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**IN THE SUPREME COURT OF ILLINOIS**

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TONY MCCOMBIE, in her official capacity )  
as Minority Leader of the Illinois House of )  
Representatives and individually as a )  
registered voter; ROBERT BERNAS, )  
individually as a registered voter; THOMAS )  
J. BROWN, individually as a registered )  
voter; and SERGIO CASILLAS VAZQUEZ, )  
individually as a registered voter; JOHN )  
COUNTRYMAN, individually as a )  
registered voter; and ASHLEY )  
HUNSAKER, individually as a registered )  
voter, )

Plaintiffs, )

v. )

ILLINOIS STATE BOARD OF )  
ELECTIONS and JENNIFER M. )  
BALLARD CROFT, CRISTINA D. CRAY, )  
LAURA K. DONAHUE, TONYA L. )  
GENOVESE, CATHERINE S. MCCRORY, )  
RICK S. TERVEN, SR., CASANDRA B. )  
WATSON, and JACK VRETT, all named in )  
their official capacities as members of the )  
State Board of Elections, )

Defendants. )

Original Action under )  
Article IV, Section 3 of the )  
Illinois Constitution )

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**COMPLAINT**

1. The districts of the Illinois State House of Representatives (the “Enacted Plan”) are the byproduct of extreme partisan gerrymandering. They are drawn by the political party in control and are intended to entrench the

Democratic Party in power. The districts are also meant to prevent voters affiliated with the minority party from electing candidates of their choice. In other words, the general election outcomes are rigged.

2. This is not a secret. A federal court acknowledged it. The mapmaker for the Illinois Democratic Party admitted it. One read through the legislative history confirms it. And a glance at the Enacted Plan—with all its contorted, odd-shaped districts—shows it.

3. The recently completed election cycle made clear how successful the partisan gerrymandering really was. Of the 2024 Illinois House of Representatives elections, Democratic candidates won 55% of the statewide vote. But Democratic candidates won a super-majority of seats (78 of 118, or 66.1%).

4. The 2022 election cycle was worse. There, Republican candidates for the Illinois House of Representatives won a majority—50.9%—of the statewide votes. But Republican candidates won only a third of seats (40 of 118).

5. With this level of entrenched dominance, it is unsurprising that almost half (54 of 118) of the state House elections in 2024 were uncontested. For would-be Republican candidates in artificially “safe” Democratic districts,

there's no point in running. The same goes for would-be Democratic candidates in districts that have been artificially "packed" with Republicans.

6. The volume of uncontested races means that almost half of the state's Representatives will represent Illinoisians, not because they were elected and had to present their policy ideas to voters through debate and outreach, but only because they submitted the proper forms to the Illinois State Board of Elections. This is not how it is supposed to work. Extreme partisan gerrymandering like this is poisonous to the functioning of any democracy.

7. In addition to being bad policy, extreme partisan gerrymandering is unconstitutional. The Illinois Constitution requires that "[a]ll elections shall be free and equal." ILL. CONST. art. III, § 3. But under the Enacted Plan, that is an impossibility. It also requires that all "Legislative Districts shall be compact." *Id.* art. IV, § 3(a). But the Enacted Plan subordinates compactness to the partisan and incumbent-protection goals of the majority political party.

8. The U.S. Supreme Court has given the responsibility of ending extreme partisan gerrymandering to the states. Pennsylvania and, for a time, North Carolina, picked up the torch, striking down redistricting plans on the basis of identical or comparable constitutional provisions. This Court should follow suit and declare that the Enacted Plan is invalid, enjoin the Illinois State Board of Elections from enforcing it, and appoint a special master to draft a redistricting plan that complies with the Illinois Constitution.

## **PARTIES**

9. Plaintiff TONY MCCOMBIE is a state representative from House District 89, a citizen of the United States and of the State of Illinois, and a duly registered voter of Carroll County, Illinois. McCombie is also the Minority Leader of the Illinois House of Representatives, as provided by Article IV, Section 6(c) of the Illinois Constitution. In this role, McCombie has the duty to promote and express the views, ideas, and principles of the House Republican caucus in the 104th General Assembly and of Republicans state-wide.

10. Plaintiff ROBERT BERNAS 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 House District 56 of the Enacted Plan.

11. Plaintiff THOMAS J. BROWN 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 House District 57 of the Enacted Plan.

12. Plaintiff SERGIO CASILLAS VAZQUEZ is a citizen of the United States and of the State of Illinois and a duly registered Republican voter in Macon County within the boundaries of House District 96 of the Enacted Plan.

13. Plaintiff JOHN COUNTRYMAN is a citizen of the United States and of the State of Illinois and a duly registered Republican voter in DeKalb County within the boundaries of House District 76 of the Enacted Plan.

14. Plaintiff ASHLEY HUNSAKER is a citizen of the United States and of the State of Illinois and a duly registered Republican voter in St. Clair County within the boundaries of House District 113 of the Enacted Plan.

15. Defendant ILLINOIS STATE BOARD OF ELECTIONS is the entity responsible for overseeing and regulating public elections in Illinois, including elections for the Illinois House of Representatives. *See* ILL. CONST. art. III, § 5; 10 ILCS 5/1A-1 *et seq.*

16. Defendant JENNIFER M. BALLARD CROFT is a member of the ILLINOIS STATE BOARD OF ELECTIONS and is sued only in her official capacity as member of the ILLINOIS STATE BOARD OF ELECTIONS.

17. Defendant CRISTINA D. CRAY is a member of the ILLINOIS STATE BOARD OF ELECTIONS and is sued only in her official capacity as member of the ILLINOIS STATE BOARD OF ELECTIONS.

18. Defendant LAURA K. DONAHUE is a member of the ILLINOIS STATE BOARD OF ELECTIONS and is sued only in her official capacity as member of the ILLINOIS STATE BOARD OF ELECTIONS.

19. Defendant TONYA L. GENOVESE is a member of the ILLINOIS STATE BOARD OF ELECTIONS and is sued only in her official capacity as member of the ILLINOIS STATE BOARD OF ELECTIONS.

20. Defendant CATHERINE S. MCCRORY is a member of the ILLINOIS STATE BOARD OF ELECTIONS and is sued only in his official capacity as member of the ILLINOIS STATE BOARD OF ELECTIONS.

21. Defendant RICK S. TERVEN, SR. is a member of the ILLINOIS STATE BOARD OF ELECTIONS and is sued only in his official capacity as member of the ILLINOIS STATE BOARD OF ELECTIONS.

22. Defendant CASANDRA B. WATSON 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.

23. Defendant JACK VRETT is a member of the ILLINOIS STATE BOARD OF ELECTIONS and is sued only in his official capacity as member of the ILLINOIS STATE BOARD OF ELECTIONS.

### **JURISDICTION**

24. This Court has original and exclusive jurisdiction over this action under Article IV, Section 3 of the Illinois Constitution. *See, e.g., Schrage v. State Bd. of Elections*, 88 Ill. 2d 87, 91 (1981); *see also* SUP. CT. R. 382.

### **STATEMENT OF FACTS**

25. The Illinois Constitution requires the General Assembly to enact a new plan for Representative (House) Districts and Legislative (Senate) Districts after each decennial census. ILL. CONST. art. IV, § 3(b). If a plan is not effective by June 30 of the year after the census, then control over redistricting shifts from the General Assembly to a bipartisan commission, as it has many times since the most recent Illinois Constitution took effect in 1970. *Id.*; *see, e.g., Cole-Randazzo v. Ryan*, 198 Ill. 2d 233, 235 (2001); *People ex rel. Burris v. Ryan*, 147 Ill. 2d 270, 275 (1991).

26. In 2021, the results of the 2020 census were delayed. To avoid the risk of a bipartisan process, the General Assembly elected to rely on data from the American Community Survey (“ACS”), a population estimate previously published by the Census Bureau, rather than wait for the release of the official

population totals from the 2020 U.S. decennial census to determine the boundaries of Illinois legislative districts. Thus, the decision to rely on the ACS data estimates, and to rush the creation of the redistricting plan, was driven solely to avoid ceding political control of the legislative redistricting process.

27. On May 28, 2021, the Illinois General Assembly approved a state legislative redistricting plan (the “June Redistricting Plan”). *See* Public Act 102-0010. That plan was enjoined by a federal court because it failed to provide districts that were substantially equal in population.

28. On August 31, 2021, the Illinois General Assembly approved a revised state legislative redistricting plan, which was approved by the Governor on September 24, 2021 (the “Enacted Plan”). *See* Public Act 102-0663. That plan was upheld by the federal court despite challenges by several plaintiff groups, including the NAACP and MALDEF, that it violated federal voting and civil rights laws.

**A. The Enacted Plan features extreme partisan gerrymandering.**

29. Time and again, it has been shown that the Enacted Plan was created with one overarching goal: maximizing the political power of Democrats in Illinois. This fact has been recognized by a federal district court, admitted by the Director of Redistricting for the House Democratic Caucus and Democratic Representatives themselves, and cited in the public legislative record.

**1. The federal district court in *McConchie v. Scholz* concluded the mapmakers were principally motivated by partisan concerns.**

30. In the wake of the June Redistricting Plan, several consolidated lawsuits were filed in federal court, alleging that the plan violated the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. See *McConchie v. Scholz*, 567 F. Supp. 3d 861 (N.D. Ill. 2021) (“*McConchie I*”). Specifically, the plaintiffs there argued that the plan ran afoul of the U.S. Constitution’s promise of “one-person, one-vote,” as legislative districts featured maximum population deviations of more than 20%. *Id.* at 871, 886.

31. The three-judge federal court agreed, finding that the “maximum deviations in the June Redistricting Plan exceed any limit tolerated by any case law.” *Id.* at 887.

32. In coming to this conclusion, the court found that the General Assembly had rushed the completion of the June Redistricting Plan “to avoid ceding political control of the legislative redistricting process” to “a bi-partisan commission.” *Id.* at 888–89. It held that this desire to “secur[e] partisan advantage” was not “a proper rationale for violating constitutionally-required mandates,” such as the “one-person, one-vote” principle. *Id.*

33. In response, the General Assembly passed a second map after the release of the census data: the Enacted Plan. It was again challenged, but this time on the grounds that legislative districts were racially gerrymandered in violation of Section 2 of the Voting Rights Act of 1965, 52 U.S.C. § 10301, and



the Fourteenth Amendment’s Equal Protection Clause. *McConchie v. Scholz*, 577 F. Supp. 3d 842, 851 (N.D. Ill. 2021) (“*McConchie I*”).

34. This time, the court rejected the plaintiffs’ challenge. But in so doing, the court held that “the voluminous evidence submitted by the parties overwhelmingly establishes that *the Illinois mapmakers were motivated principally by partisan political considerations.*” *Id.* at 885 (emphasis added).

35. This conclusion was supported by the fact that the General Assembly’s Democratic leadership argued that “politics . . . drove the configuration of all of the challenged districts.” *Id.* at 877. Time and again, the court made clear that it saw that enshrining political advantage was the main driver of the Enacted Plan. *E.g., id.* at 873 (“[S]tate legislators unabashedly put politics front and center . . . .”); *id.* at 879 (“General Assembly staff and state legislators admit that they divided up HD[s] 112 [and] 113 . . . to shore up the Democratic vote . . . .”); *id.* at 883 (“[T]he record is replete with political . . . justifications for the districts that the legislature drew.”).

**2. The deposition of Jonathan Maxson confirms the mapmakers were principally motivated by partisan concerns.**

36. The federal court’s conclusion that partisanship drove the Enacted Plan was largely supported by deposition testimony of Jonathan Maxson, the Director of Redistricting for the House Democratic Caucus who oversaw the 2021 redistricting process. *McConchie II*, 577 F. Supp. 3d at 872; Dep. Tr. of Jonathan Maxson (“Maxson Dep.”), Ex. A at 20:6–19, 21:9–12.

37. Through his testimony, Maxson made clear that the Democratic state legislature put politics front and center in the redistricting process.

38. One focus in *McConchie II* was on House Districts (“HD”) 112 and 113, both of which were “particularly vulnerable to a viable Republican challenge.” 577 F. Supp. 3d at 879.

39. In light of that vulnerability, Maxson described how the primary goals for the configurations of HDs 112 and 113 was shoring up Democratic seats.

40. Maxson stated that the goal of redrawing HD 112 was to “enhance the Democratic performance” of that district. Ex. A, Maxson Dep. at 204:9–12. To this end, he said that he sought to “keep the Edwardsville base of that district together,” as it was “important politically” for the Democratic incumbent. *Id.* at 204:6–8. When asked whether he endeavored to improve Democrats’ performance in HD 112, Maxson responded: “[a]s much as possible, yes.” *Id.* at 208:4–6.

41. As pertains to redrawing HD 113, Maxson testified that the goal was to keep the district “at about an equal Democratic performance, which is where [it] started at.” Ex. A, Maxson Dep. at 204:22–205:3.

42. Maxson further testified that, in drawing these House Districts, he looked at “some countywide election results and the individual results from . . . their previous races” to strategize to protect the Democratic incumbents. Ex. A, Maxson Dep. at 205:18–22.

43. In light of Maxson’s admissions, the court in *McConchie II* made this unsurprising conclusion: “[O]verwhelming evidence demonstrates that” the relevant parts of the Enacted Plan “was drawn to protect Democrats from Republican challenges in . . . HD[s] 112 and 113.” 577 F. Supp. 3d at 879.

**3. Legislative history confirms the mapmakers were principally motivated by partisan concerns.**

44. The Democrats’ partisan motives were far from secret. In the resolution passed by the Illinois House of Representatives that sets forth the redistricting principles and summaries of the proposed district boundaries included in the Enacted Plan, these considerations were explicitly cited as justifications for various district boundaries. H.R. 0443 (the “House Resolution”).

45. The House Resolution states that HD 26 was altered “for political purposes” and was not adjusted in response to testimony requesting that the Black population in the district be increased in part because such a change would “potentially pair multiple incumbent Democratic legislators.”

46. The House Resolution included “incumbent preservation” and “the ability to increase the partisan advantage” as factors driving the drawing of HDs 3 and 4, and “enhancing partisan composition” was a justification for the boundaries of HDs 96 and 98.

47. The House Resolution publicly explains that for multiple other districts, “partisan advantage” was explicitly considered for those that “traditionally elect members of the Democratic party,” and still more were

“drawn for political purposes to assist with increasing the political advantage” and “to impact the political composition of neighboring districts.”

**4. The public believes the process was unfair.**

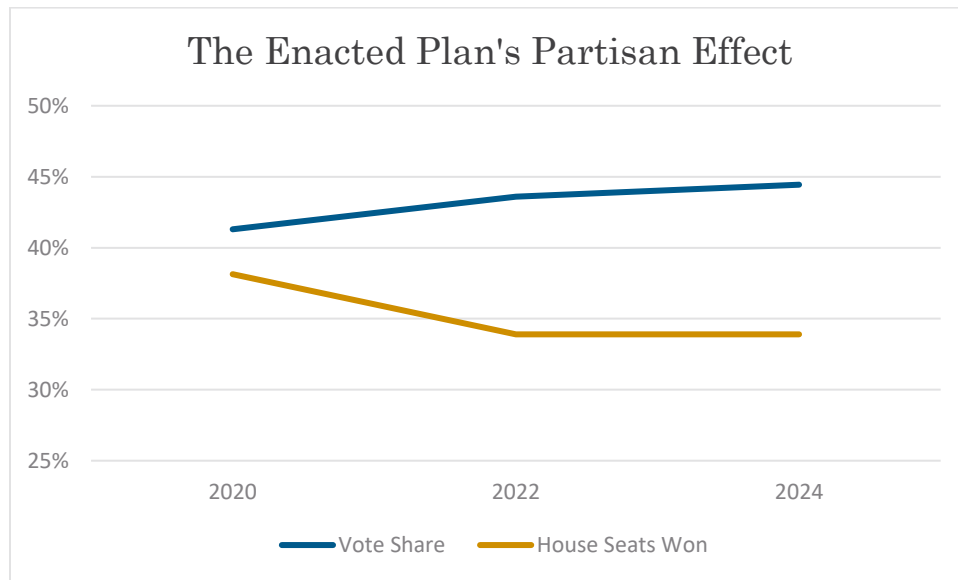
48. The General Assembly received feedback and concern from a wide array of community and advocacy groups reflecting their dismay with the process that led to the 2021 maps and the General Assembly’s lack of responsiveness to public feedback as it instead prioritized its own political goals.

49. The testimony of Ryan Tolley, the Policy Director for CHANGE Illinois, a nonpartisan nonprofit that advocates for ethical government and elections, exemplifies these concerns: “The voices and concerns of those who have already testified this year including Illinois Muslim Civic Coalition, UCCRO, League of Women Voters of Illinois, Latino Policy Forum, Common Cause Illinois, Indivisible Naperville, Better Government Association, Coalition for a Better Chinese American Community, Black Roots Alliance, MALDEF, Chicago Lawyers’ Committee for Civil Rights, Mujeres Latinas en Accion, Nonprofit Utopia, Faith Coalition for the Common Good, Mano a Mano Family Resource Center, and many more organizations need to be heard and reflected in any changes to this map. Many more individual community members provided testimony that is also not reflected in the current maps. I would strongly urge committee members and members of the General Assembly to go back and review the testimony from the Spring that largely

seemed to be ignored and draw maps that prioritize that testimony over any political or self-interest.”<sup>1</sup>

**B. Analysis of data from the recent election clearly shows the effects of extreme partisan gerrymandering.**

50. The intended goals of the redistricting worked. While the Republican statewide vote share has gradually increased since 2020, the Republican share of House seats has decreased, cementing the Democratic Party’s super-majority control over the legislature.



**Figure 1.** The table above shows the share of Republican votes as a percentage of votes cast for Republican and Democratic candidates for president and governor in the relevant election year.

51. While proportionality provides a signal, the conclusion can be drawn from Dr. Jowei Chen’s expert analysis. Expert Report of Jowei Chen, Ph.D. (“Chen Rep.”), Ex. B.

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<sup>1</sup> Letter from CHANGE Illinois to House and Senate Redistricting Committees (Aug. 28, 2021), available at <https://ilga.gov/house/committees/Redistricting/102Redistricting/HRED/2021August/CHANGE%20IL%20redistricting%20testimony.pdf>.

52. Dr. Chen performed a simulation of 10,000 Illinois state House District plans. To comply with minimum redistricting requirements, each simulated plan was required (1) to include only contiguous districts, (2) to tolerate a population difference between the most-populated and least-populated districts that was no larger than in the Enacted Plan, (3) to minimize the number of districts whose Polsby-Popper and Reock compactness scores were less than the scores of the “*Schrage* district,” or if possible include only districts with compactness scores above the *Schrage* district scores, and in either case to have plan-wide average compactness scores at least equal to those of the Enacted Plan,<sup>2</sup> and (4) to include at the least the same number of majority-Black and majority-Hispanic districts, measured by voting age population or citizen voting age population, as the Enacted Plan (*i.e.*, 13 majority-Black districts and 11 majority-Hispanic districts). Within those constraints, the plans were then randomly drawn by the computer. *Id.* at 19, 21–23.

53. The results are astonishing yet unsurprising. Dr. Chen found that “the Enacted Plan creates a significant pro-Democratic electoral bias,” resulting in as many as 11 fewer Republican-favoring districts when compared to the median outcome among the non-partisan computer-simulated plans. In

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<sup>2</sup> The Polsby-Popper and Reock scores are two of the most commonly used and accepted measures of compactness and are used broadly by courts. *See, e.g., Cooper v. Harris*, 581 U.S. 285, 311 (2017); *Vesilind v. Virginia State Bd. of Elections*, 813 S.E.2d 739, 743 & n.3 (Va. 2018). The “*Schrage* district” refers to the district that this Court struck down as being insufficiently compact in *Schrage v. State Bd. of Elections*, 88 Ill. 2d 87, 91 (1981). *See also infra*, § D (discussing *Schrage*).

the most competitive elections, when Republican candidates have the best opportunity to win, the Enacted Plan’s effect is most insidious; that is, the more competitive the election, the larger the Democratic advantage. Put plainly, the better Republican candidates do, the more effective the Democrats’ gerrymander is. *Id.* at 31–52.

54. The Enacted Plan accomplishes this result by shifting Democratic votes from uncompetitive areas to the most competitive districts. “When compared to the simulated plans, the Enacted Plan effectively removed Republican voters from districts that would otherwise have been electorally competitive or slightly Republican-leaning, thus weakening these districts’ likelihood of electing a Republican. These removed Republican voters were instead placed in districts that were already extremely safe Republican or extremely safe Democratic districts; placing these Republican voters into such lopsided districts had almost no effect on these districts’ likelihood of electing a Republican or a Democrat in those safe districts.” *Id.*

**C. There is ample support that extreme partisan gerrymandering is unconstitutional and improper.**

55. In *Rucho v. Common Cause*, the U.S. Supreme Court held that partisan gerrymandering claims cannot be brought in federal court. In so holding, it noted that states—including state courts—bore the responsibility for tamping down this practice. *See* 588 U.S. 684, 719–20 (2019).

**1. Pennsylvania’s Supreme Court determined that partisan gerrymandering violates an identical Free and Equal Election clause under its Constitution.**

56. The Pennsylvania Supreme Court has picked up the torch that was laid down in *Rucho*.

57. A group of voters filed a lawsuit in Pennsylvania in 2017 over the Commonwealth’s redistricting plan for the U.S. Congress. They alleged that the plan, which was adopted in 2011, skewed the representation of the Commonwealth’s 18 districts in favor of the Republican party. This plan, they alleged, violated a requirement in the Pennsylvania Constitution that “[e]lections shall be free and equal.” PA. CONST. art. I, § 5; see *League of Women Voters v. Commonwealth*, 178 A.3d 737, 766 (Pa. 2018) (“LWV”). This constitutional provision is identical to the one found in the Illinois Constitution.

58. After analyzing text, history, and precedent, the court held that the clause “should be given the broadest interpretation, one which governs all aspects of the electoral process, and which provides the people of this Commonwealth an equally effective power to select the representative of his or her choice, and bars the dilution of the people’s power to do so.” *Id.* at 814. It also noted that this clause has no analogy in the U.S. Constitution. *Id.* at 804.

59. The court determined that a violation of the clause can be proven by showing that neutral redistricting criteria—like contiguity, compactness, and equality of population—“have been subordinated, in whole or in part, to extraneous considerations such as gerrymandering for unfair partisan political



advantage.” *Id.* at 816–17. The court also suggested that a redistricting map can violate this clause even if it “minimally comport[s] with these neutral . . . criteria,” but “nevertheless operate[s] to unfairly dilute the power of a particular group’s vote.” *Id.* at 817.

60. It then applied these standards to the 2011 redistricting plan. The court examined expert reports, including one from Dr. Chen that determined that “there is a small geographic advantage for the Republicans, but it does not come close to explaining the extreme 13–5 Republican advantage in the 2011 plan.” *Id.* at 774–75 (cleaned up). Relatedly, it also observed how, in the most recent election, Democrats received 45.9% of the statewide vote, yet only won 27.7% of Congressional seats. *Id.* at 763–64.

61. In light of these and other factors, the court held that “it is clear, plain, and palpable that the 2011 [p]lan subordinates the traditional redistricting criteria in the service of partisan advantage,” thereby violating the Free and Equal Elections clause. *Id.* at 818.

62. The congressional map was redrawn, and the elections became “free and equal”: In the ensuing two congressional elections, the Republicans and Democrats evenly split the Commonwealth’s 18 seats.<sup>3</sup>

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<sup>3</sup> See Pennsylvania Department of State, *2020 General Election – Official Returns*, [https://www.electionreturns.pa.gov/\\_ENR/General/OfficeResults?OfficeID=11&ElectionID=83&ElectionType=G&IsActive=0](https://www.electionreturns.pa.gov/_ENR/General/OfficeResults?OfficeID=11&ElectionID=83&ElectionType=G&IsActive=0); Pennsylvania Department of State, *2018 General Election – Official Returns*, [https://www.electionreturns.pa.gov/\\_ENR/General/OfficeResults?OfficeID=11&ElectionID=63&ElectionType=G&IsActive=0](https://www.electionreturns.pa.gov/_ENR/General/OfficeResults?OfficeID=11&ElectionID=63&ElectionType=G&IsActive=0).

**2. North Carolina courts have previously determined that partisan gerrymandering violates a comparable Free Election clause under its Constitution.**

63. North Carolina’s Constitution likewise requires that “[a]ll elections shall be free.” N.C. CONST. art. I, § 10.

64. In 2018, plaintiffs filed a lawsuit that alleged that the legislative districts enacted by and for the General Assembly in 2017 violated, among other things, this “Free Elections” clause. *Common Cause v. Lewis*, No. 18 CVS 014001, 2019 WL 4569584, at \*1–2 (N.C. Super. Ct. Sept. 3, 2019). A three-judge trial court agreed. *Id.* at \*2.

65. The court analyzed text, history, and precedent and found that this clause prohibited “extreme partisan gerrymandering—namely redistricting plans that entrench politicians in power, that evince a fundamental distrust of voters by serving the self-interest of political parties over the public good, and that dilute and devalue votes of some citizens compared to others.” *Id.* at \*110. It also noted that the Free Elections clause was one of the “clauses that makes the North Carolina Constitution more detailed and specific than the federal Constitution in the protection of the rights of its citizens.” *Id.* at \*109.

66. The court was convinced that the General Assembly’s redistricting plan struck “at the heart” of the Free Elections clause. *Id.* at \*112. It found that the legislators in power “manipulated district boundaries, to the greatest extent possible, to control the outcomes of individual races so as to best ensure their continued control of the legislature.” *Id.*

67. In coming to this conclusion, the court analyzed expert reports—again, including one from Dr. Chen—which determined that the gerrymandered districts made it “nearly impossible for Democrats to win majorities in either chamber in any reasonably foreseeable electoral environment.” *Id.* at \*112.

68. In addition to finding that the plaintiffs had shown that the General Assembly intentionally manipulated the statewide map for political gain, the court held that the manipulation was *effective*. As an example, the court noted that the Republicans maintained a 54% majority in the State House and a 58% majority in the State Senate despite obtaining less than 50% of the two-party statewide vote in 2018. *Id.* at \*74.

69. The remedial maps created after the *Common Cause* ruling resulted in Democratic gains in both the State House and State Senate.<sup>4</sup>

70. Several years later, the North Carolina Supreme Court put its stamp of approval on the logic of this ruling. *Harper v. Hall*, 868 S.E.2d 499, 542 (N.C. 2022) (“*Harper I*”). In *Harper I*, the court determined that “partisan gerrymandering, through which the ruling party in the legislature manipulates the composition of the electorate to ensure that members of its party retain control, is cognizable under the [F]ree [E]lections clause because it can prevent elections from reflecting the will of the people impartially and by diminishing or diluting voting power on the basis of partisan affiliation.” *Id.*

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<sup>4</sup> See *2020 North Carolina Election Results*, N.Y. TIMES, <https://www.nytimes.com/interactive/2020/11/03/us/elections/results-north-carolina.html>.

It then applied strict scrutiny to the 2021 House map and determined that it was not “narrowly tailored to a compelling governmental interest.” *Id.* at 556.

71. That court later repeated this holding, stating that, “when the General Assembly enacts a districting plan that systematically makes it harder for certain voters to elect a governing majority based on partisan affiliation, that plan is subject to strict scrutiny and is unconstitutional unless the General Assembly can demonstrate that the plan is narrowly tailored to advance a compelling governmental interest.” *Harper v. Hall*, 881 S.E.2d 156, 181 (N.C. 2022) (“*Harper II*”) (cleaned up) (determining that remedial plan also did not pass strict scrutiny).

72. After Republicans flipped control of the North Carolina Supreme Court in 2022, it overruled *Harper I*, withdrew the opinion in *Harper II*, and abrogated the holding in *Common Cause*. See *Harper v. Hall*, 886 S.E.2d 393, 447–48 (N.C. 2023) (“*Harper III*”).

73. The dissenting opinion in *Harper III*, however, was strident: “A rigged election is not, in any sense of the word, a free election. Nor is an election in which a voter's voice is worthless because the election's results have been preordained by whoever wields political power in the General Assembly.” 886 S.E. 2d at 457 (Earls, J., dissenting).

**3. This Court requires that legislative redistricting maps be politically fair.**

74. In addition to the decisions in *LWV*, *Common Cause*, *Harper I*, and *Harper II*, precedent from this Court supports a determination that extreme partisan gerrymandering is unlawful.

75. On two occasions, this Court has held that legislative redistricting maps must “meet all legal requirements regarding political fairness.” *People ex rel. Burriss v. Ryan*, 147 Ill. 2d 270, 296 (1992); accord *Cole-Randazzo v. Ryan*, 198 Ill. 2d 233, 236 (2001).

76. While this Court has never expressly defined “political fairness,” in *Davis v. Bandemer*, 478 U.S. 109 (1986), a plurality of the U.S. Supreme Court explained that it is politically unfair when an election system “substantially disadvantages certain voters in their opportunity to influence the political process effectively.” *Id.* at 133. This can be proven, it held, if there is “evidence of continued frustration of the will of a majority of the voters or effective denial to a minority of voters of a fair chance to influence the political process.” *Id.*

77. Scholars have defined “political fairness” more broadly. One definition is “the absence of partisan bias, where partisan bias is the degree to which the electoral system makes it easier for one party (and harder for the other) to translate its votes into seats.” Adam Cox, *Partisan Fairness and Redistricting Politics*, 79 N.Y.U. L. REV. 751, 765 (2004). Another is “that each person or group in the community should have a roughly equal share of control

over the decisions made by . . . the state legislature.” RONALD DWORKIN, *LAW’S EMPIRE* 178 (1986).

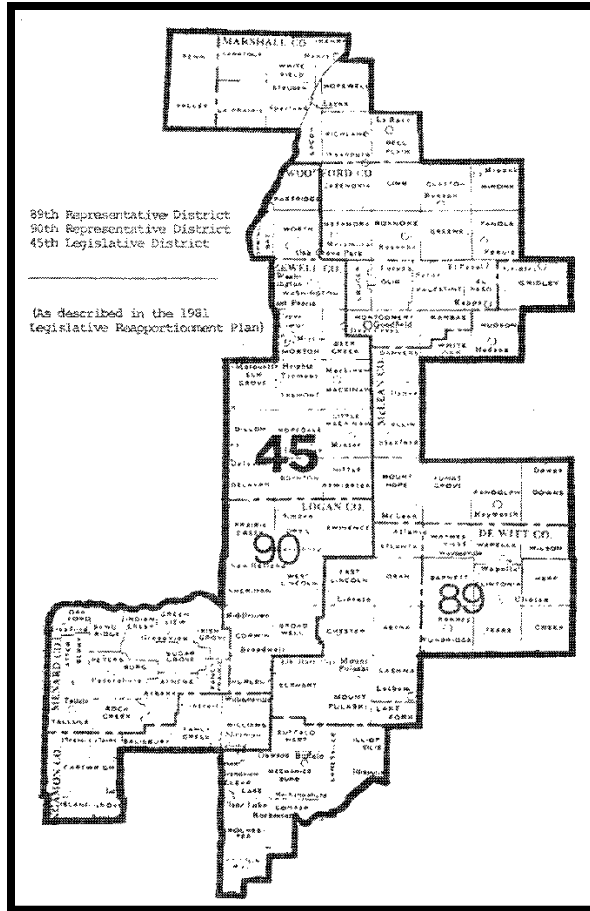
78. Whatever the appropriate definition, the requirement that redistricting maps be “politically fair” must foreclose any extreme partisan gerrymander. After all, it is not “politically fair” to draw districts in such a way to systematically and intentionally suppress a significantly sized political party.

**D. Because the mapmakers were so concerned about partisanship, they flouted the Illinois Constitution’s compactness requirement.**

79. Under the Illinois Constitution, legislative districts must be “compact, contiguous and substantially equal in population.” ILL. CONST. art. IV, § 3(a). The first of these requirements—compactness—is “almost universally recognized’ as an appropriate anti-gerrymandering standard.” *Schrage v. State Bd. of Elections*, 88 Ill. 2d 87, 96 (1981)

80. The framers of the Illinois Constitution agreed. They noted that the compactness standard “reflect[s] the objective of improving legislative representation through seeking to insure that districts are not gerrymandered.” 6 RECORD OF PROCEEDINGS, SIXTH ILLINOIS CONSTITUTIONAL CONVENTION 1352–53. They highlighted that, “[w]here no standards of this nature exist, there exists an open invitation to gerrymander.” *Id.* at 1353.

81. This Court recognized these important principles in *Schrage*, a case that involved a compactness challenge to HD 89, which looked like this:



82. In *Schrage*, this Court determined that there were two ways to decide whether HD 89 was sufficiently “compact.” One was to compare the district to a “mathematically precise standard of compactness.” *Id.* at 98. The other was to “rely on a visual examination of the questioned district.” *Id.*

83. This Court found that a visual examination of HD 89 was sufficient to show that it was not “compact.” This examination “reveal[ed] a tortured, extremely elongated form which is not compact in any sense.” *Id.* So, HD 89 “fail[ed] to meet the compactness standard” of Article IV, Section 3(a) of the Illinois Constitution. *Id.*

84. Here, applying either of *Schrage*'s tests to the Enacted Plan leads to one conclusion: A significant number of districts—as many as 52 districts identified by Dr. Chen—are not “compact in any sense.” *Id.*; see Ex. B, Chen Rep. at 7–13.

**1. A mathematical standard of compactness starkly reveals that many districts are not compact.**

85. Dr. Chen computed the Polsby-Popper and Reock scores of the 118 House Districts in the Plan. The Polsby-Popper metric evaluates the perimeter of a district to its area; smooth perimeters score better, while cragged borders score worse. The Reock metric measures the relationship between the area of a district and the area of the smallest circle in which that district could fit; the more closely a district aligns to a circle, which is the most compact shape, the higher the score. Ex. B, Chen Rep. at 9.

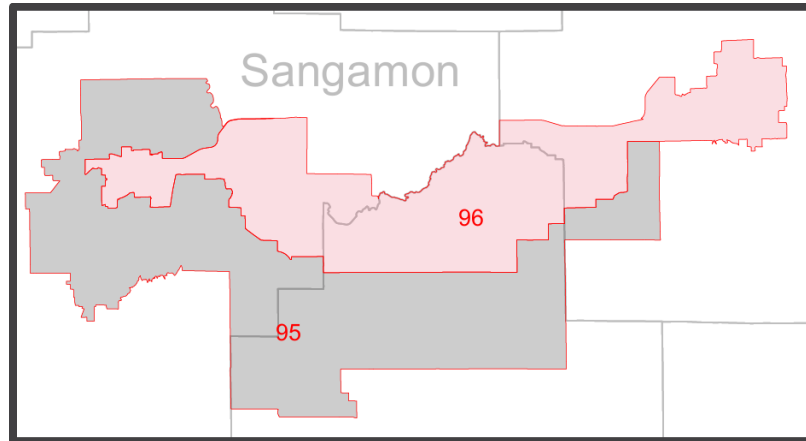
86. The General Assembly's disregard for compactness is brazen. Of 118 House Districts, 49 districts have Reock scores less than that of the *Schrage* district, 25 districts have Polsby-Popper scores less than that of the *Schrage* district, 22 districts have both Reock and Polsby-Popper scores less than that of the *Schrage* district, and 52 districts are less compact by at least one of those measures. *Id.* at 11.

87. As noted above, Dr. Chen instructed his simulation to minimize the number of districts with compactness scores below that of the *Schrage* district. In all 10,000 simulations, *not one* district fell below those minimum scores. In other words, it is possible to draw *every* district to be at least as

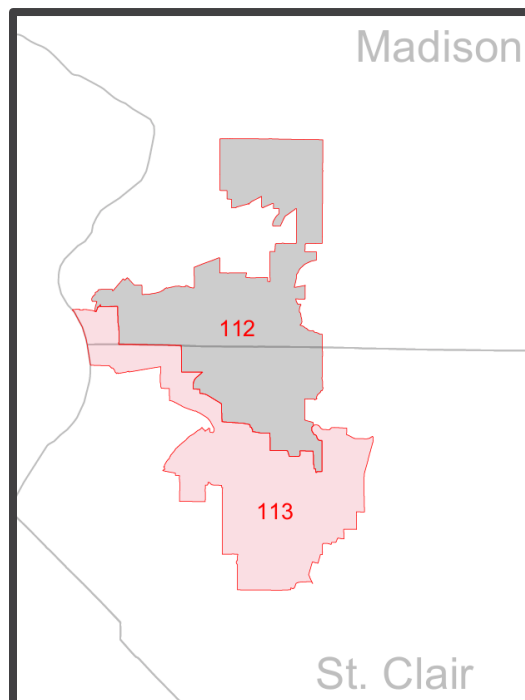




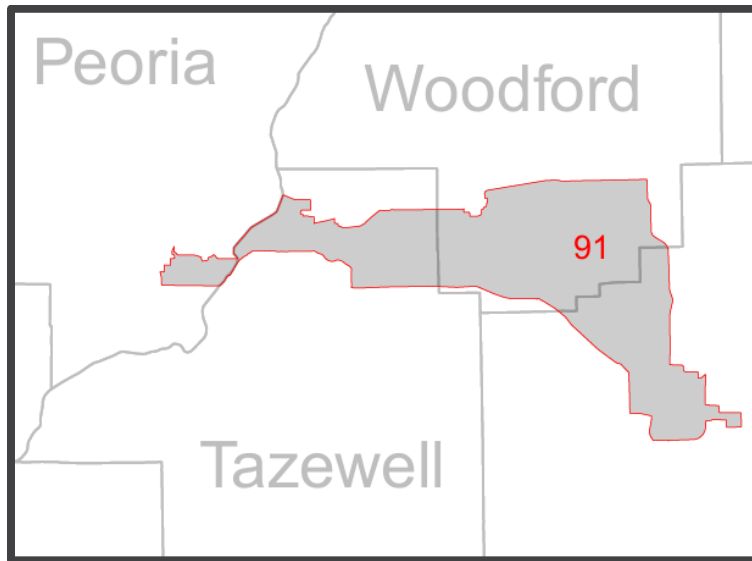
90. The non-compact districts are not confined to Chicago. A peculiar pair of districts, HD 95 and 96, intertwine between Springfield and Decatur. HD 95 wraps around HD 96 near Springfield like a hooked finger, only to come back around toward Decatur.



91. The Metro East region is also contorted. HDs 112 and 113 slice through Madison and St. Clair Counties at the expense of natural communities, in places no wider than a few blocks.



92. HD 91 stretches from Bloomington to Peoria. Near East Peoria, the district becomes so thin that it is not even contiguous by land: the connection between the two parts of the district is only as wide as the Illinois River.



**3. Compactness was subordinated to partisan motives.**

93. Across the State, the General Assembly’s motive in drawing non-compact districts was consistent: partisanship advantage. As Dr. Chen concluded, “partisanship subordinated the traditional districting principles of drawing geographically compact districts.” Ex. B, Chen Rep. at 59–60.

94. The majority-Black districts in the Chicago region were drawn to crack Republican votes in the suburbs. HDs 5, 6, 25, 26, 27, 28, and 33 are majority-Black districts starting in the south side of Chicago and stretching to the south suburbs. HDs 27 and 28 stretch from the south side of Chicago to the southwest suburbs. HDs 31 and 32 stretch from the west side of Chicago to the west suburbs. HD 8 begins in the west side of Chicago and wraps around to the

southwest suburbs. Both the Polsby-Popper and Reock compactness measures of all these districts are substantially below those of the *Schrage* district. *Id.* at 10.

95. Dr. Chen’s analysis explains why. His simulations demonstrate that it is never necessary to draw districts with compactness scores below those of the *Schrage* district, even to accommodate at least the same number of majority-Black districts. All of the majority-Black districts in the Enacted Plan but one (HD 30) are less compact than the *Schrage* district, and all are substantially more Republican than would be naturally expected. “[D]rawing long, narrow districts with compactness scores below the *Schrage* District enabled the Enacted Plan’s mapmakers to ‘waste’ suburban Republican votes in otherwise safe Democratic, majority-Black districts.” *Id.* at 52–59.

96. The General Assembly’s goal is evident: draw skinny Democratic districts that snake into Republican areas and absorb as many Republican votes as possible without jeopardizing Democrats’ ability to win those districts, thereby making the adjacent areas easier for Democrats to win. The General Assembly is using Black-majority districts to crack Republican votes solely for partisan purposes. *Id.*

97. Near Springfield, HDs 95 and 96 were also drawn for partisan reasons. The legislature admitted as much in the House Resolution, explaining that its intent in crafting HD 96 was to “enhanc[e] partisan composition” of that district. The result is two districts whose Polsby-Popper and Reock

compactness scores are substantially lower than those of the *Schrage* district. *Id.* at 10.

98. The dissection of the Metro East region for partisan aims was already explained by Maxson. *See supra*, § A.2. Incumbent Democrats in HDs 112 and 113 demanded a careful manipulation of the region to shore up the partisan composition of those districts, notwithstanding any constitutional compactness requirement.

## CAUSES OF ACTION

### COUNT I

#### **(Violation of the Illinois Constitution's Free and Equal Election Clause, Art. III, § 3)**

99. Plaintiffs hereby incorporate all other paragraphs as if fully set forth herein.

100. Article III, Section 3 of the Illinois Constitution states that “[a]ll elections shall be free and equal.”

101. This “Free and Equal Election Clause” requires that “each voter have the right and opportunity to cast his or her vote without any restraint and that his or her vote has the same influence as the vote of any other voter.” *Goree v. LaVelle*, 169 Ill. App. 3d 696, 699 (1988) (citing *People v. Deatherage*, 401 Ill. 25, 37 (1948)).

102. In many parts of Illinois, Republican voters do not have “the same influence as the vote of any other voter.” *Id.* This is by design.

103. As the federal district court in *McConchie II* noted, the primary intent in the redistricting process was to “shore up Democratic seats.” 577 F. Supp. 3d at 879. As shown above, both the legislative history, as well as the mapmakers’ own testimony, confirms the mapmakers were, at all times, principally motivated by partisan concerns.

104. In addition, the Enacted Plan had the effect of substantially diluting the power of Republican votes.

105. Dr. Chen’s expert report confirms this. He found that the Enacted Plan creates a “significant pro-Democratic electoral bias,” resulting in as many as 11 fewer Republican-favoring districts when compared to the median outcome among the non-partisan computer-simulated plans.

106. Republican voters in many parts of the State—including Plaintiffs ROBERT BERNAS, THOMAS J. BROWN, SERGIO CASILLAS VAZQUEZ, JOHN COUNTRYMAN, and ASHLEY HUNSAKER—therefore have less of an ability to elect representatives of their choice due to the gerrymandered nature of the Enacted Plan.

107. Finally, there is no legitimate, non-partisan justification for this discrimination.

108. In other words, the Enacted Plan—which features extreme partisan gerrymandering—violates the Free and Equal Election Clause. *See Rucho v. Common Cause*, 588 U.S. 684, 735–36 (2019) (Kagan, J., dissenting)

(noting that lower courts have used a framework of (a) intent, (b) effects, and (c) lack of justification to adjudicate partisan gerrymandering cases).

109. As others have recognized, “[b]y drawing districts to maximize the power of some voters and minimize the power of others, a party in office at the right time can entrench itself there for a decade or more, no matter what the voters would prefer.” *Rucho*, 588 U.S. at 727, 750 (Kagan, J., dissenting) (pointing out that both Democrats and Republicans in underlying cases were responsible for their partisan gerrymandering). Partisan gerrymandering, at its most extreme, amounts to “rigging elections.” *Id.* (quoting *Vieth v. Jubelirer*, 541 U.S. 267, 317 (2004) (Kennedy, J., concurring in the judgment)).

110. There is ample support for determining that the Free and Equal Election Clause prohibits extreme partisan gerrymandering. Indeed, the Pennsylvania Supreme Court—examining an identical constitutional provision—held just that. *LWV*, 178 A.3d at 766. It determined that Pennsylvania’s Free and Equal Elections Clause requires that all voters “have an equal opportunity to translate their votes into representation,” and that this requirement is violated where traditional districting criteria such as preserving political subdivisions and compactness are “subordinated, in whole or in part, to extraneous considerations such as gerrymandering for unfair partisan political advantage.” *Id.* at 814, 817.

111. Moreover, North Carolina courts in a variety of cases until 2022 struck down maps that were the byproduct of partisan gerrymandering because

of, among other things, a state constitutional provision that required free elections. *Common Cause*, 2019 WL 4569584, at \*2; *Harper I*, 868 S.E.2d at 556; *Harper II*, 881 S.E.2d at 181. In the views of these courts, “when the General Assembly enacts a districting plan that systematically makes it harder for certain voters to elect a governing majority based on partisan affiliation, that plan is subject to strict scrutiny and is unconstitutional unless the General Assembly can demonstrate that the plan is narrowly tailored to advance a compelling governmental interest.” *Harper II*, 881 S.E.2d at 181 (cleaned up).

112. The Free and Equal Election Clause of the Illinois Constitution protects the rights of voters to at least the same extent as Pennsylvania’s identical provision and North Carolina’s comparable one, as understood by its courts prior to *Harper III*.

113. Additionally, this Court requires that legislative redistricting maps “meet all legal requirements regarding political fairness.” *Burris*, 147 Ill. 2d at 296; *Cole-Randazzo*, 198 Ill. 2d at 236. It is not politically fair to draw an Enacted Plan with the purpose—and effect—of enshrining one political party’s power.

114. The Enacted Plan was drawn with the primary motivation to ensure Democratic victories and is anything but “free and equal.” The Enacted Plan thus denies voters their equal right to participate in the political process and to elect representatives of their choice, violating Article III, Section 3 of the Illinois Constitution.



**COUNT II**  
**(Violation of the Illinois Constitution’s**  
**Compactness Requirement, Art. IV, § 3)**

115. Plaintiffs hereby incorporate all other paragraphs as if fully set forth herein.

116. Under the Illinois Constitution, legislative districts must be “compact, contiguous and substantially equal in population.” ILL. CONST. art. IV, § 3(a).

117. “[R]equiring compactness prevents gerrymandering. In fact, compactness is almost universally recognized as an appropriate anti-gerrymandering standard.” *Schrage*, 88 Ill. 2d at 96 (internal quotations omitted). “Indiscriminate districting, without any regard for political subdivision or natural or historical boundary lines, may be little more than an open invitation to partisan gerrymandering.” *Id.* at 104 (quoting *Reynolds v. Sims*, 377 U.S. 533, 579 (1964)).

118. As Dr. Chen’s expert report shows, the Enacted Plan contains 52 House Districts that fail to comply with the requirement of the Illinois Constitution that House Districts must be compact.<sup>5</sup>

119. These House Districts fracture a significant number of counties, municipalities, and townships.

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<sup>5</sup> These districts are HDs 1, 3, 4, 5, 6, 8, 9, 10, 11, 13, 15, 16, 17, 18, 21, 25, 26, 27, 28, 29, 31, 32, 33, 34, 35, 36, 39, 46, 48, 49, 52, 53, 56, 57, 59, 68, 71, 72, 76, 77, 80, 83, 89, 90, 91, 95, 96, 99, 101, 104, 112, and 113.

120. There is no legitimate justification for the highly irregular, non-compact House Districts within the Plan. As Dr. Chen concluded, it is possible to draw *every* district to be at least as compact as the *Schrage* district, even while equalizing population and creating districts that comply with Section 2 of the Voting Rights Act.

121. The pervasive lack of compactness of the House Districts burdens Plaintiff TONY MCCOMBIE's ability to carry out her constitutionally prescribed duty of representing the interests of her caucus and Republican voters throughout the State of Illinois.

122. The pervasive lack of compactness of the House Districts also affords the voters that reside within them—including Plaintiffs ROBERT BERNAS, THOMAS J. BROWN, SERGIO CASILLAS VAZQUEZ, JOHN COUNTRYMAN, and ASHLEY HUNSAKER—less opportunities than other members of the electorate to participate in the political process and to elect representatives of their choice.

123. The lack of compactness is so pervasive that it is not possible to redraw only several House Districts. In other words, an actual controversy exists between Plaintiffs and Defendants regarding whether the Enacted Plan is invalid and void *ab initio*.

## **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully pray that this Court:

- a. Assume jurisdiction over this action pursuant to Article IV, Section 3(b) of the Illinois Constitution and Supreme Court Rule 382.
- b. Set an orderly briefing schedule for all parties herein to plead and file briefs.
- c. Declare the Enacted Plan unconstitutional as violative of Article III, Section 3, and Article IV, Section 3(a) of the Illinois Constitution.
- d. Issue a permanent injunction enjoining Defendants, their agents, employees, and those persons acting in concert with them, from enforcing or giving any effect to the Plan, including enjoining the Board Members from conducting any elections based on the Plan.
- e. Appoint a Special Master to draft a valid and constitutionally acceptable redistricting plan or grant such other appropriate relief that allows for the drafting and implementation of a valid and constitutionally acceptable redistricting plan.
- f. Make all further orders as are just, necessary, and proper to ensure complete fulfillment of this Court's declaratory, injunctive, and equitable orders in this case.
- g. Grant such other and further relief as it deems is proper and just, including, but not limited to, reasonable costs and attorneys' fees.

Dated: January 28, 2025

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Respectfully submitted,

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**IN THE SUPREME COURT OF ILLINOIS**

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TONY MCCOMBIE, in her official capacity )  
as Minority Leader of the Illinois House of )  
Representatives and individually as a )  
registered voter; ROBERT BERNAS, )  
individually as a registered voter; THOMAS )  
J. BROWN, individually as a registered )  
voter; and SERGIO CASILLAS VAZQUEZ, )  
individually as a registered voter; JOHN )  
COUNTRYMAN, individually as a )  
registered voter; and ASHLEY )  
HUNSAKER, individually as a registered )  
voter, )

Plaintiffs, )

v. )

ILLINOIS STATE BOARD OF )  
ELECTIONS and JENNIFER M. )  
BALLARD CROFT, CRISTINA D. CRAY, )  
LAURA K. DONAHUE, TONYA L. )  
GENOVESE, CATHERINE S. MCCRORY, )  
RICK S. TERVEN, SR., CASANDRA B. )  
WATSON, and JACK VRETT, all named in )  
their official capacities as members of the )  
State Board of Elections, )

Defendants. )

Original Action under )  
Article IV, Section 3 of the )  
Illinois Constitution )

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TO: Marni M. Malowitz  
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**NOTICE OF FILING OF COMPLAINT**

PLEASE TAKE NOTICE that on January 28, 2025, the undersigned electronically filed the Complaint in the above-captioned case with the Clerk of the Supreme Court of Illinois using Odyssey eFileIL. A copy is hereby served upon you.

Dated: January 28, 2025

Respectfully submitted,

*/s/ Charles E. Harris, II*

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*Counsel for Plaintiffs*

## CERTIFICATE OF SERVICE

I, Charles E. Harris, II, an attorney, hereby certify that on January 28, 2025, I caused a Notice of Filing and the Complaint to be electronically filed with the Clerk of the Supreme Court of Illinois by using the Odyssey eFileIL system. I further certify that I will cause one copy of the above-named filings to be served upon counsel listed below via electronic mail on January 28, 2025.

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

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