

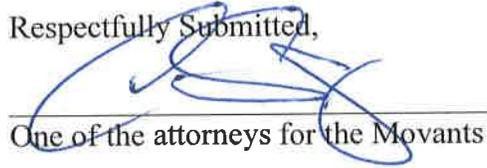
Court pursuant to Article IV, Section 3 of the Illinois Constitution of 1970. In support of said motion, the Movants state as follows:

1. The purpose of a motion to reconsider is to bring to the Court's attention errors in the Court's previous application of existing law, newly discovered evidence or changes in the law. *In re Application of County Collector*, 181 Ill.2d 237, 247 (1998), citing *Kaiser v. MEPC Amer. Properties*, 164 Ill.App.3d 978, 987 (1st Dist. 1987).
2. In summarily denying the Movants' motion for leave without explanation, the majority of this Court misapplied significant applicable court precedent favoring the adjudication of voters' rights over outright dismissal of meritorious claims challenging redistricting plans solely because of their potential effects on impending elections. *Reynolds v. Sims*, 377 U.S. 533, 585 (1964)
3. The denial of Movants' meritorious complaint misapprehended the Supreme Court's crucial constitutional role as the only judicial forum available to any party in challenging a redistricting plan.
4. Since the February 8, 2012 filing of the Movants' motion for leave, Movants have obtained newly discovered evidence from the results of the March 20, 2012 primary election that further demonstrate the lack of political fairness of the challenged Redistricting Plan as alleged in the proposed complaint.
5. In accordance with Supreme Court Rule 361(a), a memorandum in support of this motion and supporting record are attached hereto.

WHEREFORE, Movants respectfully request that this Court reconsider and vacate its June 7th, 2012 Order denying the Movants' request for leave to file an original action, grant the Movants' February 8th, 2012 motion for leave to file an original action and establish an expedited

schedule for the service of process, the submission of evidence, the presentation of the briefs on the merits and any oral argument if requested.

Respectfully Submitted,



One of the attorneys for the Movants

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IN THE SUPREME COURT OF ILLINOIS

THOMAS CROSS, in his official
capacity as Minority Leader of the Illinois House
and individually as a registered voter, et al

Movants,

vs.

ILLINOIS STATE BOARD OF ELECTIONS,
RUPERT BORGS MILLER, Executive
Director of the Illinois State Board of Elections, et al

Respondents.

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) Original Action Under
) Article IV, Section 3(b) of
) the Illinois Constitution of
) 1970
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ORDER

This matter coming to be heard on the Movants' Motion for Reconsideration of the June 7th, 2012 Order denying Movants' Motion for Leave to File a Complaint for Declaratory Relief and Injunctive Relief regarding the redistricting plans for the Illinois House and Illinois Senate pursuant to Supreme Court Rule 382, the Court being fully advised in the premises;

IT IS HEREBY ORDERED

_____ Movants' Motion is Granted.

_____ Movants' Motion is Denied.

JUSTICE

DATE

IN THE SUPREME COURT OF ILLINOIS

THOMAS CROSS, in his official)
capacity as Minority Leader of the Illinois House)
and individually as a registered voter, CHRISTINE)
RADOGNO, in her official capacity as Minority Leader)
of the Illinois Senate, JAMES ORLANDO, individually)
as a registered voter, and CHRISTINE DOLGOPOL)
individually as a registered voter,)

Movants

vs.

ILLINOIS STATE BOARD OF ELECTIONS,)
RUPERT BORGS MILLER, Executive)
Director of the Illinois State Board of Elections,)
HAROLD BYERS, BRYAN A. SCHNEIDER,)
BETTY J. COFFRIN, ERNEST GOWEN, WILLIAM F.)
MCGUFFAGE, JESSE R. SMART, JUDITH C. RICE,)
and CHARLES W. SCHOLZ, all named in their official)
capacities as members of the Illinois State Board)
of Elections and LISA MADIGAN, in her official)
capacity as Attorney General of the State of Illinois)

Respondents.

) Original Action Under
) Article IV, Section 3(b) of
) the Illinois Constitution of
) 1970

FILED

JUL 5 - 2012

**SUPREME COURT
CLERK**

**MOVANTS' MEMORANDUM IN SUPPORT OF THEIR MOTION FOR
RECONSIDERATION OF THE COURT'S JUNE 7, 2012 ORDER DENYING
MOVANT'S MOTION FOR LEAVE TO FILE COMPLAINT UNDER ILLINOIS
SUPREME COURT RULE 382**

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INTRODUCTION

The majority of this Court misapplied significant applicable court precedent in its June 7th Order denying the request of Movants CROSS, ORLANDO and DOLGOPOL (hereinafter “Movants”) for leave to file a complaint challenging the constitutionality of the 2011 redistricting plan for Illinois. The Court’s Order was an error that must be remedied. The imposition of the unconstitutional redistricting plan of 2011 will have comprehensive negative ramifications to Illinois politics and policy for the next decade and beyond. These problems will be visited upon the Movants and the general public without an impartial court hearing on the merits of Movants’ allegations. The June 7th Order precludes Movants’ access to the only judicial forum available to any party in challenging a redistricting plan – a hearing before the Illinois Supreme Court, the exclusive trial court, appellate court and court of last resort in the context of a redistricting challenge. Summary dismissal of Movants’ motion for leave, without an opinion explaining the denial, undermines the transparency of government and repudiates notions of fairness and equity.

STATEMENT OF FACTS

On February 8, 2012, Minority Leader of the Illinois House of Representatives Tom Cross, Minority Leader of the Illinois Senate Christine Radogno, registered voter James Orlando and registered voter Christine Dolgopol (hereinafter “Movants”) filed a Motion For Leave To File An Original Action under Supreme Court Rule 382 (hereinafter “Motion”) and a proposed complaint challenging the constitutionality of Public Act 97-0006, which is the redistricting plan passed by the General Assembly and signed into law by Governor Pat Quinn on June 3, 2011 (hereinafter “Redistricting Plan”). (See Group Exhibit 1, Motion and Brief in Support).

The proposed complaint alleges that the Redistricting Plan, as a whole, as well as specific districts within, violates the requirement in the Illinois Constitution that all legislative and representative districts be “compact.” (See Exhibit 2, Prop. Compl., Count I, pages 11-13). The Movants also allege that the Redistricting Plan will dilute the influence of Republican voters throughout the state in violation of the constitutional guarantee of “political fairness.” (Ex. 2, Prop. Compl., Count II, pages 13-15).

The Movants requested several forms of relief, specifically requesting that this Court enjoin the Respondent Illinois State Board of Elections from conducting any elections under the Redistricting Plan or, in the alternative, within specific districts (Ex. 2, Prop. Compl., Counts I-VIII). The prayers for relief did not limit this request for injunctive relief to the March 20, 2012 primary. *Id.* As Movants noted in their Brief in support of the Motion, “if the Court finds all or some of the Redistricting Plan unconstitutional, but deems it an impossibility to enjoin the March 20, 2012 primary, Movants suggest that a remedy could be provided in time for implementation for the March 2014 primary.” (Ex. 1, Brief, page 12).

On February 21, 2012, the Respondents’ filed a brief opposing the Movants’ motion arguing that it was untimely because it was filed too close in time to the March 2012 primary. (Respondents’ Opposition Brief, page 7). With regard to the Movants’ request for relief applicable to the 2014 primary election and beyond, Respondents argued that it would be too disruptive and burdensome to remedy an unconstitutional Redistricting Plan. (Respondents’ Opposition Brief, pages 13-14).

On March 14, 2012, this Court ordered further briefing from the parties on the issue of timeliness raised in the Respondents’ Brief in Opposition. (March 14, 2012 Order). The briefing schedule set by the Court ordered the Movants to file its opening brief on March 28, 2012, eight

days after the March 2012 primary election of state representatives and state senators under the Redistricting Plan challenged by Movants in their proposed complaint.

After fully briefing the issue of timeliness, this Court issued an order on June 7, 2012 denying the Movants' motion for leave to file an original action under Supreme Court Rule 382. (See Exhibit 3, June 7, 2012 Order). The majority offered no rationale, case law or application of the facts in support of its denial. (Ex. 3). The dissent, authored by Justice Thomas and joined by Justices Garman and Karneier, argued that the doctrine of *laches* did not bar this Court from deciding this important matter of public policy as it relates to elections in 2014 and beyond. (Ex. 2).

ARGUMENT

The purpose of a motion to reconsider is to bring to the Court's attention errors in the Court's previous application of existing law, newly discovered evidence or changes in the law. *In re Application of County Collector*, 181 Ill.2d 237, 247 (1998), citing *Kaiser v. MEPC Amer. Properties*, 164 Ill.App.3d 978, 987 (1st Dist. 1987). The Court's Order dated June 7, 2012 denied Movants' motion for leave to file a complaint in this case without any application of the facts of this matter to any existing case law. The majority of this Court provided no guidance as to the basis or principles underlying the Order placing the Movants in the position of urging the Court to reconsider a final judgment it never explained. Regardless of whether the Court denied the Movants' motion for leave to file a complaint because of the timing of the filing or the merits of the proposed complaint, this Court should grant this motion to reconsider, vacate the June 7, 2012 Order and hear the Movants' case on the merits.

I. The Majority of This Court Misapplied Substantial Precedent Favoring Adjudicating Voters' Rights on the Merits

As the dissent of Justices Thomas, Garman and Karneier notes, the sole issue before the Court was whether the Movants' motion, which requested relief applied to the 2012 primary elections, or any future elections, was barred by the equitable doctrine of *laches*. (Ex. 2).

Assuming that the majority denied the Movants' motion based on the temporal proximity of its filing relative to the March 20, 2012 primary elections, the reasoning fails to follow the clear guidance of the Supreme Court of the United States in the area of redistricting case law.

Reynolds v. Sims, 377 U.S. 533 (1964).

In *Reynolds v. Sims*, the seminal redistricting case discussing the tension between election deadlines and adjudication of voters' rights, the Supreme Court cautioned reviewing courts against outright dismissal of meritorious claims solely because of their potential effects on impending elections. *Reynolds v. Sims*, 377 U.S. 533, 585 (1964). The Supreme Court stated that while a reviewing court might be justified in allowing one election cycle to go forward under an allegedly unconstitutional apportionment plan, "it would be an unusual case in which a court would be justified in not taking appropriate action to insure that *no further elections are conducted under an invalid plan*." *Id.* (emphases added).

Many courts, both in this state and others have followed the *Reynolds* precedent when faced with a challenge to a redistricting scheme so close in time to an impending election. In *Martin v. Soucie*, for example, the trial court barred by reason of *laches* a meritorious complaint challenging the compactness of the redistricting plan for county board districts in Kankakee County. *Martin v. Soucie*, 109 Ill.App.3d 731, 732-736 (3rd Dist. 1982). The Appellate Court reversed, stating that the doctrine of *laches*, "applies *only* to the relief requested for the [first] election [under the challenged plan]." *Id.* (emphasis added). The Appellate Court ultimately

concluded that despite the problems posed by timing of the lawsuit so close to the impending election, it “could not countenance any further elections pursuant to that map” and must decide the case on the merits. *Id.*

In a recent case, the Supreme Court of Ohio barred a challenge to a redistricting plan as applied to the imminent 2012 elections, but noted that *laches* does not bar claims applicable to elections to be held during the remainder of the decade that could be affected by the allegedly unconstitutional plan. *Wilson v. Kasich*, 2012 WL 592541, at *1, *1-*3 (Ohio, February 17, 2012) (citing *Reynolds* and *Martin*). Other courts have followed this same equitable principle when faced with a challenge to a redistricting plan near the time of an impending election. *See e.g. Kelley v. Bennett*, 96 F.Supp.2d 1301, 1305 (M.D. Ala. 2000) (denying defendant’s laches claim, finding that “it did not matter when the plaintiffs sued, as long as it was in time for the [next] election.”); *Smith v. Beasley*, 946 F.Supp. 1174, 1212 (D.S.C. 1996) (allowing the ongoing election to go forward, but finding the plaintiffs were “entitled to have their rights vindicated as soon as possible so that they can vote for their representatives under a constitutional apportionment plan.”); *Dillard v. Crenshaw County*, 640 F. Supp. 1347, 1362 (M.D. Ala. 1986) (declining to enjoin pending election, but holding that the defendants’ unlawful districting plan “must be eliminated as soon as possible” and ordering a revised districting plan by January 1 of the following year).

Although the exact reasoning is unknown, the June 7th Order of the majority of this Court defies the ample precedent stemming from *Reynolds* by ordering outright dismissal rather than ensuring that the voting rights of the Movants, as well as all voters affected by the pervasive lack of compactness and political fairness of the Redistricting Plan, are vindicated in due course. Neither the majority of this Court in its June 7, 2012 Order nor the Respondents in their response

brief cited to a single court decision by this Court or any other in support of the holding that equitable doctrine of *laches* bars meritorious challenges to redistricting plans as applied to future elections. In fact, as demonstrated above, courts reviewing redistricting challenges filed too close to an impending election have permitted that election to be completed under a potentially unconstitutional redistricting plan, while still allowing a contemporaneous challenge to the plan and enjoining subsequent elections from being held under the unconstitutional plan.

If the majority's rationale for denying the Movants' meritorious claims without a hearing is the application of the equitable doctrine of *laches* to future elections, it has misapplied existing law by failing to note any potential prejudice to the Respondents or anyone else that would result if the 2014 election were implemented under a new redistricting plan. Unreasonable delay *and* prejudice to the opposing party arising from the delay are necessary prerequisites to a finding that *laches* applies to a particular case. *Tully v. State*, 143 Ill.2d 425, 432 (1991). As the appellate court noted in *Martin*, election officials are not prejudiced by being put on notice of the unlawfulness of a redistricting plan almost two years ahead of the election sought to be enjoined. 103 Ill.App.3d at 736. Material, not speculative, prejudice must result for the court to grant the affirmative defense of *laches*. *Martin*, 109 Ill.App.3d at 732-733. The Movants' claims should not be barred merely because the Respondents do not savor the prospect of having to fix an unconstitutional redistricting plan.

Applying a remedy to the 2014 elections would be the most expeditious way to provide the Movants with relief without causing substantial disruption to the public, candidates and election authorities. Potential candidates and incumbent legislators for the new districts would have sufficient time to determine whether to bear the expense of mounting a campaign. The public would have ample time to discern the candidates running in the new district(s). Movants'

requested relief would be less prejudicial than the potential and real relief this Court has proposed in the past. *See People ex rel. Burris v. Ryan*, 147 Ill.2d 270, 288 (1991) (acknowledging that if legislature does not timely approve a map, the court will declare an at-large election, “leaving the redistricting map for another day.”); *see also Schrage v. State Bd. Of Elections*, 88 Ill.2d 87, 108-109 (1981) (ordering the re-drawing of two districts less than four months prior to the primary election).

This majority’s Order denying Movants’ request for leave to file reflects a misapplication of the affirmative defense of *laches*. The foregoing *laches* precedent illustrates the error. The only remedy for this misapplication of *laches* is for this Court to grant of Movants leave to file a complaint challenging the constitutionality of the current Illinois redistricting plan. Given the lack of reasoning in the majority’s Order of June 7th and the uniformity of case law addressing the issue of timeliness in the filing of redistricting challenges, it is clear that this Court misapprehended the law governing the timeliness of Movants’ challenge to the current Illinois redistricting plan. Given the error, Movants respectfully request this Court grant their motion to reconsider, vacate the June 7, 2012 Order and address the Movants’ allegations on the merits.

II. The Majority of This Court Misapprehended Its Essential Role as the Court of Last Resort for Voters’ Rights

This Court has the right and duty to review a Redistricting Plan to determine if it violates the clear requirements of the Illinois Constitution of 1970. *Donovan, et al v. Holzman, et al*, 8 Ill.2d 87, 93 (1956); ILL. CONST. 1970 ART. IV, §3(b). The constitutional requirements of compactness, contiguity and equality of population “cannot be ignored in redistricting the state.” *Schrage v. State Bd. of Elections*, 88 Ill.2d 87, 96 (1981); *People ex rel Woodyatt v. Thompson*, 155 Ill. 451, 464 (1895). Likewise, the Illinois Constitution of 1970 also requires that Redistricting Plans meet all legal requirements of “political fairness.” *Cole-Randazzo, et al v.*

Ryan, 198 Ill.2d 233, 236 (2001). In *People ex rel Burris v. Ryan I*, the majority noted that this section of the Illinois Constitution has been interpreted by this Court as assuring that a Redistricting Plan “must not accomplish political gerrymandering.” 147 Ill. 2d 270, 281 (1992).

This Court is the only forum in the state in which litigants can test whether the constitutional requirements of compactness and political fairness are universally applied throughout the Redistricting Plan. *Schrage*, 88 Ill.2d at 96; ILL. CONST. 1970 ART. IV, §3(b). Since the framers of the Illinois Constitution of 1970 established the new procedure for developing Redistricting Plans, this Court has been asked to intervene in some of the most partisan battles in the General Assembly’s history. In *People v. Grivetti*, the Court was asked to consider whether the legislative leaders may appoint themselves and their chiefs of staff to the Legislative Redistricting Commission that draws the Redistricting Plan in the event of a legislative deadlock. *People v. Grivetti*, 50 Ill.2d 156 (1971). In *Schrage*, this Court enforced the constitutional requirement of compactness by invalidating a tortured and elongated district in central Illinois. *Schrage*, 88 Ill.2d at 94. In the *People v. Ryan* cases in the early 1990s, the Court intervened into the Commission process, demanding that parties unlock the veil of secrecy surrounding the proceedings. *People ex rel Burris v. Ryan I and II*, 147 Ill.2d 270. During the 2000 redistricting cycle, this Court entertained 14 different challenges to the Redistricting Plan put forth by the Redistricting Commission. *Cole-Randazzo* 198 Ill.2d 233; *Beaubien v. Ryan*, 198 Ill.2d 294 (2001). In each of the cases, the Court waded into the turbulent political waters of redistricting despite the pressure of impending election deadlines and partisan rancor.

The allegations in the Movants’ proposed complaint once again lay before the Court the crucial task of determining whether the Redistricting Plan and the process by which it was passed, meet the requirements of the Illinois Constitution of 1970. For the first time since the

1970 Constitution, one political party has enjoyed majority dominance over every branch of government involved in the redistricting process. As the Movants alleged in their proposed complaint, this one-party dominance yielded a Redistricting Plan in which nearly a quarter of all Representative and Legislative Districts fail to comply with constitutional requirement for compactness. (Ex.2, Prop. Complt., pages 11-12, paras. 68-69). Movants have also alleged that the Redistricting Plan unfairly advantages the majority party, with likely Democratic voters constituting a majority of 70% of the districts while likely Republican voters constitute a majority in only 30% of districts. (Ex. 2, Prop. Complt., pages 13-14, paras. 82-83). In addition, Movants have also alleged that the process by which the majority party ushered the Redistricting Plan through the General Assembly thwarted any type of meaningful review by the minority party or the general public. (Ex. 2, Prop. Complt, pages 5-11). Left unchecked, this unconstitutional Redistricting Plan will serve as a blueprint for any party that enjoys, and wants to entrench, majority dominance during the redistricting cycle and beyond. While this Court may not prefer to venture into this contentious territory, its constitutional role as the sole neutral and deliberative body demands that it grant plenary review in this case in order to guarantee equal voting rights for all voters of Illinois.

III. Movants Have Obtained Newly Discovered Evidence Since the February 8, 2012 Motion That Further Demonstrates the Lack of Political Fairness of the Redistricting Plan.

If this Court denied the Movants' motion based on the merits of proposed complaint, then Movants request that the Court reconsider the June 7, 2012 in light of newly discovered evidence not available at the time of Movants' February 8, 2012 Motion. *In re Application of County Collector*, 181 Ill.2d at 247, citing *Kaiser*, 164 Ill.App.3d at 987. The Movants' proposed complaint, filed on February 8, 2012, contained allegations that the Redistricting Plan is not

politically fair as required by the Illinois Constitution. (Ex. 2, Prop. Complt.). Movants' allegations were based on the findings of Professor Trey Hood. (See Exhibit 4, Supplemental Expert Report of Professor Trey Hood). As Professor Hood demonstrates in his Expert Report and as alleged in the proposed complaint, the Redistricting Plan unfairly favors the Democratic Party candidates by providing them with over 50% likely Democratic voters in 70% of the representative districts. (Ex. 4, pages 7-14). Professor Hood identified likely Democratic and Republican voters by creating a statistical model of partisanship based on the real results from seventeen different statewide elections from 2004 through 2010. (Ex. 4, page 8, FN 6). He then aggregated those election results into the specific representative district lines created by the Redistricting Plan. (Ex. 4, pages 7-14). By aggregating this data into the specific districts within the Redistricting Plan, Professor Hood identified likely Democratic or Republican voters within each district and predicted what percentage of the voting population consisted of those voters. (Ex. 4, pages 7-14).

As the Movants prepared this Court's requested briefs on the issue of timeliness, they asked Professor Hood to apply his statistical model of partisanship analysis to the election results of the March 20, 2012 primary in anticipation of this Court granting Movants' motion for leave to file a meritorious complaint. After reviewing the primary election results, Professor Hood found that only 39 representative districts feature a contested contest between a Republican and Democratic candidate. (Ex. 4, pages 14-19). Of these 39 contested races, 11 are open seats meaning that no Democratic or Republican incumbent is on the ballot and 28 feature at least one Democratic or Republican incumbent on the ballot. (Ex. 4, pages 15-16). In the 15 representative districts in which a Democratic incumbent faces a Republican challenger, likely Democratic voters make up 55% or more of the possible voters in 14 of the districts and between

50% and 55% in the remaining district. (Ex. 4, pages 15-16). In the 12 representative districts in which a Republican incumbent faces a Democratic challenger, the Republican incumbents will face a majority of likely Democratic voters in 9 of those districts. (Ex. 4, pages 15-16). In Representative District 59, which is the only district in which a Democratic and Republican incumbent will challenge each other, likely Democratic voters make up over 60% of potential voters. (Ex. 4, pages 15-16). Of the 11 open seats, 72% will feature safe Democratic majorities of over 55% of the vote share. (Ex. 4, pages 15-16).

Based on the results of the March 20, 2012 primary election, Professor Hood predicts that the Redistricting Plan will provide the Democratic Party 70 to 76 seats in the Illinois House of Representatives after the November 2012 election (Ex. 4, page 17). As Professor Hood notes, this “conservative” estimate of 70 to 76 members would give the Democratic Party disproportionate control of the House of Representatives, especially in light of the recent 2010 gubernatorial and U.S. Senate elections which reveal a close partisan divide in the state. (Ex. 4, page 17).

Professor Hood’s newly discovered post-primary findings amplify the extent to which the Democratic Party engineered a Redistricting Plan that sustains their majority dominance in the House of Representatives for the next decade and beyond in violation of the constitutional requirements for “political fairness.” *Cole-Randazzo*, 198 Ill. 2d at 236. By denying the Movants’ motion for leave to file a complaint challenging the political fairness of the Redistricting Plan, this Court has abdicated its duty as sole guardian against the type of political gerrymandering found in this Redistricting Plan. In *Ryan II*, Justice Clark advocated in his dissent that this Court should ensure that any redistricting plan does not artificially narrow a voter’s choices. *Ryan II*, 147 Ill. 2d at 307. Justice Clark further cautioned this Court to guard

against a redistricting plan that “may ensure a political party’s dominance of a legislative body for a decade or more, but [] does not ensure that a citizen’s right to elect officials who will represent him effectively.” *Id.*

In light of this newly discovered evidence, the Movants respectfully request that this Court follow the clear guidance from *Reynolds* and grant Movants’ motion to reconsider, vacate the June 7, 2012 order and ensure that no further elections are held under this unconstitutional plan. *Reynolds v. Sims*, 377 U.S. 533, 585 (1964).

CONCLUSION

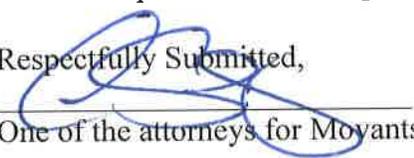
This Court’s June 7th Order denying Movants’ request for leave to file a complaint challenging the constitutionality of the 2011 redistricting plan for Illinois fails to reflect the clear precedent on the issues of timeliness and *laches*. Without a hearing on Movant’s challenge to the unconstitutional redistricting plan of 2011, the sole impartial forum for that challenge is foreclosed. Original matters entrusted to the exclusive jurisdiction of the state’s highest court should not be disposed of by summary disposition, especially when such fundamental underlying rights are at stake.

WHEREFORE, Movants respectfully request that this Honorable Court grant their motion to reconsider, vacate this Court’s June 7, 2012 Order, grant Movants’ Motion for Leave to File a Complaint under Supreme Court Rule 382 and proceed to hearing on the merits.

Dated:

July 3, 2012

Respectfully Submitted,


One of the attorneys for Movants

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IN THE SUPREME COURT OF ILLINOIS

THOMAS CROSS, in his official)
capacity as Minority Leader of the Illinois House)
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Movants,) Original Action Under
) Article IV, Section 3(b) of
vs.) the Illinois Constitution of
) 1970
ILLINOIS STATE BOARD OF ELECTIONS, et al)
)
)
Respondents.)

AFFIDAVIT OF SUPPORTING RECORD

1. I, Andrew Sperry, am one of the attorneys for the Movants in the above-referenced matter.

2. Pursuant to Supreme Court Rule 328, I hereby attest that the exhibits 1-4 attached to Movants' Memorandum in Support of Movants' Motion for Reconsideration of the Court's June 7, 2012 Order Denying Movants' Motion for Leave to File Complaint Under Illinois Supreme Court Rule 382 are true and correct.

The affiant further sayeth not.

 July 3, 2012

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Chicago, IL 60601
One of the Attorneys for the Movants

TABLE OF CONTENTS

- EXHIBIT 1** - Motion for Leave to File Complaint for Declaratory Judgment and Injunctive Relief Pursuant to Supreme Court Rule 382 and Supporting Memorandum
- EXHIBIT 2** - Complaint for Declaratory Judgment and Injunctive Relief Regarding the Redistricting Plans for the Illinois House of Representatives and the Illinois Senate
- EXHIBIT 3** - June 7, 2012 Order
- EXHIBIT 4** - Supplemental Expert Report of Professor M.V. (Trey) Hood III, Associate Professor, University of Georgia, Department of Political Science, dated April 16, 2012

EXHIBIT 1

Supreme Court pursuant to Article IV, Section 3 of the Illinois Constitution of 1970 and in support thereof state as follows:

1. This motion seeks leave to file a complaint for declaratory judgment and injunctive relief pursuant to Article IV, Section 3 of the Illinois Constitution of the 1970, as amended, to declare unconstitutional Public Act 97-006, which is the redistricting plan for election of members to the Illinois General Assembly signed into law by Governor Patrick Quinn on June 3, 2011 (hereinafter "Redistricting Plan").
2. The Movant, THOMAS CROSS, is a state representative from the 84th Representative District, a citizen of the United States resident and a duly registered voter residing in Kendall County, Illinois. Mr. Cross is also the Minority Leader of the Illinois House of Representatives, vested by Article IV, Section 6(c) of the Illinois Constitution of 1970 with the duty to promote and express the views, ideas and principles of the House Minority Republican Caucus in the 97th General Assembly and of Republicans in every Legislative and Representative District throughout the state of Illinois.
3. The Movant, CHRISTINE RADOGNO, is a state senator from the 41st Legislative District, a citizen of the United States, and a duly registered voter residing in Cook County, Illinois. Ms. Radogno is also the Minority Leader of the Illinois Senate, vested by Article IV, Section 6(c) of the Illinois Constitution of 1970 with the duty to promote and express the views, ideas and principles of the Senate Minority Republican Caucus in the 97th General Assembly and of

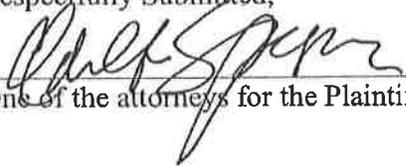
Republicans in every Legislative and Representative District throughout the state of Illinois.

4. The Movant, JAMES ORLANDO, is a Republican registered voter residing in the state of Illinois in Cook County within the boundaries of Representative District 35 of the Redistricting Plan.
5. The Movant, CHRISTINE DOLGOPOL is a Republican registered voter residing in the state of Illinois in Cook County within the boundaries of Representative District 59 and Legislative District 30 of the Redistricting Plan.
6. The proposed complaint asserts that the Redistricting Plan as a whole violates the requirements under the Illinois Constitution of 1970 that all Legislative and Representative District be “compact” and meet all legal requirements for “political fairness.”
7. The proposed complaint also asserts that Representative Districts 35 and 59 and Legislative District 30 violate the requirements under the Illinois Constitution of 1970 that all Legislative and Representative Districts be “compact” and meet all legal requirements for “political fairness.”
8. For reasons set forth more fully in the attached brief in support of this motion, the Movants assert that the failure of the Redistricting Plan to adhere to the constitutional requirements for compactness and “political fairness” adversely affects their rights and the rights of all voters in the state of Illinois to fair and equal representation in the General Assembly.
9. Movants respectfully request that this Court consider this motion and the complaint for declaratory judgment and injunctive relief on an expedited basis.

10. In accordance with Supreme Court 382(a), a brief in support of this motion and a complaint for declaratory judgment is attached herewith.

WHEREFORE, Movants respectfully request that this Court grant them leave to proceed as plaintiffs in this original action and that the Court establish an expedited schedule for the service of process, the submission of evidence, the presentation of the briefs on the merits and any oral argument if requested.

Respectfully Submitted,


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) Original Action Under
) Article IV, Section 3(b) of
) the Illinois Constitution of
) 1970
)
)
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)
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)
)

ORDER

This matter coming to be heard on the Petitioners' Motion for Leave to File a
Complaint for Declaratory Relief and Injunctive Relief regarding the redistricting plans
for the Illinois House and Illinois Senate pursuant to Supreme Court Rule 382, the Court
being fully advised in the premises and having jurisdiction over the subject matter,

IT IS HEREBY ORDERED

_____ Petitioners' Motion is Granted

_____ Petitioners' Motion is Denied

JUSTICE

DATE

IN THE SUPREME COURT OF ILLINOIS

THOMAS CROSS, in his official)
capacity as Minority Leader of the Illinois House)
and individually as a registered voter, CHRISTINE)
RADOGNO, in her official capacity as Minority Leader)
of the Illinois Senate, JAMES ORLANDO, individually)
as a registered voter, and CHRISTINE DOLGOPOL)
individually as a registered voter,)
)
Movants,) Original Action Under
) Article IV, Section 3(b) of
vs.) the Illinois Constitution of
) 1970
ILLINOIS STATE BOARD OF ELECTIONS,)
RUPERT BORGS MILLER, Executive)
Director of the Illinois State Board of Elections,)
HAROLD BYERS, BRYAN A. SCHNEIDER,)
BETTY J. COFFRIN, ERNEST GOWEN, WILLIAM F.)
MCGUFFAGE, JESSE R. SMART, JUDITH C. RICE,)
and CHARLES W. SCHOLZ, all named in their official)
capacities as members of the Illinois State Board)
of Elections and LISA MADIGAN, in her official)
capacity as Attorney General of the State of Illinois)
)
Respondents.)

**BRIEF IN SUPPORT OF MOTION FOR LEAVE
TO FILE COMPLAINT FOR DECLARATORY
JUDGMENT AND INJUNCTIVE RELIEF**

POINTS AND AUTHORITIES

**THIS COURT SHOULD GRANT LEAVE TO FILE A COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF WHERE THE PROPOSED
COMPLAINT CHALLENGES THE CONSTITUTIONALITY OF
A REDISTRICTING PLAN FOR THE ILLINOIS HOUSE OF
REPRESENTATIVES AND SENATE..... 6**

Ill. Const. Art. IV, Section 3 (1970)..... 6

Cole-Randazzo. v. Ryan, 198 Ill.2d. 233, 762 N.E.2d 485 (Ill. 2001)..... 6

People ex rel. Burris v. Ryan, 147 Ill.2d 270, 588 N.E.2d 1023 (Ill. 1991)..... 6

Schrage v. State Board of Elections, 88 Ill.2d 87, 430 N.E.2d 483 (Ill. 1981)..... 6

People ex rel. Scott v. Grivetti, 50 Ill.2d 156, 277 N.E.2d 881 (Ill. 1971)..... 6

I. This matter is ripe for adjudication.

735 ILCS 5/2-701(a) (2000)..... 6

Beahringer v. Page, 204 Ill.2d 363, 789 N.E.2d 1216 (Ill. 2003)..... 7

II. Individuals, other than the Attorney General, may bring original actions concerning redistricting of the House and Senate before this Court.

Ill. Const. Art. IV, Section 3 (1970)..... 7

Schrage v. State Board of Elections, 88 Ill.2d 87, 430 N.E.2d 483 (Ill. 1981)..... 7

4 Record of Proceedings, Sixth Constitutional Convention (1970)..... 7

5 Record of Proceedings, Sixth Constitutional Convention (1970)..... 7

Ill. Const. Art. IV, Section 6(c) (1970)..... 8

NATURE OF THE ACTION

This matter comes before the Court on plaintiffs' motion for leave to file a complaint for declaratory and injunctive relief, pursuant to Article IV, Section 3 of the Illinois Constitution of 1970, to declare the Public Act 97-0006, which is the redistricting plan for election of members to the Illinois General Assembly signed into law by Governor Patrick Quinn on June 3, 2011, (hereinafter "Redistricting Plan") unconstitutional.

ISSUES PRESENTED

Whether leave to file a complaint for declaratory and injunctive relief should be granted where the proposed complaint raises the following issues:

1. Whether the Redistricting Plan violates the requirement of Article IV, Section 3 of the Illinois Constitution of 1970 that all Representative and Legislative Districts be "compact."
2. Whether the Redistricting Plan violates the constitutional requirement of "political fairness."
3. Whether Representative Districts 35 and 59 and Legislative District 30 violate the requirement of Article IV, Section 3 of the Illinois Constitution of 1970 that all Representative and Legislative Districts be "compact."
4. Whether Representative Districts 35 and 59 and Legislative District 30 violate for the constitutional requirement of "political fairness."

CONSTITUTIONAL PROVISIONS INVOLVED

Illinois Constitution, Art. IV, Section 3 (1970), as amended:

- (a) Legislative Districts shall be compact, contiguous and substantially equal in population. Representative Districts shall be compact, contiguous, and substantially equal in population.
- (b) In the year following each Federal decennial census year, the General Assembly by law shall redistrict the Legislative Districts and the Representative Districts .

* * *

The Supreme Court shall have original and exclusive jurisdiction over actions concerning redistricting the House and Senate, which shall be initiated in the name of the People of the State by the Attorney General.

STATEMENT OF FACTS

A. Legislative Proceedings

In 2010, the United States Census Bureau conducted its federal decennial census. The Illinois Constitution provides that “in the year following each Federal decennial census year, the General Assembly by law shall redistrict the Legislative and the Representative Districts.” IL CONST., Art. IV, Sec. 3(b). The Senate formed the Senate Redistricting Committee (hereinafter “SRC”) which was composed of 17 state senators: 11 from the Democratic majority and six from the Republican minority. The House of Representatives formed the House Redistricting Committee (hereinafter “HRC”) which was composed of 11 state representatives: six from the Democratic majority and five from the Republican minority.

From March 28, 2011 to April 30, 2011, the SRC conducted public hearings for the purpose of gathering public input. Over nine days in April, 2011, the HRC conducted public hearings for the purpose of gathering public input.

On May 26, 2011, state representative Barbara Flynn Currie filed House Amendment #2 to Senate Bill 1177 which purported to be a new redistricting plan for the Legislative and Representative Districts.

House Amendment #2 to Senate Bill 1177 stated: "For purposes of legislative intent, the General Assembly adopts and incorporates herein, as if fully set forth, the provisions of House Resolution 385 of the Ninety-Seventh General Assembly and Senate Resolution 249 of the Ninety-Seventh General Assembly."

On May 27, 2011, the Democratic majority in the Illinois House of Representatives passed House Amendment #2 to Senate Bill 1177 by a vote of 64-52. After the passage of House Amendment #2 to Senate Bill 1177, House Resolution 385 was called for a vote before the Illinois House of Representatives. The Democratic majority in the Illinois House of Representatives passed House Resolution 385 by a vote of 64-52.

On May 27, 2011, the Democratic majority in the Illinois Senate voted to concur with House Amendment #2 to Senate Bill 1177 by a margin of 35-22. Shortly after passage of the House Amendment #2 to Senate Bill 1177, the Democratic majority adopted Senate Amendment #1 to Senate Resolution 249 by a vote of 35-22. On June 3, 2011, Governor Pat Quinn signed House Amendment #2 to Senate 1177 into law. Public Act 97-0006 became effective on June 3, 2011.

B. Federal Litigation

Radogno, et al v. Illinois State Board of Elections, et al., No. 11C4884 (N.D.Ill. 2011)

On July 20, 2011, a lawsuit was filed in federal court by Christine Radogno, in her official capacity as Minority Leader of the Illinois Senate, Thomas Cross, in his

official capacity as Minority Leader of the Illinois House of Representatives, Adam Brown, in his official capacity as a state representative from the 101st Representative District and individually as registered voters, Veronica Vera, Chole Moore, Joe Trevino and Angel Garcia (“Radogno Plaintiffs”) challenging the constitutionality of the Redistricting Plan. On December 7, 2011, the case was dismissed when summary judgment was granted in favor of the defendants. The matter is currently being appealed to the United States Supreme Court. All state law claims raised in this lawsuit were previously dismissed without prejudice to being raised in this Court.

ARGUMENT

THIS COURT SHOULD GRANT LEAVE TO FILE A COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF WHERE THE PROPOSED COMPLAINT CHALLENGES THE CONSTITUTIONALITY OF A REDISTRICTING PLAN FOR THE ILLINOIS HOUSE OF REPRESENTATIVES AND SENATE

This Court has original and exclusive jurisdiction over actions concerning redistricting of the Illinois House and Senate. Ill. Const. Art. IV, Section 3 (1970), as amended. See Cole-Randazzo v. Ryan, 198 Ill.2d. 233, 762 N.E.2d 485 (Ill. 2001); People ex rel. Burris v. Ryan, 147 Ill.2d 270, 588 N.E.2d 1023 (Ill. 1991); Schrage v. State Board of Elections, 88 Ill.2d 87, 430 N.E.2d 483 (Ill. 1981); People ex rel. Scott v. Grivetti, 50 Ill.2d 156, 277 N.E.2d 881 (Ill. 1971).

I. This matter is ripe for adjudication.

A declaratory judgment may be entered only in cases where an actual controversy exists. 735 ILCS 5/2-701(a) (2000). Furthermore, this Court requires a “showing that the underlying facts and issue . . . are not moot or premature with the result that a court passes judgment upon a more abstract proposition of law, renders an advisory opinion, or

gives legal advice concerning future events.” Beahringer v. Page, 204 Ill.2d 363, 374-375, 789 N.E.2d 1216 , 1224 (Ill. 2003).

The Redistricting Plan became effective on June 3, 2011. Primary elections for state representative and state senator to the General Assembly are scheduled to occur on March 20, 2012. Movants contend that the Redistricting Plan and specific Representative and Legislative District within are unconstitutional because they fail to comport with the mandates of the Illinois Constitution of 1970 regarding compactness and political fairness. Given the imminent primary elections and the granting of summary judgment in the federal litigation, these matters are now ripe for adjudication.

II. Individuals, other than the Attorney General, may bring original actions concerning redistricting of the House and Senate before this Court.

It is well-established that an individual registered voter or a public official within the state of Illinois may initiate actions concerning redistricting before this Court. See Cole-Randazzo, 198 Ill.2d at 235 (entertaining a challenge to the 2001 redistricting plan brought by three voters); Schrage, 88 Ill.2d at 91 (entertaining a challenge to the 1981 redistricting plan brought by the clerk of Adams County and a candidate for the General Assembly). This understanding is reflected in the legislative history of the 1970 Constitution: the drafters of the Constitution emphasized that individuals, as well as the Attorney General, would be allowed to bring claims before this Court in matters concerning redistricting. See 4 Record of Proceedings, Sixth Constitutional Convention 2976 (remarks of Delegate Netsch); 5 Record of Proceedings, Sixth Constitutional Convention 4337 (remarks of Delegate Lewis).

Movant Thomas Cross is an individual citizen of the State of Illinois as well as a state representative from the 84th Representative District, a citizen of the United States

and of the State of Illinois and a duly registered voter residing in Kendall County, Illinois. Mr. Cross is also the Minority Leader of the Illinois House of Representatives, vested by Article IV, Section 6(c) of the Illinois Constitution of 1970 with the duty to promote and express the views, ideas and principles of the House Minority Republican caucus in the 97th General Assembly and of Republicans in every Legislative and Representative District throughout the state of Illinois.

Movant Christine Radogno is an individual citizen of the State of Illinois as well as a state senator from the 41st Legislative District, a citizen of the United States and of the State of Illinois, and a duly registered voter residing in Cook County, Illinois. Ms. Radogno is also the Minority Leader of the Illinois Senate, vested by Article IV, Section 6(c) of the Illinois Constitution of 1970 with the duty to promote and express the views, ideas and principles of the Senate Minority Republican caucus in the 97th General Assembly and of Republicans in every Representative and Legislative District throughout the state of Illinois.

Movant James Orlando is a citizen of the state of Illinois and a duly registered voter residing in Cook County, Illinois within the boundaries of Representative District 35 of the Redistricting Plan.

Movant Christine Dolgopol is a citizen of the state of Illinois and a duly registered voter residing in Cook County, Illinois within the boundaries of Representative District 59 and Legislative District 30 of the Redistricting Plan.

All Movants are proper parties to seek leave to file a complaint with this Court. Each of the Movants has a legal tangible interest that is affected by the failure of the

Redistricting Plan to comply with the constitutional requirements that all Representative and Legislative Districts be compact and politically fair.

III. The Redistricting Plan Fails to Comply with the Constitutional Requirements that Representative and Legislative Districts be Compact and Politically Fair.

This original action challenges the constitutionality of the Redistricting Plan passed by the Democratic majority in the General Assembly and signed into law by the Democratic Governor Patrick J. Quinn. (See Proposed Complaint). Movants allege that the entire Redistricting Plan violates the Illinois Constitution of 1970 regarding compactness and political fairness. (Prop. Compl., Counts I and II). Movants also allege that Representative Districts 35 and 59 and Legislative District 30 violate the Illinois Constitution of 1970 regarding compactness and political fairness. (Prop. Compl. Counts III-VIII).

With regard to the compactness, Movants allege the Redistricting Plan passed by the General Assembly in 2011 is far less compact on the whole than the maps of Legislative and Representative Districts for the General Assembly enacted in 2001 and 1991. (Prop. Compl., Count I, ¶67). In fact, Movants allege that 27 Representative Districts and 14 Legislative Districts within the Redistricting Plan fail to comply with the constitutional requirement that all Representative Districts be “compact.” (Prop. Compl., Count I, ¶68, 69). Many of these non-compact districts needlessly fracture a significant amount of counties, municipalities and townships throughout the state. (Prop. Compl., Count I, ¶70). This systematic and pervasive lack of compactness burdens Movants Radogno’s and Cross’ ability to carry out their constitutionally prescribed duty of representing the interests of their caucuses and Republican voters throughout the state of

Illinois. (Prop. Compl., Count, ¶73). It also unduly affects Movants Orlando and Dolgopol's ability to communicate effectively with their elected state representatives and state senators. (Prop. Compl., Count I, ¶74).

Movant James Orlando, who is a duly registered voter within the boundaries of Representative District 35 ("RD 35") specifically alleges that RD 35 is a particularly egregious example of the Plan's failure to adhere to the constitutional requirement that all districts be "compact." (Prop. Compl., Count III, ¶¶93,94). RD 35 stretches 13 miles from the City of Chicago to westward to suburban Cook County fracturing six different municipalities and other recognizable communities of interest. (Prop. Compl., Count III, ¶¶95-97). Movant Orlando also alleges that tortured, elongated shape of RD 35 dilutes his ability to elect Republican candidates of his choice. (Prop. Compl., Count IV, ¶104).

Movant Christine Dolgopol, who is a duly registered voter within the boundaries of Representative District 59 and Legislative District 30 of the Redistricting Plan, also alleges that these Districts fail to meet the constitutional requirements for compactness and political fairness. (Prop. Compl., Counts V-VIII). Movant Dolgopol alleges that Representative District 59 is a bizarrely shaped district that expands from the northern edge of Cook County 16 miles into Lake County. (Prop. Compl., Count V, ¶107-109). At its narrowest point, Representative District 59 is only one-half mile. (Prop. Compl., Count V, ¶110). Movant Dolgopol also alleges that Legislative District 30, which encompasses Representative District 59 and 60, is shaped like an hourglass and fractures 12 different municipalities and other recognizable communities of interest. (Prop. Compl., Count VII, ¶121-125). Due to their bizarre shapes, Movant Dolgopol alleges, both Representative District 59 and Legislative District 30 inhibit her ability to elect

Republican candidates of choice to the General Assembly. (Prop. Compl., Counts VI, VIII).

Lastly, all Movants allege that the Redistricting Plan as a whole fails to meet all legal requirements for political fairness by deliberately enhancing the partisan advantage of Democratic candidates to the General Assembly at the expense of Republican voters. (Prop. Compl., Count II). Movants allege the Redistricting Plan, which was drawn by and passed by the Democratic majorities in the Illinois House and Senate creates as many as 82 out of 118 Representative Districts in which likely Democratic voters consist of 50% or more of the voters. (Prop. Compl., Count II, ¶¶19-64, 82). By contrast, Plaintiffs allege that only 36 of the 118 Representative Districts contain 50% or more likely Republican voters. (Prop. Compl., Count II, ¶83). The Democratic incumbent legislators who crafted the Redistricting Plan also protected their districts by retaining on average nearly two-thirds of the constituency from their previous district whereas Republican incumbents retained on average only 55% of their previous constituents. (Prop. Compl., Count II, ¶80, 81). The systematic and pervasive lack of political fairness of the Representative and Legislative Districts in Redistricting Plan unfairly burdens Movants Cross' and Radogno's ability to carry out their constitutionally prescribed duties as Minority Leaders of their respective caucuses. (Prop. Compl., Count II, ¶89). It also impermissibly affects Movants Orlando's and Dolgopol's ability to elect Republican candidates to the General Assembly. (Prop. Compl., Count II, ¶90).

For relief, the Movants request that this Court declare all or some of the Redistricting Plan unconstitutional, enjoin the Illinois Board of Elections from conducting elections under this Plan and either adopt the Movants' alternative plans or

appoint a Special Master to develop of alternative plan. (Prop. Complt., Counts I-VIII).
Movants are cognizant of the logistical and financial hardship that could result from
enjoining the approaching March 20, 2012 primary for candidates in the General
Assembly. If this Court finds all or some of the Redistricting Plan unconstitutional, but
deems it an impossibility to enjoin the March 20, 2012 primary, Movants suggest that a
remedy could be provided in time for implementation for the March 2014 primary.

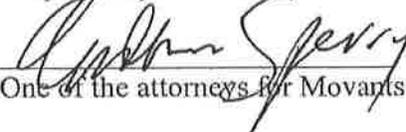
If this Court grants the Movants' motion for leave to file this original action, it
will support each of the allegations within the Complaint with expert affidavits and other
supporting material as well as alternative configurations of the challenged plan and
specific districts that comply with the constitutional requirements for compactness and
political fairness.

CONCLUSION

For the foregoing reasons, Movants respectfully request that this Court grant them
leave to file their complaint for declaratory judgment and injunctive relief.

Dated: 2/8/12

Respectfully Submitted,


One of the attorneys for Movants

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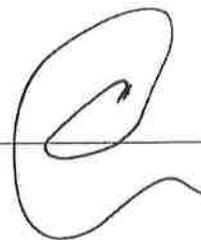
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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(h)(1) cover, the 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a) is 10 pages.

By One of the Attorneys

A handwritten signature in black ink, appearing to be a stylized 'P' or similar character, written over a horizontal line.

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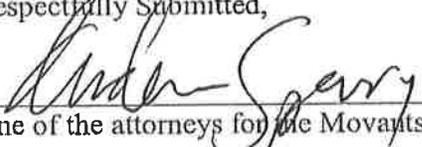
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CERTIFICATE OF SERVICE

The undersigned, an attorney certifies that a copy of the foregoing notice of filing, motion, proposed complaint and brief in support was served upon all parties on the attached service list on February ___, 2012, by either depositing the same in the U.S. Mail at the U.S. Post Office, 411 E. Monroe Street, Springfield, IL 62701, with proper postage prepaid or by personal service.

Respectfully Submitted,


One of the attorneys for the Movants

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EXHIBIT 2

IN THE SUPREME COURT OF ILLINOIS

THOMAS CROSS, in his official)
capacity as Minority Leader of the Illinois House)
and individually as a registered voter, CHRISTINE)
RADOGNO, in her official capacity as Minority Leader)
of the Illinois Senate, JAMES ORLANDO, individually)
as a registered voter, and CHRISTINE DOLGOPOL,)
individually as a registered voter,)
)
Plaintiffs,) Original Action Under
) Article IV, Section 3(b) of
vs.) the Illinois Constitution of
) 1970
ILLINOIS STATE BOARD OF ELECTIONS,)
RUPERT BORGS MILLER, Executive)
Director of the Illinois State Board of Elections,)
HAROLD BYERS, BRYAN A. SCHNEIDER,)
BETTY J. COFFRIN, ERNEST GOWEN, WILLIAM F.)
MCGUFFAGE, JESSE R. SMART, JUDITH C. RICE,)
and CHARLES W. SCHOLZ, all named in their official)
capacities as members of the Illinois State Board)
of Elections and LISA MADIGAN, in her official)
capacity as Attorney General of the State of Illinois)
)
Defendants.)

**COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF
REGARDING THE REDISTRICTING PLANS FOR THE ILLINOIS HOUSE OF
REPRESENTATIVES AND THE ILLINOIS SENATE**

NOW COME Plaintiffs, THOMAS CROSS, in his official capacity as Minority Leader of the Illinois House of Representatives, CHRISTINE RADOGNO, in her official capacity as Minority Leader of the Illinois Senate, JAMES ORLANDO, and CHRISTINE DOLGOPOL, (hereinafter "Plaintiffs") by and through the undersigned counsel, pursuant to Article IV, Section 3(b) of the Illinois Constitution of 1970, and for their Complaint for Declaratory Judgment and Injunctive Relief, state as follows:

INTRODUCTION

1. This original action challenges the constitutionality of Public Act 097-0006 (hereinafter “Redistricting Plan”), deemed the decennial redistricting plan for the Representative and Legislative districts passed by the Democratic majority in the General Assembly and signed into law by the Democratic Governor Patrick J. Quinn. Plaintiffs allege that the entire redistricting plan codified in Public Act 97-0006 violates the provisions of the Illinois Constitution of 1970 guaranteeing compactness and political fairness. Plaintiffs also allege that several districts, codified in the Redistricting Plan, violate the provisions of the Illinois Constitution of 1970 guaranteeing compactness and political fairness. Because Public Act 097-0006 violates the Illinois Constitution, this Court should invalidate the Act, enjoin the Illinois State Board of Elections from enforcing the Act, and immediately either (1) adopt Plaintiffs’ proposed alternative redistricting map, or alternative maps for specific districts; or (2) appoint a special master to draft a redistricting plan or maps for specific districts in compliance with the Illinois Constitution of 1970.

JURISDICTION AND VENUE

2. The Illinois Constitution of 1970, in Article IV, Section 3(b) provides that this Court “shall have original and exclusive jurisdiction over actions concerning redistricting the House and Senate which shall be initiated in the name of the People of the State of Illinois by the Attorney General.”
3. This action arises out of the Illinois Constitution of 1970 and thus venue is proper in this Court pursuant to Article IV, Section 3 of the Illinois Constitution of 1970.

THE PARTIES

4. Plaintiff THOMAS CROSS is a state representative from the 84th Representative District, a citizen of the United States and of the State of Illinois and a duly registered voter of Kendall County, Illinois. Mr. Cross is also the Minority Leader of the Illinois House of Representatives vested by Article IV, Section 6(c) of the Illinois Constitution of 1970 with the duty to promote and express the views, ideas and principles of the House Minority Republican caucus in the 97th General Assembly and of Republicans in every Legislative and Representative District throughout the State of Illinois.
5. Plaintiff CHRISTINE RADOGNO is a state senator from the 41st Legislative District, a citizen of the United States and of the State of Illinois and a duly registered voter of Cook County, Illinois. Ms. Radogno is also the Minority Leader of the Illinois Senate vested by Article IV, Section 6(c) of the Illinois Constitution of 1970 with the duty to promote and express the views, ideas and principles of the Senate Minority Republican caucus in the 97th General Assembly and of Republicans throughout the State of Illinois.
6. Plaintiff JAMES ORLANDO is a citizen of the United States and of the State of Illinois and a duly registered Republican voter in Cook County within the boundaries of Representative District 35 of the Redistricting Plan.
7. Plaintiff CHRISTINE DOLGOPOL is a citizen of the United States and of the State of Illinois and a duly registered Republican voter in Cook County within the boundaries of Representative District 59 and Legislative District 30 of the Redistricting Plan.

8. Defendant LISA MADIGAN is sued in her official capacity as the Illinois Attorney General. Pursuant to Article IV, Section 3(b) of the Illinois Constitution of 1970, Attorney General MADIGAN is a necessary party to any action regarding the redistricting of Legislative and Representative Districts.
9. Defendant ILLINOIS STATE BOARD OF ELECTIONS, is the entity responsible for overseeing and regulating public elections in Illinois for members of the General Assembly as provided by Article III, Section 5 of the Illinois Constitution of 1970 and 10 ILCS 5/1A-1, *et seq.*
10. Defendant RUPERT BORGSMILLER is the Executive Director of the Illinois State Board of Elections and is sued only in his official capacity as Executive Director of the ILLINOIS STATE BOARD OF ELECTIONS
11. Defendant HAROLD BYERS is a member of the ILLINOIS STATE BOARD OF ELECTIONS and is sued only in his official capacity as a member of the ILLINOIS STATE BOARD OF ELECTIONS.
12. Defendant BRYAN A. SCHNEIDER is a member of the ILLINOIS STATE BOARD OF ELECTIONS and is sued only in his official capacity as a member of the ILLINOIS STATE BOARD OF ELECTIONS.
13. Defendant BETTY J. COFFRIN is a member of the ILLINOIS STATE BOARD OF ELECTIONS and is sued only in her official capacity as a member of the ILLINOIS STATE BOARD OF ELECTIONS.
14. Defendant ERNEST GOWEN is a member of the ILLINOIS STATE BOARD OF ELECTIONS and is sued only in his official capacity as a member of the ILLINOIS STATE BOARD OF ELECTIONS.

15. Defendant WILLIAM F. MCGUFFAGE is a member of the ILLINOIS STATE BOARD OF ELECTIONS and is sued only in his official capacity as a member of the ILLINOIS STATE BOARD OF ELECTIONS.
16. Defendant JESSE R. SMART is a member of the ILLINOIS STATE BOARD OF ELECTIONS and is sued only in his official capacity as a member of the ILLINOIS STATE BOARD OF ELECTIONS.
17. Defendant JUDITH C. RICE is a member of the ILLINOIS STATE BOARD OF ELECTIONS and is sued only in her official capacity as a member of the ILLINOIS STATE BOARD OF ELECTIONS.
18. Defendant CHARLES W. SCHOLZ is a member of the ILLINOIS STATE BOARD OF ELECTIONS and is sued only in his official capacity as a member of the ILLINOIS STATE BOARD OF ELECTIONS.

FACTS

19. In 2010, the United States Census Bureau conducted its federal decennial census.
20. The Illinois Constitution provides that “in the year following each Federal decennial census year, the General Assembly by law shall redistrict the Legislative and the Representative Districts.” IL CONST., Art. IV, Sec. 3(b).
21. In 2010, the Illinois Senate formed the Senate Redistricting Committee (hereinafter “SRC”) which was composed of 17 state senators: 11 from the Democratic majority and six from the Republican minority.
22. In 2011, the House of Representatives formed the House Redistricting Committee (hereinafter “HRC”) which was composed of 11 state representatives: six from the Democratic majority and five from the Republican minority.

23. From March 28, 2011 to April 30, 2011, the SRC conducted public hearings for the stated purpose of gathering public input for the Redistricting Plan.
24. Over nine days in April, 2011, the HRC conducted public hearings for the stated purpose of gathering public input for the Redistricting plan.
25. At the aforementioned public input hearings before the SRC and HRC, numerous witnesses requested that the respective committees provide the public with at least two weeks to review, analyze and comment on any redistricting plan brought before the committee for a vote.
26. At the aforementioned public input hearings before the SRC and HRC, numerous witnesses requested that the committee provide an explanation for the rationale supporting each district of any proposed plan brought before the committee for a vote, so that the public would have time for review, analysis and comment prior to a committee vote.
27. On May 18, 2011, the SRC disclosed a picture of a map purporting to be a proposed redistricting plan for Legislative Districts, filed as Senate Amendment #1 to Senate Bill 1175.
28. On May 18, 2011, the SRC announced that it would hold a public hearing on Senate Amendment #1 to Senate Bill 1175 scheduled for noon on Saturday, May 21, 2011 in Chicago, IL.
29. On May 19, 2011, in the evening hours, the HRC disclosed a picture of a proposed redistricting plan for Representative districts, filed as House Amendment #1 to House Bill 3670.

30. On May 20, 2011, the HRC announced that it would hold a public hearing on House Amendment #1 to House Bill 3670 scheduled for 2:00 p.m. on Sunday, May 22, 2011 in Chicago, IL.
31. Senate Amendment #1 to Senate Bill 1175 and House Amendment #1 to House Bill 3670 both stated “For purposes of legislative intent, the General Assembly adopts and incorporates herein, as if fully set forth, the provisions of House Resolution 385 of the Ninety-Seventh General Assembly and Senate Resolution 249 of the Ninety-Seventh General Assembly.”
32. Neither House Resolution 385 nor Senate Resolution 249 was filed or made available to the public or the Republican members of the SRC or HRC for review prior to the hearings scheduled for May 21-22, 2011.
33. At the SRC hearing on May 21, 2011, numerous members of the public and of the minority caucus requested more time to review, analyze and comment on Senate Amendment #1 to SB 1175.
34. At the HRC hearing on May 22, 2011, numerous members of the public and the minority caucus requested more time to review, analyze and comment on House Amendment #1 to House Bill 3670.
35. On information and belief, the Democratic members of the Rules Committee of the Illinois House of Representatives convened approximately two hours prior to the May 22, 2011 HRC hearing and approved House Amendment #1 to House Bill 3670 for consideration before the HRC at said hearing.

36. The Democratic members of the Rules Committee did not provide the Republican members of the Rules Committee with notice of the May 22, 2011 Rules Committee hearing.
37. The Democratic members of the HRC and their support staff did not notify the Republican members of the HRC and their support staff or the general public that House Amendment #1 to House Bill 3670 would be considered at the May 22, 2011 hearing or that the sponsor of the bill would be available for questioning.
38. On Tuesday, May 24, 2011, the HRC and SRC convened a joint hearing to consider Senate Amendment #1 to Senate Bill 1175 and House Amendment #1 to House Bill 3670.
39. At the joint hearing on May 24, 2011, the Democratic majority called Dr. Allan Lichtman as a witness on Senate Amendment #1 to Senate Bill 1175 and House Amendment #1 to House Bill 3670.
40. At the joint hearing on May 24, 2011, Dr. Lichtman testified that the Democratic Caucuses in the Illinois House of Representatives and Illinois Senate had retained him to advise Democratic attorneys and staffers about providing African-Americans and Hispanic residents in Illinois with opportunities to elect candidates of their choice in any redistricting plan.
41. Neither the Republican members of the HRC and SRC and their support staff nor the general public were provided with advance notice of Dr. Lichtman's testimony or a copy of his opinions in order to prepare for questioning.
42. At the joint hearing on May 24, 2011, the Democratic Caucuses did not present an expert witness to opine on whether or not Senate Amendment #1 to Senate Bill 1175

or House Amendment #1 to House Bill 3670 met the constitutional requirement that districts be “compact.”

43. At the joint hearing on May 24, 2011, the Democratic Caucuses did not present an expert witness to opine on whether or not Senate Amendment #1 to Senate Bill 1175 or House Amendment #1 to House Bill 3670 met all legal requirements for “political fairness.”
44. On May 25, 2011, the Republican Caucuses of the Illinois Senate and the Illinois House of Representatives unveiled a redistricting plan for the Representative and Legislative Districts, called the Fair Map. An interactive version of the Fair Map was made available to the public for review.
45. The Republican Caucuses proposal was filed on May 26, 2011 as House Amendment #1 to Senate Bill 1177.
46. On May 26, 2011 in the evening hours, state representative Barbara Flynn Currie filed House Amendment #2 to Senate Bill 1177 which purported to be a new redistricting plan for the Legislative and Representative Districts.
47. On May 26, 2011 in the evening hours, the HRC disclosed a picture of a proposed redistricting plan for legislative and representative districts, filed as House Amendment #2 to Senate Bill 1177.
48. House Amendment #2 to Senate Bill 1177 stated “For purposes of legislative intent, the General Assembly adopts and incorporates herein, as if fully set forth, the provisions of House Resolution 385 of the Ninety-Seventh General Assembly and Senate Resolution 249 of the Ninety-Seventh General Assembly.”

49. On May 26, 2011, the Democratic majority voted by a margin of 3-1 to send House Amendment #2 to Senate Bill 1177 to the full Illinois House of Representatives for consideration.
50. House Amendment #2 to Senate Bill 1177 never received a hearing or any public comment before the HRC.
51. On May 27, 2011, approximately two hours before the scheduled session of the Illinois House of Representatives, state representative Barbara Flynn Currie filed House Resolution 385 (HR 385).
52. HR 385 was sent directly to the full Illinois House of Representatives for consideration and never received any public comment or a hearing before the HRC.
53. On May 27, 2011, state representative Roger Eddy filed a motion to discharge the Fair Map from the Rules Committee for consideration.
54. State representative Currie objected to the motion to discharge the Fair Map from the Rules Committee for consideration.
55. The Fair Map never received consideration before the HRC or the Illinois House of Representatives.
56. On May 27, 2011, the Democratic majority in the Illinois House of Representatives passed House Amendment #2 to Senate Bill 1177 by a vote of 64-52.
57. After the passage of House Amendment #2 to Senate Bill 1177, House Resolution 385 was called for a vote before the Illinois House of Representatives and passed by a vote of 64-52.
58. On May 27, 2011 at approximately 2:00 p.m., State Senator Kwame Raoul filed Senate Amendment #1 to Senate Resolution 249.

59. On May 27, 2011 at approximately 3:00 p.m., the Democratic majority in the SRC voted to concur on House Amendment #2 to Senate Bill 1177.
60. After the debate on House Amendment #2 to Senate Bill 1177, the Democratic majority in the SRC voted to adopt Senate Amendment #1 to Senate Resolution 249.
61. On May 27, 2011 at approximately 5:30 p.m., the Democratic majority in the Illinois Senate voted to concur with House Amendment #2 to Senate Bill 1177 by a margin of 35-22.
62. Shortly after passage of the House Amendment #2 to Senate Bill 1177, the Democratic majority adopted Senate Amendment #1 to Senate Resolution 249 by a vote of 35-22.
63. On June 3, 2011, Governor Pat Quinn signed House Amendment #2 to Senate 1177 into law.
64. Public Act 97-0006 became effective on June 3, 2011.

COUNT I (Declaratory Judgment – Redistricting Plan – Compactness)

65. Plaintiffs incorporate as if set forth herein paragraphs 1-64 of this Complaint.
66. The Illinois Constitution of 1970 requires that the districts contained within any redistricting plan pursuant to Article IV, Section 3 must be compact.
67. The Redistricting Plan is less compact than the map of Legislative and Representative Districts for the General Assembly enacted in 2001 and 1991.
68. The Redistricting Plan contains 27 Representative Districts, listed below, that fail to comply with the requirement of the Illinois Constitution of 1970 that Representative Districts must be compact: 1, 5, 6, 8, 10, 12, 15, 18, 20, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, 35, 36, 57, 59, 64, 72, 113, and 114. (See Group Exhibit A)

69. The Redistricting Plan contains 14 Legislative Districts, listed below, that fail to comply with the requirement of the Illinois Constitution of 1970 that Legislative Districts must be compact: 1, 2, 3, 10, 11, 12, 13, 15, 16, 17, 29, 30, 36, 40. (Ex. A)
70. The Redistricting Plan fractures a significant amount of counties, municipalities and townships without any neutral justification.
71. There is no neutral justification for the highly irregular, non-compact Representative and Legislative Districts within the Redistricting Plan.
72. The alternative Redistricting Plan (hereinafter “Alternative Plan”) proposed by the Plaintiffs is demonstrably more compact than the Redistricting Plan as well as the redistricting map enacted for the General Assembly in 2001.
73. The systematic and pervasive lack of compactness of the Representative and Legislative Districts burdens Plaintiffs RADOGNO’s and CROSS’ ability to carry out their constitutionally prescribed duty of representing the interests of their caucuses and Republican voters throughout the state of Illinois.
74. The systematic and pervasive lack of compactness of the Representative and Legislative Districts burdens Plaintiffs ORLANDO’s, and DOLGOPOL’s ability to communicate effectively with their elected state representatives and state senators.
75. The systematic and pervasive lack of compactness throughout the Redistricting Plan renders the entire Plan void under the Illinois Constitution of 1970.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter declaratory judgment order finding that the Redistricting Plan, in its entirety, violates the requirement within the Illinois Constitution of 1970 that Representative and Legislative Districts must be compact, enjoin the Defendant ILLINOIS STATE BOARD OF

ELECTIONS and its members from conducting elections under the Redistricting Plan and adopt the Alternative Plan or appoint a special master to construct a Redistricting Plan that complies with the mandates of the Illinois Constitution of 1970 or for any other relief this Court deems appropriate.

COUNT II (Declaratory Judgment – Redistricting Plan – Political Fairness)

76. Plaintiffs incorporate as if set forth herein paragraphs 1-75 of this Complaint.
77. Any redistricting plan enacted pursuant to Article IV, Section 3 of the Illinois Constitution of 1970 must meet all legal requirements for political fairness.
78. The bizarre shapes of the Representative and Legislative Districts within the Redistricting Plan were created in furtherance of a deliberate attempt by the Democratic caucuses within the General Assembly to dismantle the ability of Republican voters to elect candidates of their choice to the General Assembly.
79. The Redistricting Plan pits 25 incumbent Republican members of the General Assembly against one another while pitting at most only eight incumbent Democratic members of the General Assembly against one another.
80. In the Redistricting Plan, Democratic incumbents retained on average almost two-thirds of the core constituency of their district from the previous redistricting plan enacted in 2001.
81. In the Redistricting Plan, Republican incumbents retained on average only 55% of the core constituency of their district from the previous redistricting plan enacted in 2001.
82. The Redistricting Plan provides the Democratic Caucuses with 82 Representative Districts in which likely Democratic voters consist of 50% or more of voters.

83. By contrast, the Redistricting Plan only provides the Republican Caucuses with 36 Representative Districts in which likely Republican voters consist of 50% or more of the voters.
84. In more than three-quarters of Representative Districts in which likely Democratic voters constitute a majority, such voters constitute a majority of 55% or more. By contrast, in fewer than half of Representative Districts in which likely Republican voters consist of a majority, such voters constitute a majority of over 55%.
85. In more than two-thirds of Representative Districts in which likely Democratic voters constitute a majority, such voters constitute a “safe” majority of 60% or more. By contrast, in only two Representative Districts in which likely Republican voters constitute a majority, such voters constitute a “safe” majority in excess of 60%.
86. The Democratic Caucuses abused the process by which the Redistricting Plan was created by excluding the Fair Map from any consideration before the General Assembly and deliberately frustrating the public’s and minority caucus’ ability to substantially participate in the creation of the Redistricting Plan.
87. There is no neutral justification for the systematic and pervasive lack of political fairness of the Representative and Legislative Districts within the Redistricting Plan.
88. The Alternative Plan proposed by the Plaintiffs is demonstrably more politically fair and compact than the Redistricting Plan.
89. The failure of the Redistricting Plan to comply with all requirements of political fairness burdens Plaintiffs RADOGNO’s and CROSS’ ability to carry out their constitutionally prescribed duty of representing the interests of their caucuses and Republican voters throughout the state of Illinois.

90. The failure of the Redistricting Plan to comply with all requirements of political fairness burdens Plaintiffs ORLANDO's, and DOLGOPOL's ability to elect Republican state representatives and state senators who will represent them effectively in the General Assembly.

91. The systematic and pervasive lack of political fairness throughout the Redistricting Plan renders the entire Plan void under the Illinois Constitution of 1970.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter declaratory judgment order finding that the Redistricting Plan, in its entirety, violates the all legal requirements for political fairness within the Illinois Constitution of 1970, enjoin the Defendant ILLINOIS STATE BOARD OF ELECTIONS and its members from conducting elections under the Redistricting Plan and adopt the Alternative Plan or appoint a special master to construct a Redistricting Plan that complies with the mandates of the Illinois Constitution of 1970 or for any other relief this Court deems appropriate.

COUNT III (Declaratory Judgment – Representative District 35 – Compactness)

92. Plaintiffs incorporate as if set forth herein paragraphs 1-91 of this Complaint.

93. Plaintiff JAMES ORLANDO is a duly registered voter in Cook County, Illinois residing within the boundaries of Representative District 35 of the Redistricting Plan.

94. Representative District 35 fails to comply with the mandate within the Illinois Constitution of 1970 that all Representative Districts must be compact. (See Exhibit B).

95. Representative District 35 is an elongated, tortured shape that stretches 13 miles from the City of Chicago in a westward direction into the suburbs of Cook County.

96. At its narrowest point, Representative District 35 measures only one-half mile in length in the north-south direction.
97. Representative District 35 fractures six different municipalities plus other recognizable communities of interest.
98. The Democratic majority has not advanced a neutral justification for failing to create a Representative District 35 that complies with the constitutional mandate that all Representative Districts be compact.
99. The alternative Representative District 35 proposed by Plaintiffs complies with the constitutional mandate that all Representative Districts be compact.
100. The alternative Representative District 35 proposed by Plaintiffs is substantially equal in population and politically fair and provides adequate representation to minorities and other special interests.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter declaratory judgment order finding that Representative District 35 of the Redistricting Plan violates the requirement within the Illinois Constitution of 1970 that Representative Districts must be compact, enjoin the Defendant ILLINOIS STATE BOARD OF ELECTIONS and its members from conducting elections for state Representative in Representative District 35 in the Redistricting Plan and adopt the Alternative Representative District 35 or appoint a special master to construct an alternative Representative District 35 that complies with the mandates of the Illinois Constitution of 1970 or for any other relief this Court deems appropriate.

COUNT IV (Declaratory Judgment – Representative District 35 – Political Fairness)

101. Plaintiffs incorporate as if set forth herein paragraphs 1-100 of this Complaint.

102. Plaintiff JAMES ORLANDO is a duly registered voter in Cook County, Illinois residing within the boundaries of Representative District 35 of the Redistricting Plan.

103. Representative District 35 fails to comply with the mandate within the Illinois Constitution of 1970 that Representative Districts must meet all legal requirements for political fairness.

104. The Democratic majority created Representative District 35 to dilute the votes of Republicans in a deliberate attempt to enhance the partisan advantage of Democratic candidates for the House of Representatives in the General Assembly in Representative District 35.

105. The alternative Representative District 35 proposed by Plaintiffs complies with the constitutional mandate that all Representative Districts meet all legal requirements for political fairness.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter declaratory judgment order finding that Representative District 35 of the Redistricting Plan violates the requirement within the Illinois Constitution of 1970 that Representative Districts must meet all legal requirements for political fairness, enjoin the Defendant ILLINOIS STATE BOARD OF ELECTIONS and its members from conducting elections for state Representative in Representative District 35 in the Redistricting Plan and adopt the Alternative Representative District 35 or appoint a special master to construct an alternative Representative District 35 that complies with the mandates of the Illinois Constitution of 1970 or for any other relief this Court deems appropriate.

COUNT V (Declaratory Judgment – Representative District 59 – Compactness)

106. Plaintiffs incorporate as if set forth herein paragraphs 1-105 of this Complaint.

107. Plaintiff CHRISTINE DOLGOPOL is a duly registered voter in Cook County, Illinois residing within the boundaries of Representative District 59 of the Redistricting Plan.
108. Representative District 59 fails to comply with the mandate within the Illinois Constitution of 1970 that all Representative Districts must be compact. (See Exhibit C)
109. Representative District 59 is bizarrely shaped district stretching 16 miles from the northern edge of Cook County into the southern portion of Lake County.
110. At its narrowest point, Representative District 59 measures only one-half mile in length in the east-west direction.
111. Representative District 59 fractures ten different municipalities plus other recognizable communities of interest.
112. The Democratic majority has not advanced a neutral justification for failing to create a Representative District 59 that complies with the constitutional mandate that all Representative Districts be compact.
113. The alternative Representative District 59 proposed by Plaintiffs complies with the constitutional mandate that all Representative Districts be compact.
114. The alternative Representative District 59 proposed by Plaintiffs is substantially equal in population and politically fair and complies with all state and federal law requirements for adequate representation to minorities and other special interests.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter declaratory judgment order finding that Representative District 59 of the Redistricting Plan violates the requirement within the Illinois Constitution of 1970 that Representative

Districts must be compact, enjoin the Defendant ILLINOIS STATE BOARD OF ELECTIONS and its members from conducting elections for state Representative in Representative District 59 in the Redistricting Plan and adopt the Alternative Representative District 59 or appoint a special master to construct an alternative Representative District 59 that complies with the mandates of the Illinois Constitution of 1970 or for any other relief this Court deems appropriate.

COUNT VI (Declaratory Judgment – Representative District 59 – Political Fairness)

115. Plaintiffs incorporate as if set forth herein paragraphs 1-114 of this Complaint.

116. Plaintiff CHRISTINE DOLGOPOL is a duly registered voter in Cook County, Illinois residing within the boundaries of Representative District 59 of the Redistricting Plan.

117. Representative District 59 fails to comply with the mandate within the Illinois Constitution of 1970 that Representative Districts must meet all legal requirements for political fairness.

118. The Democratic majority created Representative District 59 to dilute the votes of Republicans in a deliberate attempt to enhance the partisan advantage of Democratic candidates for the House of Representatives in the General Assembly in Representative District 59.

119. The alternative Representative District 59 proposed by Plaintiffs complies with the constitutional mandate that all Representative Districts meet all legal requirements for political fairness.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter declaratory judgment order finding that Representative District 59 of the Redistricting

Plan violates the requirement within the Illinois Constitution of 1970 that Representative Districts must meet all legal requirements for political fairness, enjoin the Defendant ILLINOIS STATE BOARD OF ELECTIONS and its members from conducting elections for state Representative in Representative District 59 in the Redistricting Plan and adopt the Alternative Representative District 59 or appoint a special master to construct an alternative Representative District 59 that complies with the mandates of the Illinois Constitution of 1970 or for any other relief this Court deems appropriate.

COUNT VII (Declaratory Judgment – Legislative District 30 – Compactness)

120. Plaintiffs incorporate as if set forth herein paragraphs 1-119 of this Complaint.
121. Plaintiff CHRISTINE DOLGOPOL is a duly registered voter in Cook County, Illinois residing within the boundaries of Legislative District 30 of the Redistricting Plan.
122. Legislative District 30 fails to comply with the mandate within the Illinois Constitution of 1970 that all Legislative Districts must be compact. (See Exhibit D)
123. Legislative District 30 is bizarrely shaped, hourglass-like district stretching 20 miles from the northern edge of Cook County into Lake County.
124. At its shortest point, Legislative District 30 measures only one-half mile in length in the east-west direction.
125. Legislative District 30 fractures 12 different municipalities plus other recognizable communities of interest.
126. The Democratic majority has not advanced a neutral justification for failing to create a Legislative District 30 that complies with the constitutional mandate that all Legislative Districts be compact.

127. The alternative Legislative District 30 proposed by Plaintiffs complies with the constitutional mandate that all Legislative Districts be compact.

128. The alternative Legislative District 30 proposed by Plaintiffs is substantially equal in population and politically fair and complies with all state and federal law requirements for adequate representation to minorities and other special interests.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter declaratory judgment order finding that Legislative District 30 of the Redistricting Plan violates the requirement within the Illinois Constitution of 1970 that Legislative Districts must be compact, enjoin the Defendant ILLINOIS STATE BOARD OF ELECTIONS and its members from conducting elections for state Senator in Legislative District 30 in the Redistricting Plan and adopt the Alternative Legislative District 30 or appoint a special master to construct an alternative Legislative District 30 that complies with the mandates of the Illinois Constitution of 1970 or for any other relief this Court deems appropriate.

COUNT VIII (Declaratory Judgment – Legislative District 30 – Political Fairness)

129. Plaintiffs incorporate as if set forth herein paragraphs 1-128 of this Complaint.

130. Plaintiff CHRISTINE DOLGOPOL is a duly registered voter in Cook County, Illinois residing within the boundaries of Legislative District 30 of the Redistricting Plan.

131. Legislative District 30 fails to comply with the mandate within the Illinois Constitution of 1970 that Legislative Districts must meet all legal requirements for political fairness.

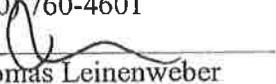
132. The Democratic majority created Legislative District 30 to dilute the votes of Republicans in a deliberate attempt to enhance the partisan advantage of Democratic candidates for the Senate in the General Assembly in Legislative District 30.

133. The alternative Legislative District 30 proposed by Plaintiffs complies with the constitutional mandate that all Legislative Districts meet all legal requirements for political fairness.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter declaratory judgment order finding that Legislative District 30 of the Redistricting Plan violates the requirement within the Illinois Constitution of 1970 that Legislative Districts must meet all legal requirements for political fairness, enjoin the Defendant ILLINOIS STATE BOARD OF ELECTIONS and its members from conducting elections for state Senator in Legislative District 30 in the Redistricting Plan and adopt the Alternative Legislative District 30 or appoint a special master to construct an alternative Legislative District 30 that complies with the mandates of the Illinois Constitution of 1970 or for any other relief this Court deems appropriate.

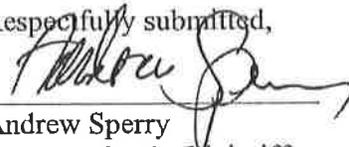


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Respectfully submitted,

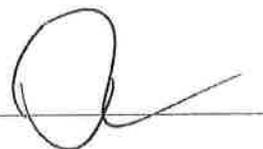


Andrew Sperry
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VERIFICATION

Under penalties as provided by law pursuant to 735 ILCS 5/1-109, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief, and as to such matters, the undersigned certifies as aforesaid that the undersigned verily believes the same to be true.

By One of the Attorneys _____



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SUBSCRIBED and SWORN to before me
this 8 th day of February, 2012

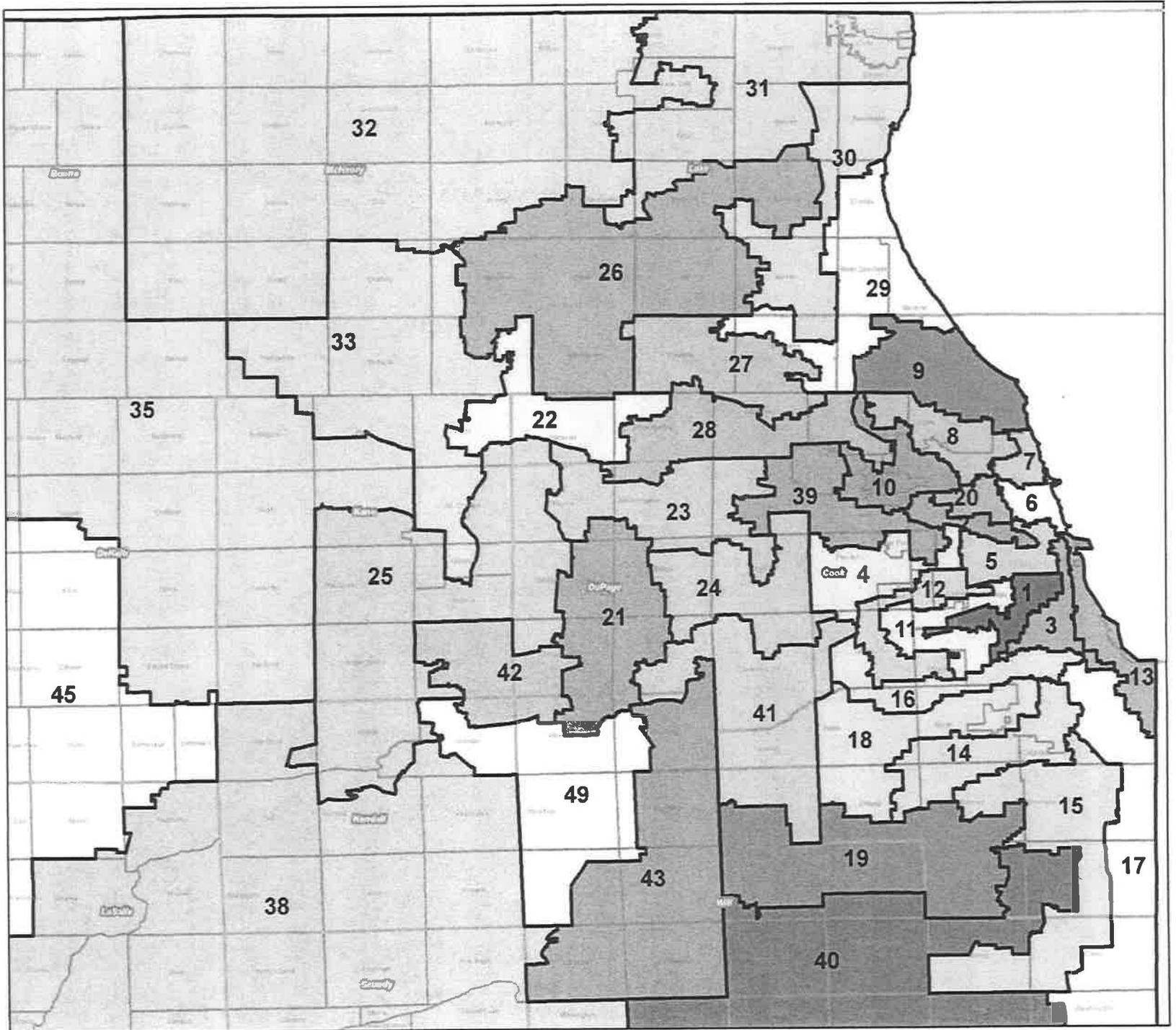


NOTARY PUBLIC



Legislative Districts (P.A. 97-0006)

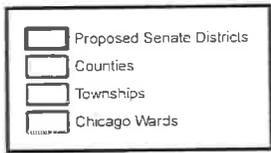
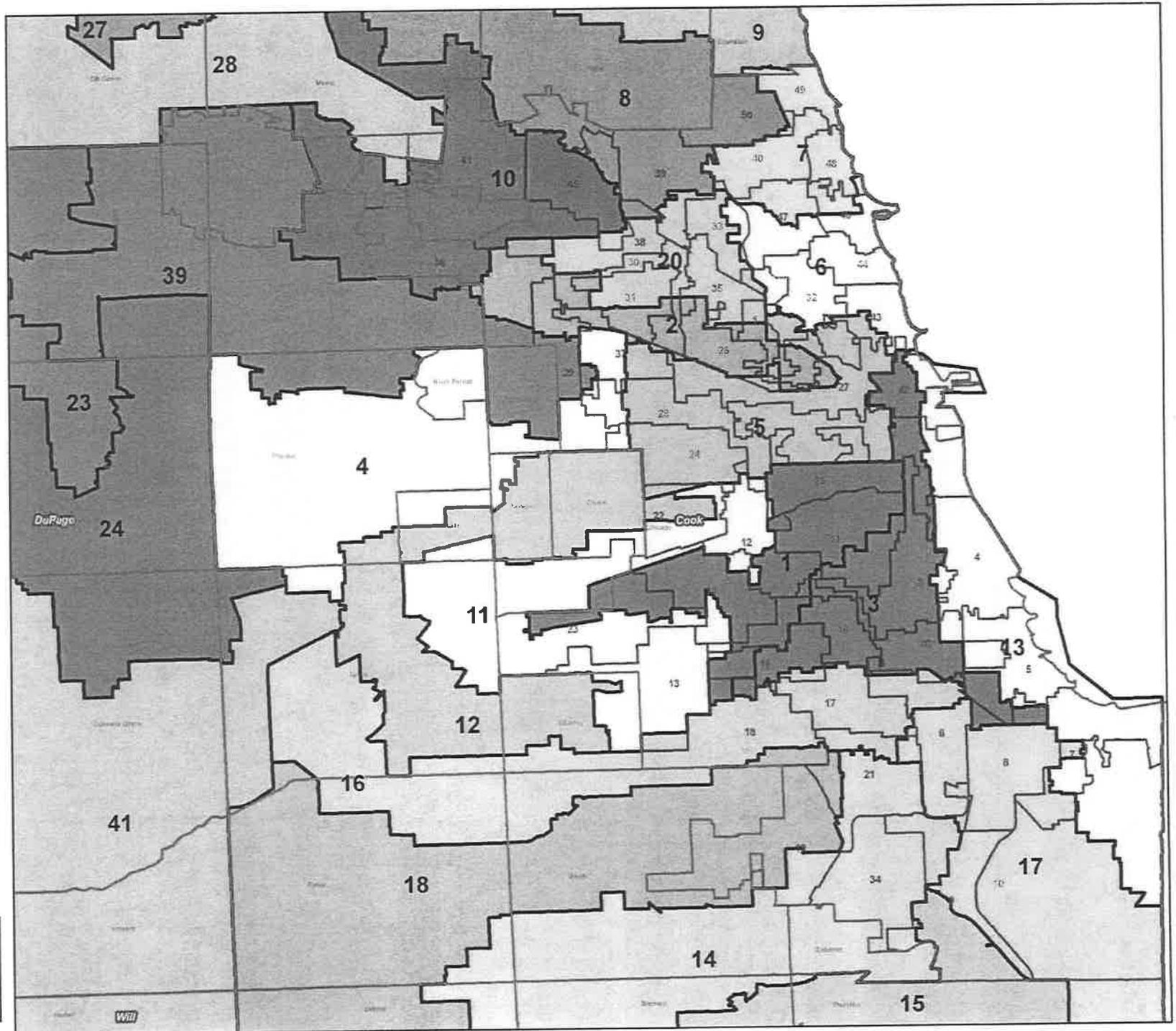
Cook and
Collar Counties



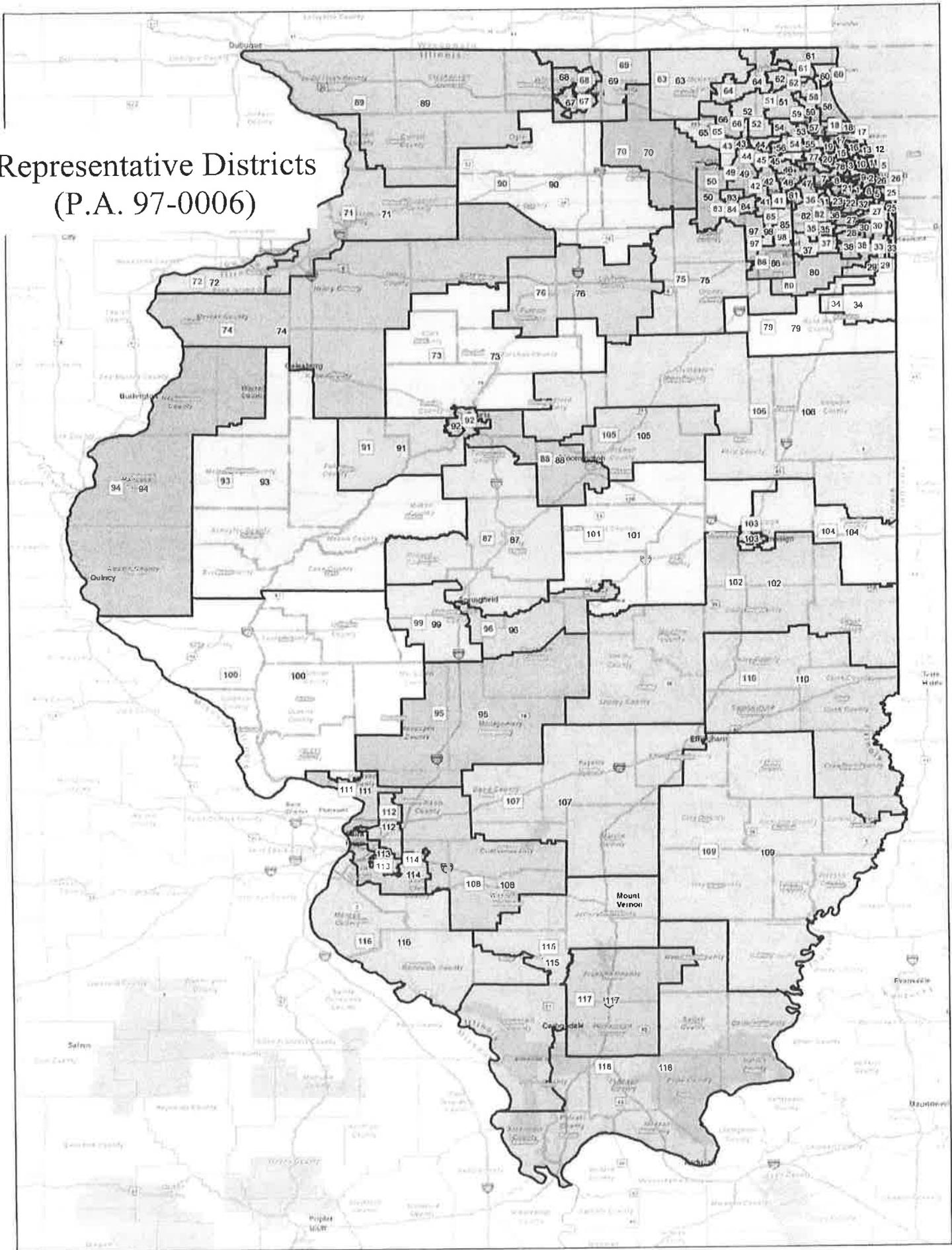
- Proposed Senate Districts
- Counties
- Townships

Legislative Districts (P.A. 97-0006)

City of Chicago



Representative Districts (P.A. 97-0006)



**Northeastern
Illinois
Representative
Districts
(P.A. 97-0006)**



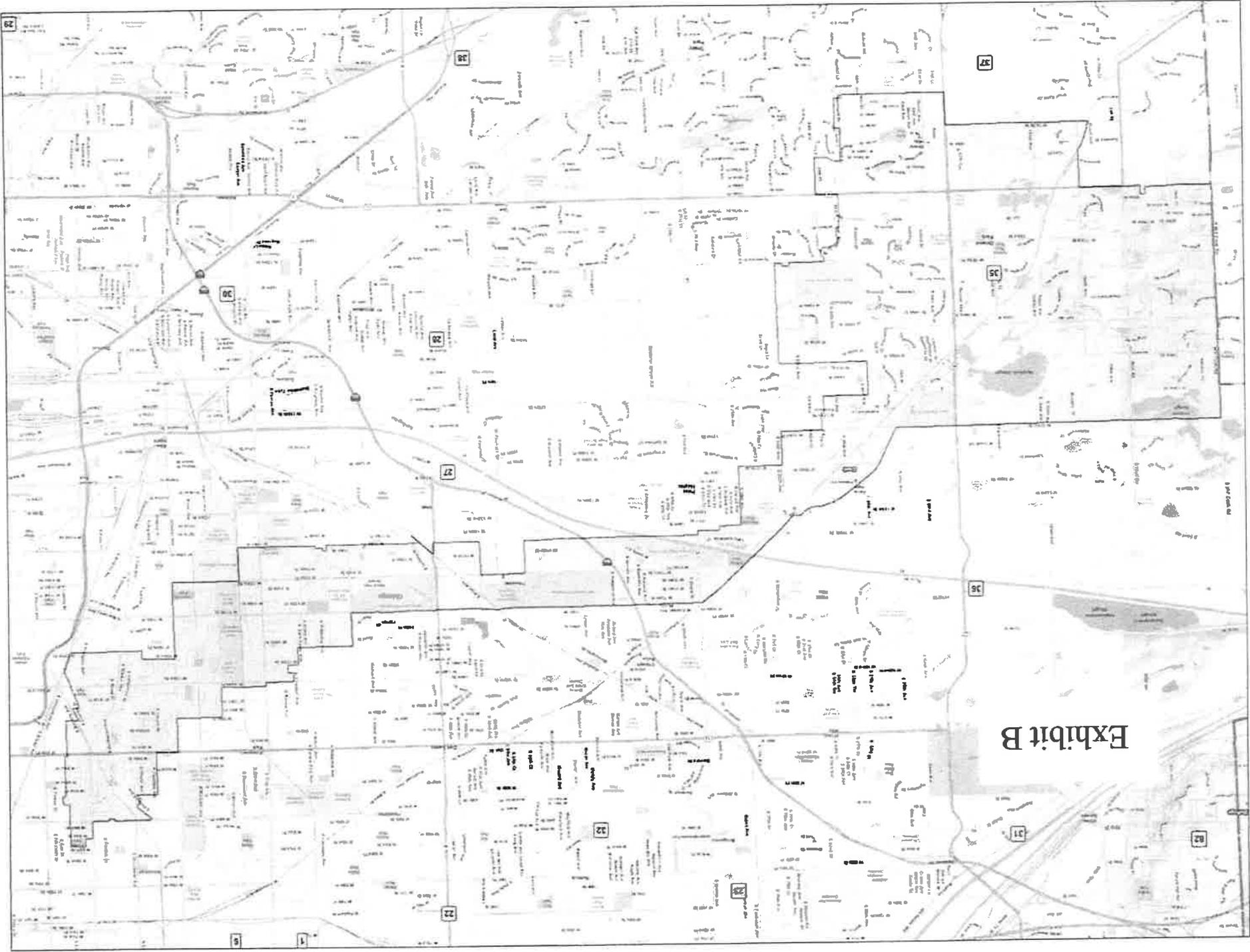


Exhibit B

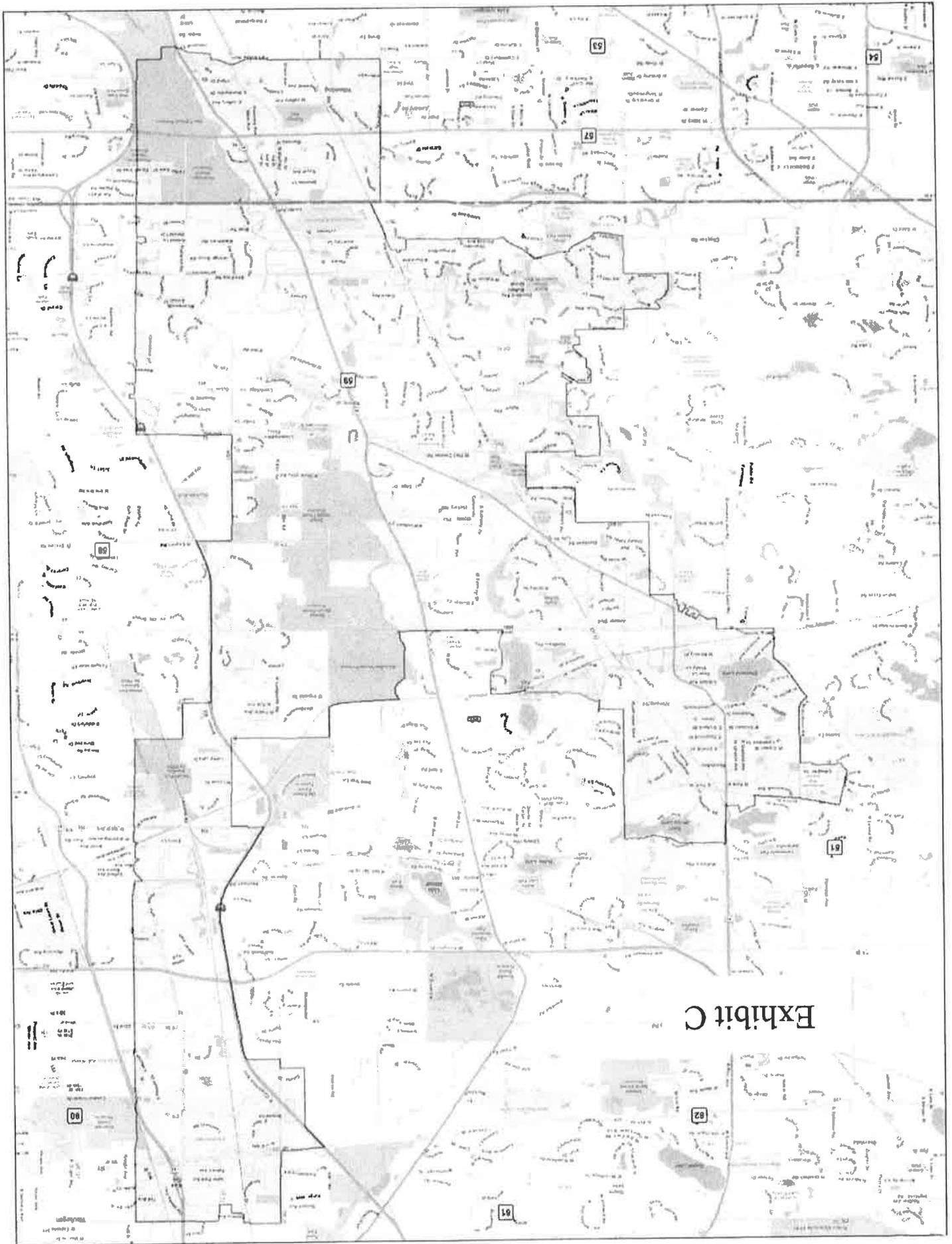


Exhibit C

Exhibit D

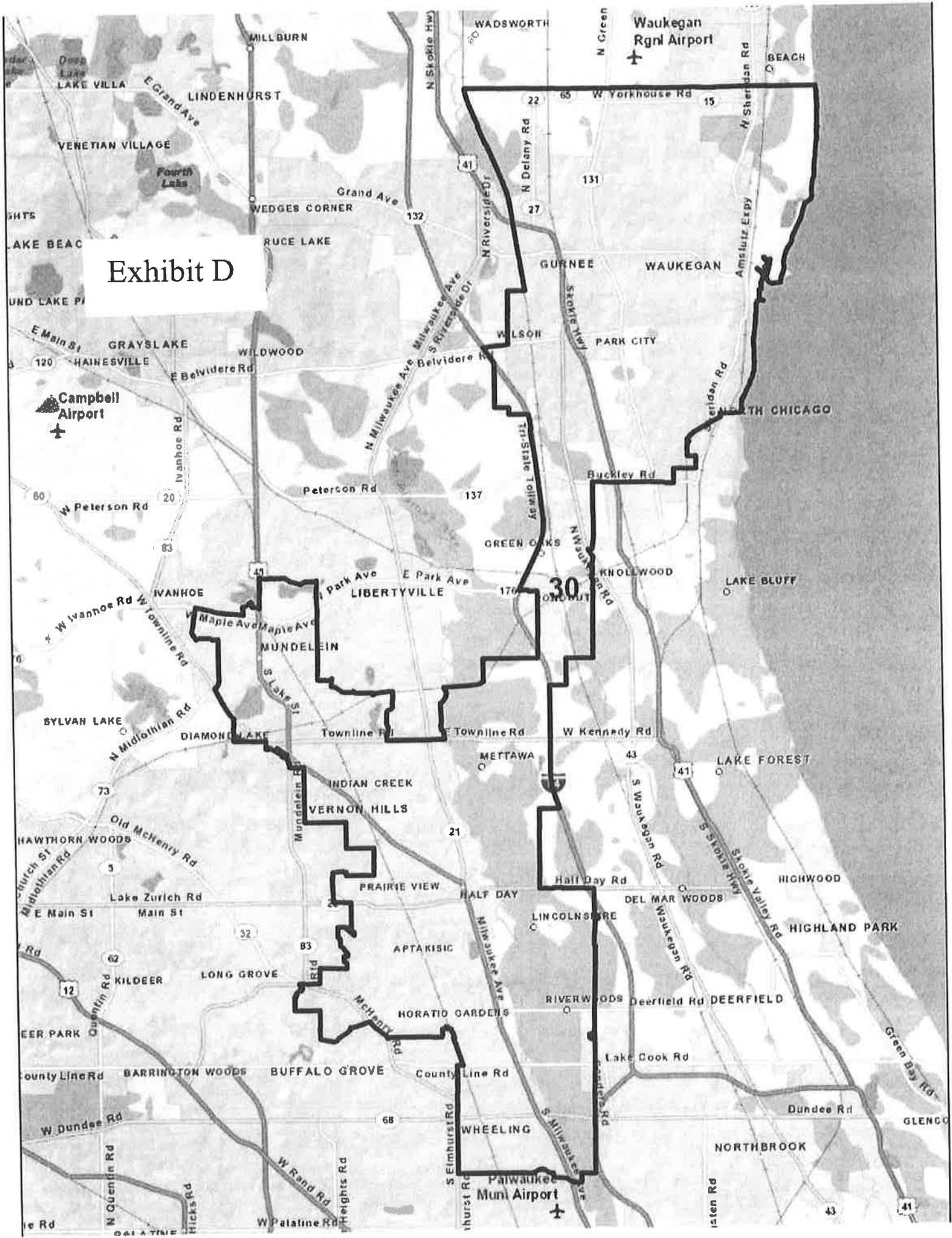


EXHIBIT 3

No. 113840

IN THE

SUPREME COURT OF ILLINOIS

THOMAS CROSS, etc., et al.,)	
)	
Plaintiffs,)	
)	
)	
vs.)	Declaratory Relief
)	
)	
ILLINOIS STATE BOARD OF)	
ELECTIONS, et al.,etc.,)	
)	
Defendants.)	

ORDER

This cause coming to be heard on the motion of the plaintiffs, Thomas Cross et al., an objection having been filed by the defendants, the Illinois State Board of Elections, et al., the parties having filed briefs as directed by the Court on the issue of whether the motion to file a petition for declaratory and injunctive relief as an original action pursuant to Supreme Court Rule 382 is timely, and the Court being fully advised in the premises;

IT IS ORDERED that the motion for leave to file a complaint for declaratory judgment and injunctive relief pursuant to Supreme Court Rule 382 is denied.

Order entered by the Court.

JUSTICE THOMAS, dissenting:

I respectfully dissent from today's decision denying plaintiffs' request for leave to file an original action under Supreme Court Rule 382 (Ill. S. Ct. R. 382 (eff. Feb 1, 1994)).

The sole issue before the court today is whether plaintiffs' attempted redistricting challenge is untimely and therefore barred by the equitable doctrine of *laches* because it comes too close to this year's elections. I am convinced that the action is timely, and that *laches* is not a bar. Indeed, article IV, section 3, of the Illinois Constitution of 1970, which provides for "actions concerning the redistricting of the House and Senate," contains no limitations provision whatsoever with respect to such actions. See Ill. Const. 1970, art. IV, § 3. Neither does Supreme

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Court Rule 382, which governs the institution of and procedure for such actions. And finally, there is ample precedent for the principle that, while *laches* may bar the granting of redistricting relief in relation to an imminent election, it does not bar the granting of relief in relation to *subsequent* elections, which is what plaintiffs here are seeking. See, e.g., *Martin v. Soucie*, 109 Ill. App. 3d 731, 732-34 (1982); *Wilson v. Kasich*, 963 N.E.2d 1282 (Ohio 2012).

In light of these considerations, I would grant plaintiffs' request for leave to file their original action, give them their day in court, and then decide this important matter of public policy on the merits rather than on the equitable and purely discretionary doctrine of *laches*.

JUSTICES GARMAN and KARMEIER join in this dissent.

EXHIBIT 4

Supplemental Expert Report for

Cross v. Illinois State Board of Elections

(Docket Number: 113840)

by

M.V. (TREY) HOOD III,
Associate Professor, University of Georgia

April 16, 2012

I. INTRODUCTION AND BACKGROUND

My name is M.V. (Trey) Hood III, and I am a tenured, associate professor at the University of Georgia with an appointment in the Department of Political Science. I also serve as the Director of Graduate Studies for the Department. I have been a faculty member at the University of Georgia since August of 1999. I am an expert in American politics, specifically in the area of electoral politics, racial politics, legislative politics, and Southern politics. I teach courses on Southern politics and research methods and have taught a graduate seminar on the topic of election administration.

I have received research grants from the National Science Foundation and the Pew Charitable Trust. I have published peer-reviewed journal articles specifically in the area of legislative politics, including the topic of redistricting. My academic publications are detailed in a copy of my vita which is attached to end of this document.

During the preceding four years I have offered expert testimony in three cases, *State of Florida v. United States* (No. 11-1428, D.D.C.), *NAACP v. Walker* (11-CV-5492, Dane County Circuit Court), and *Jones v. Deininger* (12-CV-00185-LA). In assisting the plaintiffs in analyzing the potential impact of the proposed legislative redistricting plan, I am receiving \$300 an hour for this work and \$300 an hour for any testimony associated with this work. In reaching my conclusions, I have drawn on my training, experience, and knowledge as a social scientist who has specifically conducted research in the general area examination in this expert report.

II. OVERVIEW

In this report I analyze the proposed Democratic redistricting plan for the Illinois General Assembly, Public Act 97-0006, against provisions in the Illinois Constitution of 1970 that call for legislative districts to be compact and stipulations by the Illinois Supreme Court that redistricting plans should meet all legal requirements for political fairness. At various points in my analysis I also make comparisons between the PA 97-6 plan and an alternative plan labeled the Fair Map in the complaint. Hereafter, I will refer to the redistricting plan adopted by Senate Bill 1177 as PA 97-6 and the alternative plan as the Fair Map.

In Section III of this report I analyze the districts as configured in PA 97-6 and the Fair Map plans in order to make inferences about compactness. Factors relating to political fairness are examined in Section IV, including district partisanship, incumbent pairings, and core constituency retention. An analysis of the PA 97-6 plan following the March 2012 primary is presented in Section V. In Section VI an overall conclusion is drawn about the PA 97-6 plan in reference to compactness and political fairness as mandated by the Illinois Constitution.

The data I used for the analyses presented in this expert report come from the plaintiff's attorney.

III. COMPACTNESS

I used two commonly accepted measures of compactness, the Perimeter-to-Area measure and Smallest Circle score, to analyze the Illinois state representative districts under PA 97-6. I then utilized these same measures in an analysis of the Fair Map plan. Hereafter, I will use the term Reock to refer to the Smallest Circle score of compactness measure and the Polsby-Popper measure to refer to Perimeter-to-Area measure of compactness. Niemi et al. (1990: 1161) classify the Reock measure as one that compares the area of the district to the area of a circle. More formally the Reock measure is the *ratio of the district area to the area of the minimum circumscribing circle*. The Polsby-Popper measure is a perimeter-area comparison which calculates the *ratio of the district area to the area of a circle with the same perimeter* or formally $[(4\pi\text{Area})/\text{Perimeter}^2]$. Both the Reock and the Polsby-Popper measures range between 0 and 1, with 1 an indication of perfect compactness. Again, in both cases a district which was a perfect circle would score a value of 1.¹

All Districts

For this section I utilize compactness figures generated by Professor Michael C. Herron. I have reviewed Professor Herron's report and accept his findings related to the compactness of districts for the two plans under review (PA 97-6 and the Fair Map). Descriptive statistics using all Illinois legislative districts are located in Table 1. Both measures of compactness show districts under PA 97-6 to have much lower average scores than those proposed under the Fair Map plan. The mean Reock score under PA 97-6 is .35, compared with .40 under the Fair Map plan.

¹For more information on these measures see: Polsby, David, and Robert D. Popper, 1991. "The Third Criterion: Compactness as a Procedural Safeguard against Partisan Gerrymandering." *Yale Law and Policy Review*, 9: 301-353; Reock, Jr., Ernest C. 1961. "A Note on Measuring Compactness as a Requirement of Legislative Appointment." *Midwest Journal of Political Science* 5: 70-74; and Niemi, Richard G., Bernard Grofman, Carl Calucci, and Thomas Hofeller. 1990. "Measuring Compactness and the Role of a Compactness Standard in a Test for Partisan and Racial Gerrymandering." *Journal of Politics* 52: 1155-1181.

Likewise, using the Polsby-Popper measure of compactness the average district under PA 97-6, at .27, is far less compact than the average district under the Fair Map plan at .35.

Table 1. District Compactness Comparisons for Illinois House

	PA 97-6		Fair Map	
	Reock	Polsby-Popper	Reock	Polsby-Popper
Mean	.35	.27	.40	.35
Median	.35	.25	.42	.35

Source: Michael C. Herron. "Report on the Illinois Redistricting Plan." February 17, 2012.

The median value for these two measures of compactness tells a similar story. Under PA 97-6, half the legislative districts fall under .35 (Reock) or .25 (Polsby-Popper) respectively, as compared to districts proposed under the Fair Map plan where half the districts would be below .42 (Reock) and .35 (Polsby-Popper). The maximum values for compactness also increase under the alternative plan, from .59 to .65 (Reock) and from .55 to .68 (Polsby-Popper). In summary, the compactness figures generated by Professor Herron for the entire slate of Illinois legislative districts indicate that the average district will be more compact under the Fair Map alternative plan, as compared to districts under PA 97-6.

Democratic vs. Republican Districts

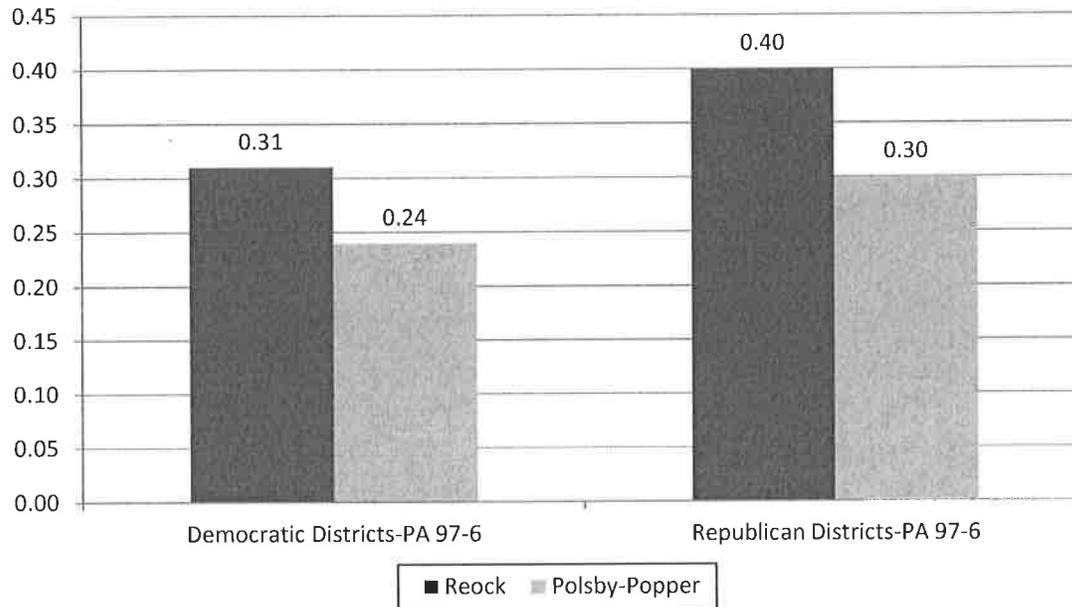
Next, I classified the districts by political party, based on the party affiliation of the legislator currently holding the seat, and recalculated descriptive statistics for the two measures of compactness described previously. The results are found in Table 2.² Comparing first those districts classified as Democratic, the mean measures of compactness are .31 (Reock) and .24 (Polsby-Popper) under PA 97-6. Republican legislative districts have higher compactness scores, with a mean Reock value of .40 and a Polsby-Popper score of .30. These values are plotted by party affiliation in Figure 1.

Table 2. District Compactness Comparisons for Illinois House by Political Party (PA 97-6)

	Democratic Seats		Republican Seats	
	Reock	Polsby-Popper	Reock	Polsby-Popper
Mean	.31	.24	.40	.30
Median	.30	.22	.39	.30

²The thirteen open seat districts under PA 97-6 have mean compactness scores of .39 (Reock) and .28 (Polsby-Popper).

Figure 1. Mean Scores of Legislative District Compactness



It is important to also compare Democratic and Republican districts against one another. First, under PA 97-6 Democratic districts have significantly lower mean compactness scores compared to Republican-held districts. The mean Reock score for Democrats, at .31, is much lower than that for Republicans, at .40. Likewise, a similar pattern emerges looking at the mean Polsby-Popper score, which is .24 for Democratic districts and .30 for Republican districts. Using a difference of means test confirms that the average GOP district under PA 97-6 is more compact (using either the Reock or Polsby-Popper measure) compared to Democratic districts under this same plan.³ Democratic districts are more geographically dispersed as compared to Republican districts. Section IV, which examines questions of political fairness, will further explore the linkage between district compactness and questions of political fairness.

Specific District Analysis

Last, I examined the compactness of three specific legislative districts which are being challenged on a separate basis. These districts are Representative District 35, Representative District 59, and Legislative District 30 (which is composed of Representative Districts 59 and 60). For this section I again rely on compactness figures generated by Professor Herron. I have reviewed Professor Herron's report and accept his findings related to the compactness scores for these specific districts. The mean values of the two compactness measures for these districts are compiled in Table 3.

³These statistical tests are paired sample t-tests which compare the difference in the mean values for Democratic and Republican districts on the Reock and Polsby-Popper measures of compactness under PA 97-6. The difference in the mean values between Democratic and Republican districts for the Reock measure at .088 is significant at the .01 level. The difference in the mean values on the Polsby-Popper measure at .056 is also significant at the .01 level.

Table 3. District Compactness Comparisons of Specific Representative Districts

	PA 97-6		Fair Map Plan	
	Reock	Polsby-Popper	Reock	Polsby-Popper
RD 35	.155	.143	.443	.317
RD 59	.221	.143	.606	.383
LD 30	.220	.145	.449	.382

Source: Michael C. Herron. "Report on the Illinois Redistricting Plan." February 17, 2012.

RD 35 has compactness scores at .155 (Reock) and .143 (Polsby-Popper),—much lower than the mean scores for these measures under the alternative plan offered. Under PA 97-6 the Reock value for RD 35 is 1.1 standard deviations below the mean for all legislative districts and the Polsby-Popper measure is .9 standard deviations below the mean. The difference between the compactness scores for RD 35 under PA 97-6 and the mean values for these scores across all districts is statistically significant.⁴ Under the alternative plan the compactness of RD 35 would increase, from .155 to .443 (Reock) and from .143 to .317 (Polsby-Popper).

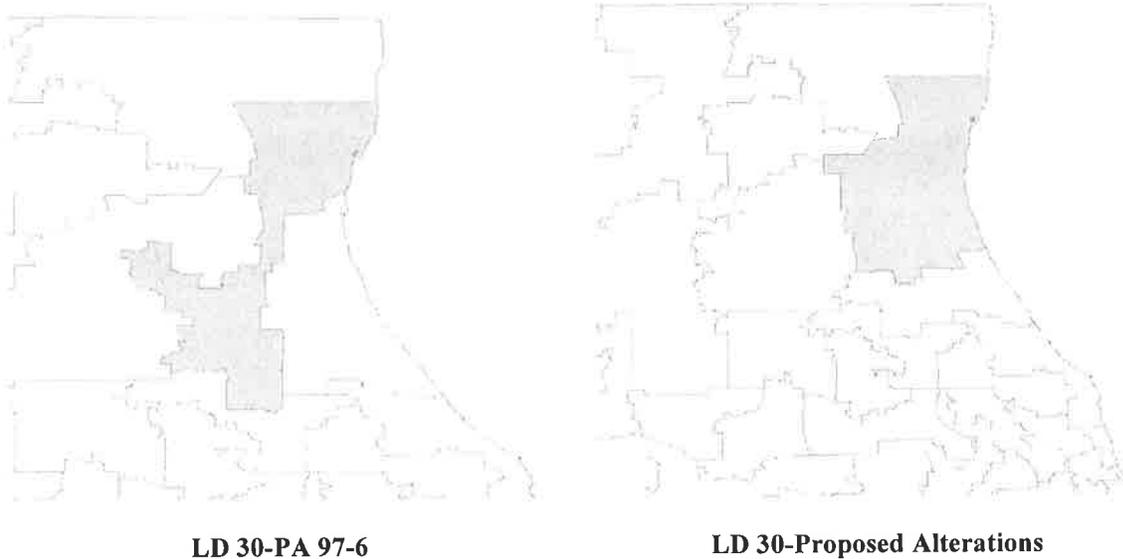
RD 59 is another district that is far less compact compared to the average district in the PA 97-6 plan. The Reock score for RD 59 is .221, compared with the mean across all districts of .31. The Polsby-Popper score for RD 59 is .143, while the mean value for this measure is .24. Again, the compactness scores for RD 59 are statistically different from the mean scores across all legislative districts (the differences are statistically significant).⁵ Under the Fair Map plan the compactness scores for RD59 would increase to .606 (Reock) and .383 (Polsby-Popper).

Inferences concerning compactness can also be made visually. I have created a map of LD 30 under PA 97-6 and an alternative rendering offered by the plaintiff (note that this is a substitute offered to reconfigure LD 30 alone and not the configuration of LD 30 as it would exist under the full Fair Map alternative offered by the plaintiff). These maps are displayed in a side-by-side comparison in Figure 2 below with LD 30 shown in gray. Examining the two maps it is clear that the version of LD 30 under the proposed alternative is far more compact than the version under PA 97-6. Generating compactness statistics for LD 30 under PA 97-6 and the alternative plan offered by the plaintiffs yields the same conclusion as the visual test presented. Reock and Polsby-Popper scores for LD 30 under PA 97-6 are .220 and .145 respectively. Again, under the alternative plan, these measures of district compactness would increase to .449 (Reock) and .382 (Polsby-Popper).

⁴This is a one-sample t-test which compares the Reock and Polsby-Popper value for RD 35 to the mean Reock and Polsby-Popper measures calculated across all districts under the PA 97-6 plan. The differences for both measures are statistically significant at the .001 level. On both compactness measures then one can state with a great degree of statistical confidence that RD 35 is less compact than the average legislative district.

⁵See footnote 4 for test notes. Again, with a high degree of statistical confidence it can be concluded that RD 59 is less compact than the average legislative district under PA 97-6.

Figure 2. Comparisons of LD 30 under PA 97-6 and Proposed Alternative



Conclusions

The Illinois Constitution of 1970 (Article IV, Section 3) requires that state legislative districts should be compact. From the analysis undertaken, it is my opinion that the PA 97-6 redistricting plan does not meet this requirement for the reasons stated below:

1. The Fair Map plan increases the level of geographic compactness for the average legislative district over levels found in the PA 97-6 plan.
2. RD 35 and RD 59 are significantly less geographically compact as compared to the average legislative district under the PA 97-6 plan.
3. Under the alternative plan RD 35, RD 59, and LD 30 would be more geographically compact.

IV. POLITICAL FAIRNESS

The Illinois Supreme Court has held that any redistricting plan should meet legal requirements for political fairness. This section of my reports examines questions related to that topic as applied to the PA 97-6 redistricting plan.

Partisanship

This component of my analysis is based on a composite measure of partisanship created by averaging the Democratic share of the two-party vote across seventeen statewide contests in Illinois from the 2004, 2006, 2008, and 2010 election cycles. These data were aggregated into

the assembly districts as drawn under the PA 97-6 redistricting plan.⁶ Using a composite vote index produces a far more accurate picture of district partisanship, as opposed to relying on a single election where the vote outcome may be affected by factors specific to that contest; and thus not an accurate gauge of the underlying partisan makeup of the district. This measure will serve as a proxy measure for the partisanship of constituents in Illinois assembly districts.

Based on the current membership of the Illinois Assembly, PA 97-6 would create 44 districts with a Republican incumbent in the next election-cycle, 61 districts with a Democratic incumbent, and 13 open seats. Examining these district classifications against the composite partisan index reveals a number of interesting patterns. Table 4 categorizes these seat types against four partisan vote share categories: less than 50%; 50-55%, 55-60%, and more than 60%. The first column details the breakdown of districts occupied by Republican incumbents by the expected Republican vote share.

Almost a third (32%) of Republican-incumbent seats are located in districts where the expected Republican vote share is less than 50%. The fact that the average vote share for these districts is majority Democratic places these Republican incumbents in a very precarious position in terms of the ability of these incumbents to be successfully re-elected. Looking down the column, 41% of GOP-held seats are in districts with an expected Republican vote share of between 50% and 55%, while 25% are in districts that fall between 55% and 60%. Only one Republican incumbent is located in a district which, by conventional definitions, could be considered a *safe* seat with an expected GOP vote share of greater than 60%.⁷ Contrast this with districts held by Democratic incumbents where 84% are in seats classified as *safe*. Eight percent of Democrats are located in districts where the expected Democratic vote share is between 55% and 60%, while 7% are located in districts where the expected vote share is 50% to 55%. Only a single Democratic incumbent is located in a district where the expected vote share tilts Republican. Democrats have an advantage in the area of open seats as well. More than three-fifths of the open seats (61.6%) are located in districts where the expected Democratic vote share is 50% or greater with 23% of the seats in districts having an expected Democratic vote in excess of 60% and another 23% in districts which have given an average of 55-60% of their votes to Democratic candidates.⁸

Open seat elections can often be highly competitive because they lack of an incumbent who has created strong bonds of personal loyalty. Open seats give the minority party a better chance of success than when its nominee must take on an entrenched incumbent, but when the partisan

⁶The specific elections used to create the index were the 2004 and 2008 presidential contests; the 2004, 2008, and 2010 U.S. Senate contests; congressional races from the 2004 and 2008 election-cycles; and the 2006 and 2010 contest for Illinois governor, attorney general, secretary of state, comptroller, and treasurer.

⁷In research on congressional elections seats won with less than a specific share of the two-party vote are considered *marginal* for the winner, as opposed to *safe*. Jacobson indicates marginality is a proxy measure for vulnerability. Most researchers have used a 60% cut-off point to determine marginality. Some have also used 55% as a dividing line. For example, if the 60% cut-point is being used and the winner of an election garnered 58% of the two-party vote the seat would be classified as *marginal*. See Gary C. Jacobson. 2012. *The Politics of Congressional Elections*, 8th edition. New York: Prentice Hall for more information.

⁸Two of the open seats (15.4% of the total) have an expected Republican vote share between 55% and 60% and one (7.7% of the total) open seat has an expected Republican vote share above 60%.

make-up is skewed in favor of one party as Democrats have tilted at least three of the open seats in their favor, competitiveness may not result.⁹

Table 4. Assembly Districts by Expected Vote Share and Party of Incumbent under PA 97-6

Partisan Vote Share	Republican Incumbents ^a	Democratic Incumbents ^b	Open Seats ^b
<50%	31.8% [14]	1.6% [1]	38.5% [5]
50-55%	40.9% [18]	6.6% [4]	15.4% [2]
55-60%	25.0% [11]	8.2% [5]	23.1% [3]
60+%	2.3% [1]	83.6% [51]	23.1% [3]
Total Seats	44	61	13

Notes: a=Republican Vote Share by District; b=Democratic Vote Share by District
Entries are column percentages with number of districts in brackets

I was also able to construct a point of comparison between districts under the Fair Plan and those drawn under PA 97-6 using the composite measure of Democratic partisanship described previously. In addition to using the index as calculated for districts under PA 97-6, the underlying votes were reconfigured for districts under the Fair Plan. This allowed me to create an index of Democratic partisanship for Fair Plan Assembly districts as well. The results of this comparison are presented in Table 5. Compared to PA 97-6, the Fair Plan would produce fewer safe Democratic districts (Democratic vote share greater than 60%). Under PA 97-6, 46.6% of the districts would fall into this category, compared with 39.8% of districts under the Fair Plan. The Fair Plan would increase electoral competition by placing more seats in the marginal category (Democratic vote between 50% and 55%) for Democrats, 24.6% of seats versus 11.9% of seats under PA 97-6. In short, the partisan distribution of the State under the Fair Plan is more evenly divided across Assembly districts compared to the distribution produced by PA 97-6.

⁹See for example, Gaddie, Ronald Keith and Charles S. Bullock, III. 2000. *Elections to Open Seats in the U.S. House*. New York: Rowman & Littlefield Publishers.

Table 5. Assembly Districts by Expected Vote Share under PA 97-6 and the Fair Plan

(D) Vote Share	PA 97-6	Fair Plan
<50%	30.5% [36]	27.1% [32]
50-55%	11.9% [14]	24.6% [29]
55-60%	11.0% [15]	8.5% [10]
60+%	46.6% [55]	39.8% [47]
Total Seats	118	118

In the preceding section I determined that under the PA 97-6 redistricting plan districts held by Democratic incumbents were less compact than those districts held by Republican incumbents. If one correlates the Reock and Polsby-Popper compactness scores with the measure of Democratic vote share an interesting pattern emerges. First, the Pearson correlation between the Reock measure and Democratic vote share is $-.53$, while it is $-.45$ for the Polsby-Popper measure.¹⁰ These moderately strong, negative correlations indicate that the most staunchly Democratic districts are also the least compact. Conversely, the strongest groupings of Republican partisans are housed in the most compact districts. Figures 3 and 4 plot Democratic vote share by the Reock and Polsby-Popper measures of compactness using scatter plots. Looking at these figures, the inverse relationship between Democratic partisanship and district compactness is unmistakable (for reference I have also plotted a least squares trend line that provides a visual reference).¹¹ From these data it can be concluded that the PA 97-6 redistricting plan uses geography to further increase the advantage of the Democratic majority. Specifically, the plan stretches and shapes districts in order to maximize Democratic voting strength (less compact), while at the same time packing pockets of Republican identifiers into a minimum number of districts (more compact).

Specific District Analysis

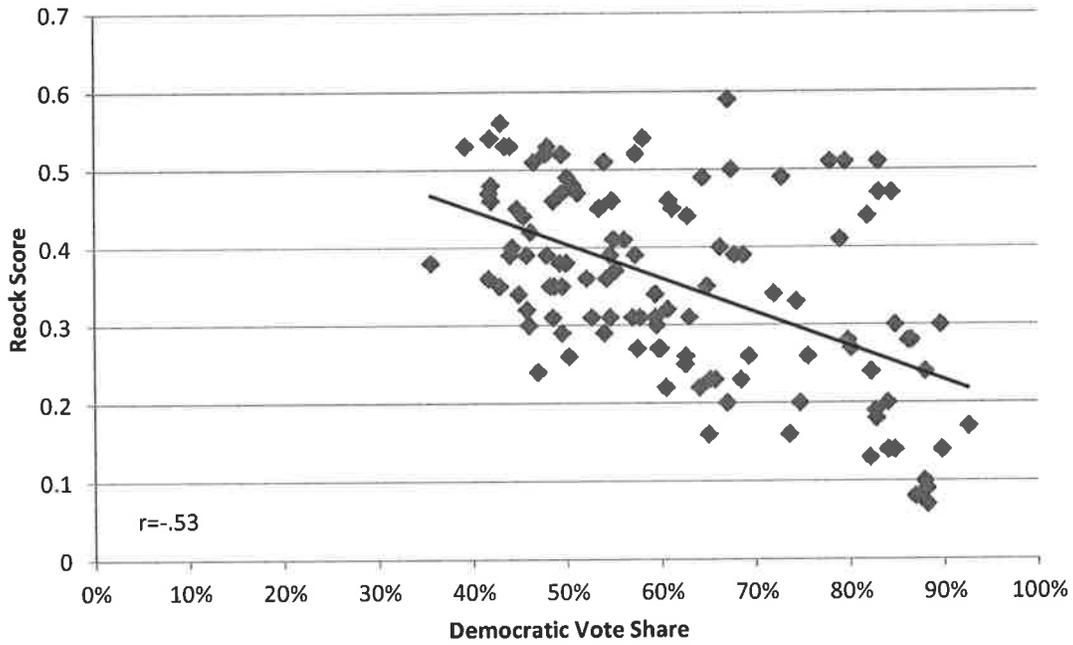
I also examined RD 35 and RD 59 on the basis of political fairness as these districts are being specifically challenged. In the preceding section I determined that RD 35 and RD 59 are significantly less compact as compared to the average district under PA 97-6. In terms of partisan composition both of these districts are identical at 65.0% Democratic. Under the Democratic plan then, both these districts are safe Democratic seats. The Republican incumbent, who is

¹⁰The Pearson correlation coefficient (Pearson's r) ranges from -1 to 1 and denotes the strength of linear relationship between two variables. A value of -1 would indicate a perfect negative correlation and a value of 1 a perfect positive correlation. A value of 0 would indicate the absence of any linear relationship.

¹¹This line is the best "fit" for a given set of data points in that its location minimizes the errors (absolute distances) between the data points and the line. The least squares line can be thought of as an average trend line for a set of data points and can be used to predict y for known values of x .

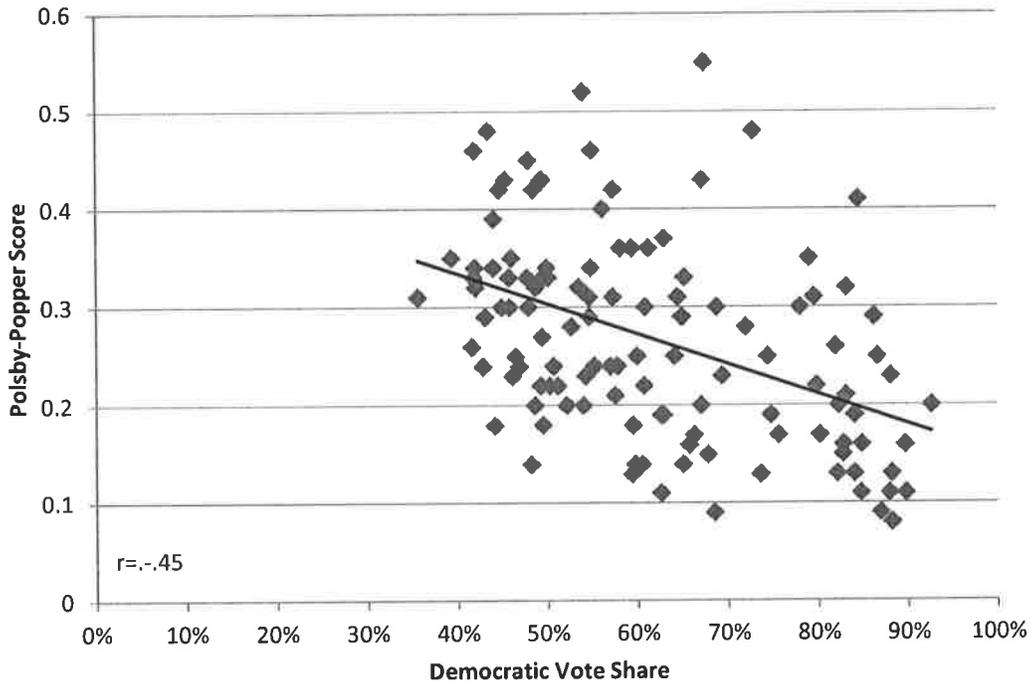
paired with a Democratic incumbent in RD 59, should be easily eliminated in the district as drawn under PA 97-6.¹²

Figure 3. Democratic Vote Share and District Compactness



¹²I do not have specific data on the partisan composition of LD 30.

Figure 4. Democratic Vote Share and District Compactness



From this part of my analysis there is strong evidence to conclude the Democratic redistricting plan dilutes the total Republican vote across Illinois, while conversely consolidating Democratic votes within state Assembly districts. Under PA 97-6 it will be much more difficult for Republican voters to elect an Assembly member of their choosing, as compared to Democratic voters electing a candidate for the Assembly that they prefer. Taking the party of the incumbent out of the equation for the moment, if one were to simply analyze districts under PA 97-6 on the basis of partisan composition, 46.6% (55) of these districts would be classified as safely Democratic and only 1.7% (2) would be classified as safely Republican (using a 60% cut-point). Exit poll data from Illinois for the 2010 election indicates that 32% of respondents statewide identified themselves as Republicans, compared to 44% who identified as Democrats, and 24% who were independents.¹³ From this perspective then PA 97-6 produces a number of safely Democratic seats roughly proportional to the share of self-identified Democrats in the electorate (46.6% vs. 44%). The number of safe Republican seats, however, is far below the number of self-identified Republicans in the state (1.7% vs. 32%). Of the remaining 61 seats that are not safely Democratic or Republican, 14 are in the 50% to 55% Democratic range, 13 are in the 55%-60% Democratic range, 21 are in the 50% to 55% Republican range, and 13 are in the 55% to 60% Republican range. If one were to use a 55% cut-point for safe seats, 56.6% (68) of the seats would be classified as safely Democratic in comparison to 12.7% (15) of the seats that would be categorized as safely Republican. Again, these seat distributions are not in line with the

¹³2010 CNN Exit Poll results found at: <http://www.cnn.com/ELECTION/2010/results/main.results>.

overall partisan makeup of the state. These districts then, disproportionately exaggerate the size of the Democratic majority in the State.

Incumbent Pairings

As districts get redrawn to reflect population shifts and differences in the rates of growth or decline, it often becomes impossible to design a new plan in which every sitting member has a unique district in which to run. Bipartisan plans result in both parties sharing the pain by eliminating equal numbers of districts of each party's incumbents or eliminating incumbents on a proportional basis. One of the classic gerrymandering techniques is to force the minority party to bear most of the burden of district consolidation by putting multiple opposition party incumbents in a single district thereby reducing its ranks and robbing it of experienced members.

The PA 97-6 plan creates a number of districts where current incumbent Assembly member will be forced to face-off against one another in the next election-cycle. Examining the Democrat plan reveals that a total of 25 incumbents will be paired against one another. Of these 25 incumbents, however, 17 of these pairings are Republicans and only 8 are Democrats. These figures represent 38.6% (17 of 44) of the districts occupied by a Republican incumbent under the Democratic plan as compared to 13.1% (8 of 61) of districts held by Democratic incumbents. There are two districts pairing a Democrat and a Republican, seven districts pairing a Republican against a Republican,¹⁴ and three districts where a Democrat is paired with a Democrat. During the primary election stage eight of fifteen Republican incumbents will be eliminated, compared to only three of six Democrats. In the two districts pitting a Republican against a Democrat, the Democrats clearly have the edge as the estimated Democratic share of the two-party vote (using the composite vote measure described previously) is 79.8% for District 78 and 60.5% for non-compact District 59. The Democratic plan is designed to further weaken the already disadvantaged Republican Party in a fashion that drew rebuke in *Larios v. Cox*. Clearly, a much larger number of Republican incumbents have been placed in districts where they are forced to face another incumbent. Incumbent office-holders are more likely to win election compared to challengers. While some incumbent pairings are unavoidable in the redistricting process, the PA 97-6 plan overtly pairs a much larger number of Republican incumbents.

Core Constituency

The final factor I analyze in order to draw a set of conclusions about the political fairness of the PA 97-6 plan is that of core constituency retention. This is a measure of the percentage of constituents that stayed with an incumbent following the creation of new districts. So, when new districts are drawn these are the incumbent's constituents from the previous election-cycle, or his or her *old* constituents. The number of constituents moving from the old district (before redistricting) to the new district (following redistricting) with the incumbents is critical to their probability of being re-elected. Research has shown that *old* constituents are more likely to vote for incumbents following a redistricting-cycle as compared to *new* constituents who were not a part of the legislator's preceding district.¹⁵ Analysis reveals that under PA 97-6 the mean core

¹⁴In District 47 under the Democratic plan there are three Republican incumbents paired against one another.

¹⁵See for example Hood, III, M.V. 2008. "Gerrymandering on Georgia's Mind: The Effects of Redistricting on Vote Choice in the 2006 Midterm Election." *Social Science Quarterly* 89: 60-77; McKee, Seth C. 2008. "The Effects of Redistricting on Voting Behavior in Incumbent U.S. House Elections, 1992-1994." *Political Research Quarterly* 61: 122-133; McKee, Seth C. 2010. *Republican Ascendancy in Southern U.S. House Elections*. Boulder, CO: Westview

retention for Democratic incumbents is 72.0%, compared to the mean core retention for Republican incumbents at 60.6%—a difference of 11.4 points. On average then, Democratic map drawers have given Democratic incumbents a decided political advantage in that they maintain a much larger share of *old* constituents in contrast to Republican incumbents, all in the course of drawing a set of districts that are far more likely to contain concentrations of Democrats as shown in Table 4 above.

Conclusions

The Illinois Supreme Court has held that any redistricting plan should meet legal requirements for political fairness. From the analysis undertaken, it is my opinion that the PA 97-6 redistricting plan does not meet this criteria for the reasons stated below:

1. The PA 97-6 plan creates a far greater number of *safe* districts for Democratic incumbents in terms of partisan composition, while making districts for Republican incumbents competitive. In almost a third of the cases Republican incumbents now find themselves in districts that regularly vote Democratic.
2. The partisan composition of districts under the PA 97-6 plan acts to disproportionately exaggerate the position of the Democratic majority. Almost three-fifths (57.6%) of the seats under PA 97-6 contain a Democratic majority of 55% or greater.
3. The partisan distribution of the State under the Fair Plan is more evenly divided across Assembly districts compared to the distribution produced by PA 97-6.
4. The partisan composition of districts under PA 97-6 is accomplished via geographical manipulation, making districts held by Democratic incumbents far less compact than incumbent Republican districts.
5. More Republican incumbents are paired to run against one another in districts under PA 97-6 compared with Democratic incumbents.
6. Democratic districts retain a greater share of their core constituency compared to Republican districts.

V. SUPPLEMENTAL ANALYSIS FOLLOWING THE MARCH 2012 PRIMARY

In this section I use the results of the March 2012 primary in Illinois to update the partisan seat distribution of State House seats under PA 97-6.¹⁶ The types of races are displayed in Table 6 and are limited to an analysis of Democratic and Republican candidates. There are 37 (31.4%) House districts with only a Republican candidate in the general election, 42 (35.6%) districts with only a Democratic candidate, and 39 (33.1%) contested seats. As of now the Republican and Democratic seat share in the House is fairly evenly split. The real question is which way the remaining 39 seats will fall. Of these contested races 11 (9.3% of the total) are open seats and 28

Press; and Petrocik, John R. and Scott W. Desposato. 1998. "The Partisan Consequences of Majority-Minority Redistricting in the South, 1992 and 1994." *Journal of Politics* 60: 613-633.

¹⁶Data collected from the Illinois State Board of Elections (www.elections.il.gov) and Ballotpedia (<http://ballotpedia.org>).

(23.7% of the total) are host to at least one incumbent. As of now Democratic incumbents face a Republican challenger in 15 races and Republican incumbents face a Democratic challenger in 12 races. Only a single race (District 59) features both a Democratic and Republican incumbent.

Table 6. Illinois State House Races following the March 2012 Primary

Race Type	Number of Seats	Percentage
Republican Candidate Only	37	31.4%
Democratic Candidate Only	42	35.6%
Contested	39	33.1%
Type of Contested Race:		
Open	11	28.2%
Incumbent	28	71.8%
Type of Incumbent Race:		
Republican Incumbent	12	42.9%
Democratic Incumbent	15	53.6%
Both	1	3.6%
Total	118	

In order to get a better idea of just how these contested seats might split in the general election I categorized these districts by the composite two-party index described previously. Table 7 displays the distribution of contested seats by various Democratic vote share categories. For the 11 open seats the mean Democratic vote share is 57.8% and for contested races featuring an incumbent it is 61.3%. Eight of the 11 open seats (72.7%) are located in districts where the vote share safely tilts Democratic (defined as 55% or greater). Likewise, of the contested races featuring at least one incumbent, 71.4% (20 of 28) could be considered safe Democratic districts and another 17.9% (5 of 28) are in Democratic-leaning districts (defined as 50%-55% Democratic).

Table 7. Illinois State House Contested Races following the March 2012 Primary

Democratic Vote Share	Open	Incumbent
<50%	18.2% (2)	10.7% (3)
50-55%	9.1% (1)	17.9% (5)
55-60%	36.4% (4)	28.6% (8)
60+%	36.4% (4)	42.9% (12)
Mean (D) Vote Share	57.8%	61.3%
Total Seats	11	28

I further refined the analysis to examine different types of incumbent-held seats that are being contested in Table 8. Again, categorizing these seats by the expected Democratic vote share reveals the bulk of contested races featuring a Democratic incumbent are located in safe Democratic districts. Fourteen of fifteen of these seats have a Democratic vote share 55% or greater. None of the Democratic incumbents are located in a district with a Democratic vote share less than 50% and only 1 is running in a district where the Democratic vote share is between 50% and 55%. Of the 12 races featuring a Republican incumbent and a Democratic challenger, 5 (41.7%) are located in safe Democratic districts and another 4 (33.3%) are located in Democratic-leaning districts. Only three of these Republican incumbents are running in districts where the expected vote share is greater than 50% Republican. The District 59 race features both a Democratic and Republican incumbent. District 59 is considered a heavy favorite for the Democratic incumbent with an expected Democratic vote just over 60%.

Table 8. Illinois State House Contested Incumbent Races following the March 2012 Primary

Democratic Vote Share	(R) Incumbent	(D) Incumbent	Both
<50%	25.0% (3)	0% (0)	0% (0)
50-55%	33.3% (4)	6.67% (1)	0% (0)
55-60%	33.3% (4)	26.7% (4)	0% (0)
60+%	8.3% (1)	66.7% (10)	100% (1)
Mean (D) Vote Share	54.2%	67.1%	60.5%
Total Seats	12	15	1

Using the preceding data collected from the 2012 primary I will forecast the number of Democratic and Republican seats which will be won in the general election under PA 97-6. To begin, there are 42 races that feature only a Democratic candidate. One can add the 8 open seats that are housed in safe Democratic districts to this base number, bringing the total to 50. Moving on to those seats contested by incumbents, the 20 seats falling into the 55% Democratic vote and greater could be added to the number of expected Democratic seats, bringing the total to 70. Currently, the Illinois House is split 62 Democratic seats to 54 GOP seats, for an 8-seat Democratic advantage. Under PA 97-6 my best estimate places the total number of Democratic seats at 70, compared to 48 for the Republicans. This is a 22-seat advantage for the Democratic Party, representing a net gain of 14 seats over 2010.

I should note this is a conservative forecast as Democratic House candidates are also likely to win at least some share of those seats classified as Democratic-leaning (50%-55% expected Democratic vote range), which includes a total of 6 seats. The 2010 elections reveal a close partisan divide in the state. The open U.S. Senate seat saw Republican Mark Kirk narrowly defeat Democrat Alexander Giannoulis 48% to 46%. Likewise, the gubernatorial race produced an equally close finish with Pat Quinn (D) defeating Bill Brady (R) by a 1% margin (47% to 46%). In a state that has been fairly evenly divided as of late then, the electoral outcomes produced via the PA 97-6 redistricting plan are not reflective of the overall partisan competition indicative of Illinois.

VI. OVERALL CONCLUSION

The PA 97-6 redistricting plan creates assembly districts that are neither compact, nor politically fair. As these criteria are violated the PA 97-6 plan also fails to comply with provisions in the Illinois Constitution that call for legislative districts to be compact and stipulations by the Illinois Supreme Court that redistricting plans should meet all legal requirements for political fairness.

VII. DECLARATION

I declare under penalty of perjury under the laws of the United States and the State of Illinois that the foregoing is true and correct to the best of my knowledge.

Executed on July 1, 2012.

M.V. Hood III

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JUL - 5 2012

IN THE SUPREME COURT OF ILLINOIS

**CLERK
SUPREME COURT**

THOMAS CROSS, in his official
capacity as Minority Leader of the Illinois House
and individually as a registered voter, et al

Movants,

vs.

ILLINOIS STATE BOARD OF ELECTIONS, et al

Respondents.

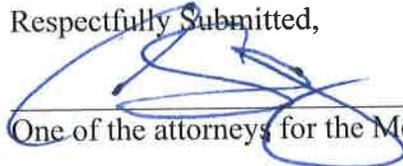
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)
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) Original Action Under
) Article IV, Section 3(b) of
) the Illinois Constitution of
) 1970
)
)
)
)

NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that on **July 3, 2012**, we caused to be filed with the Clerk of the Illinois Supreme Court, Movants Cross, Orlando and Dolgopol's Motion for Reconsideration of the June 7th, 2012 Order Denying their Motion for Leave to File Complaint Under Supreme Court Rule 382, a supporting memorandum, supporting record, and proposed order, copies of which is hereby served upon you.

Respectfully Submitted,


One of the attorneys for the Movants

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Chicago, IL 60601

Peter Baroni
Thomas Leinenweber
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FILED

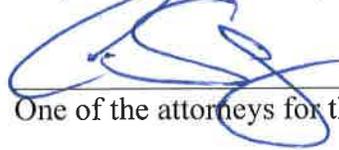
JUL 5 - 2012

**SUPREME COURT
CLERK**

PROOF OF SERVICE TO CLERK OF THE SUPREME COURT

The undersigned, an attorney, certifies that one original and one copy of the foregoing Notice of Filing, Motion, Supporting Memorandum, Supporting Record, and Proposed Order, were served upon Ms. Carolyn Raft Grosboll, Clerk of the Court, Supreme Court of Illinois, located at Supreme Court Building, 200 East Capitol Avenue, Springfield, IL 62701-1721 by depositing the same in the U.S. Mail at 200 N. LaSalle St., Suite 2810, Chicago, IL 60601, proper postage prepaid before the hour of 5:00 p.m. on July 3, 2012.

Respectfully Submitted,



One of the attorneys for the Movants

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PROOF OF SERVICE TO EACH JUSTICE OF THE SUPREME COURT

The undersigned, an attorney, certifies that one copy of the foregoing Notice of Filing, Motion, Supporting Memorandum, Supporting Record, and Proposed Order, was served upon each justice of the Supreme Court at the below addresses by depositing the same in the U.S. Mail at 200 N. LaSalle St., Suite 2810, Chicago, IL 60601, proper postage prepaid before the hour of 5:00 p.m. on July 3, 2012.

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Justice, Supreme Court of Illinois
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Chicago, IL 60601

The Honorable Charles E. Freeman
Justice, Supreme Court of Illinois
160 North LaSalle Street, Suite N-2014
Chicago, IL 60601

The Honorable Anne M. Burke
Justice, Supreme Court of Illinois
160 North LaSalle Street, Suite S-2005
Chicago, IL 60601

The Honorable Robert R. Thomas
Justice, Supreme Court of Illinois
1776 S. Naperville Road,
Building A, Suite 207
Wheaton, IL 60189

The Honorable Rita B. Garman
Justice, Supreme Court of Illinois
3607 North Vermillion, Suite 1
Danville, IL 61832-1478

The Honorable Thomas L. Kilbride
Chief Justice, Supreme Court of Illinois
1819 4th Avenue
Rock Island, IL 61201

The Honorable Lloyd A. Karmeier
Justice, Supreme Court of Illinois
100 South Mill Street
Nashville, IL 62263

Respectfully Submitted,



One of the attorneys for the Movants

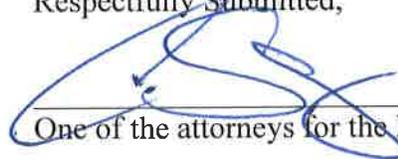
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PROOF OF SERVICE TO ALL COUNSEL OF RECORD

The undersigned, an attorney, certifies that one copy of the foregoing Notice of Filing, Motion, Supporting Memorandum, Supporting Record, and Proposed Order, was served upon all counsel of record listed on the attached service list by personal service or facsimile by the hour of 5:00 p.m. on July 3, 2012.

Respectfully Submitted,



One of the attorneys for the Movants

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