
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

MAR 28 2012

**SUPREME COURT
CLERK**

**MOVANTS' BRIEF ON THE ISSUE OF WHETHER THE MOVANTS' MOTION FOR
LEAVE TO FILE COMPLAINT UNDER ILLINOIS SUPREME COURT RULE 382 IS
TIMELY**

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.)	

**MOVANTS' BRIEF ON THE ISSUE OF WHETHER THE MOVANTS' MOTION
FOR LEAVE TO FILE COMPLAINT UNDER ILLINOIS SUPREME COURT
RULE 382 IS TIMELY**

POINTS AND AUTHORITIES

THE MOVANTS' CLAIMS FOR INJUNCTIVE AND DECLARATORY RELIEF ARE TIMELY AS APPLIED TO FUTURE ELECTIONS.....	7
I. It is a central principle of election law that an election may not go forward under an unlawful redistricting plan unless absolutely necessary.....	7

<i>Reynolds v. Sims</i> , 377 U.S. 533 (1964).....	7
<i>Martin v. Soucie</i> , 109 Ill. App.3d 731 (3rd Dist. 1982).....	7 - 10
<i>Wilson v. Kasich</i> , 2012 WL 592541 (Ohio, February 17, 2012)...	8
<i>Kelley v. Bennett</i> , 96 F.Supp.2d 1301 (M.D. Ala. 2000).....	8
<i>Smith v. Beasley</i> , 946 F.Supp. 1174 (D.S.C. 1996).....	8, 9
<i>Dillard v. Crenshaw County</i> , 640 F.Supp. 1347 (M.D. Ala. 1986)..	9

II. The affirmative defense of laches does not bar Movants’ request for relief as applied to elections in 2014 and beyond because the element of prejudice to the opposing party is lacking..... 9

<i>Tully v. State</i> , 143 Ill.2d 425 (1991).....	9, 10
<i>People ex rel. Burris v. Ryan</i> , 147 Ill.2d 270 (1991).....	10
<i>Schrage v. State Bd. Of Elections</i> , 88 Ill.2d 87 (1981).....	11
<i>Maryland Citizens for a Representative General Assembly v. Governor of Maryland</i> , 429 F.2d 606 (4th Cir. 1970).....	11

NATURE OF THE ACTION

This matter comes before the Court on Movants' 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 unconstitutional 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"). The Movants' Motion For Leave and proposed complaint were filed on February 8, 2012. The Respondents' objections were filed on February 21, 2012. On March 14, 2012, this Court directed the parties to file briefs on the issue of whether the motion for leave to file an original action is timely.

ISSUE PRESENTED

Whether Movants' motion for leave to file a complaint for declaratory and injunctive relief is timely where the pleadings request relief applicable to the 2014 primary elections and subsequent elections.

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

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”). (Motion, Prop. Complt.).

The proposed complaint alleges that the Redistricting Plan violates the requirement in the Illinois Constitution that all legislative and representative districts be “compact.” (Prop. Complt, 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.” (Prop. Complt., Count II, pages 13-15). Movant Orlando specifically alleges that Representative District 35, where he is a resident and registered voter, violates the constitutional guarantees of compactness and political fairness. (Prop. Complt., Counts III, IV, pages 15-17). Movant Dolgopol specifically alleges that Representative District 59 and Legislative District 30, where she is a resident and registered voter, violate the constitutional guarantees of compactness and political fairness. (Prop. Complt., Counts V-VIII, pages 17-22).

The Movants requested several forms of relief. First, the Movants requested that this Court enter an order declaring that the Redistricting Plan as a whole violates the constitutional requirements that all representative and legislative districts be compact and

politically fair. (Prop. Complt, Counts I-II). In the alternative, the Movants Orlando and Dolgopol requested that the Court find that Representative Districts 35 and 59 as well as Legislative District 30 violate the compactness and political fairness requirements. (Prop. Complt., Counts III-VIII). The Movants also requested that this Court enjoin the Respondent Illinois State Board of Elections from conducting any elections under the Redistricting Plan or, in the alternative, under the current configurations of Representative Districts 35, 59 and Legislative District 30. (Prop. Complt, 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.” (Brief, page 12). Movants also proposed that this Court adopt alternative configurations for the Redistricting Plan as a whole as well as alternatives to Representative Districts 35 and 59 and Legislative District 30 designed by the Movants to be incorporated within the Redistricting Plan. (Prop. Complt, Counts I-VIII). In lieu of adopting these alternatives, the Movants also requested that this Court appoint a special master to develop a redistricting plan or draw specific districts that comply with the requirements of the Illinois Constitution. *Id.*

Movants Cross and Radogno were plaintiffs in litigation filed on July 20, 2011, which challenged the lawfulness of the Redistricting Plan under federal law, the U.S. Constitution and state law. *Radogno, et al v. Illinois State Board of Elections, et al.*, No. 11C4884 (N.D.Ill. 2011). Movants Orlando and Dolgopol were not parties to the federal

lawsuit. Counts 7 and 8 of the initial complaint filed by the federal plaintiffs alleged that the Redistricting Plan as a whole violated the compactness requirement of the Illinois Constitution and that the process by which the Democratic majorities of the General Assembly passed this map violated the mandate established by this Court in *People v. Ryan I*, 147 Ill.2d 270 (1991). (Exhibit 1, Fed. Compl., Counts 7, 8). Although Representative Districts 35 and 59 were included in the list of districts that violated the compactness requirement of the Illinois Constitution, the federal plaintiffs made no specific allegations about these districts and sought no specific relief regarding these districts. (Ex. 1, page 27, ¶191). The federal plaintiffs never alleged that the Redistricting Plan violated the political fairness requirements of the Illinois Constitution.

On October 21, 2011, the three-judge panel dismissed with prejudice Count 3, which was a First Amendment claim and Count 5, which was a challenge under the Equal Protection clause to the constitutionality of the Illinois Voting Rights Act of 2011. (Ex. 1, page 22, ¶¶159-162; pages 23-25, ¶¶163-175). The October 21, 2011 order also dismissed with prejudice the aforementioned Counts 7 and 8. On November 17, 2011, the panel dismissed the federal plaintiffs' re-pled claims alleging that the Redistricting Plan violates the Equal Protection clause of the U.S. Constitution. On December 7, 2011, the panel granted summary judgment in favor of the defendants on the remaining counts regarding alleged infirmities of Representative Districts 23 and 96. The federal plaintiffs filed a notice of appeal to the United States Supreme Court on January 12, 2012 and filed a jurisdictional statement on March 12, 2012.

ARGUMENT

THE MOVANTS' CLAIMS FOR INJUNCTIVE AND DECLARATORY RELIEF ARE TIMELY AS APPLIED TO FUTURE ELECTIONS.

- I. It is a central principle of election law that an election may not go forward under an unlawful redistricting plan unless absolutely necessary.**

In its foundational redistricting case, *Reynolds v. Sims*, the United States Supreme Court recognized that litigation challenging redistricting schemes will often conflict with impending elections. 377 U.S. 533, 585 (1964). In *Reynolds*, the Court noted that a lower court might be justified in allowing one election cycle to go forward under an unconstitutional apportionment plan. *Id.* However, the Court emphasized that “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.* (emphasis added). The Court entrusted the lower courts to fashion appropriate equitable remedies that take into account the realities of the existing election schedule while vindicating the vital principle that constitutional violations must be remedied as soon as possible. *Id.*

Since the landmark decision in *Reynolds*, courts reviewing redistricting challenges filed close to an impending election have done just that, sometimes permitting pending elections to be completed under a potentially unconstitutional redistricting plan, but ensuring that no further elections are conducted under such a plan. In *Martin v. Soucie*, for example, the plaintiffs raised a compactness challenge to the redistricting plan for county board districts in Kankakee County, asking the court to enjoin the upcoming 1982 election. *Martin v. Soucie*, 109 Ill.App.3d 731, 732-734 (3rd Dist. 1982). The trial court heard the case on the merits and determined that multiple districts within the plan

violated the compactness requirement. *Id.* at 734-735. However, the trial court ultimately barred all claims by reason of *laches* due to the prejudice caused by the plaintiff's inexcusable delay. *Id.* at 732-733.

The Appellate Court affirmed the trial court's rejection of the non-compact map, but reversed its application of the affirmative defense of *laches* to future elections. *Id.* at 736. The alleged prejudice to the defendants stemming from the plaintiffs' delay (such as having to print new ballots and reprogram voting machines), the Appellate Court held, "applies *only* to the relief requested for the 1982 election." *Id.* (emphasis added). The Appellate Court concluded that it "could not countenance any further elections pursuant to that map." *Id.*

Other courts have followed this same equitable principle when faced with a challenge to redistricting plan near the time of an impending election. In a case decided just last month, 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 over 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*). Subsequent to the opinion, the Supreme Court of Ohio issued a briefing schedule and set oral arguments for April 24, 2012. (Exhibit 2, March 2, 2012 Order).

Likewise, in *Kelley v. Bennett*, a federal district court denied the defendants' defense of *laches*, noting that after the initial election under the challenged redistricting plan, "it did not matter when the plaintiffs sued, as long as it was in time for the [next] election." *Kelley v. Bennett*, 96 F.Supp.2d 1301, 1305 (M.D. Ala. 2000). In *Smith v.*

Beasley, another federal district court held that equity required the ongoing election to go forward under the challenged redistricting plan but that 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.” *Smith v. Beasley*, 946 F.Supp. 1174, 1212 (D.S.C. 1996). In *Dillard v. Crenshaw County*, 640 F. Supp. 1347 (M.D. Ala. 1986), a case cited by the Respondents (Respondents’ Objection at 11), the court declined, on equitable grounds, to enjoin pending elections but held that the defendants’ unlawful election systems “must be eliminated as soon as possible” and entered a preliminary injunction requiring the defendants to develop new election plans by January 1 of the following year. *Id.* at 1362.

II. The affirmative defense of *laches* does not bar Movants’ request for relief as applied to elections in 2014 and beyond because the element of prejudice to the opposing party is lacking.

A finding of *laches* requires both unreasonable delay and prejudice to the opposing party arising from the delay. *Tully v. State*, 143 Ill.2d 425, 432 (1991).¹ 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. The Respondents do not and cannot deny this basic reality. Instead, they resort to the unsubstantiated contention that fashioning a remedy for the 2014 primaries would require “millions of dollars, months of work and quite possibly another round of federal litigation concerning federal claims.”

(Respondents’ Objection at 14).

¹ Respondent’s assertions of prejudice to candidates, supporters, voters, and courts (Respondents’ Objection at 12-13) are irrelevant. As *Tully* makes clear, the only relevant form of detriment is to the party asserting the affirmative defense of *laches*. 143 Ill.2d at 432.

This contention is both conjectural and beside the point. To justify the affirmative defense of *laches*, the prejudice alleged by the respondents must be material, not speculative. *Martin*, 109 Ill.App.3d at 732-733. Even assuming the respondents' contention were true, the alleged "prejudice" would not have been caused by the Movants' delay, *Tully*, 143 Ill.2d at 432, but by the unconstitutionality of the Redistricting Plan. The expense and effort of remedying an unconstitutional redistricting plan would be required whether the Movants filed suit within days of the Governor's signature, or in October 2011 after the dismissal of the federal plaintiffs' state-law claims, or at any other time. The Movants' claims should not be barred merely because the respondents do not savor the prospect of having to fix an unconstitutional redistricting plan.

Furthermore, 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. Election authorities would not have to reprint ballots, reconfigure voting machines or schedule special elections. Similarly, this Court could carefully consider the allegations and constitutional principles at stake rather than rushing to make a decision in order to avoid disturbing candidate deadlines. Movants' requested relief would certainly be less onerous than the potential and real relief this Court has proposed in the past. See *People ex rel. Burriss 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).

Respondents' reliance on *Maryland Citizens for a Representative General Assembly v. Governor of Maryland*, 429 F.2d 606 (4th Cir. 1970), is misplaced. (Respondents' Objection at 14). In *Maryland Citizens*, the plaintiffs filed suit in 1970 to enjoin impending elections under a redistricting plan passed by the Maryland legislature in 1965 based on 1960 Census figures. 429 F.2d at 607-609. This plan had been previously challenged and found constitutional. *Id.* at 608. The Court rejected the plaintiffs' claims because the relief requested would require the legislature to redistrict based on decade-old census figures and then turn around and redistrict again following the release of the 1970 census figures. *Id.* at 610. Unlike the plaintiffs in *Maryland Citizens*, the Movants' request relief would require changes to the Redistricting Plan using the new census figures disclosed less than one year ago.

CONCLUSION

Cognizant of the impending March 20, 2012 primary election, the Movants requested dual forms of relief applicable to the 2012 election or any future elections. (Prop. Compl., Counts I-VIII; Brief, page 12). In their Brief in support of the Motion for leave, the Movants urged the Court to enjoin the March 20 primary, but noted that if the Court finds this unduly burdensome, it could still fashion remedy for the March 2014 primary. (Brief, page 12). This Court's March 14, 2012 Order effectively foreclosed the option of enjoining the March 20, 2012 primary. The Movants did not request and do not seek to undo the results of the March 20, 2012 primary and do not believe it would be feasible at this juncture to enjoin the general elections under this map scheduled for

November 6, 2012. Therefore, the only relief that the Movants seek is to enjoin the Respondents from using the Redistricting Plan as the basis for the primary election scheduled for March 18, 2014, or any subsequent election.

Based on the principles of equity espoused in *Reynolds* and *Martin*, this Court should grant the Movants' Motion for Leave, hear this case on the merits and fashion any relief in time for orderly elections in March of 2014.

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

Dated: 3/28/12

Respectfully Submitted,


One of the attorneys for Movants

Andrew Sperry,
LaRose & Bosco, Ltd.
200 N. LaSalle St., Suite 2810
Chicago, IL 60601
(312) 642-4414

Phillip A. Luetkehans
Schrott & Luetkehans, P.C.
105 E. Irving Park Rd.
Itasca, IL 60143
(630) 760-4601

Thomas More Leinenweber
Peter G. Baroni
Leinenweber Baroni & Daffada LLC
203 N. LaSalle St., Suite 1620
Chicago, IL 60601
(866) 786-3705

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



Phillip A. Luetkehans
Attorney for the Movants
Schirott & Luetkehans, P.C.
105 E. Irving Park Rd.
Itasca, IL 60143
(630) 760-4601

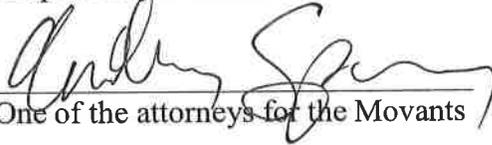
Thomas More Leinenweber
Attorney for the Movants
Peter G. Baroni
Leinenweber Baroni & Daffada LLC
203 N. LaSalle St., Suite 1620
Chicago, IL 60601
(866) 786-3705

Andrew Sperry
Attorney for the Movants
LaRose & Bosco, Ltd.
200 N. LaSalle St., Suite 2810
Chicago, IL 60601
(312)642-4414

CERTIFICATE OF SERVICE

The undersigned, an attorney certifies that a copy of the foregoing notice of filing and brief was served upon all parties on the attached service list on March 28, 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.

Respectfully Submitted,


One of the attorneys for the Movants

Andrew Sperry
LaRose & Bosco, Ltd.
200 N. LaSalle St., Suite 2810
Chicago, IL 60601

Thomas More Leinenweber
Peter G. Baroni
Leinenweber, Baroni & Daffada, LLC
203 N. LaSalle St., Suite 1620
Chicago, IL 60601

Phillip A. Luetkehans
Schirott, Luetkehans & Garner, P.C.
105 East Irving Park Road
Itasca, IL 60143

SERVICE LIST

The Honorable Mary Jane Theis
Justice, Supreme Court of Illinois
160 North LaSalle Street, Suite S-1705
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. Karneier
Justice, Supreme Court of Illinois
100 South Mill Street
Nashville, IL 62263

Michael Scodro
Jan E. Natz
Brent D. Stratton
Office of the Illinois Attorney General
100 West Randolph, 12th Floor
Chicago, IL 60601

Richard J. Prendergast
Michael T. Layden
Special Asst. Attorneys General
Richard J. Prendergast, Ltd.
111 W. Washington St., Suite 1100
Chicago, IL 60602

William J. Harte, Ltd.
Special Asst. Attorney General
135 S. LaSalle St., Suite, Suite 2200
Chicago, IL 60603

David W. Ellis
Special Asst. Attorney General
160 North LaSalle, Suite N-600
Chicago, IL 60601

Eric Madiar
Special Asst. Attorney General
605 State House
Springfield, IL 62706

Michael J. Kasper
Special Asst. Attorney General
222 N. LaSalle St., Suite 300
Chicago, IL 60601

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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 a)
registered voter, VERONICA VERA, CHOLE)
MOORE, JOE TREVINO, and ANGEL)
GARCIA,)

Plaintiffs,)

vs)

NO. 1:11-cv-_____)

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

Defendants.)

COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

NOW COME the Plaintiffs, 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 state
representative from the 101st Representative District and individually as a registered voter,
VERONICA VERA, CHOLE MOORE, JOE TREVINO, and ANGEL GARCIA by and through
the undersigned attorneys, complaining of the Defendants state and allege as follows:



1. This is a civil rights suit brought to protect the most sacred right in a democratic society -- the right to vote. It seeks to invalidate the redistricting plan for election of members to the Illinois General Assembly (the "General Assembly"), approved by the General Assembly on May 27, 2011 and signed into law by the Governor on June 3, 2011, which sets forth the districts to be used to elect members of the General Assembly (the "Redistricting Plan"). The Redistricting Plan and the process by which it was created violate the First and Fourteenth Amendments to the United States Constitution, the federal Voting Rights Act and the Constitution of the State of Illinois. The gross deprivation of these constitutional and statutory rights caused by the Redistricting Plan requires this Court to invalidate the Redistricting Plan, enjoin future elections under the Redistricting Plan and institute a new redistricting plan setting forth the districts used to elect members of the General Assembly consistent with all applicable constitutional and statutory requirements or order other appropriate corrective action.

PARTIES

2. 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 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.

3. 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 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.

4. Plaintiff CHOLE MOORE is a citizen of African-American heritage residing in the State of Illinois in St. Clair County within the boundaries of Representative District 114 of the Redistricting Plan.

5. Plaintiff VERONICA VERA is a citizen of Latina heritage residing in the State of Illinois in Cook County within the boundaries of Representative District 22 of the Redistricting Plan.

6. Plaintiff ADAM BROWN is a state representative from the 101st Representative District and a duly registered voter and citizen residing in the State of Illinois in Macon County within the boundaries of Representative District 96 of the Redistricting Plan.

7. Plaintiff JOE TREVINO is a citizen of Latino heritage residing in the State of Illinois in Cook County within the boundaries of Representative District 77 of the Redistricting Plan.

8. Plaintiff ANGEL GARCIA is a citizen of Latino heritage residing in the State of Illinois in Cook County within the boundaries of Representative District 1.

9. Defendant ILLINOIS STATE BOARD OF ELECTIONS is the entity responsible for overseeing and regulating public elections in Illinois as provided by Article III, Section 5 of the Illinois Constitution and 10 ILCS 5/1A-1, *et seq.* The Illinois State Board of Elections undertakes those acts and conducts its business under color of state law.

10. Defendant RUPERT BORGSMILLER is the Executive Director of the Illinois State Board of Elections and is sued only in his capacity as Executive Director of the Illinois State Board of Elections.

11. Defendant JUDITH C. RICE is a member of the Illinois State Board of Elections and is sued only in her 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 capacity as a member of the Illinois State Board of Elections.

13. Defendant HAROLD D. BYERS is a member of the Illinois State Board of Elections and is sued only in his capacity as a member of the Illinois State Board of Elections.

14. Defendant ERNEST C. GOWEN is a member of the Illinois State Board of Elections and is sued only in his 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 only sued in his 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 capacity as a member of the Illinois State Board of Elections.

17. Defendant BETTY J. COFFRIN is a member of the Illinois State Board of Elections and is only sued in her 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 capacity as a member of the Illinois State Board of Elections.

VENUE AND JURISDICTION

19. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1343 because Plaintiffs seek relief pursuant to 42 U.S.C. § 1983 based on violations of the First and Fourteenth

Amendments to the United States Constitution and 42 U.S.C. § 1973, the Voting Rights Act of 1965.

20. This Court has supplemental jurisdiction over the state law claims pleaded herein pursuant to 28 U.S.C. § 1367(a).

21. Venue is proper in this District under 28 U.S.C. § 1391(b) because relevant and substantial acts occurred and will continue to occur within the Northern District of Illinois.

THREE-JUDGE COURT

22. Convening of a district court of three (3) judges is required in this action pursuant to 28 U.S.C. § 2284(a) because the action challenges the constitutionality of the statewide apportionment of districts for the election of members of the Illinois Senate and Illinois House of Representatives.

FACTS

The Redistricting Process

23. In 2010, the United States Census Bureau conducted its federal decennial census.

24. 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).

25. Throughout the 2011 redistricting process, the General Assembly acted under the color of state law.

26. During the entire redistricting process, Democrats held a majority of the seats in the Illinois Senate and Illinois House of Representatives, and the Illinois Governor was a Democrat.

27. Democrats exercised exclusive majority control over the entire process of enacting the Redistricting Plan at the legislative and executive branch levels of Illinois state government.

28. It is the duty of the State of Illinois ("State") to enact a redistricting plan so that the political process is equally open to meaningful participation by African-American voters in Illinois.

29. It is the State's duty to enact a redistricting plan such that the members of Illinois' African-American community have the same opportunity as other members of the electorate to participate in the political process and to elect representatives of their choice.

30. It is the State's duty to enact a redistricting plan so that the political process is equally open to meaningful participation by Latino voters in Illinois.

31. It is the State's duty to enact a redistricting plan such that Latinos in Illinois have the same opportunity as do other members of the electorate to participate in the political process and to elect representatives of their choice.

32. It is the State's duty to avoid infringing upon Illinois voters' First Amendment right to engage in protected political expression, including the right to meaningful participation in the political process.

33. It is the State's duty to enact and follow a redistricting plan that does not unfairly burden or penalize voters because of their political views.

The "Public Hearings"

34. During the 97th General Assembly, the Illinois Senate formed the Senate Redistricting Committee ("SRC") which was composed of 17 state senators: 11 from the Democratic majority and six from the Republican minority.

35. During the 97th General Assembly, the Illinois House of Representatives formed the House Redistricting Committee ("HRC") which was composed of 11 state representatives: six from the Democratic majority and five from the Republican minority.

36. In March, April and May, 2011, the SRC and HRC held public hearings throughout Illinois (the "Public Hearings").

37. The committees held the public hearings purportedly to seek public input into the redistricting process.

38. A consistent and repeated request from the public at the Public Hearings was that the General Assembly make available to the public the proposed redistricting plan to be voted on by the General Assembly in sufficient time before the vote on the map to allow the public to review, analyze and comment upon the proposed redistricting plan.

39. At the aforementioned Public Hearings before the SRC and HRC, virtually every member of the public who testified requested that the committee provide an explanation for the rationale behind 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.

40. On information and belief, from May 1, 2011 to May 27, 2011, the Senate Democratic Caucus prevented members of the public from using the public access computer and software located in Chicago offered to members of the public as a means to analyze and develop redistricting plans to be submitted for consideration.

Unveiling of the Proposed Redistricting Plans

41. On May 18, 2011 during the evening hours, the SRC first disclosed, as Senate Amendment #1 to Senate Bill 1175, a picture of a proposed redistricting plan to the public-at-large for review and comment.

42. In order to view a picture of Senate Amendment #1 to Senate Bill 1175, members of the public had a brief period of time to access the Internet and download computer applications such as Google Earth! and Adobe Acrobat.

43. On information and belief, the SRC never made paper or electronic copies of Senate Amendment #1 to Senate Bill 1175 available to the public for comment or analysis.

44. On May 18, 2011, the SRC announced that it would accept public testimony on Senate Amendment #1 to Senate Bill 1175 at a hearing scheduled for noon on Saturday, May 21, 2011 in Chicago, Illinois.

45. On May 19, 2011 during the evening hours, the HRC disclosed a picture of a proposed redistricting plan for representative districts, filed as House Amendment #1 to House Bill 3760.

46. In order to view a picture of House Amendment #1 to House Bill 3760, members of the public had to access the Internet and download computer applications such as Google Earth! and Adobe Acrobat.

47. On information and belief, the HRC did not make the supporting demographic data available to the general public unless a request was submitted in writing.

48. On May 20, 2011, the HRC announced that it would accept public testimony on House Amendment #1 to House Bill 3760 at a hearing scheduled for 2:00 p.m. on Sunday, May 22, 2011 in Chicago.

49. On May 21, 2011, the SRC accepted public testimony on Senate Amendment #1 to Senate Bill 1175.

50. Senate Amendment #1 to Senate Bill 1175 and House Amendment #1 to House Bill 3760 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."

51. 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 the weekend of May 21-22, 2011.

"Public Hearings" During the Weekend of May 21-22, 2011

52. At the SRC hearing on May 21, 2011, a majority of the members of the public who testified requested more time to review, analyze and comment on Senate Amendment #1 to Senate Bill 1175.

53. At the HRC hearing on May 22, 2011, a majority of the members of the public requested more time to review, analyze and comment on House Amendment #1 to House Bill 3760.

54. At the HRC hearing on May 22, 2011, members of the public testified that they were unaware that the demographic data supporting House Amendment #1 to House Bill 3760 could be made available if one made a request in writing.

55. On information and belief, the Democratic members of the Rules Committee of the Illinois House of Representatives ("Rules Committee") convened at approximately noon on May 22, 2011 and approved House Amendment #1 to House Bill 3760 for consideration before the HRC at the May 22, 2011 hearing which was scheduled to begin at 2:00 p.m.

56. 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.

57. 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 3760 would be considered at the May 22, 2011 hearing or that the sponsor of the measure would be available for questioning.

58. On Sunday, May 22, 2011, the Illinois Senate passed Senate Bill 1177 by a vote of 30-14.

59. Senate Bill 1177 did not contain substantive changes to the Illinois Compiled Statutes.

60. On Monday, May 23, 2011, the Democratic majority of the Illinois House of Representatives voted to suspend the posting requirements for Senate Bill 1177.

"Public Hearing" on House and Senate Amendments

61. On Tuesday, May 24, 2011, the HRC and SRC convened a contemporaneous hearing to consider Senate Amendment #1 to Senate Bill 1175 and House Amendment #1 to House Bill 3760.

62. At the contemporaneous 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 3760.

63. At the contemporaneous 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 Latino residents in Illinois with opportunities to elect candidates of their choice in any redistricting plan.

64. At the contemporaneous hearing on May 24, 2011, Dr. Lichtman provided testimony regarding his opinion on Senate Amendment #1 to Senate Bill 1175 and House Amendment #1 to House Bill 3760.

65. 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.

66. 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 3760 met the requirement of the Illinois Constitution of 1970 that districts be "compact."

The Fair Map

67. 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.

68. The Republican Caucuses made the Fair Map available to the public on a public website in an interactive format that provided demographic data for each of the districts proposed.

69. The Republican Caucuses also made the Fair Map and demographic data available on their websites in a downloadable format.

70. The Republican Caucuses' proposal was filed on May 26, 2011 as House Amendment #1 to Senate Bill 1177.

Unveiling of House Amendment #2 to SB 1177

71. On May 26, 2011, during 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.

72. On May 26, 2011, during the evening hours, the HRC disclosed a picture of a proposed redistricting plan for Legislative and Representative Districts, House Amendment #2 to Senate Bill 1177.

73. In order to view a picture of House Amendment #2 to Senate Bill 1177, members of the public had to access the Internet and download computer applications such as Google Earth! and Adobe Acrobat.

74. On information and belief, the HRC did not make the supporting demographic data available to the general public unless a request was submitted in writing.

75. 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."

76. On May 26, 2011, approximately two hours before the scheduled session of the Illinois House of Representatives, the Democratic majority of the Rules Committee 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.

77. House Amendment #2 to Senate Bill 1177 never received a hearing before the HRC.

78. 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.

79. On May 27, 2011, approximately two hours before the scheduled session of the Illinois House of Representatives, the Democratic majority of the Rules Committee of the House of Representatives voted 3-1 to send House Resolution 385 directly to the full Illinois House of Representatives for consideration.

80. House Resolution 385 never received a hearing before the HRC.

Enactment of the Redistricting Plan

81. On May 27, 2011, State Representative Roger Eddy filed a motion to discharge the Fair Map from the Rules Committee for consideration.

82. State Representative Currie objected to the motion to discharge the Fair Map from the Rules Committee for consideration.

83. The Fair Map never received consideration before the HRC, the Illinois House of Representatives, the SRC or the Illinois Senate.

84. On May 27, 2011, during the mid-morning hours, House Amendment #2 to Senate Bill 1177 was called for a vote before the full Illinois House of Representatives.

85. During the Illinois House floor debate on House Amendment #2 to Senate Bill 1177, State Representative Currie stated that Dr. Lichtman did not review the districts contained in the new amendment.

86. On May 27, 2011, during the mid-morning hours, the Democratic majority in a vote along party lines in the Illinois House of Representatives passed House Amendment #2 to Senate Bill 1177 by a vote of 64-52.

87. 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.
88. The Democratic majority in the Illinois House of Representatives passed House Resolution 385 by a vote of 64-52.
89. On May 27, 2011 at approximately 2:00 p.m., State Senator Kwame Raoul filed Senate Amendment #1 to Senate Resolution 249.
90. 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.
91. During the SRC debate on House Amendment #2 to Senate Bill 1177, the sponsor, State Senator Kwame Raoul, stated that Dr. Lichtman had not reviewed House Amendment #2 to Senate Bill 1177.
92. 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 over the objection of the Republican members of the SRC.
93. On May 27, 2011 at approximately 5:30 p.m., the Democratic majority in the Illinois Senate voted along party lines to concur with House Amendment #2 to Senate Bill 1177 by a margin of 35-22.
94. 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.
95. On June 3, 2011, Governor Patrick J. Quinn signed House Amendment #2 to Senate Bill 1177 into law as Public Act 97-0006.
96. Public Act 97-0006 became effective on June 3, 2011 (the "Redistricting Plan").

Characteristics of the Redistricting Plan

97. The General Assembly comprises senators elected from 59 Legislative Districts and representatives elected from 118 Representative Districts.

98. According to the 2010 census, the total population in Illinois is 12,830,632.

99. Pursuant to the 2010 census and the United States Constitution, each Legislative District shall contain 217,468 total people.

100. Pursuant to the 2010 census and the United States Constitution, each Representative District shall contain 108,734 total people.

101. The Redistricting Plan is less compact than the map of Legislative and Representative Districts for the General Assembly enacted in 2001.

102. The Fair Map achieves compactness scores significantly higher than the Redistricting Plan.

103. The Redistricting Plan contains more splits of counties and municipalities in Illinois than does the Fair Map.

104. Racial bloc voting is pervasive in Illinois, both among majority and minority groups.

105. African-American voters comprise a sufficiently large and geographically compact group to constitute a majority of the voting-age population ("VAP") in at least 18 Representative Districts.

106. The Redistricting Plan creates only 16 Representative Districts where a majority of the VAP is African-Americans.

107. Representative District 7's VAP is 45.08 percent African-American.

108. The African-American VAP in the area around Representative District 7 is sufficiently large and geographically compact such that Representative District 7 could have African-American VAP in excess of 50 percent.

109. Representative District 114's VAP is 42.04 percent African-American.

110. The African-American VAP in the area of Representative District 114 is sufficiently large and geographically compact such that Representative District 114 could have African-American VAP in excess of 50 percent.

111. African-American voters in the areas of Representative Districts 7 and 114 are politically cohesive.

112. Representative Districts comprised of a majority of African-Americans of VAP in the areas of Representative Districts 7 and 114 can be drawn without violating constitutional requirements.

113. Failure to create Representative Districts 7 and 114 with VAP in excess of 50 percent African-Americans violates the Fourteenth Amendment to the United States Constitution.

114. Failure to create Representative Districts 7 and 114 with VAP in excess of 50 percent African-Americans violates Section 2 of the federal Voting Rights Act of 1965, 42 U.S.C. § 1973.

115. Representative Districts 7 and 114 deny Plaintiffs equal protection as guaranteed by the Fourteenth Amendment to the United States Constitution.

116. Representative Districts 7 and 114 violate the federal Voting Rights Act of 1965.

117. The Redistricting Plan fractures African-American voters causing the dilution of their votes in violation of Section 2 of the federal Voting Rights Act, 42 U.S.C. § 1973, and the Fourteenth Amendment to the United States Constitution.

118. The fracturing of African-American voters affords those voters less opportunity than other voters to elect representatives of their choice in violation of Section 2 of the federal Voting Rights Act, 42 U.S.C. § 1973.

119. The Latino VAP in Representative District 23 is 46.27 percent.

120. The Latino VAP in the area near and around Representative District 23 is sufficiently large and geographically compact such that Representative District 23 could have Latino VAP in excess of 50 percent.

121. The Latino VAP in Representative District 60 is 46.64 percent.

122. The Latino VAP in the area of Representative District 60 is sufficiently large and geographically compact such that Representative District 60 could have Latino VAP in excess of 50 percent.

123. Latino voters in the areas of Representative Districts 23 and 60 are politically cohesive.

124. Representative Districts comprised of a majority of Latinos of VAP in the areas of Representative Districts 23 and 60 can be drawn without violating constitutional requirements.

125. Representative Districts 23 and 60 deny plaintiffs equal protection as guaranteed by the Fourteenth Amendment to the United States Constitution.

126. Representative Districts 23 and 60 violate the federal Voting Rights Act.

127. Numerous Representative Districts created by the Redistricting Plan fail to contain Latino VAP sufficient to provide Latinos with a fair opportunity to elect representatives of their choice including, but not limited to, Representative Districts 1, 2, 21, 22, 77 and 83.

128. Latino voters in the areas of Representative Districts 1, 2, 21, 22, 77 and 83 are politically cohesive.

129. Representative Districts including, but not limited to, 1, 2, 21, 22, 77 and 83 could be drawn to include Latino VAP sufficient to provide Latino voters a fair opportunity to elect representatives of their choice without violating constitutional requirements.

130. The Redistricting Plan's failure to provide Latino voters a fair opportunity to elect representatives of their choice in Representative Districts including, but not limited to, 1, 2, 21, 22, 77 and 83 violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

131. The Redistricting Plan's failure to provide Latino voters a fair opportunity to elect representatives of their choice in Representative Districts including, but not limited to, 1, 2, 21, 22, 77 and 83 violates Section 2 of the federal Voting Rights Act of 1965, 42 U.S.C. § 1973.

132. The following Representative Districts fail to meet the constitutional mandate within the Illinois Constitution of 1970 that all districts be "compact": 1, 3, 4, 5, 6, 8, 9, 10, 15, 18, 20, 21, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 35, 36, 39, 45, 57, 59, 64, 67, 72, 80, 113, and 114.

133. No sufficient or neutral justification exists for the bizarre shape of the Representative Districts listed in paragraph 132.

134. Certain of the districts in the Redistricting Plan including, but not limited to, Representative District 96, are of a shape so bizarre on their face that the shape can only

rationally be understood to be an effort to separate voters into different districts on the basis of race.

135. No sufficient or neutral justification exists for the bizarre shape of Representative District 96.

136. The shape of Representative District 96 can only rationally be understood as an effort to separate voters into districts on the basis of race.

137. The Redistricting Plan pits 25 incumbent Republican members of the General Assembly against one another while pitting only eight incumbent Democrat members of the General Assembly against one another, without any neutral justification for this partisan discrepancy.

138. The Redistricting Plan's pitting significantly more incumbent Republicans against one another than incumbent Democrats is a deliberate attempt to enhance Democrats' prospects for reelection and targets Republicans to prevent their reelection.

139. The bizarre shapes of several districts listed in paragraph 132 and the Redistricting Plan's overall lack of compactness is in furtherance of a deliberate attempt to enhance Democrats' prospects for reelection and target Republicans to prevent their reelection.

140. Additionally, many of these bizarrely-shaped districts are clearly intended to slither across traditional lines in order to place multiple incumbent Republicans into one district.

141. The Democratic majority of the General Assembly ignored the Fair Map despite the fact that the Fair Map is more compact.

142. The Fair Map is significantly and consistently more compact than the Redistricting Plan, as required by the Illinois Constitution.

143. The Redistricting Plan splits 46 counties, 214 townships and 336 municipalities.

144. The Redistricting Plan's excessive splitting of counties and municipalities is in furtherance of a deliberate attempt to enhance Democrats' prospects for reelection and targets Republicans to prevent their reelection.

145. The Redistricting Plan systematically and intentionally dilutes the votes of Republicans in favor of Democrats in furtherance of a deliberate attempt to enhance Democrats' prospects for reelection and targets Republicans to prevent their reelection.

146. The Redistricting Plan constitutes an intentional, systematic and unfair political gerrymander in order to protect Democrat members of the General Assembly and to prevent reelection of a Republican majority of members of the General Assembly.

147. The Redistricting Plan systematically and intentionally unfairly burdens Republican voters' rights of political expression and expressive association because of their political views.

148. No compelling reason or neutral justification exists for the Redistricting Plan to unfairly burden Republican voters because of their political views.

149. The Redistricting Plan constitutes an intentional, systematic and unfair infringement of Plaintiffs' right to protected political expression and expressive association in violation of the First Amendment to the United States Constitution.

150. The Redistricting Plan will create a substantial Democratic majority in both Houses of the Illinois General Assembly for at least the next decade.

151. The Redistricting Plan will likely create an unfair substantial majority for the Democrats in both houses of the General Assembly for at least the next decade, a clear case of political gerrymandering in violation of the First Amendment and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

COUNT 1

(Violation of Section 2 of the Federal Voting Rights Act of 1965)

1-151. Plaintiffs adopt, reaffirm and incorporate by reference the allegations in paragraphs 1 through 151 above as if once again fully set forth herein.

152. Section 2 of the federal Voting Rights Act of 1965, 42 U.S.C. § 1973, is applicable to the State of Illinois.

153. Under the Redistricting Plan, African-Americans have less opportunity than other members of the electorate to participate in the political process and to elect candidates of their choice, thereby diluting their votes.

154. It is possible to create a redistricting plan which will provide African-Americans a more equal opportunity to elect candidates of their choice.

155. The Redistricting Plan violates Section 2 of the federal Voting Rights Act, 42 U.S.C. § 1973.

COUNT 2

(Violation of Section 2 of the Federal Voting Rights Act of 1965)

1-155. Plaintiffs adopt, reaffirm and incorporate by reference the allegations in paragraphs 1 through 155 of Count 1 as if once again fully set forth herein.

156. Section 2 of the federal Voting Rights Act of 1965, 42 U.S.C. § 1973, is applicable to the State of Illinois.

157. Under the Redistricting Plan, Latinos have less opportunity than other members of the electorate to participate in the political process and to elect candidates of their choice, thereby diluting their votes.

158. It is possible to create a redistricting plan which will provide Latinos a more equal opportunity to elect candidates of their choice.

159. The Redistricting Plan violates Section 2 of the federal Voting Rights Act, 42 U.S.C. § 1973.

COUNT 3
(Violation of Rights Protected by the First Amendment
to the United States Constitution)

1-159. Plaintiffs adopt, reaffirm and incorporate by reference the allegations in paragraphs 1 through 159 of Count 2 as if once again fully set forth herein.

160. The Redistricting Plan systematically and intentionally unfairly burdens the rights to political expression and expressive association of voters who vote Republican because of their political views in violation of the First Amendment.

161. No compelling reason exists to unfairly burden voters who vote Republican because of their political views.

162. The Democratic Caucuses' actions as described herein violate the First Amendment to the United States Constitution as made applicable to the states through the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

COUNT 4
(Equal Protection – Redistricting Plan)

1-162. Plaintiffs adopt, reaffirm and incorporate by reference the allegations in paragraphs 1 through 162 of Count 3 as if once again fully set forth herein.

163. The Redistricting Plan was conceived and enacted by the majority party in an arbitrary and discriminatory manner with the purpose and effect of denying the Plaintiffs equal protection as guaranteed by the Fourteenth Amendment to the United States Constitution.

COUNT 5
(Equal Protection - Illinois Voting Rights Act of 2011)

1-163. Plaintiffs adopt, reaffirm and incorporate by reference the allegations in paragraphs 1 through 163 of Count 4 as if once again fully set forth herein.

164. At all times relevant there was in full force and effect in the State of Illinois a statute titled the Illinois Voting Rights Act of 2011 which stated in part:

- (a) In any redistricting plan pursuant to Article IV, Section 3 of the Illinois Constitution, Legislative Districts and Representative Districts shall be drawn, subject to subsection (d) of this Section, to create crossover districts, coalition districts, or influence districts. The requirements imposed by this Article are in addition and subordinate to any requirements or obligations imposed by the United States Constitution, any federal law regarding redistricting Legislative Districts or Representative Districts, including but not limited to the federal Voting Rights Act, and the Illinois Constitution.
- (b) The phrase "crossover district" means a district where a racial minority or language minority constitutes less than a majority of the voting-age population but where this minority, at least potentially, is large enough to elect the candidate of its choice with help from voters who are members of the majority and who cross over to support the minority's preferred candidate. The phrase "coalition district" means a district where more than one group of racial minorities or language minorities may form a coalition to elect the candidate of the coalition's choice. The phrase "influence district" means a district where a racial minority or language minority can influence the outcome of an election even if its preferred candidate cannot be elected.
- (c) For purposes of this Act, the phrase "racial minorities or language minorities", in either the singular or the plural, means the same class of voters who are members of a race, color, or language minority group receiving protection under the federal Voting Rights Act, 42 U.S.C. § 1973; 42 U.S.C. § 1973b(f)(2); 42 U.S.C. § 1973aa-1a(e).

165. At all times relevant there was in full force and effect the federal Voting Rights Act which states in part:

No voting qualification or prerequisite to voting or standard, practice or procedure shall be imposed or applied by any state or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color. . . . 42 U.S.C. 1973.

For purposes of this section, the term "language minorities" or "language minority group" means persons who are American Indian, Asian American, Alaskan Natives or of Spanish heritage. 42 U.S.C. 1973aa-1a.

166. Public Act 97-0006 states that "each of the Districts contained in the General Assembly Act of 2011 was drawn to be consistent with the Illinois Voting Rights Act of 2011, where applicable."

167. Public Act 97-0006 also amended the Illinois Voting Rights Act of 2011 to state that "The General Assembly Redistricting Act of 2011 complies with all requirements of this Act."

168. The Illinois Voting Rights Act of 2011 mandates that race and color be the predominant factor in the consideration of each and every Representative and Legislative District within the Redistricting Plan.

169. On information and belief, the Illinois Voting Rights Act of 2011 is the only statute of its kind in the United States of America.

170. The Illinois Voting Rights Act of 2011 denies Plaintiffs and other similarly-situated voters within the State of Illinois equal protection of the laws in violation of the Fourteenth Amendment to the United States Constitution.

171. No compelling interest exists for mandating the use of race as the predominant factor in creating the boundaries of Representative Districts and Legislative Districts within the Redistricting Plan.

172. The mandate within the Illinois Voting Rights Act of 2011 for the use of race as the predominant factor in creating the boundaries of Representative Districts and Legislative Districts within the Redistricting Plan was not the least restrictive means of achieving a compelling state interest.

173. In furtherance of the racial mandate of the Illinois Voting Rights Act, the Redistricting Plan constitutes a racial gerrymander in violation of Plaintiffs' right to equal protection under the Fourteenth Amendment to the United States Constitution.

174. For example, the Redistricting Plan created Representative District 96 by using race as the predominant factor above traditional redistricting principles such as compactness, maintenance of the core of previous representative districts, protection of incumbent-constituent relationships, and preservation of existing county and municipal boundaries.

175. The creation of Representative District 96 as mandated by the Illinois Voting Rights Act of 2011 violates the Plaintiffs' rights to equal protection under the Fourteenth Amendment to the United States Constitution on its face and as applied.

COUNT 6
(Equal Protection – Representative District 96)

1-175. Plaintiffs adopt, reaffirm and incorporate by reference the allegations in paragraphs 1 through 175 of Count 5 as if once again fully set forth herein.

176. The Redistricting Plan created Representative District 96.

177. Representative District 96 was formed to join areas within the cities of Decatur and Springfield that have high percentages of African-Americans.

178. Representative District 96 severs the core of five different representative districts that existed under the previous map.

179. Representative District 96 does not meet the constitutional requirement that all districts be "compact."

180. Representative District 96 lowers the partisan advantage of the Republican voters within the district.

181. Representative District 96 also lowers the partisan advantage of Republican voters in adjoining districts.

182. Representative District 96 severs the boundary lines of Christian, Macon and Sangamon Counties.

183. Representative District 96 does not preserve the existing incumbent-constituent relationship.

184. Representative District 96 joins urban and rural communities with dissimilar interests.

185. The Democratic Caucuses used the ethnicity of the African-American communities in Springfield and Decatur as the predominant factor over all other constitutional and traditional redistricting principles in drawing Representative District 96.

186. The Democratic Caucuses have provided no neutral or compelling justification for joining urban and rural communities with dissimilar interests; severing counties and the core of the previous districts; not preserving incumbent-constituent relationships; not keeping Representative District 96 compact; and lowering the partisan advantage of the Republican minority in Representative District 96 and adjoining districts.

187. The drawing of Representative District 96 denies the Plaintiffs and other similarly situated voters within the State of Illinois equal protection of the laws in violation of the Fourteenth Amendment to the United States Constitution.

COUNT 7
(Declaratory Judgment – Compactness – Illinois State Law Claim)

1-187. Plaintiffs adopt, reaffirm and incorporate by reference the allegations in paragraphs 1 through 187 of Count 6 as if once again fully set forth herein.

188. The Illinois Constitution of 1970 requires that the districts contained within any redistricting plan pursuant to Article IV, Section 3 must be "compact."

189. The Redistricting Plan is significantly less compact than the previous map.

190. The Redistricting Plan is significantly less compact than the Fair Map.

191. The following Representative Districts fail to meet the constitutional mandate within the Illinois Constitution of 1970 that all districts be "compact": 1, 3, 4, 5, 6, 8, 9, 10, 15, 18, 20, 21, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 35, 36, 39, 45, 57, 59, 64, 67, 72, 80, 113, and 114.

192. The Democratic majority failed to provide a neutral justification for the irregular districts within the Redistricting Plan prior to consideration before the General Assembly.

193. The lack of compactness throughout the Redistricting Plan is so pervasive as to render the entire Act invalid.

COUNT 8
(Declaratory Judgment – Process – Illinois State Law Claim)

1-193. Plaintiffs adopt, reaffirm and incorporate by reference the allegations in paragraphs 1 through 193 of Count 7 as if once again fully set forth herein.

194. Pursuant to the Illinois Constitution of 1970, the process by which any redistricting plan is created under Article IV, Section 3 of the Illinois Constitution must provide the deciding body with sufficient information to determine if the redistricting plan meets constitutional requirements.

195. The Democratic Caucuses did not provide the public with a meaningful opportunity to analyze and comment on Senate Amendment #1 to Senate Bill 1175 and House Amendment #1 to House Bill 3760.

196. The Democratic Caucuses did not provide the public with sufficient supporting data and explanations which would enable the public to provide the General Assembly with meaningful public criticism of Senate Amendment #1 to Senate Bill 1175 and House Amendment #1 to House Bill 3760.

197. The Democratic Caucuses did not provide the public or the members of the Republican minority with any advance notice of the testimony of Dr. Allan Lichtman.

198. The Democratic Caucuses repeatedly suspended the procedural rules governing the Illinois House of Representatives and the Illinois Senate in an effort to prevent the public and the Republican minority from providing meaningful input regarding all proposed redistricting plans.

199. The Democratic Caucuses gave the public and the Republican minority less than 24 hours to analyze and comment on House Amendment #2 to Senate Bill 1177.

200. The Democratic Caucuses filed Senate Resolution 249 and House Resolution 385 less than two hours prior to their consideration.

201. The Democratic Caucuses refused to debate Senate Resolution 249 and House Resolution 385, which purported to contain the legislative intent for each and every district, prior to voting on House Amendment #2 to Senate Bill 1177.

202. The Democratic Caucuses did not provide the public with a meaningful opportunity to analyze and comment on Senate Resolution 249 and House Resolution 385.

203. The Democratic Caucus in the Illinois House of Representatives prevented the Fair Map from ever receiving a public hearing or consideration for a vote.

204. The Democratic Caucuses never presented expert testimony on the Redistricting Plan regarding its adherence to the mandate of the Illinois Constitution of 1970 that all districts be "compact."

205. The Democratic Caucuses' actions as described herein violate Article IV, Section 3 and Article III, Section 3 of the Illinois Constitution of 1970.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that this Court will:

A. declare that the Redistricting Plan violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution, the First Amendment to the United States Constitution as made applicable to the states through the Due Process Clause of the Fourteenth Amendment, and Article III, Section 3 and Article IV, Section 3(b) of the Illinois Constitution;

B. declare that the Redistricting Plan violates the Voting Rights Act, 42 U.S.C. § 1973;

C. declare that the Illinois Voting Rights Act of 2011 violates the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution;

D. declare that Representative District 96 violates the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution;

E. declare that the Redistricting Plan violates the compactness requirement of the Illinois Constitution;

F. permanently enjoin Defendants from certifying petitions or conducting future elections for the Illinois General Assembly under the Redistricting Plan;

G. draw and establish a map for the Illinois General Assembly Legislative and Representative Districts that comports with the federal Voting Rights Act as well as all other relevant constitutional and statutory requirements, or, alternatively, adopt reasonable alternatives presented to this Court including but, not limited to, ordering corrective action by the General Assembly or other responsible agencies of the state of Illinois;

H. award attorneys' fees as provided by 42 U.S.C. §§ 1983 and 1988; and

I. grant such other and further relief as this Court deems equitable and just.

/s/-----Phillip A. Luetkehans-----
One of the Attorneys for Plaintiffs Christine
Radogno and Veronica Vera

/s/-----Andrew Sperry-----
One of the Attorneys for Plaintiffs Thomas Cross,
Adam Brown, Chole Moore, Joe Trevino, Angel
Garcia

/s/-----Thomas M. Leinenweber-----
One of the Attorneys for Plaintiffs Thomas Cross,
Adam Brown, Chole Moore, Joe Trevino, Angel
Garcia

E-filed: July 20, 2011

Phillip A. Luetkehans, 06198315
pluetkehans@slg-atty.com
Brian J. Armstrong, 06236639
barmstrong@slg-atty.com
Stephanie J. Luetkehans, 06297066
sluetkehans@slg-atty.com
SCHIROTT, LUETKEHANS & GARNER, P.C.
105 East Irving Park Road
Itasca, IL 60143
630-773-8500

Thomas M. Leinenweber, 6208096
thomas@ilesq.com
Peter Baroni, 6236668
peter@ilesq.com
Leinenweber Baroni & Daffada LLC
203 N. LaSalle St., Suite 1620
Chicago, IL 60601
(866) 786-3705

Andrew Sperry, 6288613
asperry@laroseboscoblaw.com
LaRose & Bosco, Ltd.
200 N. LaSalle St., Suite 2810
Chicago, IL 60601
(312) 642-4414

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of July, 2011, I electronically filed the Complaint (Civil Cover Sheet, Appearances of Phillip A. Luetkehans, Brian J. Armstrong, Stephanie J. Luetkehans, Thomas M. Leinenweber, Peter Baroni and Andrew Sperry, Summonses to Defendants) with the Clerk of the U.S. District Court, Northern District of Illinois, Eastern Division using the CM/ECF system.

/s/-----Phillip A. Luetkehans-----
One of the Attorneys for Plaintiffs
RADOGNO and VERA

Phillip A. Luetkehans, 06198315
pluetkehans@slg-atty.com
Brian J. Armstrong, 06236639
barmstrong@slg-atty.com
Stephanie J. Luetkehans, 06297066
sluetkehans@slg-atty.com
SCHIROTT, LUETKEHANS & GARNER, P.C.
105 East Irving Park Road
Itasca, IL 60143
630-773-8500

Thomas M. Leinenweber
Peter G. Baroni
Leinenweber Baroni & Daffada LLC
203 N. LaSalle St., Suite 1620
Chicago, IL 60601
(866) 786-3705
thomas@ilesq.com
peter@ilesq.com

Andrew Sperry, 6288613
LaRose & Bosco, Ltd.
200 N. LaSalle St., Suite 2810
Chicago, IL 60601
(312) 642-4414
asperry@laroseboscoblaw.com

The Supreme Court of Ohio

FILED

MAR 02 2012

CLERK OF COURT
SUPREME COURT OF OHIO

Charles E. Wilson et al.

Case No. 2012-0019

v.

ENTRY

Governor John Kasich et al.

This cause originated in this court upon the filing of a complaint invoking this court's original jurisdiction pursuant to Article XI, Section 13, of the Ohio Constitution.

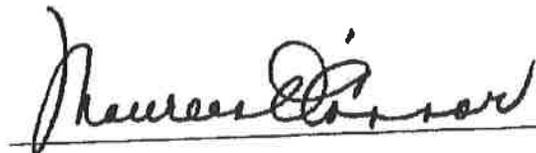
It is ordered by the court, sua sponte, that the parties shall file supplemental briefs addressing the following questions:

1. Does the Supreme Court of Ohio have jurisdiction over this case when only four of the five members of the apportionment board have been named as respondents and the board has not been named as a party?
2. Does the Ohio Constitution mandate political neutrality in the reapportionment of house and senate districts?
3. What is relators' burden in showing that a reapportionment plan is unconstitutional?
4. Does tension exist among sections 3, 7 and 10 of Article XI of the Ohio Constitution, and if so, how are these sections to be harmonized?

The parties are further permitted to address any other issues they deem necessary to this court's review in the supplemental briefs.

The parties shall simultaneously file the supplemental briefs no later than March 23, 2012, and shall simultaneously file responsive briefs no later than March 30, 2012.

It is further ordered by the court that oral argument in this case is set for Tuesday, April 24, 2012 at 9:00 a.m. Each side shall be allotted 30 minutes of oral argument time.



Maureen O'Connor
Chief Justice



Andrew Sperry
LaRose & Bosco, Ltd.
200 N. LaSalle St., Suite 2810
Chicago, IL 60601

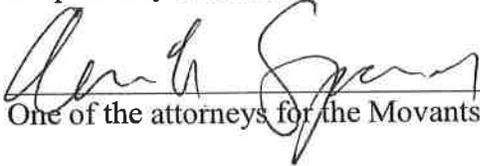
Thomas Leinenweber
Peter Baroni
Leinenweber, Baroni & Daffada, LLC
203 N. LaSalle St., Suite 1620
Chicago, IL 60601

Phillip A. Luetkehans
Schrott, Luetkehans & Garner, P.C.
105 East Irving Park Road
Itasca, IL 60143

PROOF OF SERVICE

The undersigned, an attorney certifies that a copy of the foregoing Notice of Filing and Brief were served upon all parties on the attached service list on March 28, 2012, by 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.

Respectfully Submitted,


One of the attorneys for the Movants

Andrew Sperry
LaRose & Bosco, Ltd.
200 N. LaSalle St., Suite 2810
Chicago, IL 60601

Thomas Leinenweber
Peter Baroni
Leinenweber, Baroni & Daffada, LLC
203 N. LaSalle St., Suite 1620
Chicago, IL 60601

Phillip A. Luetkehans
Schrott, Luetkehans & Garner, P.C.
105 East Irving Park Road
Itasca, IL 60143

SERVICE LIST

The Honorable Mary Jane Theis
Justice, Supreme Court of Illinois
160 North LaSalle Street, Suite S-1705
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. Karmerier
Justice, Supreme Court of Illinois
100 South Mill Street
Nashville, IL 62263

Michael Scodro
Jan E. Natz
Brent D. Stratton
Office of the Illinois Attorney General
100 West Randolph, 12th Floor
Chicago, IL 60601

Richard J. Prendergast
Michael T. Layden
Special Asst. Attorneys General
Richard J. Prendergast, Ltd.
111 W. Washington St., Suite 1100
Chicago, IL 60602

William J. Harte, Ltd.
Special Asst. Attorney General
135 S. LaSalle St., Suite, Suite 2200
Chicago, IL 60603

David W. Ellis
Special Asst. Attorney General
160 North LaSalle, Suite N-600
Chicago, IL 60601

Eric Madiar
Special Asst. Attorney General
605 State House
Springfield, IL 62706

Michael J. Kasper
Special Asst. Attorney General
222 N. LaSalle St., Suite 300
Chicago, IL 60601