

1 ROB BONTA  
Attorney General of California  
2 ANYA M. BINSACCA  
LARA HADDAD  
3 Supervising Deputy Attorneys General  
RYAN EASON  
4 DAVID GREEN  
KIANA HEROLD  
5 JENNIFER E. ROSENBERG  
IRAM HASAN  
6 Deputy Attorneys General  
State Bar No. 320802  
7 455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
8 Telephone: (415) 510-3793  
Fax: (415) 703-5480  
9 E-mail: Iram.Hasan@doj.ca.gov  
*Attorneys for Defendants California Governor*  
10 *Gavin Newsom and Secretary of State Shirley*  
*Weber*

11  
12 IN THE UNITED STATES DISTRICT COURT  
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
14 WESTERN DIVISION  
15

16 **DAVID TANGIPA, et al.,**  
17 Plaintiffs,

18 and

19 **UNITED STATES OF AMERICA,**  
20 Plaintiff-Intervenor

21 v.

22 **GAVIN NEWSOM, in his official**  
23 **capacity as the Governor of California,**  
**et al.,**

24 Defendants,

25 and

26 **DEMOCRATIC CONGRESSIONAL**  
27 **CAMPAIGN COMMITTEE, et al.,**  
28 Defendant-Intervenors.

2:25-cv-10616-JLS-WLH-KKL  
Three-Judge Court

**MEMORANDUM OF POINTS  
AND AUTHORITIES  
SUPPORTING DEFENDANTS'  
MOTION TO DISMISS  
CONSOLIDATED COMPLAINT  
(ECF NO. 240)**

Date: June 26, 2026  
Time: 10:30 a.m.  
Courtroom: 1  
Judges: Hon. Josephine L.  
Staton, Hon. Kenneth  
K. Lee, and Hon.  
Wesley L. Hsu  
Trial Date: None Designated  
Action Filed: Nov. 5, 2025

## TABLE OF CONTENTS

	Page
Introduction .....	1
Background.....	3
I.    California Moves to Redistrict to Counteract Texas .....	3
II.   California Voters Approve Proposition 50 .....	5
III.  Procedural History .....	6
Legal Standard .....	7
Argument.....	8
I.    Tangipa Plaintiffs and Plaintiff-Intervenor Fail to State a Racial Gerrymandering Claim Under the Fourteenth Amendment .....	8
A.  Plaintiffs Bringing a Racial Gerrymandering Claim Face an “Especially Stringent” Burden .....	9
1.  Plaintiffs here must plead that race was the predominant factor motivating the voters .....	9
2.  Plaintiffs must also overcome a presumption that the voters acted in good faith .....	10
B.  Tangipa Plaintiffs and Plaintiff-Intervenor Fail to Plead Any Facts Regarding Voter Intent .....	11
C.  Even if Legislative Intent Were Relevant, Tangipa Plaintiffs and Plaintiff-Intervenor Fail to Plausibly Allege that Race was the Legislature’s Predominant Motivation .....	13
D.  Challengers Fail to Plead Sufficient Facts for Any of California’s Fifty-Two Districts .....	15
II.   Noyes Plaintiffs Fail to Allege Facts Supporting Standing to Bring Either of Their Claims.....	17
A.  Noyes Plaintiffs Lack Standing to Bring Their Fifteenth Amendment Claim .....	19
B.  Noyes Plaintiffs Lack Standing to Bring Their Voting Rights Act Claim.....	20
III.  Noyes Plaintiffs Fail to State a Claim Under the Fifteenth Amendment .....	21
IV.  Noyes Plaintiffs and Plaintiff-Intervenor Fail to State a Claim Under the Voting Rights Act.....	24
A.  The Complaint Fails to Allege that Voters Approved the Map with a Racially Discriminatory Motivation .....	25
B.  Facts Regarding the <i>Arlington Heights</i> Factors Are Absent from the Complaint .....	27
C.  The Complaint Fails to Allege an Adverse Effect on Any Group .....	28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**TABLE OF CONTENTS**  
**(continued)**

	<b>Page</b>
V. Sovereign Immunity Bars Challengers’ Claims Against Governor Newsom.....	29
Conclusion.....	31

## TABLE OF AUTHORITIES

	Page
<b>CASES</b>	
<i>Abbott v. League of United Latin Am. Citizens</i> 146 S.Ct. 418 (2025).....	1, 3, 13
<i>Abbott v. Perez</i> 585 U.S. 579 (2018).....	15, 21, 28
<i>Adarand Constructors v. Pena</i> 515 U.S. 200 (1995).....	25
<i>Alabama Legislative Black Caucus v. Alabama</i> 575 U.S. 254 (2015).....	15, 18
<i>Alexander v. S.C. State Conf. of the NAACP</i> 602 U.S. 1 (2024).....	passim
<i>Allen v. Milligan</i> 599 U.S. 1 (2023).....	24
<i>Ashcroft v. Iqbal</i> 556 U.S. 662 (2009).....	8, 17, 26
<i>Ass’n des Eleveurs de Canards et d’Oies du Quebec v. Harris</i> 729 F.3d 937 (9th Cir. 2013).....	3, 30
<i>Associated Home Builders etc., Inc. v. City of Livermore</i> 557 P.3d 473 (Cal. 1976) .....	9
<i>Backus v. South Carolina</i> 857 F.Supp.2d 553 (D.S.C. 2012) .....	23
<i>Bell Atlantic Corp. v. Twombly</i> , 550 U.S. 544 (2007).....	8
<i>Bethune-Hill v. Virginia State Bd. of Elections</i> 580 U.S. 178 (2017).....	13
<i>Brnovich v. Democratic Nat’l Comm.</i> 594 U.S. 647 (2021).....	11

**TABLE OF AUTHORITIES**  
**(continued)**

	<b>Page</b>
<i>City of L.A. v. Cnty. of Kern</i> 462 F. Supp. 2d 1105 (C.D. Cal. 2006) .....	12
<i>City of Mobile, Ala. v. Bolden</i> 446 U.S. 55 (1980) .....	22, 24
<i>Clapper v. Amnesty Int’l USA</i> 568 U.S. 398 (2013) .....	19
<i>Cooper v. Harris</i> 581 U.S. 285 (2017) .....	9, 10, 22
<i>Cooper v. Pickett</i> 137 F.3d 616 (9th Cir. 1997) .....	8
<i>Ctr. For Biological Diversity v. Bernhardt</i> 946 F.3d 533 (9th Cir. 2019) .....	18
<i>DaimlerChrysler Corp. v. Cuno</i> 547 U.S. 332 (2006) .....	7, 19
<i>Democratic Nat’l Comm. v. Reagan</i> 904 F.3d 686 (9th Cir. 2018) .....	24, 26
<i>Easley v. Cromartie</i> 532 U.S. 234 (2001) .....	21
<i>Ex parte Young</i> 209 U.S. 123 (1908) .....	30
<i>Fed. Election Comm’n v. Akins</i> 524 U.S. 11 (1998) .....	20
<i>Garza v. Cty. of Los Angeles</i> 918 F.2d 763 (9th Cir. 1990) .....	20, 28
<i>Gill v. Whitford</i> 585 U.S. 48 (2018) .....	18, 21
<i>Gomillion v. Lightfoot</i> 364 U.S. 339 (1960) .....	22

**TABLE OF AUTHORITIES**  
**(continued)**

	<b>Page</b>
<i>Gonzalez v. Planned Parenthood of L.A.</i> 759 F.3d 1112 (9th Cir. 2014) .....	14
<i>Hunter by Brandt v. Regents of the Univ. of Cal.</i> 971 F.Supp. 1316 (C.D. Cal. 1997).....	24
<i>Leite v. Crane Co.</i> 749 F.3d 1117 (9th Cir. 2014).....	8
<i>Los Angeles Cnty. Bar Ass’n v. Eu</i> 979 F.2d 697 (9th Cir. 1992).....	30
<i>Lujan v. Defenders of Wildlife</i> 504 U.S. 555 (1992).....	18
<i>Maya v. Centex Corp.</i> 658 F.3d 1060 (9th Cir. 2011).....	7
<i>Miller v. Johnson</i> 515 U.S. 900 (1995).....	9, 11, 14, 15, 21
<i>Navarro v. Block</i> 250 F.3d 729 (9th Cir. 2001).....	15
<i>Noyes v. Newsom</i> No. 2:25-cv-11480-JLS-WLH-KKL (C.D. Cal. Dec. 2, 2025) .....	6, 7
<i>Papasan v. Allain</i> 478 U.S. 265 (1986).....	29
<i>Pennhurst State Sch. &amp; Hosp. v. Halderman</i> 465 U.S. 89 (1984).....	29, 30
<i>People v. Rizo</i> 996 P.2d 27 (Cal. 2000) .....	12
<i>Perry-Bey v. City of Norfolk, Va.</i> 678 F. Supp. 2d 348 (E.D. Va. 2009) .....	21
<i>Prejean v. Foster</i> 227 F.3d 504 (5th Cir. 2000).....	22

**TABLE OF AUTHORITIES**  
**(continued)**

	<b>Page</b>
<i>Rice v. Cayetano</i>	
528 U.S. 495 (2000).....	22
<i>Robert L. v. Superior Ct.</i>	
30 Cal. 4th 894 (2003) .....	12
<i>Romero v. City of Pomona</i>	
665 F.Supp. 853 (C.D. Cal. 1987).....	23
<i>Rucho v. Common Cause</i>	
588 U.S. 684 (2019).....	1
<i>Schreiber Distributing Co. v. Serv-Well Furniture Co., Inc.</i>	
806 F.2d 1393 (9th Cir. 1986).....	23
<i>Shaw v. Hunt (Shaw II)</i>	
517 U.S. 899 (1996).....	9
<i>Shaw v. Reno</i>	
509 U.S. 630 (1993) ( <i>Shaw I</i> ) .....	22
<i>Skorepa v. City of Chula Vista</i>	
723 F.Supp. 1384 (S.D. Cal. 1989) .....	23
<i>Spokeo, Inc. v. Robins</i>	
578 U.S. 330 (2016).....	18, 19, 20
<i>Tangipa v. Newsom</i>	
No. 2:25-cv-10616-JLS-WLH-KKL, 2026 WL 110585 (C.D. Cal. Jan. 14, 2026).....	<i>passim</i>
<i>Tangipa v. Newsom</i>	
No. 25A839, 2026 WL 291659 (U.S. Feb. 4, 2026) .....	2, 7
<i>TransUnion LLC v. Ramirez</i>	
594 U.S. 413 (2021).....	18
<i>United States v. Hays</i>	
515 U.S. 737 (1995).....	19

1	<b>TABLE OF AUTHORITIES</b>	
2	<b>(continued)</b>	
3		<b>Page</b>
4	<i>United States v. Ritchie</i>	
5	342 F.3d 903 (9th Cir. 2003).....	8
6	<i>Vaughan v. Lewisville Indep. Sch. Dist.</i>	
7	475 F. Supp. 3d 589 (E.D. Tex. 2020).....	21
8	<i>Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.</i>	
9	429 U.S. 252 (1977).....	26, 27, 28
10	<i>Virginia Off. For Prot. &amp; Advoc. v. Stewart</i>	
11	563 U.S. 247 (2011).....	30
12	<i>Voinovich v. Quilter</i>	
13	507 U.S. 146 (1993).....	21
14	<i>Walls v. Sanders</i>	
15	760 F.Supp.3d 766 (E.D. Ark. 2024).....	28
16	<i>Washington v. Seattle Sch. Dist. No. 1</i>	
17	458 U.S. 457 (1982).....	12
18	<i>Whole Woman’s Health v. Jackson</i>	
19	595 U.S. 30 (2021).....	30
20	<b>STATUTES</b>	
21	52 U.S.C.	
22	§ 10301 .....	24
23	§ 10301(b) .....	20
24	2025 Cal. Stat., ch. 156 .....	3
25	2025 Cal. Stat., ch. 96 (Assembly Bill 604) .....	4
26	2025 Cal. Stat., ch. 97 (Senate Bill 280) .....	4
27	<b>CONSTITUTIONAL PROVISIONS</b>	
28	California Constitution, Article XVIII	
	§ 1.....	4, 9, 11
	§ 4.....	4, 9



1	<b>TABLE OF AUTHORITIES</b>	
2	<b>(continued)</b>	
3		<b>Page</b>
4	California Constitution, Article XXI	
5	§§ 1–2 .....	4
6	Election Rigging Response Act.....	3, 4
7	Equal Protection Clause .....	22
8	United States Constitution	
9	Eleventh Amendment.....	3, 29, 30
10	Fourteenth Amendment .....	<i>passim</i>
11	Fifteenth Amendment .....	<i>passim</i>
12	Voting Rights Act .....	<i>passim</i>
13	Voting Rights Act	
14	§ 2.....	<i>passim</i>
15	<b>COURT RULES</b>	
16	Federal Rule of Civil Procedure 12(b)(6) .....	8
17	Federal Rules of Civil Procedure	
18	Rule 12(b)(1) .....	7
19	Rule 12(b)(6) .....	7
20	<b>OTHER AUTHORITIES</b>	
21	89th Leg., 2nd Special Sess. (Tex. 2025) .....	3
22	United States Census Bureau, <i>About the Hispanic Population and its</i>	
23	<i>Origin</i> , <a href="https://www.census.gov/topics/population/hispanic-origin/about.html">https://www.census.gov/topics/population/hispanic-</a>	
24	<a href="https://www.census.gov/topics/population/hispanic-origin/about.html">origin/about.html</a> (last visited April 24, 2026) .....	1
25		
26		
27		
28		

## INTRODUCTION

As this Court has already recognized, Proposition 50 is “exactly what it was billed as: a political gerrymander designed to flip five Republican-held seats to the Democrats.” *Tangipa v. Newsom*, No. 2:25-cv-10616-JLS-WLH-KKL, 2026 WL 110585, \*30 (C.D. Cal. Jan. 14, 2026). “[T]he ‘impetus for adoption’ of the Proposition 50 Map was ‘partisan advantage, pure and simple.’” *Id.* at \*30 (quoting *Abbott v. League of United Latin Am. Citizens*, 146 S.Ct. 418, 420 (2025) (Alito, J., concurring)). The Legislature proposed Proposition 50 to favor Democrats and the California electorate elected to adopt those new congressional district lines by an overwhelming majority. *Id.* at \*7-\*8.

Having failed to convince voters to reject Proposition 50 at the ballot box—and because partisan gerrymandering claims are nonjusticiable, *Rucho v. Common Cause*, 588 U.S. 684 (2019)—Tangipa Plaintiffs, Noyes Plaintiffs, and Plaintiff-Intervenor (together, “Challengers”) attempt to reframe an obvious, voter-approved partisan gerrymander as an illegal racial gerrymander and intentional race discrimination in five separately pleaded but overlapping counts brought under the Fourteenth and Fifteenth Amendments and Section 2 of the Voting Rights Act (VRA). To support their claims, Challengers allege that the predominant purpose of Proposition 50 was to benefit Latinos<sup>1</sup> and rely primarily upon scattered statements of individual legislators and a private consultant who drafted an early version of the map but do not allege even a single fact regarding the intent of the voters.

This failure is fatal to Challengers’ claims and reflects Challengers’ refusal to acknowledge the legal framework this Court has already determined applies to their

---

<sup>1</sup> The federal government defines a “Hispanic or Latino” person as one of “Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.” United States Census Bureau, *About the Hispanic Population and its Origin*, <https://www.census.gov/topics/population/hispanic-origin/about.html> (last visited April 24, 2026). The terms are often used interchangeably.

1 claims. In denying Tangipa Plaintiffs’ and Plaintiff-Intervenors’ motions for  
2 preliminary injunction, this Court rejected Challengers’ efforts to persuade it “to  
3 ignore entirely the intent of the voters who overwhelmingly supported Proposition  
4 50[.]” *Tangipa*, 2026 WL 110585 at \*8. Indeed, this Court already concluded that  
5 it is the voters who are the “most relevant state actors” for purposes of assessing the  
6 intent behind adoption of the Prop 50 map lines. *Id.* at \*8. It likewise rejected the  
7 proposition “that the intent of the map drawer and, by extension, the California  
8 Legislature, is dispositive.” *Id.* The Supreme Court declined to upset those  
9 statements of the applicable legal tests. *Tangipa v. Newsom*, No. 25A839, 2026  
10 WL 291659, at \*1 (U.S. Feb. 4, 2026) (Supreme Court Order).

11 With respect to their Fourteenth Amendment claim, Tangipa Plaintiffs and  
12 Plaintiff-Intervenor fail to meet their “especially stringent” burden to sustain that  
13 claim, *Alexander v. S.C. State Conf. of the NAACP*, 602 U.S. 1, 7, 11 (2024), or to  
14 overcome the presumption of good faith to which the voters are entitled. Aside  
15 from failing to plead a single fact about voter intent, they plead no facts that could  
16 support their claim that race *predominated* over *all* other factors in the voters’  
17 approval of the new map. And even if legislative intent was more important to the  
18 analysis, Plaintiffs have not sufficiently alleged that the Legislature was  
19 predominantly motivated by race.

20 The remaining claims are also meritless. Noyes Plaintiffs purport to allege a  
21 standalone racial gerrymandering claim under the Fifteenth Amendment, but no  
22 such claim exists under governing precedent. And Noyes Plaintiffs and Plaintiff-  
23 Intervenor offer no relevant factual allegations that could support their claims of  
24 intentional racial discrimination under the VRA. At bottom, the Complaint fails to  
25 trace any purportedly unconstitutional actions to the Governor or Secretary of State.

26 Moreover, Noyes Plaintiffs have not pleaded any cognizable injury in fact  
27 relevant to their claims: they fail to identify the districts in which they reside, plead  
28

1 that their right to vote was abridged or denied, or include any facts establishing that  
2 they are members of any protected class unable to equally access the political  
3 process. They therefore lack standing to bring their Fifteenth Amendment and  
4 Voting Rights Act claims.

5 Finally, Governor Newsom “is entitled to Eleventh Amendment immunity  
6 because his only connection to [Proposition 50] is his general duty to enforce  
7 California law,” which cannot subject him to suit. *Ass’n des Eleveurs de Canards*  
8 *et d’Oies du Quebec v. Harris*, 729 F.3d 937, 943 (9th Cir. 2013), *cert. denied*, 574  
9 U.S. 932 (2014). Accordingly, he must be dismissed as a Defendant.

10 In short, Challengers’ claims fail as a matter of law. This Court should find  
11 that Challengers’ failure to include a single allegation regarding the voters’ intent,  
12 coupled with their failure to meet their burden with respect to any of their claims,  
13 warrants dismissal of their Complaint in its entirety.

## 14 BACKGROUND

### 15 I. CALIFORNIA MOVES TO REDISTRICT TO COUNTERACT TEXAS

16 “With an eye on the upcoming 2026 midterm elections, several States have in  
17 recent months redrawn their congressional districts in ways that are predicted to  
18 favor the State’s dominant political party.” *Abbott*, 146 S.Ct. at 419. “Texas  
19 adopted the first new map,” *id.*, that would likely result in a Republican advantage,  
20 *see* H.B. 4, 89th Leg., 2nd Special Sess. (Tex. 2025). “California responded with  
21 its own map for the stated purpose of counteracting what Texas had done.” *Abbott*,  
22 146 S.Ct. at 419.

23 To counter Texas, the California Legislature approved a three-part legislative  
24 package called the Election Rigging Response Act (“ERRA”). One part, Assembly  
25 Constitutional Amendment 8 (“ACA 8”), 2025 Cal. Stat., ch. 156, referred to  
26 California voters a proposed state constitutional amendment that, if approved,  
27 would authorize use of a new congressional district map for the next three  
28

1 congressional elections instead of those maps prepared by the Citizens Redistricting  
2 Commission following each decennial census.<sup>2</sup> Defendants’ Request for Judicial  
3 Notice (“RJN”), Ex. 1; *see* Cal. Const. art. XXI, §§ 1–2. In proposing a  
4 constitutional amendment to the voters, the Legislature acted consistently with state  
5 law providing that the Legislature may propose constitutional amendments, Cal.  
6 Const., art. XVIII, § 1, that will become effective only if approved by a majority of  
7 votes cast by California voters, *id.* § 4. The measure asking voters to consider ACA  
8 8 was called Proposition 50.

9 The Legislature’s express statements and the legislative history make clear  
10 that partisan considerations motivated the ERRA. The Legislature’s statement of  
11 findings described ACA 8 as an attempt “to neutralize the partisan gerrymandering  
12 being threatened by Republican-led states without eroding fair representation for all  
13 communities” to ensure that the “2026 United States midterm elections for  
14 Congress” are “conducted on a level playing field without an extreme and unfair  
15 advantage for Republicans.” RJN, Ex. 1 at 6, Findings (*l*), (*n*). Committee hearing  
16 materials for ACA 8 and Assembly Bill 604, 2025 Cal. Stat., ch. 96, which are  
17 exhibits to the Complaint, emphasized the same point. *See, e.g.*, Compl., Ex. F at  
18 14 (“We’re here today because President Trump and Republicans in Texas and  
19 other states are attempting to redraw Congressional districts mid decade in an effort  
20 to rig the upcoming election.”); *id.* at 77 (“We must take decisive action to stand up  
21 to Donald Trump’s unprecedented call for Republican led states like Texas and  
22 Florida to redraw the Congressional lines and unfairly rig the 2026 midterm  
23 elections for Republican politicians to benefit.”); Ex. G at 2 (“We will not allow red  
24 states to strip seats in Congress . . . .”); *id.* at 10 (“California cannot stand down if  
25 other states are attempting to cheat and rig the election in 20[2]6 to maintain  
26

---

27 <sup>2</sup> The other two parts, Assembly Bill 604 (2025 Cal. Stat., ch. 96) and Senate  
28 Bill 280 (2025 Cal. Stat., ch. 97), respectively set forth the details regarding the  
new proposed congressional district map and procedures and timelines for  
conducting subsequent elections.

1 Republican control of Congress.”); Ex. H at 18 (AB 604 is a “reasonable and  
2 rational response to the anti-[d]emocratic actions of the Republican party as they  
3 attempt to rig our congressional elections.”).

## 4 **II. CALIFORNIA VOTERS APPROVE PROPOSITION 50**

5 Before the election, all voters received an Official Voter Information Guide  
6 that included the text of ACA 8, the official summary for Proposition 50, and  
7 arguments submitted by proponents and opponents of Proposition 50. RJN, Ex. 2.  
8 The text of ACA 8 explained that “[i]t is the intent of the people that California’s  
9 temporary maps be designed to neutralize the partisan gerrymandering being  
10 threatened by Republican-led states without eroding fair representation for all  
11 communities.” RJN, Ex. 1 at 6, Findings (n). The official summary similarly  
12 stated that “[i]n response to Texas’ mid-decade partisan congressional redistricting,  
13 this measure temporarily requires new congressional district maps, as passed by the  
14 Legislature in August 2025, to be used in California’s congressional elections  
15 through 2030.” RJN, Ex. 2 at 8.

16 The official arguments for and against the initiative likewise had a partisan  
17 focus. The former asserted that it “makes sure the 2026 mid-term elections are  
18 conducted on a level playing field without an unfair advantage for Republicans”  
19 and “ensure[s] our voices aren’t silenced by partisan gerrymandering in other  
20 states[.]” RJN, Ex. 2 at 16. The official argument against Proposition 50, in turn,  
21 called it a “political power grab” that “draw[s] partisan seats without transparency  
22 or citizen input, solely to protect incumbents,” argued the measure would create  
23 “the most partisan maps in California’s history,” and encouraged voters to “[v]ote  
24 NO on partisan gerrymandering.” *Id.* (italics removed). The ballot label on voters’  
25 ballots also emphasized the partisan focus, asking voters to choose whether to adopt  
26 a new proposed Congressional district map “in response to Texas’ partisan  
27 redistricting.” RJN, Ex. 3; *see* Compl. ¶ 61.  
28

1 On November 4, 2025, California voters—presented with this partisan framing  
2 for Proposition 50—overwhelmingly approved the measure, with over 64% of  
3 votes (7,453,339 votes) cast in favor. RJN, Ex. 4 at 13; Compl. ¶ 61.

### 4 **III. PROCEDURAL HISTORY**

5 Tangipa Plaintiffs filed their complaint on November 5, 2025, alleging three  
6 racial gerrymandering claims with respect to sixteen congressional districts,  
7 premised on violations of the Fourteenth and Fifteenth Amendments. *See* ECF No.  
8 1 ¶¶ 94-126. After the Court granted leave to intervene, Plaintiff-Intervenor, the  
9 United States, filed its complaint-in-intervention, alleging a similar Fourteenth  
10 Amendment racial gerrymandering claim and that California engaged in intentional  
11 racial discrimination in violation of the VRA. ECF No. 42 ¶¶ 67, 70. On  
12 December 2, 2025, Noyes Plaintiffs filed a separate action challenging the  
13 Proposition 50 map as a racial gerrymander in violation of the Fifteenth  
14 Amendment and the VRA. *See* Complaint, ECF No. 1, *Noyes v. Newsom*, No.  
15 2:25-cv-11480-JLS-WLH-KKL (C.D. Cal. Dec. 2, 2025).

16 Before this Court consolidated these various challenges, Tangipa Plaintiffs and  
17 Plaintiff-Intervenor moved to preliminarily enjoin the State from implementing the  
18 new voter-approved map. ECF No. 16-1 at 35, 29-1 at 8. This Court denied both  
19 motions on all grounds. *Tangipa*, 2026 WL 110585, at \*1; *see* ECF No. 216.  
20 Starting with the Fourteenth and Fifteenth Amendment claims, the Court explained  
21 “that the relevant inquiry is whether race predominated in the minds of the voters”  
22 and found “virtually no evidence” making that showing here.<sup>3</sup> *Tangipa*, 2026 WL  
23 110585, at \*7. Turning to the VRA claim, the Court found the claim failed for two  
24 reasons: Plaintiff-Intervenor “fail[ed] to show that the voters acted with  
25 discriminatory intent,” *id.* at \*31, and “fail[ed] to show that Proposition 50 has had  
26

---

27 <sup>3</sup> The Court conducted an alternative analysis based on the intent of the  
28 mapmaker and Legislature and found that Tangipa Plaintiffs’ claims failed even  
“using the traditional approach—focusing on legislative intent.” *Id.* at \*17.



1 any adverse effect,” *id.* at \*31 n.35. Tangipa Plaintiffs appealed that ruling to the  
2 Supreme Court, ECF No. 217, and unsuccessfully sought an injunction pending  
3 appeal in this Court, ECF No. 220, and in the Supreme Court, Supreme Court Order  
4 at \*1. This Court dismissed Tangipa Plaintiffs’ Notice of Appeal pursuant to the  
5 parties’ stipulation. ECF Nos. 237, 239.

6 On March 17, 2026, this Court consolidated the *Tangipa* and *Noyes* matters  
7 and directed Challengers to file a single consolidated complaint. ECF No. 238.  
8 Challengers jointly filed a complaint on March 27, 2026, but chose not to  
9 consolidate their claims. ECF No. 240 (Compl.). The new complaint contains  
10 duplicative claims: Tangipa Plaintiffs and Plaintiff-Intervenor separately allege that  
11 California engaged in racial gerrymandering in violation of the Fourteenth  
12 Amendment (Counts I and IV); Noyes Plaintiffs allege that California engaged in  
13 racial gerrymandering in violation of the Fifteenth Amendment (Count II); and  
14 Noyes Plaintiffs and Plaintiff-Intervenor separately allege that California engaged  
15 in intentional racial discrimination in violation of the VRA (Counts III and V).  
16 Compl. at ¶¶ 124-166. Tangipa Plaintiffs abandoned their Fifteenth Amendment  
17 claim. *Compare* Compl. with ECF No. 1 ¶¶ 1-3, 112-121, 124.

## 18 LEGAL STANDARD

19 A complaint must be dismissed for lack of subject matter jurisdiction if a  
20 plaintiff lacks standing to sue. Fed. R. Civ. P. 12(b)(1); *see Maya v. Centex*  
21 *Corp.*, 658 F.3d 1060, 1067 (9th Cir. 2011). The plaintiff bears the burden of  
22 demonstrating standing “for each claim” and “each form of relief” that it seeks. *See*  
23 *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 342 (2006) (internal citations and  
24 quotations omitted). A court resolves a facial jurisdictional attack “as it would a  
25 motion to dismiss under Rule 12(b)(6): Accepting the plaintiff’s allegations as true  
26 and drawing all reasonable inferences in the plaintiff’s favor, the court determines  
27 whether the allegations are sufficient as a legal matter to invoke the court’s  
28



1 jurisdiction.” *Leite v. Crane Co.*, 749 F.3d 1117, 1121 (9th Cir. 2014) (citation  
2 omitted).

3 But even if a court has subject matter jurisdiction to hear a case, a complaint  
4 must “state a claim to relief that is plausible on its face[,]” or otherwise face  
5 dismissal under Federal Rule of Civil Procedure 12(b)(6). *Bell Atlantic Corp. v.*  
6 *Twombly*, 550 U.S. 544, 570 (2007). A court may consider the complaint,  
7 documents attached to and incorporated by reference in it, and matters subject to  
8 judicial notice “without converting the motion to dismiss into a motion for  
9 summary judgment.” *United States v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003).  
10 A court may also “consider the full texts of documents which the complaint quotes  
11 only in part.” *Cooper v. Pickett*, 137 F.3d 616, 623 (9th Cir. 1997) (citations  
12 omitted). Courts need not “credit a complaint’s conclusory statements without  
13 reference to its factual context[,]” *id.*, and “pleadings that . . . are no more than  
14 conclusions[] are not entitled to the assumption of truth[,]” *Ashcroft v. Iqbal*, 556  
15 U.S. 662, 679 (2009).

## 16 ARGUMENT

### 17 I. TANGIPA PLAINTIFFS AND PLAINTIFF-INTERVENOR FAIL TO STATE A 18 RACIAL GERRYMANDERING CLAIM UNDER THE FOURTEENTH AMENDMENT

19 In Counts I and IV of the Complaint, Tangipa Plaintiffs and Plaintiff-  
20 Intervenor claim that the Proposition 50 map is an illegal racial gerrymander in  
21 violation of the Fourteenth Amendment. Compl. ¶¶ 124-133, 153-158. A  
22 plaintiff’s burden for such claims is to “plead sufficient factual matter to show,”  
23 *Iqbal*, 566 U.S. at 677, that “race was the predominant factor motivating the  
24 relevant state actors,” *Tangipa*, 2026 WL 110585, at \*11. Tangipa Plaintiffs and  
25 Plaintiff-Intervenor do not “state a claim to relief that is plausible on its face,”  
26 *Iqbal*, 566 U.S. at 570, because they fail to make a single allegation concerning the  
27 key actors here—the voters. Nor do they plead facts showing that race was the  
28 Legislature’s predominant motivation. Thus, they wholly fail to meet their burden

1 to sustain their Fourteenth Amendment claims.

2 **A. Plaintiffs Bringing a Racial Gerrymandering Claim Face an**  
3 **“Especially Stringent” Burden**

4 Plaintiffs bringing Fourteenth Amendment racial gerrymandering claims must  
5 show that “other considerations were subordinate” to race for the relevant state  
6 actors. *Tangipa*, 2026 WL 110585, at \*7. In other words, the plaintiff must show  
7 that race was “the criterion that . . . could not be compromised.” *Shaw v. Hunt*  
8 (*Shaw II*), 517 U.S. 899, 907 (1996). “[T]he plaintiff must make the distinction  
9 between” the relevant state actors “‘being *aware* of racial considerations and being  
10 *motivated* by them.’” *Tangipa*, 2026 WL 110585, at \*7 (quoting *Miller v. Johnson*,  
11 515 U.S. 900, 916 (1995)) (emphases added). If “*either* politics *or* race could  
12 explain a district’s contours, the plaintiff has not cleared its bar.” *Alexander*, 602  
13 U.S. at 10 (emphases added).

14 **1. Plaintiffs here must plead that race was the predominant**  
15 **factor motivating the voters**

16 “Where the legislature is the relevant state actor,” *Tangipa*, 2026 WL 110585,  
17 at \*7, plaintiffs bringing racial gerrymandering claims typically “must prove that  
18 ‘race was the predominant factor motivating the legislature’s decision to place a  
19 significant number of voters within or without a particular district[,]’” *Cooper v.*  
20 *Harris*, 581 U.S. 285, 291 (2017) (quoting *Miller*, 515 U.S. at 916). But this case  
21 does not involve a circumstance in which “the legislature holds the final decision-  
22 making authority as to whether a challenged map goes into effect.” *Tangipa*, 2026  
23 WL 110585 at \*7. The “Proposition 50 map and its new congressional district lines  
24 went into effect only because California voters enacted it.” *Id.* Indeed, “all power  
25 of government ultimately resides in the people.” *Associated Home Builders etc.,*  
26 *Inc. v. City of Livermore*, 557 P.3d 473, 477 (Cal. 1976); see Cal. Const., art.

1 XVIII, §§ 1,4. And “[w]hen the voters speak, we should consider it to be with the  
2 utmost legislative authority.” *Tangipa*, 2026 WL 110585 at \*9.

3 In the specific context of the passage of Proposition 50, this Court explained  
4 that there are at least three relevant considerations. First, “California law  
5 subordinates the legislature to the electorate when amending the constitution”;  
6 second, ACA 8 “did not simply authorize the legislature to engage in partisan  
7 gerrymandering as the legislature saw fit[,]” but rather “it was an amendment” that  
8 voters approved, as a result of which they “enacted a particularly-drawn map that  
9 everyone had the opportunity to review, debate, and critique”; and third, in  
10 evaluating racial gerrymandering claims, courts must consider “why the relevant  
11 decisionmaker chose to enact these congressional district maps.” *Id.* at \*8.  
12 Accordingly, in determining whether the Proposition 50 map was the product of an  
13 illegal racial gerrymander, “voters are the most relevant state actors.” *Id.* at \*8.  
14 This Court clarified that this conclusion “does not mean that legislative statements  
15 are irrelevant to [the] intent analysis.” *Id.* at \*9. Statements made by legislators,  
16 *id.*, and other state actors, *id.* at \*17-21, are also relevant to the extent that they  
17 inform the court’s understanding of voter intent, *id.* at \*9.

18 In sum, “like in cases where a legislature has enacted a challenged map,  
19 Challengers here must prove that race was the predominant factor motivating the  
20 relevant state actors: the voters.” *Id.* at \*11.

21 **2. Plaintiffs must also overcome a presumption that the voters**  
22 **acted in good faith**

23 Plaintiffs in traditional congressional redistricting cases must also overcome  
24 “a presumption” that the legislature acted in “good faith.” *Tangipa*, 2026 WL  
25 110585 at 11 (citing *Cooper*, 581 U.S. at 335). This presumption requires “courts  
26 to draw the inference that cuts in the legislature’s favor when confronted with  
27 evidence that could plausibly support multiple conclusions” to ensure that “race for  
28

1 its own sake, and not other districting principles, was the legislature’s dominant and  
2 controlling rationale in drawing its district lines.” *Alexander*, 602 U.S. at 10  
3 (citations and quotation marks omitted); *see id.* at 10-11. And “voters, like the  
4 legislature, are entitled to a presumption of good faith.” *Tangipa*, 2026 WL 110585  
5 at \*11 (citing *Alexander*, 602 U.S. at 10-11).

6 A “plaintiff’s evidentiary burden in cases accusing the voters of racial  
7 gerrymandering must be, like in cases accusing the legislature of a racial  
8 gerrymandering, especially stringent.” *Id.* (citing *Alexander*, 602 U.S. at 11)  
9 (quotation marks omitted). Federal courts “must exercise extraordinary caution in  
10 adjudicating a claim that a State has drawn district lines on the basis of race.  
11 *Miller*, 515 U.S. at 915-16.

12 **B. Tangipa Plaintiffs and Plaintiff-Intervenor Fail to Plead Any**  
13 **Facts Regarding Voter Intent**

14 Tangipa Plaintiffs’ and Plaintiff-Intervenor’s decision to plead no facts  
15 regarding voter intent dooms their claims here. As Tangipa Plaintiffs and Plaintiff-  
16 Intervenor themselves concede, it was the voters who chose to enact the challenged  
17 congressional district map. Compl. ¶ 61. And it was the voters who had the sole  
18 authority to approve the constitutional amendment that made possible the adoption  
19 of the new map. *See* Cal. Const. art. XVIII, § 1; ACA 8.

20 This Court has squarely rejected the idea that “the intent of the voters who  
21 overwhelmingly supported Proposition 50” “does not matter[.]” *Tangipa*, 2026 WL  
22 110585, at \*2, \*8. It explained that ignoring voter intent here would  
23 “essentially . . . apply the ‘cat’s paw’ theory”—a theory that the Supreme Court has  
24 prohibited courts from adopting—“to the voters[.]” *Id.* at \*9-\*10 (citing *Brnovich*  
25 *v. Democratic Nat’l Comm.*, 594 U.S. 647, 689-90 (2021)).<sup>4</sup> Treating the voters as

---

26 <sup>4</sup> “A ‘cat’s paw’ is a dupe who is used by another to accomplish his purposes.  
27 A plaintiff in a ‘cat’s paw’ case typically seeks to hold the plaintiff’s employer  
28 liable for the ‘animus of the supervisor who was not charged with making the  
ultimate adverse employment decision.” *Brnovich*, 594 U.S. at 689-90.

1 “dupes” of the Legislature, this Court found, “is completely antithetical to the  
2 position of voters in California’s constitutional system.” *Id.* at \*10. “[I]t is the  
3 legislature’s power that is *subordinated* to the power of the voters.” *Id.* Tangipa  
4 Plaintiffs and Plaintiff-Intervenor were given the opportunity to amend their prior  
5 allegations, yet they chose to remove all reference to what the voters might have  
6 considered in deciding to vote in favor of Proposition 50 and to address only the  
7 intent of a private consultant, a handful of individual members of the Legislature,  
8 and other unidentified actors. This choice demonstrates an unwillingness or  
9 inability to litigate within the framework laid out by this Court and prior precedent.

10 It also ignores that courts have long considered voter intent in the context of  
11 voter-approved initiatives. For example, in *Washington v. Seattle Sch. Dist. No. 1*,  
12 458 U.S. 457, 464-65, 471 (1982), the Supreme Court examined the motivation of  
13 voters in supporting an initiative regarding the use of mandatory busing in the  
14 context of a Fourteenth Amendment Equal Protection claim. And this District has  
15 held that courts “may look to the nature of the initiative campaign to determine the  
16 intent of the drafters and voters in enacting it” in cases assessing equal protection  
17 and other constitutional claims challenging voter-approved initiatives. *City of L.A.*  
18 *v. Cnty. of Kern*, 462 F. Supp. 2d 1105, 1114 (C.D. Cal. 2006) (citing *Washington*,  
19 458 U.S. at 471). California state law further clarifies that “analyses and arguments  
20 contained in the official ballot pamphlet” are particularly important “indicia of the  
21 voters’ intent[.]” *People v. Rizo*, 996 P.2d 27, 30 (Cal. 2000); *see Robert L. v.*  
22 *Superior Ct.*, 30 Cal. 4th 894, 896-97 (2003) (courts may look to contents of a  
23 ballot pamphlet to determine voters’ intent).

24 Tellingly, Tangipa Plaintiffs and Plaintiff-Intervenor do not allege that any  
25 publicly available information led voters to believe that the map was drawn with a  
26 predominantly racial intent. Nor could they. Here, the Voter Information Guide for  
27 the November 4, 2025 Special Election was distributed to voters across California  
28

1 and included arguments for and against Proposition 50 that framed it in purely  
2 partisan terms and as a response to the recent redistricting in Texas at President  
3 Trump’s direction. *See* RJN, Ex. 2; *see also* ECF No. 42 ¶ 42. Challengers plead  
4 nothing to suggest that the voters’ “impetus for the adoption” of the Proposition 50  
5 map was anything other than “partisan advantage pure and simple.” *Abbott*, 146  
6 S.Ct. at 420 (Alito, J., concurring). And they come nowhere close to pleading that  
7 a different motivation altogether—racial gerrymandering—was, in fact, the  
8 *predominant* purpose. *See Alexander*, 602 U.S. at 7 (“a party challenging a map’s  
9 constitutionality must disentangle race and politics”).

10 **C. Even if Legislative Intent Were Relevant, Tangipa Plaintiffs and**  
11 **Plaintiff-Intervenor Fail to Plausibly Allege that Race was the**  
**Legislature’s Predominant Motivation**

12 Even setting aside voter intent—an implausible course here, where the voters  
13 approved the Proposition 50 map—Tangipa Plaintiffs and Plaintiff-Intervenor do  
14 not allege facts sufficient to show that “race was the predominant factor”  
15 motivating the Legislature in adopting Proposition 50. *Alexander*, 602 U.S. at 7.  
16 Instead, they rely on out-of-context statements by individual legislators and an  
17 independent consultant and a years-old letter from a private organization to the  
18 Citizens Redistricting Commission. In doing so, they fall far short of meeting their  
19 burden to plead that race was the Legislature’s predominant motivation.

20 To begin with, Tangipa Plaintiffs’ and Plaintiff-Intervenor’s selective quotes  
21 from individual legislators and a non-state actor at most suggest a permissible and  
22 inevitable “aware[ness] of race.” *Bethune-Hill*, 580 U.S. at 187. For example, they  
23 quote a press release from Senate President pro tempore Mike McGuire noting that  
24 Proposition 50 “retains and expands Voting Rights Act districts that empower  
25 Latino voters.” Compl., ¶ 84. Read in context, however, the release conveys  
26 McGuire’s understanding that partisanship—specifically, “stop[ping] Texas and  
27 Trump from rigging the election,” Compl., Ex. I, ECF No. 240-9 at 2—was the  
28



1 predominant motivation for the measure. That McGuire also understood and  
2 referred to Proposition 50's effects on certain minority communities is  
3 unexceptional. Legislators will "almost always be aware of racial demographics,"  
4 *Alexander*, 602 U.S. at 22 (quoting *Miller*, 515 U.S. at 916), and the Constitution  
5 does not require them to conceal that knowledge. *Id.*

6 Tangipa Plaintiffs' and Plaintiff-Intervenor's reliance on a letter that a private  
7 organization sent to the Citizens Redistricting Commission for the claim that the  
8 Legislature later sought to meet a racial target is likewise misplaced. *See, e.g.*,  
9 Compl. ¶¶ 64, 75, 89, 96. First, they mischaracterize the letter's contents, *see, e.g.*,  
10 Compl., Ex. C at 4 ("Simply looking at the Latino [Citizen Voting Age Population]  
11 in a district is not sufficient for determining if a district is likely to elect a Latino  
12 candidate of choice."). And second, they do not allege that a single legislator saw  
13 this letter, let alone that it was the motivating consideration for the Legislature as a  
14 whole. While Tangipa Plaintiffs and Plaintiff-Intervenor allege that a private  
15 consultant relied on a racial target described in this letter, they cite in support an  
16 attached exhibit that does not support their claim. *See, e.g.*, Compl., ¶ 65 (citing  
17 Ex. B at 24-25), Ex. B at 26:1-8 (private consultant stating, "We kept about 80  
18 percent of [the Commission map] the same" and "made small, modest changes in  
19 order to create a push back to what Texas was doing, an opportunity for Democrats  
20 to pick up five seats, and to counterbalance the five Republican seats in Texas.");  
21 *id.* at 27:1-8 (noting "[we kept] the same values that the Commission and  
22 Californians have, doing modest changes, and, you know, doing the minimum we  
23 had to in order to achieve the political goal while protecting communities of  
24 interest"). The Court need not consider allegations that are contradicted by the very  
25 exhibit the Complaint relies on. *See Gonzalez v. Planned Parenthood of L.A.*, 759  
26 F.3d 1112, 1115 (9th Cir. 2014) ("Although we normally treat all of plaintiff's  
27 factual allegations in a complaint as true, we 'need not . . . accept as true allegations  
28

1 that contradict matters properly subject to judicial notice or by exhibit.”).

2 Allegations suggesting that the map itself harbors another actor’s  
3 discriminatory intent, Compl. ¶ 6, also do not satisfy the plausibility standard  
4 because courts “are not directed to look at the motivation behind a *map* but rather  
5 “the motivation of the enacting *legislature*.” *Tangipa*, 2026 WL 110585, at \*17  
6 (citing *Miller*, 515 U.S. at 916) (emphasis in original). The Supreme Court has  
7 made clear that “an enacting legislature’s discriminatory intent could not infect a  
8 map [adopted by a later legislature] with racial gerrymandering in the manner of  
9 ‘original sin[.]’” *Tangipa*, 2026 WL 110585, at \*17 (quoting *Abbott v. Perez*, 585  
10 U.S. 579, 603-05 (2018)).

11 Regardless of the role legislative intent may play in an analysis of a voter-  
12 adopted map like Proposition 50’s, Plaintiffs’ claims fail because Plaintiffs have not  
13 alleged facts sufficient to show that anyone—the Legislature or voters—was  
14 predominantly motivated by race. When there is “an absence of sufficient facts  
15 alleged to support a cognizable legal theory[,]” as there is here, “the court must  
16 dismiss the claim.” *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001).  
17 Accordingly, Counts I and IV should be dismissed in full.

18 **D. Challengers Fail to Plead Sufficient Facts for Any of**  
19 **California’s Fifty-Two Districts**

20 If the Court declines to dismiss Counts I and IV in full for the reasons  
21 discussed above, it should, in the alternative, limit the scope of those claims to only  
22 those districts, if any, for which the Challengers sufficiently plead that race  
23 predominated in the drawing of those district lines. That is appropriate since “[a]  
24 racial gerrymandering claim . . . applies district-by-district. It does not apply to a  
25 State considered as an undifferentiated ‘whole.’” *Alabama Legislative Black*  
26 *Caucus v. Alabama*, 575 U.S. 254, 262 (2015). Challengers here seek the  
27 extraordinary remedy of enjoining the entire fifty-two-district Proposition 50 map,  
28



1 but fail to plead that race predominated in the drawing of all 52 districts.  
2 Challengers only include district-specific allegations for a handful of districts, and  
3 even for those, the allegations are insufficient to state a racial gerrymandering  
4 claim.

5 For example, in a section that Plaintiff-Intervenor declines to join, Compl. at  
6 30 n.8, the Complaint alleges that “[t]he boundaries of District 13 under the  
7 Proposition 50 map were drawn predominantly to improve Hispanic performance in  
8 the district,” *id.* ¶ 120. But the Complaint acknowledges that the Hispanic  
9 population in District 13 actually *decreased* in the Proposition 50 map, *id.* ¶¶ 117-  
10 118, without explaining how decreasing the size of that population somehow  
11 improves its performance. As to the other challenged districts, the Complaint  
12 alleges that the Hispanic Citizen Voting Age Population (CVAP) remained almost  
13 exactly the same in District 18, *id.* ¶ 97 (“changing from 52.4% to 52.5%”); that the  
14 “Hispanic-majority area” of prior District 42 “was left intact and formed the core of  
15 a new Hispanic-majority District 41,” which “effectively replace[d] District 42[,]”  
16 *id.* ¶¶ 100-101; and that “the number of majority Hispanic CVAP districts [was  
17 preserved] at sixteen[,]” *id.* ¶ 101. And while the documents attached to the  
18 Complaint as Exhibit K appear to make statements regarding each congressional  
19 district, they only assert that “race was *a* motivating factor in the drawing of” the  
20 Proposition 50 map, not the *predominant* factor. Compl., Ex. K, ECF No. 240-11  
21 p. 2 ¶ 3, p. 6 ¶ p. 67 ¶ 165, pp. 258-259 ¶ 111.<sup>5</sup>

22 “[T]he mere fact that” a voting age population remains “roughly the same . . .  
23 proves very little.” *Alexander* 602 U.S. at 3. And entirely absent from the  
24 Complaint are allegations that any of Challengers’ claims could overcome the  
25 presumption of good faith for the relevant state actors. *See id.* at 6. Nor does any  
26

---

27 <sup>5</sup> Because Exhibit K to the Complaint, the Morgan declaration and reports, is  
28 hundreds of pages long and contains several different documents, the citation to this  
Exhibit uses the ECF number and the PDF page numbers at the top of the page, in  
addition to the paragraph being discussed, for ease of reference.

1 Challenger allege how the “high priority” given to the “partisan aim” of Proposition  
2 50, as is clear from judicially noticed materials and attachments to the Complaint,  
3 could support a claim that race *predominated* in the voters’ decision to approve  
4 Proposition 50. *Id.* at 3.

5 Moreover, the Supreme Court has “consistently described a claim of racial  
6 gerrymandering as a claim that race was improperly used in the drawing of the  
7 boundaries of one or more *specific electoral districts.*” *Id.* (emphasis in original)  
8 (collecting cases). Here, Challengers do not plead sufficient facts regarding any of  
9 the 52 districts and consequently fail to give Defendants fair notice of the facts  
10 forming the basis of their claims. *See Iqbal*, 556 U.S. at 570. Their Complaint also  
11 wholly fails to explain the mismatch between the allegations they raise and the  
12 relief they seek—an injunction of the *entire* fifty-two-district Proposition 50 map.  
13 Compl. at 39. Challengers are not “entitled to relief” as to any district where, as  
14 here, their factual allegations “do not permit the Court to infer more than the mere  
15 possibility of misconduct” in any of the fifty-two districts. *Iqbal*, 556 U.S. at 679.

16 Accordingly, the Court should reject Challengers’ threadbare racial  
17 gerrymandering claims as to all of the districts, but should the Court permit either  
18 of the Fourteenth Amendment claims to proceed, the scope of those claims should  
19 be narrowed to only the districts for which the Court finds the Complaint  
20 sufficiently pleads that race predominated in the drawing of those districts.

21 **II. NOYES PLAINTIFFS FAIL TO ALLEGE FACTS SUPPORTING STANDING TO**  
22 **BRING EITHER OF THEIR CLAIMS<sup>6</sup>**

23 Noyes Plaintiffs purport to bring a racial gerrymandering claim under the  
24 Fifteenth Amendment and a claim of intentional racial discrimination under Section  
25 2 of the VRA. *See* Compl. ¶¶ 134-147 (Count II), ¶¶ 148-152 (Count III). But they  
26

---

27  
28 <sup>6</sup> Defendants reserve the right to challenge the standing of the remaining  
plaintiffs should the case proceed to the discovery and merits briefing stages.

1 do not identify the districts they reside in or the protected class they belong to.  
2 These omissions doom their claims by undermining their standing.

3 Standing is “not [a] mere pleading requirement[], but rather an indispensable  
4 part of the plaintiffs’ case[.]” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561  
5 (1992). “[A] plaintiff seeking relief in federal court must first demonstrate that he  
6 has standing to do so, including that he has a personal stake in the outcome, distinct  
7 from a generally available grievance about government.” *Gill v. Whitford*, 585 U.S.  
8 48, 54 (2018) (citations and quotation marks omitted). A plaintiff has standing if it  
9 has suffered an “injury in fact,” that injury is fairly traceable to the challenged  
10 conduct, and the injury will “likely” be “redressed by a favorable decision.” *Lujan*,  
11 504 U.S. at 560–61 (citations and quotation marks omitted). Relevant here, an  
12 injury in fact is “an invasion of a legally protected interest which is (a) concrete and  
13 particularized and (b) actual or imminent, not conjectural or hypothetical.” *Id.* at  
14 560 (citations and quotation marks omitted). At “the pleading stage, the plaintiff  
15 must clearly allege facts demonstrating each element [of standing].” *Spokeo, Inc. v.*  
16 *Robins*, 578 U.S. 330, 338 (2016) (citation, quotation marks, and ellipses omitted);  
17 *see id.* at 330, 339–40 (defining requisite injury); *see Lujan*, 504 U.S. at 560 (same).  
18 The plaintiff must do so for “each claim” it brings and “for each form of relief” it  
19 seeks. *TransUnion LLC v. Ramirez*, 594 U.S. 413, 431 (2021); *see Ctr. For*  
20 *Biological Diversity v. Bernhardt*, 946 F.3d 533, 560 (9th Cir. 2019).

21 For both the Fifteenth Amendment and VRA claims, the alleged harm to any  
22 voter stems from the boundaries and composition of the specific district in which  
23 the voter resides. A plaintiff who alleges that he was injured by a racial  
24 gerrymander must plead that his own district has been gerrymandered. *See Gill*,  
25 585 U.S. at 66 (citation omitted); *see Ala. Legislative Black Caucus*, 575 U.S. at  
26 262. Noyes Plaintiffs do not identify the districts in which they reside, alleging  
27 only that they are “assigned to a district drawn with racial intent.” Compl. ¶¶ 33–  
28

1 35. These allegations are insufficient to establish standing for either claim as they  
2 assert “only a generalized grievance against governmental conduct of which [they]  
3 do[] not approve.” *See United States v. Hays*, 515 U.S. 737, 745 (1995).<sup>7</sup>

4 **A. Noyes Plaintiffs Lack Standing to Bring Their Fifteenth**  
5 **Amendment Claim**

6 Noyes Plaintiffs fail to allege an injury-in-fact sufficient to sustain their  
7 Fifteenth Amendment claim because they do not allege their right to vote was  
8 denied or abridged in a non-conclusory fashion. The Complaint contains  
9 conclusory allegations that Noyes Plaintiffs “have suffered an abridgment of their  
10 rights to vote,” and that the State “abridged and/or denied” their right to vote  
11 because the State “sought to separate voters by race.” Compl. ¶¶ 43, 146. The  
12 general allegation that the State “sought to separate voters by race” is not a  
13 personal, concrete injury suffered by any of the Noyes Plaintiffs specifically—  
14 especially as they have not even identified the districts in which they reside, much  
15 less alleged how those particular districts were racially gerrymandered. *See*  
16 *DaimlerChrysler Corp.*, 547 U.S. at 333 (“A plaintiff must allege personal injury”);  
17 Compl. ¶ 146. An injury is “particularized” when it impacts a plaintiff in a  
18 personal and individual way; “concrete” when it is real and not abstract; and  
19 “imminent” when it is certainly impending. *See Spokeo, Inc.*, 578 U.S. at 339-340;  
20 *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 409 (2013). Noyes Plaintiffs’  
21 allegations fail to satisfy any of these requirements. The absence of factual  
22 allegations suggesting that any Noyes Plaintiff’s personal right to vote was  
23 abridged or denied necessitates the dismissal of their Fifteenth Amendment claim  
24 for lack of standing.

25 ///

26 ///

---

27 <sup>7</sup> If the Court allows Noyes Plaintiffs to amend their claims, Noyes Plaintiffs  
28 would only have standing as to the individual districts in which they reside.

**B. Noyes Plaintiffs Lack Standing to Bring Their Voting Rights Act Claim**

Noyes Plaintiffs' VRA claim must be dismissed because, in addition to failing to allege an Article III injury, they have also failed to allege that they come within the zone of interests protected by the VRA sufficient for prudential standing. *See Spokeo, Inc.*, 578 U.S. at 339-40 (outlining the injury in fact requirement); *Fed. Election Comm'n v. Akins*, 524 U.S. 11, 20 (1998) ("[P]rudential standing is satisfied when the injury asserted by a plaintiff arguably [falls] within the zone of interests to be protected or regulated by the statute . . . in question." (quotation omitted, alterations in original)). While these are distinct pleading failures, they are largely coextensive.

To bring a claim under Section 2 of the VRA, Noyes Plaintiffs must allege that they are members of a protected class who are unable to equally access the political process. *See Garza v. Cty. of Los Angeles*, 918 F.2d 763, 765 (9th Cir. 1990); 52 U.S.C. § 10301(b). Therefore, to avoid dismissal, Noyes Plaintiffs must allege in a non-conclusory manner that they personally are unable to equally access the political process. Their barebones allegations fail to do so. Nor do they allege any other concrete, particularized injury they have suffered or will suffer. Noyes Plaintiffs instead allege that they "suffer representation harms, and face imminent electoral injuries absent relief." Compl. ¶ 44. But there are no factual allegations that illuminate what representation harms or electoral injuries Noyes Plaintiffs personally claim to suffer.

Noyes Plaintiffs also allege that the drawing of eighteen congressional districts kept the "non-Hispanic population" an "ineffective minority." Compl. ¶ 151. Setting aside the abstract nature of these allegations, Noyes Plaintiffs do not allege that any of them individually suffered this harm because they do not allege that they are members of the "non-Hispanic population." *See id.* Accordingly, Noyes

1 Plaintiffs fail to allege a concrete, particularized injury sufficient for Article III  
2 standing, and also fail to allege that they are unable to equally access the political  
3 process on account of their race, as required for prudential standing. *See, e.g.,*  
4 *Vaughan v. Lewisville Indep. Sch. Dist.*, 475 F. Supp. 3d 589, 595 (E.D. Tex. 2020)  
5 (“Because [the plaintiff] fails to invoke any legally protected interest under the  
6 VRA that is personal to him and concrete, he cannot meet the injury-in-fact  
7 requirement and lacks standing.”); *Perry-Bey v. City of Norfolk, Va.*, 678 F. Supp.  
8 2d 348, 363 (E.D. Va. 2009) (complaint dismissed for “failure to allege an actual  
9 and concrete invasion of a protected interest” because plaintiff failed to “allege that  
10 she is a member of a minority group and that her right to vote has been abridged on  
11 account of her race or color, thus suffering a constitutional injury in fact”).

12 Ultimately, only “voters who allege facts showing disadvantage to themselves  
13 as individuals have standing to sue to remedy that disadvantage.” *Gill*, 585 U.S. at  
14 65–66. Because Noyes Plaintiffs allege no such facts, their claims should be  
15 dismissed for lack of standing.

### 16 **III. NOYES PLAINTIFFS FAIL TO STATE A CLAIM UNDER THE FIFTEENTH** 17 **AMENDMENT**

18 Noyes Plaintiffs’ Count II purports to plead a standalone racial  
19 gerrymandering claim under the Fifteenth Amendment.<sup>8</sup> *See* Compl. ¶¶ 134-147.  
20 But there is no legal basis for a standalone racial gerrymandering claim under the  
21 Fifteenth Amendment. Even if there were, Noyes Plaintiffs fail to allege facts  
22 sufficient to support such a claim.

23 The Supreme Court’s racial gerrymandering case law has developed under the  
24 Equal Protection Clause of the Fourteenth Amendment. *See, e.g., Miller*, 515 U.S.  
25 at 904; *Abbott v. Perez*, 585 U.S. at 585; *Easley v. Cromartie*, 532 U.S. 234, 237

---

27 <sup>8</sup> Plaintiff-Intervenor and Tangipa Plaintiffs do not join in Count II. Tangipa  
28 Plaintiffs have abandoned the Fifteenth Amendment claim raised in their initial  
complaint. *See* ECF No. 1 ¶¶ 112-119.



1 (2001); *Cooper*, 581 U.S. at 285; accord *Voinovich v. Quilter*, 507 U.S. 146, 159  
2 (1993) (“[W]e never have held any legislative apportionment inconsistent with the  
3 Fifteenth Amendment”). Though the Supreme Court has referenced the Fifteenth  
4 Amendment’s guarantees in racial gerrymandering cases, *see, e.g., Shaw v. Reno*,  
5 509 U.S. 630 (1993) (*Shaw I*), no governing precedent applies a separate test for  
6 racial gerrymandering under that Amendment.<sup>9</sup> Indeed, this Court’s majority and  
7 dissenting opinions denying Tangipa Plaintiffs’ and Plaintiff-Intervenor’s motions  
8 for preliminary injunction applied solely the test under the Equal Protection Clause,  
9 not any separate test under the Fifteenth Amendment. *See Tangipa*, 2026 WL  
10 110585, at \*13, \*78. But Noyes Plaintiffs do not bring a cause of action under the  
11 Equal Protection Clause. *See Compl.*

12 Even if there were an analytically distinct claim for racial gerrymandering  
13 under the Fifteenth Amendment, Noyes Plaintiffs’ allegations do not support it.  
14 The Fifteenth Amendment prohibits government actions that “den[y]” or  
15 “abridge[]” the right to vote “on account of race.” U.S. Const. amend. XV; *see City*  
16 *of Mobile, Ala. v. Bolden*, 446 U.S. 55, 65 (1980) (plurality opinion), *superseded by*  
17 *statute on other grounds*. Courts have relied on the Fifteenth Amendment to  
18 invalidate voting structures that prevented entire groups of a certain race or ethnic  
19 class from voting altogether. *See, e.g., Gomillion v. Lightfoot*, 364 U.S. 339, 345  
20 (1960) (striking down municipal boundaries under Fifteenth Amendment on the  
21 grounds that boundaries wholly and discriminatorily denied Black voters the right  
22 to vote in municipal elections); *Rice v. Cayetano*, 528 U.S. 495, 518-524 (2000)  
23 (striking down provision of Hawaiian Constitution that excluded persons of certain  
24

---

25 <sup>9</sup> In addition to attempting to create a new standalone Fifteenth Amendment  
26 test for racial gerrymandering, Noyes Plaintiffs further mischaracterize the law by  
27 citing *Prejean v. Foster*, 227 F.3d 504, 519 (5th Cir. 2000), for the proposition that  
28 “there is no room for a compelling state interest defense” to racial gerrymandering  
claims. *Compl.* ¶ 139. But *Prejean* explicitly states the opposite. It involved a  
*Fourteenth* Amendment analysis, *Prejean*, 227 F.3d at 509, 515, and the cited  
language concerns disenfranchisement claims, not racial gerrymandering claims, *id.*  
at 519.

1 ancestry from voting in elections selecting trustees to state agency). Accordingly,  
2 courts have held that redistricting plans do not violate the Fifteenth Amendment  
3 absent a showing that a minority voter was *denied the ability* to vote. *See, e.g.,*  
4 *Romero v. City of Pomona*, 665 F.Supp. 853, 869 (C.D. Cal. 1987) (“the 15th  
5 Amendment is not relevant to a question of ethnic vote dilution unless the claim  
6 concerns the purposeful denial of minority rights to register to vote and cast  
7 ballots”), *affirmed* 883 F.2d 1418 (9th Cir. 1989); *Skorepa v. City of Chula Vista*,  
8 723 F.Supp. 1384, 1393 (S.D. Cal. 1989) (same); *Backus v. South Carolina*, 857  
9 F.Supp.2d 553, 569 (D.S.C. 2012), *affirmed* 568 U.S. 801 (2012).

10 Here, Noyes Plaintiffs allege that the State “abridged and/or denied” their right  
11 to vote because the State “sought to separate voters by race.” Compl. ¶¶ 43, 146.  
12 But missing from the Complaint and attached expert reports is a single factual  
13 allegation to support a conclusion that any Noyes Plaintiff had their right to vote  
14 abridged or denied on account of race, or that the voters intended such an outcome.  
15 Instead, Noyes Plaintiffs contend that the Proposition 50 map maintained the same  
16 number of Latino-majority districts as the prior map, but with the Latino population  
17 falling between a 52-55% range in more districts than in the prior map. *See id.*  
18 ¶ 141; Ex. K, ECF No. 240-11 at 64-65, ¶¶ 153, 157-158. They also contend that  
19 the Proposition 50 map maintained two Black influence districts. *See id.* ¶ 141; Ex.  
20 K, ECF No. 240-11 at 63; ¶¶ 148-150. Neither of these allegations, even if true,  
21 demonstrate that the State denied or abridged Noyes Plaintiffs’ right to vote to any  
22 extent on account of their race. Nor do they indicate that the voters intended to do  
23 so. *See supra* Argument § I.

24 Because Noyes Plaintiffs’ Fifteenth Amendment claim fails as a matter of law,  
25 no alleged facts can cure the deficiency. Accordingly, the Court should dismiss  
26 Count II without leave to amend. *See Schreiber Distributing Co. v. Serv-Well*  
27 *Furniture Co., Inc.*, 806 F.2d 1393, 1401 (9th Cir. 1986) (courts may dismiss a  
28



1 claim without leave to amend when “the allegation of other facts consistent with the  
2 challenged pleading could not possibly cure the deficiency”) (citing *Bonanno v.*  
3 *Thomas*, 309 F.2d 320, 322 (9th Cir. 1962)).

4 **IV. NOYES PLAINTIFFS AND PLAINTIFF-INTERVENOR FAIL TO STATE A**  
5 **CLAIM UNDER THE VOTING RIGHTS ACT**

6 In Count III, Noyes Plaintiffs allege that the State “deliberately ensur[ed] that  
7 the Hispanic population maintains a slight majority in all 16 previously Hispanic-  
8 majority districts and ensur[ed] the two black influence districts (Districts 37 and  
9 43) were untouched[.]” Compl. ¶ 151. As a result, they claim, “the non-Hispanic  
10 population [was dispersed] into districts in which they will remain an ineffective  
11 minority,” a violation of Section 2 of the VRA. *Id.* In Count V, Plaintiff-  
12 Intervenor alleges that “Proposition 50 was . . . enacted with the purpose of denying  
13 or abridging the right to vote on account of race or color in violation of Section 2 of  
14 the VRA, 52 U.S.C. § 10301.” *Id.* ¶ 165. Both claims lack plausible facts in  
15 support and therefore fail as a matter of law.

16 For an intentional discrimination claim under Section 2 to prevail, a plaintiff  
17 must plead that the State’s action had *both* a discriminatory intent *and* effect. *See*  
18 *Tangipa*, 2026 WL 110585, at \*31 (citing *Alexander*, 602 U.S. at 38-39). To show  
19 discriminatory intent in adopting a voting scheme, a plaintiff must allege that the  
20 State acted with a “‘racially discriminatory motivation’ or an ‘invidious purpose,’”  
21 *Allen v. Milligan*, 599 U.S. 1, 11 (2023) (quoting *City of Mobile, Ala. v. Bolden*,  
22 446 U.S. 55, 61–65 (1980)), to impose “adverse effects upon an identifiable group,”  
23 *see Democratic Nat’l Comm. v. Reagan*, 904 F.3d 686, 717 (9th Cir. 2018) (quoting  
24 *Pers. Adm’r of Mass. v. Feeney*, 442 U.S. 256, 279 (1979)). Intentional  
25 discrimination claims under Section 2 are “analytically distinct” from racial  
26 gerrymandering claims under the Fourteenth Amendment, which provide a remedy  
27 regardless of whether a legislature intended to harm any identifiable group. *See*  
28 *Alexander*, 602 U.S. at 38; *Hunter by Brandt v. Regents of the Univ. of Cal.*, 971

1 F.Supp. 1316, 1322 (C.D. Cal. 1997); *Adarand Constructors v. Pena*, 515 U.S. 200,  
2 227-28 (1995).

3 **A. The Complaint Fails to Allege that Voters Approved the Map**  
4 **with a Racially Discriminatory Motivation**

5 Noyes Plaintiffs and Plaintiff-Intervenor fail to allege a single fact to show the  
6 intent of the voters who approved the Proposition 50 map, *see supra* Argument § I,  
7 much less that they approved the map with a racially discriminatory motivation  
8 toward any identifiable minority group. That omission is fatal to their claim  
9 because the voters are the most relevant actors. *See Tangipa*, 2026 WL 110585, at  
10 \*7-8.

11 Noyes Plaintiffs and Plaintiff-Intervenor instead allege that other individuals  
12 drew the Proposition 50 map based on race. Regardless of the extent to which the  
13 intent of legislators or a private consultant is relevant to the analysis, *see supra*  
14 Argument § I.C, the Complaint does not allege that any of those individuals acted  
15 with a goal of disadvantaging any identifiable group. Instead, it alleges that  
16 legislators said the Proposition 50 map would maintain historic Black districts and  
17 retain and expand VRA districts that empower Latino voters to elect their preferred  
18 candidates, Compl. ¶¶ 84-85; that Texas and other Republican states redistricted to  
19 suppress minority voters in their own states, *id.* ¶¶ 78-83; and that the VRA requires  
20 legislatures to draw districts in which racial minority groups can elect their  
21 preferred candidates, *id.* ¶ 86. And as to the private consultant, the Complaint  
22 alleges that he reversed the prior elimination of a “Latino district from LA[;]”  
23 created a district with a 35% Latino voting age population; and described the  
24 anticipated effects of the Proposition 50 map, including that one analysis found it  
25 would “maintain[] the status quo in terms of the Voting Rights Act and add[] one  
26 more Latino-influence district.”<sup>10</sup> *Id.* ¶¶ 63-67.

27  
28 <sup>10</sup> Noyes Plaintiffs and Plaintiff-Intervenor do not allege that these referenced

1 Noyes Plaintiffs and Plaintiff-Intervenor further allege that unidentified State  
2 actors “pass[ed] the Hispanic population” between districts to preserve the 16  
3 Latino-majority districts from the prior map and drew 13 of the districts to have a  
4 Latino CVAP between 52-55%.<sup>11</sup> *See id.* ¶ 95. They also allege that the private  
5 consultant intended to “preserve districts to maintain racial outcomes” because  
6 District 42 became a non-Latino-majority district and District 41 became a Latino-  
7 majority district in the same geographic area as the prior District 42. *Id.* ¶ 100.  
8 And they allege that unidentified state actors “deliberately preserved the black  
9 populations’ proportion” in Districts 37 and 43, and therefore “intentionally drew  
10 district lines to advance political control of one racial group over another”  
11 undefined racial group. *See id.* ¶¶ 109, 116. Finally, Noyes Plaintiffs (but not  
12 Plaintiff-Intervenor) allege that an unidentified actor drew District 13 to improve  
13 Latino performance in the district, and “not to improve the prospects of Democratic  
14 congressional candidates.” *Id.* ¶ 120.

15 These allegations are inadequate to support a plausible intentional  
16 discrimination claim under Section 2 because they plainly do not show a racially  
17 discriminatory motivation to impose “adverse effects upon an identifiable group.”  
18 *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 266 (1977)  
19 (emphasis added); *Reagan*, 904 F.3d at 717. The Complaint does not allege that

20 \_\_\_\_\_  
21 districts were actually included in the Proposition 50 map or whether they challenge  
22 them. Further, Noyes Plaintiffs and Plaintiff-Intervenor take the private  
23 consultant’s statements out of context. *See supra* Argument § I.C; *see also* Ex. B at  
24 26:1-8 (indicating that the private consultant’s priorities were to maintain the status  
25 quo created by the Independent Redistricting Commission and make minor changes  
26 with the goal of partisan gains for Democrats).

27 <sup>11</sup> Noyes Plaintiffs and Plaintiff-Intervenor allege that it is “implausible” for  
28 13 districts to have Latino populations between 52-55% without a “deliberately  
racially motivated draw using explicit racial means.” *Id.* ¶ 95. It is not clear what a  
“racially motivated draw using explicit racial means” entails. Regardless, neither  
the Complaint nor the attached reports of a purported expert attempt to explain why  
this outcome is “implausible.” The Court should disregard this conclusory  
statement without any factual allegations in support. *Iqbal*, 556 U.S. at 679 (courts  
need not “credit a complaint’s conclusory statements without reference to its factual  
context[,]” and “pleadings that . . . are no more than conclusions[] are not entitled to  
the assumption of truth.”).

1 any actor, let alone the voters, bore any intent to abridge the ability of any group—  
2 much less a group to which Noyes Plaintiffs belong—to vote or elect their  
3 candidates of choice.

4 **B. Facts Regarding the *Arlington Heights* Factors Are Absent from**  
5 **the Complaint**

6 To determine whether a State acted with racially discriminatory motivation,  
7 courts look to a non-exhaustive list of factors provided in *Arlington Heights*. The  
8 factors include (1) the historical background; (2) the sequence of events leading to  
9 enactment, including any substantive or procedural departures from the normal  
10 legislative process; (3) the relevant legislative history; and (4) whether the law has a  
11 disparate impact on a particular racial group. *Arlington Heights*, 429 U.S. at 266-  
12 68.

13 Noyes Plaintiffs and Plaintiff-Intervenor do not allege that California has a  
14 historical background of “a series of official actions taken for invidious purposes”  
15 against non-Latino and non-Black communities, *see id.* at 267, or that the  
16 Proposition 50 map has a disparate impact on a particular racial group, *see infra*  
17 Argument § IV.C (showing that Noyes Plaintiffs and Plaintiff-Intervenor fail to  
18 allege discriminatory effect of Proposition 50 map). They instead rely on  
19 unexplained insinuations from the sequence of events leading to enactment of  
20 Proposition 50 and the legislative history. They allege that “[t]he Legislature  
21 stripped language from three pre-existing bills and inserted entirely new language  
22 to bypass the California Constitution’s 30-day waiting period for new legislation,”  
23 Compl., ¶ 57; the Proposition 50 legislative package moved from first reading on  
24 August 18, 2025, to a vote on August 21, 2025, *id.* ¶ 58; and the Legislature  
25 suspended certain rules to facilitate referral from committee, *id.* This recitation of  
26 legislative history ignores the most important part of the sequence of events leading  
27 to enactment: the voters’ approval of Proposition 50 after a public debate on the  
28 measure that overtly focused on the partisan character of the map. *See supra*

1 Background §§ I-II. Further, these benign facts do not demonstrate a racially  
2 discriminatory intent. *See Walls v. Sanders*, 760 F.Supp.3d 766, 809 (E.D. Ark.  
3 2024) (“The ‘brevity of the legislative process’ cannot ‘give rise to an inference of  
4 bad faith’ on its own”) (quoting *Perez*, 585 U.S. at 610-11). Without factual  
5 allegations to support a single *Arlington Heights* factor showing discriminatory  
6 intent, Noyes Plaintiffs and Plaintiff-Intervenor do not plausibly plead a violation of  
7 Section 2.

8 **C. The Complaint Fails to Allege an Adverse Effect on Any Group**

9 Finally, Noyes Plaintiffs and Plaintiff-Intervenor do not allege that the  
10 Proposition 50 map had an adverse *effect* on any group—a necessary element of an  
11 intentional discrimination claim. *See Tangipa*, 2026 WL 110585, at \*31 (citing  
12 *Alexander*, 602 U.S. at 38-39). An adverse effect is cognizable under Section 2 if it  
13 is alleged that “members of a [protected] class” are unable to equally access the  
14 political process. *Garza v. Cnty. of Los Angeles*, 918 F.2d 763, 771 (9th Cir. 1990).  
15 Here, Noyes Plaintiffs and Plaintiff-Intervenor seem to identify all non-Latino  
16 voters in California as the racial group(s) whose right to vote has allegedly been  
17 denied or abridged. But that is not enough to sustain an intentional discrimination  
18 claim. Noyes Plaintiffs allege that “California’s boundaries disperse the non-  
19 Hispanic population into districts in which they will remain an ineffective  
20 minority.”<sup>12</sup> Compl. ¶ 151. But nothing in their allegations or attached reports  
21 allege how non-Latino voters in California will be an “ineffective minority” simply  
22 because the Proposition 50 map contains the same number of Latino-majority  
23 districts and Black-influence districts as the prior map. *See* Compl.; *see id.*, Ex. K,  
24 ECF No. 240-11. Indeed, Noyes Plaintiffs’ claim that non-Latino voters are an  
25 “ineffective minority” in California is undermined by Challengers’ own data that  
26 shows that non-Latino residents are a majority in California and the vast majority of

27 \_\_\_\_\_  
28 <sup>12</sup> Noyes Plaintiffs do not allege that the Proposition 50 map negatively  
impacts non-Black voters despite their focus on two Black-influence districts.

1 districts under the Proposition 50 map are not Latino-majority districts. *See id.* ¶ 47  
2 (alleging that Latino individuals constitute only 39.4% of California’s population);  
3 Ex. K, ECF No. 240-11, pp. 94-99 (table showing 36 of 52 districts under  
4 Proposition 50 map are non-Latino-majority districts).

5 For its part, Plaintiff-Intervenor relies on a flawed analogy to support its claim  
6 that the Proposition 50 map adversely affects non-Latino voters. It states: “Just as a  
7 map drawn to favor white voters would necessarily harm all other racial groups, a  
8 map drawn to favor Latino voters harms all other racial groups.” Compl. ¶ 162.  
9 But this is not a factual allegation about how the actual Proposition 50 map has any  
10 negative impact on non-Latino voters. The mere fact that a *redrawn* map results in  
11 the same majority status in certain districts for some racial groups as the prior  
12 map—which, to be clear, Challengers seek through this lawsuit to revert to—does  
13 not in any way suggest an *intent* to discriminate against any specific racial  
14 group. The allegation that a map “preserv[ing]” the *same* number of Latino-  
15 majority districts reveals a discriminatory purpose to disadvantage other groups is  
16 not credible. *Id.* ¶ 164.

17 Counts III and V should be dismissed because Noyes Plaintiffs and Plaintiff-  
18 Intervenor fail to plead any facts that could support an intentional discrimination  
19 claim under Section 2.

20 **V. SOVEREIGN IMMUNITY BARS CHALLENGERS’ CLAIMS AGAINST**  
21 **GOVERNOR NEWSOM**

22 Challengers name Governor Newsom as a Defendant in his official capacity as  
23 Governor of California. Compl. ¶ 38. However, the Governor has immunity from  
24 Challengers’ claims and should be dismissed from this litigation.

25 The Eleventh Amendment to the United States Constitution prohibits suit  
26 against a State or its instrumentalities absent consent by the State or an abrogation  
27 of that immunity by Congress. *Papasan v. Allain*, 478 U.S. 265, 276-77 (1986);  
28 *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 100-02 (1984). A third



1 exception, the *Ex parte Young* doctrine, permits actions for prospective relief  
2 against state officers sued in their official capacities for “an ongoing violation of  
3 federal law.” *Virginia Off. For Prot. & Advoc. v. Stewart*, 563 U.S. 247, 255  
4 (2011); see *Ex parte Young*, 209 U.S. 123, 159-60 (1908). The *Ex parte Young*  
5 exception applies if the state official sued has direct responsibility for enforcement  
6 of an allegedly unconstitutional statute. *Harris*, 729 F.3d at 943. A “generalized  
7 duty to enforce state law” is insufficient. *Los Angeles Cnty. Bar Ass’n v. Eu*, 979  
8 F.2d 697, 704 (9th Cir. 1992).

9 None of the three exceptions applies here. First, the State has not consented to  
10 suit, and second, Challengers do not allege that Congress has “unequivocal[ly]  
11 express[ed]” an “intent to overturn” the State’s immunity. *Pennhurst*, 465 U.S. at  
12 106. Third, Challengers allege no facts regarding the Governor’s direct  
13 responsibility to enforce the Proposition 50 map beyond his “general duty to  
14 enforce California law.” *Harris*, 729 F.3d at 943. They merely allege that the  
15 California Constitution vests in the Governor “[t]he supreme executive power” of  
16 the State, that he is charged with “see[ing] that the law is faithfully executed[,]” and  
17 that he signed the laws that placed Proposition 50 on the ballot. Compl. ¶ 38. The  
18 *Ex parte Young* exception does not apply here because the “connection” between  
19 the state official and the challenged law “must be fairly direct[,]” *Eu*, 979 F.2d at  
20 704, and Challengers’ Complaint “do[es] not direct this Court to any enforcement  
21 authority the [Governor] possesses in connection with [Proposition 50] that a  
22 federal court might enjoin him from exercising[,]” *Whole Woman’s Health v.*  
23 *Jackson*, 595 U.S. 30, 43 (2021). Accordingly, the Governor is “entitled to  
24 Eleventh Amendment immunity” because “a generalized duty to enforce state law  
25 or general supervisory power over the persons responsible for enforcing the  
26 challenged provision will not subject an official to suit.” *Id.* (citation and quotation  
27 marks omitted). Governor Newsom should be dismissed as a party from this suit  
28

1 because Challengers have not pleaded and could not plead facts establishing his  
2 direct role in enforcing Proposition 50.

3 **CONCLUSION**

4 For the foregoing reasons, Challengers' Complaint should be dismissed in its  
5 entirety, and the Governor should be dismissed as a Defendant.

6  
7 Dated: April 24, 2026

Respectfully submitted,

8 ROB BONTA  
9 Attorney General of California  
10 ANYA M. BINSACCA  
11 LARA HADDAD  
12 Supervising Deputy Attorneys General  
13 RYAN EASON  
14 DAVID GREEN  
15 KIANA HEROLD  
16 JENNIFER E. ROSENBERG  
17 Deputy Attorneys General

18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
*/s/ Iram Hasan*  
\_\_\_\_\_  
IRAM HASAN  
Deputy Attorney General  
Attorneys for Defendants California  
Governor Gavin Newsom and  
Secretary of State Shirley Weber



**CERTIFICATE OF COMPLIANCE**

The undersigned, counsel of record for Defendants California Governor Gavin Newsom and Secretary of State Shirley Weber, certifies that this brief contains 9,891 words, which complies with this Court's order (ECF No. 249).

Dated: April 24, 2026

Respectfully submitted,

ROB BONTA  
Attorney General of California  
ANYA M. BINSACCA  
LARA HADDAD  
Supervising Deputy Attorneys General  
RYAN EASON  
DAVID GREEN  
KIANA HEROLD  
JENNIFER E. ROSENBERG  
Deputy Attorneys General

/s/ Iram Hasan  
IRAM HASAN  
Deputy Attorney General  
*Attorneys for Defendants California  
Governor Gavin Newsom and  
Secretary of State Shirley Weber*