PARR BROWN GEE & LOVELESS
David C. Reymann (Utah Bar No. 8495)
Kade N. Olsen (Utah Bar No. 17775)
Tammy M. Frisby (Utah Bar No. 17992)
101 South 200 East, Suite 700
Salt Lake City, UT 84111
(801) 532-7840
dreymann@parrbrown.com
kolsen@parrbrown.com
tfrisby@parrbrown.com

ZIMMERMAN BOOHER
Troy L. Booher (Utah Bar No. 9419)
J. Frederic Voros, Jr. (Utah Bar No. 3340)
Caroline Olsen (Utah Bar No. 18070)
341 South Main Street
Salt Lake City, UT 84111
(801) 924-0200
tbooher@zbappeals.com
fvoros@zbappeals.com
colsen@zbappeals.com

CAMPAIGN LEGAL CENTER
Mark P. Gaber*
Aseem Mulji*
Benjamin Phillips*
1101 14th Street NW, Ste. 400
Washington, DC 20005
(202) 736-2200
mgaber@campaignlegalcenter.org
amulji@campaignlegalcenter.org
bphillips@campaignlegalcenter.org
idesanto@campaignlegalcenter.org

Annabelle Harless*
55 W. Monroe Street, Ste. 1925
Chicago, IL 60603
aharless@campaignlegalcenter.org

Attorneys for Plaintiffs

**Admitted Pro Hac Vice*

IN THE THIRD JUDICIAL DISTRICT COURT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

LEAGUE OF WOMEN VOTERS OF UTAH, MORMON WOMEN FOR ETHICAL GOVERNMENT, STEFANIE CONDIE, MALCOLM REID, VICTORIA REID, WENDY MARTIN, ELEANOR SUNDWALL, and JACK MARKMAN,

Plaintiffs,

v.

UTAH STATE LEGISLATURE, UTAH LEGISLATIVE REDISTRICTING COMMITTEE; SENATOR SCOTT SANDALL, in his official capacity; REPRESENTATIVE MIKE SCHULTZ, in his official capacity; SENATOR J. STUART ADAMS, in his official capacity; and LIEUTENANT GOVERNOR DEIDRE HENDERSON, in her official capacity,

Defendants.

PLAINTIFFS' SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT ON COUNT V

Case No. 220901712

Honorable Dianna Gibson

Plaintiffs submit this supplemental brief to answer the questions posed in the Court's March 31, 2025 Order and to address the remedial phase of this case. In sum, the Court may enjoin HB 2004—the law that enacted the current congressional map—pursuant to the pending Motion for Summary Judgment on Count V, on either of two independent grounds: (1) to remedy the Legislature's constitutional violation of Plaintiffs' right to alter and reform their government via Prop 4, as HB 2004 was the means by which that constitutional violation was effected; or (2) pursuant to Prop 4's statutory cause of action, which expressly provides for injunctive relief for both procedural and substantive violations. Under either approach, this Court must retain jurisdiction and schedule further proceedings to ensure that a map is in place for the 2026 election and that such a map complies with federal and state law, including the requirements of Prop 4.

However, if Defendants maintain that further proceedings are necessary before an injunction against HB 2004 can issue, and if the Court concludes there is possible merit to that position, then Plaintiffs respectfully request that the Court issue its ruling regarding SB 200 as soon as possible. Further, if the Court rules in Plaintiffs' favor, Plaintiffs respectfully request that the Court schedule an expedited preliminary injunction evidentiary hearing on Counts VI, VII, and VIII. Plaintiffs would promptly file a motion for preliminary injunction upon the Court's issuance of its SB 200 ruling. As Plaintiffs have emphasized, two election cycles have already occurred under an unlawful map, and ensuring that the 2026 election proceeds under a lawful map is of paramount importance and constitutional urgency.

I. Plaintiffs' response to the Court's questions.

Plaintiffs respond to each of the Court's questions below.

Question 1: In its Motion for Summary Judgment on Count V, Plaintiffs argue this Court should permanently enjoin HB 2004[1] (the current congressional map). Plaintiffs rely on certain language used by the Utah Supreme Court in *LWVUT*, 2024 UT 21, ¶¶ 61, 222 to support this position. The *LWVUT* court did not cite any legal or factual authority in support of the statements, but an injunction of HB 2004 was not before that Court. Please clarify the legal basis for Plaintiffs' position that a permanent injunction of HB 2004 is an appropriate remedy if the Court grants Plaintiffs' Motion for Summary Judgment on Count V.

If the Court grants Plaintiffs' Motion for Summary Judgment on Count V, a permanent injunction of HB 2004 is both appropriate and necessary to remedy the violation of Plaintiffs' right to alter and reform their government.

Equitable remedies, such as injunctions, are the principal means by which Utah courts redress constitutional injuries. *See Spackman ex rel. Spackman v. Bd. of Educ. of Box Elder Cnty. Sch. Dist.*, 2000 UT 87, ¶ 25, 16 P.3d 533, 539 (affirming the vital role of equitable relief in vindicating constitutional rights in holding that damages are appropriate only when such relief is inadequate). This choice of remedy follows from the principle that, where a constitutional right has been violated, courts have a duty to remedy the wrong fully: "The task is to correct . . . the condition that offends the Constitution." *Swann v. Charlotte-Mecklenburg Bd. of Ed.*, 402 U.S. 1, 15-16 (1971) ("Once a right and a violation have been shown, the scope of a district court's equitable powers to remedy past wrongs is broad, for breadth and flexibility are inherent in equitable remedies."); *see also Marbury v. Madison*, 5 U.S. 137, 147 (1803) ("[E]very right, when withheld, must have a remedy, and every injury a proper redress."). The scope of an equitable remedy is determined by the nature and extent of the violation. *Milliken v. Bradley*, 418 U.S. 717, 744 (1974). The remedy must be designed to restore Plaintiffs to the position they would have

[1] The Court's Order referred to the congressional map as having been enacted via "SB 2004," but it was HB 2004. Plaintiffs have correspondingly adjusted the quoted questions to reflect the correct bill identification.

occupied but for the violation. *Id.* at 746. Utah courts adhere to this universal and basic principle of equitable remedies. For example, in *Floor v. Johnson*, a trial court concluded that a company's stock had been fraudulently issued and enjoined persons elected as officers as a result of that stock issuance from holding office. 199 P.2d 547, 551-52 (Utah 1948). In affirming, the Utah Supreme Court explained that "[i]t would be a peculiar kind of justice if the equity court were only able to say the stock was fraudulently issued and order its cancellation, and then unable to give the complete relief which would naturally follow, of declaring the legality or illegality of action pursuant to the fraudulent issue." *Id.*

Here, to fully redress the violation of Plaintiffs' constitutional right to alter and reform their government, the 2021 congressional map enacted in HB 2004 must be enjoined. That map is the ill-gotten gain of the constitutional violation, which cannot be remedied so long as the unconstitutional map remains operative. In 2018, Utahns enacted in Prop 4 a set of reforms intended to govern the 2021 redistricting process. But in SB 200, the Legislature unconstitutionally repealed Prop 4 to circumvent those reforms. HB 2004 followed necessarily from that unconstitutional repeal, in direct—and undisputed—violation of Prop 4's requirements. Enjoining SB 200 alone would restore Prop 4 prospectively, but it would not correct the past and ongoing harm already inflicted: the imposition of a congressional map enacted under SB 200 rather than Prop 4—a map by which Utahns are otherwise bound until 2031. *Swann*, 402 U.S. at 16. A permanent injunction of SB 200 alone would fall short of restoring Plaintiffs to the position they would have occupied had their constitutional right to alter and reform their government not been infringed. *Milliken*, 418 U.S. at 744. Full injunctive relief therefore requires invalidating both SB 200 and the congressional map that flowed directly from it.

A permanent injunction of SB 200 and HB 2004 for violating the Alter-and-Reform Clause is consistent with the relief Plaintiffs sought in their Complaint and with the Utah Supreme Court's recognition that such relief is legally cognizable under Count V. Indeed, Plaintiffs' Claim for Relief in their Complaint sought to invalidate and enjoin the 2021 congressional map "because it violates . . . Article I, Section 2 [the Alter-and-Reform Clause]," among other provisions. Orig. Compl. at 78.[2] The Complaint also expressly incorporated this "declaratory and injunctive relief" into Count V. *Id.* ¶ 319. The Utah Supreme Court, in assessing the legal sufficiency of this pleading in *LWVUT I*, 2024 UT 21, 554 P.3d 872, began its discussion of Count V with a recognition of its pleaded scope. Specifically, the Court rightly recognized that "Count V involves the parties' dispute over whether . . . Proposition 4, or . . . SB 200, should govern the redistricting process" and "consequently . . . the ***constitutionality*** of the Congressional Map that resulted from SB 200 and was not subject to Proposition 4's requirements." *Id.* ¶ 61 (emphasis added). The Court understood Count V to challenge both SB 200 and the resultant congressional map as part of the constitutional violation, and ruled that this claim seeking this relief was cognizable and sufficiently pled. *See id.* ¶¶ 59, 61. Plaintiffs accordingly moved for such relief on Count V in their summary judgment motion.

In short, the legal basis for Plaintiffs' position that a permanent injunction of HB 2004 is an appropriate remedy under Count V follows from this Court's inherent duty to redress constitutional violations under longstanding principles of equity, and the Utah Supreme Court's recognition that Count V, as pled, validly encompasses the constitutionality of the 2021 congressional map. The Utah Supreme Court may not have directly referenced this longstanding

[2] These allegations were re-pleaded in Plaintiffs' First Amended Complaint, alongside additional claims for relief. *See* First Am. Compl. at 78, 85-87.

principle of equitable relief in its opinion, but its holding regarding the scope of Count V requires it.

Question 2: Plaintiffs also cite Proposition 4's enforcement provisions to support their request for a *permanent* injunction of HB 2004. Those provisions are not currently effective, given SB 200 and this Court has not yet issued a ruling on Count V. After filing the pending Motion for Summary Judgment on August 28, 2024, Plaintiffs added Counts VI and VII alleging the Legislature violated Proposition 4's procedural and substantive requirements, respectively, on August 30, 2024. Even if the Court did proceed under Utah Code 20A-19-301, are additional procedural steps required by Proposition 4 before a permanent injunction can be entered against HB 2004?

No. Independent of the Court's power to enjoin HB 2004 to fully remedy the harm Plaintiffs suffered by the unconstitutional repeal of Prop 4, *see supra*, Prop 4 itself also requires such an injunction without the need for any further procedural steps in this case. Although it is true that as a *factual* matter SB 200 purported to repeal Prop 4, as a *legal* matter the unconstitutional aspects of SB 200 are void *ab initio*. "When a court declares a statute unconstitutional, the statute becomes void. An unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed." *Egbert v. Nissan Motor Co., Ltd.*, 2010 UT 8, ¶ 12, 228 P.3d 737 (cleaned up). Where that unconstitutionality includes repealing a preexisting law, as a legal matter it is as if the unlawful repeal never occurred, and thus the purportedly repealed statute *legally* was effective at all times. *See id.* ("It is the general rule that an unconstitutional statute, even though having the form and name of law, in reality is no law and in legal contemplation is as inoperative as if it had never undergone the formalities of enactment. Such a statute leaves the question that it purports to settle just as it was prior to its ineffectual enactment." (quoting *Reyes v. Texas*, 753 S.W.2d 382, 383 (Tex. Crim. App. 1988))).

Plaintiffs filed a single motion for summary judgment that raised two issues: (1) the unconstitutionality of the repeal of Prop 4's requirements and standards, and (2) the undisputed

failure of the Legislature to comply with certain of Prop 4's unconstitutionally repealed requirements. *See* Pls.' Mot. for Summ. J. at 8-20 (regarding the repeal of Prop 4); *id.* at 26-27 (regarding the undisputed violation of Prop 4's requirements). The Court can resolve both issues now because both are properly before the Court.

Plaintiffs styled their summary judgment motion on these two issues as being pursuant to Count V because, as the Utah Supreme Court explained, Count V "is the broadest claim, encompassing both matters at issue in this case: Plaintiffs' challenge to the redistricting process that led to the Congressional Map and their challenge to the Congressional Map itself." *LWVUT*, 2024 UT 21, ¶ 61. In moving for summary judgment on the second question—the Legislature's failure to comply with Prop 4's requirements—Plaintiffs explained that they also "intend[ed] to seek leave to file an amended complaint that will, *inter alia*, additionally allege Defendants' violation of Proposition 4's procedural requirements as a separate count, but those violations necessarily remain encompassed within Count V." Pls.' Mot. for Summ. J. at 27 n.8. Indeed, Count V incorporates by reference all the Complaint's allegations about the repeal of Prop 4's requirements and the enactment of HB 2004 in a manner contrary to Prop 4's requirements, *see* Orig. Compl. ¶ 310, and incorporates into Count V all requested relief, including the permanent injunction against the congressional map, *see id.* ¶ 319. Because the repeal of Prop 4 and the enactment of HB 2004 without regard to Prop 4's requirements all stem from the same essential transaction or occurrence, Plaintiffs were not required to set forth the allegations in separate counts. *See* Utah R. Civ. P. 10(b) ("Each paragraph founded upon a separate transaction or occurrence . . . must be stated in a separate count . . . whenever a separation facilitates the clear presentation of the matters set forth."); Utah R. Civ. P. 10(c) ("Statements in a paper may be adopted by reference in a different part of the same or another paper."); Utah R. Civ. P. 8(e) ("A party may state a claim

or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses.").

The Supreme Court treated Count V as encompassing both the unconstitutionality of the repeal of Prop 4 and the failure of the resulting map, HB 2004, to comply with Prop 4's requirements. This approach accords with the requirement that "[a]ll pleadings will be construed to do substantial justice." Utah R. Civ. P. 8(f). "[P]leadings are sufficient where they give fair notice of the nature and basis of the claim asserted and a general indication of the type of litigation involved." *S. Utah Wilderness Alliance v. San Juan Cnty. Comm'n*, 2021 UT 6, ¶ 40, 484 P.3d 1160 (internal quotation marks and citation omitted); *see also Conner v. Dep't of Commerce*, 2019 UT App 91, ¶ 37, 443 P.3d 1250 ("[C]ourts construe pleadings in favor of the pleader and 'require the parties to proceed to the merits, if such a course is permissible, and the necessary inferences arising thereform, a liberal construction and application'" (quoting *Harman v. Yeager*, 100 Utah 30, 110 P.2d 352, 354 (1941))). Thus, while Plaintiffs' allegations regarding HB 2004's failure to comply with Prop 4's requirements became more specific with the inclusion of Counts VI and VII in the amended complaint, the claim remained encompassed within Count V as well.

In any event, Plaintiffs' summary judgment motion plainly raised both the unconstitutional repeal of and HB 2004's failure to comply with Prop 4's requirements, regardless of whether the latter is characterized as arising out of Count V, Count VI, or—more accurately—both counts. Nor are the central facts underpinning the motion in dispute. The Legislature was afforded months to prepare its responsive brief and did not dispute that HB 2004 violated Prop 4's requirement to vote on all Commission-proposed maps, its 10-day notice requirement before enacting an alternative map, or its written report requirement. *See* Leg. Defs. Combined Mem. Opp. to Pls. Mot. Summ. J. at 8-10, ¶¶ 18-22.

Prop 4 does not require Plaintiffs or the Court to undertake any further proceedings to grant summary judgment declaring that HB 2004 failed to comply with Prop 4's requirements and therefore permanently enjoin it. *See* Utah R. Civ. P. 56(a) ("The court shall grant summary judgment if the moving party shows that there is no genuine dispute as to any material fact"); Utah Code § 20A-19-301(2) (2018) ("If a court . . . determines . . . that a redistricting plan enacted by the Legislature fails to abide by or conform to the redistricting standards, procedures, and requirements set forth in this chapter, the court shall issue a permanent injunction barring enforcement or implementation of the redistricting plan."). Once the Court declares the relevant aspects of SB 200 unconstitutional, it is void *ab initio*, and the Court can simultaneously resolve the pending request for summary judgment on HB 2004's failure to comply with Prop 4's requirements.

a. Plaintiffs allege there is no dispute that the Legislative Defendants did not comply with the procedural requirements of Proposition 4. Is that alone a sufficient legal basis to grant a permanent injunction of HB 2004? Or does that Court need to "determine" i.e., making "findings" (e.g., after an evidentiary hearing) or conclude there are no material disputes of fact that HB 2004 did not comply with the substantive redistricting criteria (e.g., as part of a motion for summary judgment) in an action specific to Counts VI and VII?

The Legislature's undisputed noncompliance with Prop 4's procedural requirements provides a sufficient legal basis to grant a permanent injunction of HB 2004. No evidentiary hearing on this question is required.

First, nothing in § 20A-19-301(2) precludes the Court from "determin[ing] . . . that a redistricting plan enacted by the Legislature fails to abide by or conform to the redistricting standards, procedures, and requirements set forth in [Prop 4]" as part of a summary judgment motion. Utah Code § 20A-19-301(2). Rule 56 applies to all civil actions and authorizes the Court to grant summary judgment based upon the undisputed fact that HB 2004 failed to abide by Prop

4's requirements. *See* Utah R. Civ. P. 56(a) ("The Court shall grant summary judgment if the moving party shows that there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law."). Moreover, the undisputed facts relevant here—*i.e.*, the Legislature's failure to hold a vote on all of the Commission's proposed maps, its failure to provide 10 days of notice before enacting an alternative map, and its failure to issue a report—are not merely undisputed facts in the summary judgment record but also judicially noticeable facts in the legislative record. *See, e.g.*, *Dean v. Rampton*, 538 P.2d 169, 171 (Utah 1975) (explaining that courts may take judicial notice of journals of the Legislature); *Green River Canal Co. v. Thayn*, 2003 UT 50, ¶ 31 n.8, 84 P.3d 1134 (noting that Court may take judicial notice of public records). An evidentiary hearing is not needed for the Court to make determinations confirmed by the undisputed summary judgment record and based upon judicially noticeable legislative facts.

Second, the Court does not need to adjudicate HB 2004's compliance with Prop 4's *substantive* requirements—either at summary judgment or in an evidentiary hearing—in order to grant a permanent injunction against implementation of HB 2004. Prop 4 provides that a permanent injunction "shall issue" when the Court determines, *inter alia*, that the Legislature failed to abide by the "procedures" and "requirements" of Prop 4. Utah Code § 20A-19-301(2). Thus, a showing of a violation of *any* of Prop 4's requirements is sufficient for a permanent injunction to issue.

Any congressional map subsequently adopted by the Legislature to remedy an adjudicated violation must comply with *all* applicable legal requirements. That is because Prop 4 authorizes the Legislature to adopt a remedial map that "abides by and conforms to the redistricting standards, procedures, and requirements of this chapter." Utah Code § 20A-19-301(8). If the map in fact abides by the *substantive* standards of Prop 4 and its only flaw in the initial enactment was procedural in nature, then the Legislature would have no difficulty establishing during the Court's

remedial hearing that its map now complied with both the procedural and substantive requirements. The law that enacted the map without complying with the procedural requirements would remain permanently enjoined, but the new law reenacting that map in a manner that complied with the procedural requirements would pass muster under § 20A-19-301(8). On the other hand, if the map violates Prop 4's substantive standards in addition to its *adjudicated* failure to comply with its procedural standards, then the map cannot stand as a lawful remedy compliant with § 20A-19-301(8).[3]

Here, Prop 4 requires the Court to permanently enjoin HB 2004 because it is undisputed that the Legislature enacted the law without following Prop 4's procedures and requirements. *See* Utah Code § 20A-19-301(2).

b. Why are counts VI and VII included in the complaint if a permanent injunction can be entered merely on granting Plaintiffs' Motion for Summary Judgment on Count V?

Plaintiffs are focused on expeditiously obtaining relief in time for the 2026 election. Although Plaintiffs believe the Utah Supreme Court has made clear that Count V encompasses the lawfulness of the map that resulted from the unconstitutional repeal of Prop 4's standards and requirements, Plaintiffs anticipated when they filed their summary judgment motion in August 2024 that Defendants might contend, contrary to the Utah Supreme Court's characterization of Count V, that separate counts were needed to allege violations of Prop 4's standards and requirements. In the event this Court were to agree with Defendants, Plaintiffs did not want their need to amend the complaint and briefing on the inevitable motion to dismiss to further delay adjudication of the merits of this case. So Plaintiffs promptly amended the complaint last August

[3] That is why here the Legislature would be ill advised to merely reenact its existing congressional map. The overwhelming evidence at the remedial hearing would show that the current map violates Prop 4's substantive standards.

to prepare for that possibility. But that does not change the scope of Count V under settled authority and the Utah Supreme Court's interpretation of it.

II. Regardless of the grounds or timing of the Court's injunction against HB 2004, it must retain jurisdiction to ensure a lawful map governs the 2026 election.

Regardless of whether the Court issues an injunction against HB 2004 on constitutional or statutory grounds (or both), or whether further proceedings are held before such an injunction is issued, the Court must retain jurisdiction after it enjoins HB 2004 and schedule a remedial process to ensure that a lawful map is in effect for the 2026 and future elections. This is necessary for two reasons.

First, the Legislature may fail to enact a remedial map, either in the Legislature itself or via a gubernatorial veto. *See* Utah Code § 20A-19-301(8). In preparation for this possibility, the Court must schedule a judicial process to ensure a lawful map is in place for the next election. Prop 4 expressly permits the division of the state into new congressional districts following an injunction or court order. *See* Utah Code § 20A-19-102(3) & (4). And a permanent injunction against HB 2004 will trigger Count VIII of Plaintiffs' complaint because of the undisputed malapportionment of the 2011 map that will be revived by the injunction against HB 2004. The Court indisputably has the power to impose a redistricting map to remedy a map that is malapportioned in violation of the Utah Constitution. *See Growe v. Emison*, 507 U.S. 25, 33 (1993) ("The power of the judiciary of a State to require valid reapportionment or to formulate a valid redistricting plan has not only been recognized by this Court but appropriate action by the States in such cases has been specifically encouraged." (quoting *Scott v. Germano*, 381 U.S. 407, 409 (1965))).

Second, Prop 4 expressly provides that the Legislature's authority to enact a new or alternative map in response to a permanent injunction issued by this Court is limited to a map that "abides by and conforms to the redistricting standards, procedures, and requirements of [Prop 4]."

Utah Code § 202A-19-301(8) (2018). This provision—housed in the statutory provision setting forth the private right of action and tied to the Court's authority to issue a permanent injunction—thus subjects the Legislature's "new or alternative redistricting plan" to a judicial determination of its compliance with Prop 4's requirements, both procedural and substantive. There is nothing unusual about a state court ensuring that a map adopted in response to an injunction complies with *all* redistricting laws, not just the law that was violated by the initial map. *See, e.g.*, *Clarke v. Wisconsin Elections Comm'n*, 998 N.W.2d 370, 396-97 (Wis. 2023) (enjoining Wisconsin's legislative maps as violating state constitution's contiguity requirement but noting that "this court must consider other districting requirements, in addition to contiguity, when adopting remedial maps. Just as a court fashioning a remedy in an apportionment challenge must ensure that remedial maps comply with state and federal law, so too must this court in remedying a different constitutional violation").

The Court must therefore retain jurisdiction, afford the Legislature a reasonable time period to adopt a compliant remedial map, and schedule a hearing to adjudicate any dispute over whether the legislatively enacted remedial map "abides by and conforms to the redistricting standards, procedures, and requirements of [Prop 4]." Utah Code § 202A-19-301(8) (2018). That is the process Prop 4 envisions for ensuring a lawful map, and it is the same process courts across the country follow in remedying legal violations in redistricting maps.[4]

[4] *See, e.g.*, *Clarke*, 998 N.W.2d at 400-01; Order, *Caster v. Allen*, No. 2:21-cv-01536-AMM (N.D. Ala. June 20, 2023), Doc. 156, *stay denied*, *Allen v. Milligan*, 144 S. Ct. 476 (2023) (Mem.); *Robinson v. Ardoin*, 37 F.4th 208, 232 (5th Cir. 2022); *Turtle Mountain Band of Chippewa Indians v. Howe*, No. 3:22-cv-22, 2023 WL 8004576, at *17 (D.N.D. Nov. 17, 2023); *Calvin v. Jefferson Cnty. Bd. of Comm'rs*, 172 F. Supp. 3d 1292, 1326 (N.D. Fla. 2016); *Harris v. McCrory*, 159 F. Supp. 3d 600, 627 (M.D.N.C. 2016); *Larios v. Cox*, 300 F. Supp. 2d 1320, 1356 (N.D. Ga. 2004), *aff'd*, 542 U.S. 947 (2004); *Common Cause v. Lewis*, No. 18-CVS-014001, 2019 WL 4569584, at *134 (N.C. Super. Ct., Sept. 3, 2019); *League of Women Voters of Pa. v. Commonwealth*, 175 A.3d 282, 290 (Pa. 2018).

III. If the Court concludes further proceedings are required before it can enjoin HB 2004, it should schedule an expedited preliminary injunction hearing.

If Defendants maintain that further proceedings are necessary before an injunction against HB 2004 can issue, and the Court concludes their position has potential merit, Plaintiffs respectfully request that the Court issue its ruling with respect to the constitutionality of SB 200 and schedule an expedited preliminary injunction evidentiary hearing on Counts VI, VII, and VIII. Plaintiffs would promptly file a motion for a preliminary injunction upon the Court's order enjoining SB 200 (which would have the effect of resurrecting the relevant Prop 4 requirements). There is ample time to hold such a hearing and resolve Plaintiffs' motion and conduct any necessary remedial proceeding before the November 2025 date the Lieutenant Governor has proffered for finalizing the map for the 2026 election.

April 4, 2024

Respectfully submitted,

/s/ David C. Reymann

CAMPAIGN LEGAL CENTER
Mark P. Gaber*
Anabelle Harless*
Aseem Mulji*
Benjamin Phillips*

PARR BROWN GEE & LOVELESS
David C. Reymann
Kade N. Olsen
Tammy M. Frisby

ZIMMERMAN BOOHER
Troy L. Booher
J. Frederic Voros, Jr.
Caroline Olsen

*Admitted *Pro Hac Vice*
**Pro Hac Vice* application forthcoming

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of April, 2024, I filed the foregoing **PLAINTIFFS' SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT ON COUNT V** via electronic filing, which served all counsel of record.

/s/ Kade N. Olsen