleged libel* at Texas.” 21 F.4th 314, 321 (5th Cir. 2021). 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.

## SUBSTANTIVE ARGUMENTS

### I. Plaintiffs Are Substantially Likely to Succeed on the Merits

Plaintiffs’ claims rest on three independently sufficient constitutional violations: the Equal Protection Clause (one person, one vote), the Elections Clause, and the Guarantee Clause. Each provides a substantial likelihood of success on the merits.

#### A. *The Equal Protection Claim (One Person, One Vote)*

“While it may not be possible to draw congressional districts with mathematical precision, that is no excuse for ignoring our Constitution’s plain objective of making equal representation for equal numbers of people the fundamental goal for the House of Representatives. That is the high standard of justice and common sense which the Founders set for us.” *Wesberry v. Sanders*, 376 U.S. 1, 18 (1964).

AB 604’s redistricting violates one person, one vote. First, AB 604 relies on 2020 Census data that is now over five years old. While states may use decennial census data for redistricting in the year or two following the census, the constitutional justification for doing so rests on the data’s accuracy and currency. By 2025, the 2020 data no longer accurately reflects current population distributions, particularly where devastating wildfires in 2024 and 2025 displaced tens



of thousands of California residents from Pacific Palisades, Malibu, Altadena, and other communities; where continued migration patterns have shifted population distributions; and where five years of births, deaths, and natural population change have occurred.

The California Legislature made no effort to obtain updated population data or account for these known shifts, thus violating the Supreme Court’s requirement that a state must engage in a good-faith effort to achieve absolutely equality among voters. *Karcher v. Daggett*, 462 U.S. 725, 759 (1983),

Defendants will rely on *League of United Latin American Citizens v. Perry (LULAC)*, 548 U.S. 399 (2006), which held that mid-decade redistricting using the most recent census data does not violate one person, one vote. But *LULAC* is readily distinguishable. First, Texas’s mid-decade redistricting in *LULAC* occurred in 2003, just three years after the 2000 census. California’s redistricting occurs in 2025, five years after the 2020 census—with substantially more intervening population change. Second, Texas’s redistricting in *LULAC* was undertaken to correct legal defects in a court-drawn plan. California’s redistricting is voluntary and undertaken solely for partisan advantage. Where redistricting is undertaken voluntarily, mid-decade, for partisan purposes, and using stale data, it cannot satisfy the “good faith” requirement of *Karcher*.

AB 604’s partisan motivation precludes any “good faith” justification for population deviations. The Legislature’s express purpose was to gain partisan advantage through interstate political retaliation, not to achieve equal population. Where that is the case, the state cannot claim it made a “good faith effort” to achieve equality. For Plaintiff Issa as a California voter, AB 604 dilutes his vote by drawing districts based on stale data and partisan considerations rather than current population equality. His vote in proposed District 49 will carry different weight than voters in districts that have lost or gained population since 2020—an equal protection violation.

### B. *The Elections Clause Claim*

Article I, § 4 of the U.S. Constitution, the Elections Clause, provides that “The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations[.]” U.S. Const. art. I, § 4, cl. 1. The text of the Elections Clause instructs that a state “Legislature” “shall . . . prescribe[ ]” “Regulations” that may be made or altered by Congress. Congress can create or amend state-binding regulations, which means those state rules are both germane to the national interest and subservient to it. *See e.g., Moore v. Harper*, 600 U.S. 1, 143 (2023) (“The Elections Clause does not vest exclusive and independent authority in state legislatures to set the rules regarding federal elections”). The text also clarifies that those regulations must be “prescribed” by the state legislature – implying a principle of transparency and predictability. If the state regulated federal elections outside of clearly stated and lawful rules, then Congress would be deprived of its ability to overturn or supersede a regulation it believed was inconsistent with the federal Constitution or national interests. Irregular electoral policies (like Proposition 50) open the door to states intentionally establishing election schemes designed to evade the congressional checks over such schemes. Certainly, if the State of California – whose rules are subject to supersession or amendment by Congress – acts outside its own laws in crafting an electoral scheme, it is tantamount to evading congressional review. “[T]he Constitution’s delegations of authority to state legislatures concern important federal interests: the election of federal officials . . . these are all issues for which the Framers wanted to establish ‘smooth, orderly, and uncontroversial’ ways to determine the ‘validity and legitimacy’ of states’ actions.” Michael T. Morley, *The Independent State Legislature Doctrine, Federal Elections, and State Constitutions*, 55 GA. L. REV. 1, 36 (2020) (citation modified).

When state legislatures exercise their authority under the Elections Clause of the U.S. Constitution to regulate the “Times, Places and Manner” of federal elections, they act in a dual capacity: as lawmaking bodies created and bound by their state constitutions and as entities assigned specific authority by the federal Constitution. Both state and federal constitutions impose constraints on legislative actions. *Moore*, 600 U.S. *supra* at 27. “The legislature acts both as a lawmaking body created and bound by its state constitution, and as the entity assigned particular authority by the Federal Constitution. Both constitutions restrain the legislature’s exercise of power.” *Id.* This overlapping, or “intersystemic,” federalism doctrine in the context of federal elections would be meaningless unless federal courts could substantively review state actions affecting the federal election process. Robert A. Schapiro, *Federalism As Intersystemic Governance: Legitimacy in A Post-Westphalian World*, 57 EMORY L.J. 115, 116 (2007) (“citizens of one state may be subject to laws that are made or enforced by other states or by the federal government”). Here, state legislatures must be held subject to the limitations of their constitutions when those state actors seek to regulate, even if only effectually, federal elections.

The U.S. Supreme Court has long held that a state legislature’s authority under the Elections Clause “must be in accordance with the method which the state has prescribed for legislative enactments.” *Smiley v. Holm*, 285 U.S. 355, 367–68 (1932). Nothing in the Elections Clause suggests that a state legislature may ignore state-imposed limits on its lawmaking power when prescribing rules for Congressional elections. The Clause does not “endow the Legislature of the state with power to enact laws in any manner other than that in which the Constitution of the state has provided that laws shall be enacted.” *Id.* at 368.

The enforcement of the Elections Clause’s governing principles demands judicial review whenever that principle is allegedly violated. Kevin Wender, *The “Whip Hand”: Congress’s*

*Elections Clause Power As the Last Hope for Redistricting Reform After Rucho*, 88 FORDHAM L. REV. 2085, 2102 (2020) (“Records from the debates during the Constitutional Convention support the proposition that the framers intended the Elections Clause to protect federal elections from instances of state impropriety or inaction, which may include partisan gerrymandering”) (citing 2 THE RECORDS OF THE FEDERAL CONVENTION OF 1787, at 240-41 (Max Farrand ed., rev. ed. 1966); Jamal Greene, *Judging Partisan Gerrymanders Under the Elections Clause*, 114 YALE L.J. 1021, 1061-62 (2005) (arguing that the framers intended the Elections Clause to be a limitation on the ability of state legislatures to manipulate the outcomes of congressional elections)).

The Supreme Court has upheld this principle unabated for nearly a century. In 1944, the Supreme Court had occasion to review a Texas resolution stating the following: “[b]e it resolved that all white citizens of the State of Texas who are qualified to vote under the Constitution and laws of the State shall be eligible to membership in the Democratic party and, as such, entitled to participate in its deliberations.” *Smith v. Allwright*, 321 U.S. 649, 656–57 (1944). When this resolution became a basis for denying an individual the ability to vote, the Supreme Court struck it down, holding “Texas is free to conduct her elections and limit her electorate as she may deem wise, save only as her action may be affected by the prohibitions of the United States Constitution or in conflict with powers delegated to and exercised by the National Government.” *Id.* at 657; accord. *California Democratic Party v. Jones*, 530 U.S. 567, 572–73 (2000) (“[W]e have continually stressed that when States regulate parties’ internal processes they must act within limits imposed by the Constitution”).

Article XXI, § 1 of California’s Constitution limits redistricting to “the year following the year in which the national census is taken.” The California Supreme Court has held this provision

prohibits mid-decade redistricting except through constitutional amendment or when necessitated by judicial or referendum invalidation of a prior plan. *Legislature v. Deukmejian*, 34 Cal. 3d 658, 674-75 (1983). Article XXI, § 2(e) prohibits drawing districts “for the purpose of favoring or discriminating against ... a political party.” The ERRRA’s legislative findings openly admit the redistricting is designed to “neutralize partisan gerrymandering” and ensure Democrats can provide “an essential check and balance” in Congress. This violates California’s anti-gerrymandering provision.

Third, California voters deliberately removed redistricting authority from the Legislature and vested it in an independent, nonpartisan Citizens Redistricting Commission through Proposition 20 (2010). The Legislature’s usurpation of that authority contravenes the redistricting system California voters enacted.

Defendants will argue that ACA 8, if approved by voters as Proposition 50, constitutes a constitutional amendment that cures these state law violations. But this argument fails. First, even constitutional amendments must comply with federal constitutional constraints. A state cannot constitutionally amend its constitution to violate federal law. *See, e.g., Romer v. Evans*, 517 U.S. 620, 635 (1996) (state constitutional amendment violated federal Equal Protection Clause). Here, even if California voters approve Proposition 50, the resulting redistricting violates federal constitutional requirements under the Elections Clause, Equal Protection Clause, and Guarantee Clause.

Second, the Elections Clause requires state legislatures to act within their constitutional authority when regulating federal elections. Where, as here, a legislature circumvents constitutional constraints specifically designed to prevent partisan manipulation of congressional districts, that circumvention itself violates the Elections Clause’s requirement of lawful legislative

action. The Elections Clause does not authorize one state to manipulate congressional elections to override other states' electoral choices. The Elections Clause does not permit states to manipulate their own congressional districts to nullify the representative effects of other states' elections.

California's redistricting is not a routine exercise of Elections Clause authority. It is an interstate power grab designed to "neutralize" the electoral choices of Republican voters in Texas. This exceeds any legitimate Elections Clause authority.

Because the ERRA was not "prescribed ... by the Legislature" in the constitutional sense (since a legislature acting *ultra vires* is legislatively invalid), it contravenes the Elections Clause. The Framers' design—allowing state legislatures to regulate congressional elections, but subject to oversight by Congress—did not countenance a scheme where a state legislature could unilaterally ignore its own foundational laws to manipulate federal election outcomes. Indeed, Congress itself anticipated that state legislatures must follow state law in redistricting; for example, in the Reapportionment Act of 1911, Congress required that post-census redistricting occur "in the manner provided by the laws [of the state]" expressly recognizing the role of state constitutional processes. An Act for the apportionment of Representatives in Congress among the several States under the Thirteenth Census, P. L. 62-5, § 4 (Aug. 8, 1911) ("Representative or Representatives shall be elected by the State at large and the other Representatives by the districts now prescribed by law until such State shall be redistricted in the manner provided by the laws thereof and in accordance with the rules enumerated in section three of this Act"). *Accord. State of Ohio ex rel. Davis v. Hildebrant*, 241 U.S. 565, 569 (1916) (interpreting the 1911 Apportionment Act as interpreting "Legislature thereof" as to require state compliance with its own laws"); *cf. Lance v. Coffman*, 549 U.S. 437, 442 (2007) (holding that *Baker v. Carr* overturned *Davis v. Hildebrant*'s holding of non-review of state apportionment schemes). California's Legislature cannot bypass

the structural provisions of its constitution that reserve redistricting authority to an independent commission and prohibit partisan gerrymandering. Such action is a nullity under state law, Complaint ¶ 26, and invalid under the Elections Clause.

Plaintiffs are likely to succeed in showing that California’s enactment of the ERRA is not a lawful exercise of power “by the Legislature” within the meaning of the Elections Clause, because it was undertaken in clear violation of the California Constitution and outside the scope of authority that the people of California have conferred on their state legislature. Defendants sought and obtained an extra-constitutional redistricting for partisan ends. Defendants’ devious acts are precisely the kind of factional manipulation of congressional elections that the federal Constitution does not permit a state to undertake on its own. This Court can and should find that the ERRA’s enactment violates the Elections Clause, rendering the law void and unenforceable.

### C. *The Guarantee Clause Claim*

Article IV, § 4 of the Constitution provides that “The United States shall guarantee to every State in this Union a Republican Form of Government[.]” The Guarantee Clause is aimed at ensuring that each state’s governance remains republican in character – that is, representative and consistent with the consent of the governed, as opposed to autocratic or otherwise dictated by unaccountable power. California’s egregious redistricting scheme violates the Guarantee Clause by betraying core republican principles.

Over several decades, the federal courts have concluded that Guarantee Clause cases are political questions beyond their ken. *See Luther v. Borden*, 48 U.S. 1, 39 (1849); *Pacific States Tel. & Tel. Co. v. Oregon*, 223 U.S. 118 (1912); *State of Ohio ex rel. Bryant v. Akron Metro. Park Dist. for Summit Cnty.*, 281 U.S. 74, 80 (1930); *Arizona State Legislature v. Arizona Indep. Redistricting Comm’n*, 997 F. Supp. 2d 1047, 1050 (D. Ariz. 2014), *aff’d*, 576 U.S. 787, 792 (2015); *Rucho v. Common Cause*, 588 U.S. 684, 696 (2019). The federal courts have relied on

*Luther v. Borden* and its progeny to determine that courts cannot review Guarantee Clause harms to individuals. *A.C. by Waithe v. McKee*, 23 F.4th 37, 47 (1st Cir. 2022) (citing *Largess v. Supreme Jud. Ct. for State of Mass.*, 373 F.3d 219, 224 n.5 (1st Cir. 2004)) (“[Guarantee Clause] makes the guarantee of a republican form of government to the states; the bare language of the Clause does not directly confer any rights on individuals vis-à-vis the states”); *but cf.* Akhil Reed Amar, *The Central Meaning of Republican Government: Popular Sovereignty, Majority Rule, and the Denominator Problem*, 65 U. COLO. L. REV. 749, 753 (1994) (“As we shall see, the hoary case said to establish the general nonjusticiability of the Clause, *Luther v. Borden*, in fact establishes no such thing; and the events giving rise to *Luther* show that the concept of Republican Government does have a central meaning, intimately connected with popular sovereignty and majority rule”).

However, *Luther v. Borden* was decided before the Fourteenth Amendment (and its equal protection guarantees to individuals were established). Outside of plaintiffs composing political parties or government entities, when it comes to individual plaintiffs, the Supreme Court has viewed the “State” under the Guarantee Clause not merely as an official state government but “a political community of free citizens, as distinguished from the government.” *Texas v. White*, 74 U.S. 700 (1868) (overruled on other grounds by *Morgan v. United States*, 113 U.S. 476 (1885)); *accord Duncan v. McCall*, 139 U.S. 449 (1891) (Individuals have the power to “set bounds . . . against the sudden impulses of mere majorities”). Defendants’ retaliation against the equal rights of the people of Texas violates the Guarantee Clause. *Butler v. Thompson*, 97 F. Supp. 17 (E.D.Va. 1951), *aff’d*, 341 U.S. 937. In that context, and especially where individuals suffer equal protection violations, the Guarantee Clause claim is justiciable. *Baker v. Carr*, 369 U.S. 186, 209–10 (1962) (“We hold that the claim pleaded here neither rests upon nor implicates the Guaranty Clause and



that its justiciability is therefore not foreclosed by our decisions of cases involving that clause. . . . Appellants’ claim that they are being denied equal protection is justiciable, and if ‘discrimination is sufficiently shown, the right to relief under the equal protection clause is not diminished by the fact that the discrimination relates to political rights’”) (citing *Snowden v. Hughes*, 321 U.S. 1, 11 (1944)); *Reynolds v. Sims*, 377 U.S. 533, 567 (1964) (“To the extent that a citizen’s right to vote is debased, he is that much less a citizen”).

Former Justice Sandra O’Connor wrote in her majority in *New York v. United States*:

The view that the Guarantee Clause implicates only nonjusticiable political questions has its origin in *Luther v. Borden*. This view has not always been accepted. In a group of cases decided before the holding of *Luther* was elevated into a general rule of nonjusticiability, the Court addressed the merits of claims founded on the Guarantee Clause without any suggestion that the claims were nonjusticiable. . . . More recently, the Court has suggested that perhaps not all claims under the Guarantee Clause present nonjusticiable political questions . . . . Contemporary commentators have likewise suggested that courts should address the merits of such claims, at least in some circumstances.

505 U.S. 144, 184 (1992).

If “[r]epublicanism imposes some systemic limits on statewide initiatives, regardless of content,” Hans A. Linde, *Who Is Responsible for Republican Government?*, 65 U. COLO. L. REV. 709, 729 (1994) (“Linde”), then there are clearly judicially manageable standards in enforcing those systemic limits. *Accord*. Amar, *supra* at *id*.

Defendants’ actions here are antithetical to a republican form of government in several respects. By overriding the checks and balances of its own state constitution to impose a partisan outcome, California abandoned the rule-of-law constraints that help make a government republican. Complaint at ¶¶ 100–02; Linde, *supra* at 729. Defendants ignored California’s own constitution to effectuate political change that benefits those in power. Complaint at ¶ 100(b). In doing so, California’s government concentrated power in the hands of partisan lawmakers, eliminating the safeguard of the independent redistricting commission and even the normal

legislative process, all in the name of entrenching one party's power. *Id.* at ¶ 100(c). Such behavior eliminates checks on its power and manipulates election outcomes, thus straying from a republican form of governance.

Furthermore, California's scheme effectively disenfranchises the people of other states (like Texas) by nullifying their electoral choices at the federal level. *Id.* ¶ 93(c). A foundational element of republicanism, under the gloss of the Fourteenth Amendment, is that each state's people have a fair and meaningful representation in Congress. Defendants have undercut the principle of equal state standing in the federal union by intentionally diluting Texas's representation in the House through an extralegal manipulation of California's districts. If one state can pervert its processes to hobble the influence of voters in another state, the federal system ceases to function as a union of equal, self-governing polities – instead, it permits domination by the caprice of one state's faction. This outcome is irreconcilable with the notion of a “Republican Form of Government” guaranteed to every state. In effect, California's ruling party attempted to seize a degree of control over federal governance that is not rightfully theirs, at the expense of the citizens of a sister state, its representatives, and its people.

Defendants' actions, as alleged, nullify the will of their own people (who chose to enact an independent commission on redistricting and specific rules against gerrymandering) and are aimed at nullifying the will of another state's people by rigging congressional outcomes. If the Guarantee Clause has any practical meaning, it surely forbids a state from deliberately corrupting the national political process and overriding the republican safeguards in its own law for partisan gain. At a minimum, Plaintiffs' Guarantee Clause theory bolsters the equitable case for relief: it highlights the gravity of Defendants' constitutional offense and the broader danger it poses to democracy.

Accordingly, Plaintiffs have at least a reasonable likelihood of success on Count II, and this Court should not shy away from enforcing the Guarantee Clause in these extraordinary circumstances.

Even if the Court were to find the Guarantee Clause claim nonjusticiable, it can and should still grant relief on the Elections Clause count, as discussed *supra*. Thus, Plaintiffs have demonstrated a strong likelihood of prevailing on the merits of their constitutional challenge to the ERRA.

The Guarantee Clause provides: “The United States shall guarantee to every State in this Union a Republican Form of Government.” U.S. Const. art. IV, § 4.

While Guarantee Clause claims have historically been deemed nonjusticiable political questions, *see Pac. States Tel. & Tel. Co. v. Oregon*, 223 U.S. 118 (1912), the Supreme Court has never held that *all* Guarantee Clause claims are nonjusticiable in *all* circumstances.

## **II. Plaintiffs Will Suffer Irreparable Harm Absent Preliminary Relief**

Once Defendant Weber sends out ballots beginning on October 6, ballots will be cast pursuant to unconstitutional procedures, which deepens the irreparable harm. The 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. *Elrod v. Burns*, 427 U.S. 347, 373 (1976); *see also BST Holdings, L.L.C. v. Occupational Safety & Health Admin., United States Dep’t of Lab.*, 17 F.4th 604, 618 (5th Cir. 2021); *Tandon v. Newsom*, 593 U.S. 61, 64 (2021). 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. *Valley v. Rapides Par. Sch. Bd.*, 118 F.3d 1047, 1056 (5th Cir. 1997).

A. *Plaintiff Jackson's Irreparable Harm*

Representative Jackson will lose specific, concrete authorities and resources essential to representing his constituents. On January 3, 2027, if Democrats control the House, Representative Jackson will automatically lose his chairmanships of the House Permanent Select Committee on Intelligence Subcommittee on Oversight and Investigations and the House Armed Services Committee Subcommittee on Intelligence and Special Operations. These chairmanships provide specific authorities that benefit his constituents, specifically concerning intelligence and defense. Jackson Decl. ¶ 8–9. Representative Jackson will lose his current staff resources for conducting investigations, drafting legislation and responding to constituent inquiries. And he would lose the ability to direct the agenda of his subcommittees.

These harms occur automatically on January 3, 2027—no further action required. They directly impair Representative Jackson's ability to fulfill his representative duties and once committee assignments are made, they generally remain fixed for the entire Congress (two years).

Unlike the situation in *Raines v. Byrd*, Representative Jackson faces loss of specific, personal authorities—not abstract “political power.” He holds positions other members do not hold. He commands resources other members lack. He serves constituents with particular needs (military installations, defense industry, intelligence matters) that make his specific authorities especially valuable.

The Supreme Court in *Raines* distinguished *Powell v. McCormack* because Congressman Powell was “deprived of something to which [he] personally [was] entitled—such as [his] seat[] as [a] Member[] of Congress after [his] constituents had elected [him].” 521 U.S. 811, 821. Here, Representative Jackson is being deprived of something he is personally entitled to: the subcommittee chairmanships and associated authorities that he earned through seniority and that

his constituents expect him to exercise on their behalf. And those entitlements are the result of votes by his constituents.

Election analysts uniformly predict AB 604’s map will yield substantial Democratic gains. *See, e.g., Poll: Most Californians Say They’ll Vote Yes on Proposition 50*, Yahoo News (Oct. 28, 2025), <https://www.yahoo.com/news/articles/poll-most-californians-ll-vote-040100881.html>.

With the current House margin so narrow, those gains are likely determinative.

#### B. *Plaintiff Issa’s Irreparable Harm*

As a Member of Congress, Representative Issa will lose seniority advantages in committee proceedings, staff allocation commensurate with majority party status, the ability to shape legislative agendas affecting his constituents, and priority access to witnesses and oversight materials. Issa Decl. ¶¶ 10–14. These losses directly impair his ability to represent constituents in California’s 48th District, which includes military populations, border communities, and immigrant populations benefiting from his committee work.

As a California voter, Plaintiff Issa will cast votes in the June 2, 2026 primary in unconstitutionally drawn districts, have his vote diluted by districts drawn in violation of one person, one vote, be deprived of the independent redistricting process California voters enacted, and suffer vote manipulation for partisan purposes in violation of California constitutional prohibitions. *Id.* ¶¶ 15–28. These harms are irreparable because “the right to vote is personal” and cannot be vindicated by others. *Reynolds*, 377 U.S. 533, 561 (1964). Once Plaintiff Issa casts votes in unconstitutionally drawn districts, that constitutional violation cannot be undone. The 2026 elections will have occurred, representatives will have been elected, and those representatives will serve for two years regardless of the district lines’ constitutionality.

If this Court does not preliminarily enjoin AB 604’s implementation, candidates will begin filing for office in unconstitutionally drawn districts within weeks. Primary campaigns will

proceed throughout spring 2026. The primary election will occur. General election campaigns will follow. By the time this case is fully adjudicated on the merits, the 2026 elections will have occurred and new representatives will have been elected.

### **III. The Balance of Harms Tips Sharply in Plaintiffs' Favor**

The balance of harms overwhelmingly favors preliminary injunctive relief. As detailed above, Plaintiffs face irreparable loss of representative capacity and resources, irreparable vote dilution and manipulation, inability to serve their constituents effectively, and the permanent taint of being unconstitutionally elected (or unconstitutionally voted out) representatives. These harms are concrete, personal, and imminent and are not institutional injuries of Congress.

By contrast, Defendants will suffer minimal harm from preliminary relief. First, preliminary relief maintains the status quo. California's current congressional districts—drawn by the nonpartisan Citizens Redistricting Commission in 2021 using 2020 Census data—would simply remain in effect. No new districts need be drawn, and no maps need be created. Election officials are already familiar with current districts. Second, preliminary relief avoids voter confusion. If Proposition 50 passes but this Court later invalidates the redistricting, California voters and candidates will have wasted months campaigning in districts that ultimately prove unconstitutional. Preliminary relief avoids this chaos by maintaining current districts pending final adjudication. Third, preliminary relief respects California voters' prior choices. Current districts were drawn by the independent Commission that California voters specifically created to prevent partisan gerrymandering. Maintaining those districts honors voters' earlier decision (in Proposition 20) to remove redistricting from partisan control. Fourth, Defendants' purported "harm" is simply a delay in implementing an unconstitutional scheme. Defendants have no legitimate interest in implementing redistricting that violates federal constitutional requirements. Any delay in implementing such redistricting is not a cognizable harm. Fifth, California's own

Supreme Court has denied identical challenges. In *Strickland v. Weber*, No. S292490, and *Sanchez v. Weber*, No. S292592, the California Supreme Court denied petitions for writ of mandate challenging the ERRA. If Defendants believed their scheme was constitutionally sound, they would welcome federal court review rather than objecting to preliminary relief.

If this Court preliminarily enjoins AB 604's implementation, candidates will know with certainty which districts they must file in and campaign in. Voters will know with certainty which candidates they may vote for. By contrast, if AB 604 is implemented and later invalidated, candidates and voters will have wasted months (or years) operating under unconstitutional districts.

#### **IV. The Public Interest Favors Preliminary Relief**

The final preliminary injunction factor—public interest—strongly favors relief. First, the public has a profound interest in constitutional compliance. Representative democracy depends on adherence to constitutional requirements for fair elections and equal representation. Allowing one state to manipulate congressional districts, violating constitutional requirements, undermines public confidence in democratic institutions nationwide.

Second, the public has an interest in preventing interstate electoral manipulation. Other states will follow suit if California can successfully target Texas's redistricting through retaliatory mid-decade gerrymandering. The result would be an escalating cycle of partisan redistricting warfare, with each state manipulating its districts in response to other states' actions. This outcome serves no one's interests.

Third, the public has an interest in respecting the independent redistricting process California voters enacted. California voters deliberately removed redistricting from partisan legislative control and vested it in an independent Commission. Preliminary relief honors that choice and prevents partisan legislators from circumventing voter intent.

Fourth, California voters themselves have an interest in preliminary relief. If Proposition 50 passes but AB 604 is later invalidated, California voters will have elected representatives from unconstitutional districts who will serve for two years regardless. Those voters deserve to know *before* the election whether the districts are constitutional, not after.

Fifth, preliminary relief avoids the unprecedented constitutional crisis resulting from unseating Members of Congress elected from districts later determined to be unconstitutional. While courts can prospectively require new districts, they cannot easily remedy the damage caused by two years of representatives elected unconstitutionally.

Sixth, preliminary relief preserves this Court's ability to grant meaningful relief. If AB 604 is implemented and the 2026 elections proceed, any subsequent ruling invalidating the redistricting will come too late to provide complete relief. Preliminary relief ensures this Court's ultimate ruling on the merits will have a practical effect.

Voter approval does not immunize unconstitutional state action. The Supreme Court has repeatedly held that state constitutional amendments, even when approved by voters, must comply with federal constitutional requirements. *Romer v. Evans*, 517 U.S. 620 (1996). Preliminary relief does not enjoin the election or prevent voters from voting. If Proposition 50 is approved, that approval will remain valid. This Court's preliminary injunction merely prevents *implementation* of the redistricting pending final adjudication of its constitutionality. Early preliminary relief respects voter autonomy by ensuring voters know before the election whether redistricting will likely be implemented. Voters can make informed decisions about Proposition 50 with knowledge of this litigation's status.



Federal courts routinely enjoin implementation of state ballot measures pending constitutional adjudication. *See, e.g., Hollingsworth v. Perry*, 558 U.S. 183 (2010) (per curiam) (staying district court's order enjoining California's Proposition 8 pending appeal).

### CONCLUSION

Plaintiffs face imminent, irreparable harm from California's unconstitutional redistricting scheme. Representative Jackson will lose concrete authorities and resources essential to serving his constituents. Representative Issa will have his vote diluted and his representative capacity diminished. Both will suffer these injuries within weeks if this Court does not grant preliminary relief. Plaintiffs have demonstrated a substantial likelihood of success on the merits under the Elections Clause, Equal Protection Clause, and Guarantee Clause. The balance of harms tips sharply in Plaintiffs' favor. The public interest favors constitutional compliance and the prevention of interstate electoral manipulation. For these reasons, Plaintiffs respectfully request that this Court grant preliminary injunctive relief as set forth above.

Date: October 30, 2025

Respectfully submitted,

/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

/s/ Edward Andrew Paltzik

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

*Counsel for Plaintiffs Representative Ronny  
Jackson and Representative Darrell Issa*