

**STATE OF MINNESOTA
IN SUPREME COURT**

Frank Sachs; Dagny Heimisdottir; Michael Arulfo;
Tanwi Prigge; Jennifer Guertin; Garrison O'Keith
McMurtrey; Mara Lee Glubka; Jeffrey Strand;
Danielle Main; and Wayne Grimmer,

Petitioners,

v.

Steve Simon, in his official capacity as Minnesota
Secretary of State,

Respondent.

**PETITION FOR ASSUMPTION OF
JURISDICTION AND
CONSOLIDATION BEFORE
SPECIAL
REDISTRICTING PANEL**

TO: The Honorable Chief Justice Gildea of the Minnesota Supreme Court

Petitioners respectfully request that this Court assume jurisdiction over this suit, which challenges the validity of Minnesota's state legislative and congressional districts in light of the 2020 Census, and consolidate it with *Watson v. Simon*, No. A21-0243, for adjudication before a special redistricting panel. The grounds for this petition are:

1. On February 19, 2021, a group of plaintiffs filed suit in Carver County District Court challenging Minnesota's existing congressional and state legislative districts as unconstitutionally malapportioned. *Watson et al. v. Simon, et al.*, No. 10-CV-21-127 (Carver Cnty. Dist. Ct.).

2. Three days later, the plaintiffs in *Watson* filed a petition with this Court, asking it to assume jurisdiction over their litigation and any other redistricting actions filed in Minnesota state courts based on the 2020 Census. *See* Petition for Appointment of Special Redistricting Panel, *Watson v. Simon*, No. A21-0243 (Minn. Feb. 22, 2021). The plaintiffs in *Watson* also asked the

Chief Justice to appoint a special redistricting panel to hear and decide the litigation.

3. On March 22, 2021, this Court issued an order granting that petition. The Court noted that the “Chief Justice has the authority to appoint a special redistricting panel under Minn. Stat. §§ 2.724, 480.16 (2020), and did so in 1991, 2001, and 2011,” and that for “reasons of judicial economy, as well as fairness and balance in the resolution of the particularly important and sensitive issues inherent in redistricting, a multi-judge panel should be appointed to hear and decide *Wattson* . . . as well as any other redistricting challenges that may be filed based on the 2020 Census.” Order, *Wattson v. Simon*, No. A21-0243 (Minn. Mar. 22, 2021), at 2. Because “it is important that the primacy of the legislative role in the redistricting process be respected and that the judiciary not be drawn prematurely into that process,” however, the Court indicated that although it was granting the petition, it would stay “the appointment of the panel and further proceedings here and in *Wattson*” until “it is determined that panel action must commence in order to permit the judicial branch to fulfill its proper role in assuring that valid redistricting plans are in place for the 2022 state legislative and congressional elections.” *Id.* at 2-3.

4. On April 26, 2021, the U.S. Secretary of Commerce delivered the results of the 2020 Census to the President. These results indicate that, as of April 2020, Minnesota’s total resident population is 5,706,494, a significant increase from the State’s 2010 population of 5,303,925.

5. On April 26, 2021, shortly after those census results were released, Petitioners filed a state court action in Ramsey County, *Sachs v. Simon*, No. 62-cv-21-2213 (Ramsey Cnty. Dist. Ct.), challenging Minnesota’s current state legislative and congressional districts, which are unconstitutionally malapportioned in light of the 2020 Census results. A copy of Petitioners’ complaint is attached as **Exhibit A**. Petitioners allege that the current configurations of

Minnesota’s House and Senate districts, as drawn by a special redistricting panel appointed by this Court following the 2010 Census, violate Article I, Section 2 of the Minnesota Constitution; Article IV, Sections 2 and 3 of the Minnesota Constitution; and the First and Fourteenth Amendments to the U.S. Constitution. Similarly, they allege that the current configuration of Minnesota’s congressional districts, as drawn by the same special redistricting panel, violates Article I, Section 2 of the Minnesota Constitution; Article IV, Section 3 of the Minnesota Constitution; Article I, Section 2 of the U.S. Constitution; and the First and Fourteenth Amendments to the United States Constitution. The current state legislative and congressional plans cannot be used in any upcoming election, including the 2022 election.

In accordance with this Court’s March 22, 2021 Order that a special redistricting panel be appointed to adjudicate *Wattson* “as well as any other redistricting challenges that may be filed based on the 2020 Census,” Petitioners respectfully request that this Court assume jurisdiction over this case—which is a redistricting challenge based on the 2020 Census—and consolidate it with *Wattson* for adjudication by the special redistricting panel.

Dated: April 27, 2021

Respectfully submitted,

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Exhibit A

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Case Type: Civil

Frank Sachs; Dagny Heimisdottir; Michael Arulfo;
Tanwi Prigge; Jennifer Guertin; Garrison O'Keith
McMurtrey; Mara Lee Glubka; Jeffrey Strand;
Danielle Main; and Wayne Grimmer,

Plaintiffs,

v.

Steve Simon, in his official capacity as Minnesota
Secretary of State,

Defendant.

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

Court File No:

INTRODUCTION

Plaintiffs Frank Sachs, Dagny Heimisdottir, Michael Arulfo, Tanwi Prigge, Jennifer Guertin, Garrison O'Keith McMurtrey, Mara Lee Glubka, Jeffrey Strand, Danielle Main, and Wayne Grimmer file this Complaint for Declaratory and Injunctive Relief against Defendant Steve Simon, in his official capacity as the Minnesota Secretary of State, and hereby state and allege as follows:

1. This is an action challenging Minnesota's current state legislative and congressional districts, which have been rendered unconstitutionally malapportioned by a decade of population shifts. Plaintiffs ask this Court to declare Minnesota's current state legislative and congressional district plans unconstitutional; enjoin Defendant from using the current plans in any future elections; and implement new state legislative and congressional district plans that adhere to the constitutional requirement of one-person, one-vote should the Legislature and Governor fail to do so.

2. On April 26, 2021, the U.S. Secretary of Commerce delivered the apportionment counts obtained by the 2020 Census to the President. Those data confirm the inevitable reality that the population shifts that occurred during the last decade have rendered Minnesota's state legislative and congressional plans unconstitutionally malapportioned. *See Arrington v. Elections Bd.*, 173 F. Supp. 2d 856, 860 (E.D. Wis. 2001) (three-judge court) (explaining that "existing apportionment schemes become instantly unconstitutional upon the release of new decennial census data" (internal quotation marks omitted)).

3. Specifically, the current configurations of Minnesota's State House and State Senate districts, as drawn by the Special Redistricting Panel after the 2010 Census, violate Article I, Section 2 of the Minnesota Constitution; Article IV, Sections 2 and 3 of the Minnesota Constitution; and the Fourteenth Amendment to the U.S. Constitution. Similarly, the current configuration of Minnesota's congressional districts, as drawn by the same Special Redistricting Panel after the 2010 Census, violates Article I, Section 2 of the Minnesota Constitution; Article IV, Section 3 of the Minnesota Constitution; and Article I, Section 2 of the U.S. Constitution. Plaintiffs will be forced to cast unequal votes if the current state legislative and congressional maps are not brought into compliance with constitutional requirements. The current state legislative and congressional plans therefore cannot be used in any upcoming elections, including the 2022 elections. Moreover, if new state legislative and congressional plans are not put in place in a timely manner, Plaintiffs' right to associate with other voters in support of their preferred candidates will be infringed.

4. Currently, the Minnesota Democratic-Farmer-Labor ("DFL") Party controls a majority of the State House; the Republican Party controls a majority of the State Senate; and the Governor is a member of the DFL Party. There is no reasonable prospect that Minnesota's political

branches will reach consensus to enact lawful state legislative and congressional district plans in time to be used in the upcoming 2022 elections. The U.S. Secretary of Commerce will be sending Minnesota its detailed census data on a significantly delayed schedule. Even when census data was timely delivered in the past, courts were still forced to draw Minnesota's state legislative maps in every redistricting cycle since 1970, and its congressional maps in every redistricting cycle since 1980. Since the 1990s, Minnesota's state courts have taken the lead to ensure that Minnesota's citizens are able to cast their votes under constitutional legislative and congressional maps.

5. Because there is no reason to believe the Legislature and the Governor will be able to reach agreement this time around, the judiciary should intervene to protect the constitutional rights of Plaintiffs and voters across this state. While there is still time for the Legislature and Governor to enact new plans, it is appropriate for the Court to assume jurisdiction now and establish a schedule that will enable the Court to adopt its own plans in the near-certain event that the political branches fail timely to do so. In fact, in light of the risk that the political branches will not pass new legislative and congressional maps before the 2022 elections, the Minnesota Supreme Court has already assumed jurisdiction over a separate case filed in Carver County challenging the existing state legislative and congressional district plans. *See* Order, *Wattson v. Simon*, No. A21-0243 (Minn. Mar. 22, 2021).

PARTIES

6. Plaintiffs are citizens of the United States and registered voters in Minnesota. Plaintiffs intend to advocate and vote for DFL candidates in the upcoming 2022 primary and general elections. Plaintiffs reside in the following congressional and state legislative districts:

Plaintiff	County of Residence	Congressional District	State Senate District	State House District
Frank Sachs	Dakota	2	57	57B
Dagny Heimisdottir	Dakota	2	51	51B
Michael Arulfo	Hennepin	3	50	50B
Tanwi Prigge	Hennepin	3	34	34B
Jennifer Guertin	Ramsey	4	66	66A
Garrison O'Keith McMurtrey	Ramsey	4	66	66B
Mara Lee Glubka	Hennepin	5	50	50A
Jeffrey Strand	Hennepin	5	59	59A
Danielle Main	Wright	6	29	29A
Wayne Grimmer	Anoka	6	35	35A

7. As the charts below demonstrate, Plaintiffs reside in districts that are now likely overpopulated relative to other districts in the state.¹ If the 2022 elections are held pursuant to the maps that are currently in place, Plaintiffs will be deprived of their right to cast equal votes as guaranteed to them by the U.S. Constitution and the Minnesota Constitution.

8. Defendant Steve Simon is the Minnesota Secretary of State and is named as a Defendant in his official capacity. He is the state's chief elections officer and, as such, is responsible for the administration and implementation of election laws in Minnesota. The Secretary is responsible for implementing the state's redistricting plans. *See* Minn Stat. § 204B.146, subd. 2 (instructing Secretary of State to maintain database of current district

¹ All Plaintiffs except for Plaintiff Glubka reside in congressional, State Senate, and State House districts that are all projected to be overpopulated. Plaintiff Glubka resides in congressional and State Senate districts that are projected to be overpopulated, but a State House district that is projected to be slightly underpopulated.

boundaries, revise those boundaries whenever election district boundaries are changed, and provide those boundaries to the Legislature and State Demographer). The Secretary acted, and will act, under color of state law at all times relevant to this action.

JURISDICTION AND VENUE

9. Plaintiffs bring this action under the Minnesota Constitution and the U.S. Constitution. As a court of general jurisdiction, this Court has authority to hear these claims. *See* Minn. Const. art. VI, § 3; Minn. Stat. § 484.01.

10. This Court is authorized to grant declaratory relief pursuant to the Declaratory Judgments Act. *See* Minn. Stat. § 555.01; Minn. R. Civ. P. 57. This Court also has the authority to grant permanent injunctive relief to redress the claims asserted in this Complaint. *See Cherne Indus., Inc. v. Grounds & Assocs., Inc.*, 278 N.W.2d 81, 91–92 (Minn. 1979).

11. Venue in Ramsey County is proper because the cause of action arose in part in Ramsey County, and Defendant’s official residence is in Ramsey County. *See* Minn. Stat. §§ 542.03, 542.09.

FACTUAL ALLEGATIONS

I. Minnesota’s current state legislative and congressional districts were drawn using 2010 Census data.

12. Nearly a decade ago, after Minnesota’s political branches failed to enact state legislative and congressional maps on their own, the Chief Justice of the Minnesota Supreme Court assigned the task to a special redistricting panel in an effort to ensure Minnesota’s districts would not be malapportioned for the next decade.

13. That special panel of judges, known as the “*Hippert Panel*,” arose from state court litigation filed in January 2011 challenging Minnesota’s state legislative and congressional districts as unconstitutionally malapportioned following the publication of the 2010 Census data.

14. At the time, according to the 2010 Census, Minnesota had a population of 5,303,925. Accordingly, a decade ago, the ideal population for each of Minnesota's congressional districts (*i.e.*, the state's total population divided by the number of districts) was 662,991 persons. *See* Final Order Adopting a Congressional Redistricting Plan at 4, *Hippert v. Ritchie*, A11-152 (Minn. Spec. Redis. Panel Feb. 21, 2012) (the "2010 Congressional Plan"). Similarly, based on the 2010 Census, the ideal population for each State Senate district was 79,163 persons, and the ideal population for each State House district was 39,582 persons. *See* Final Order Adopting a Legislative Redistricting Plan at 4, *Hippert v. Ritchie*, A11-152 (Minn. Spec. Redis. Panel Feb. 21, 2012) (the "2010 State Legislative Plan").

15. The Special Redistricting Panel's 2010 Congressional Plan drew eight congressional districts, each containing either 662,991 or 662,990 persons—as close to exact population equality as the Special Redistricting Panel could achieve. *See* 2010 Congressional Plan at Appendix B. Similarly, the Special Redistricting Panel drew 67 State Senate districts, minimizing population deviations wherever possible, with each State Senate district containing between 78,683 to 79,811 persons. *See* 2010 State Legislative Plan at Appendix B. Finally, the Special Redistricting Panel drew 134 State House districts, similarly minimizing population deviations wherever possible, with each State House district containing between 39,286 to 39,921 persons. *See id.*

16. When the 2010 congressional and state legislative district plans were drawn, there was a 0 percent population deviation among Minnesota's congressional districts, and no State Senate or State House district's population deviated by more than 2 percent from the population of the ideal district. *See* 2010 State Legislative Plan at 13.

17. Since these orders from the Special Redistricting Panel were implemented in

February 2012, Minnesota has not substantively redrawn its congressional or state legislative districts, meaning that Minnesota's current congressional and state legislative districts were drawn using data from the 2010 Census.

II. The 2020 Census is now complete.

18. In 2020, the U.S. Census Bureau conducted the decennial census required by Article I, Section 2 of the U.S. Constitution. On April 26, 2021, the U.S. Secretary of Commerce delivered the results of the 2020 Census to the President.

19. The results of the 2020 Census report that Minnesota's resident population, as of April 2020, is 5,706,494. This is a significant increase from a decade ago, when the 2010 Census reported a population of 5,303,925.

20. Minnesota will again be apportioned eight congressional districts for the next decade.

21. According to the 2020 Census results, the ideal population for each of Minnesota's congressional districts is now 713,312; the ideal population for each State House district is now 42,586; and the ideal population for each State Senate district is now 85,172.

III. As a result of significant population shifts in the past decade and the publication of the 2020 Census results, Minnesota's state legislative and congressional districts are unconstitutionally malapportioned.

22. In the past decade, Minnesota's population has shifted significantly. Because the 2020 Census has now been completed, the 2010 population data used to draw Minnesota's state legislative and congressional districts are obsolete and any prior justifications for the existing maps' deviations from population equality are no longer applicable.

23. By mid-to-late August 2021, the U.S. Secretary of Commerce will deliver to Minnesota its redistricting data file in a legacy format, which the state may use to tabulate the new

populations of each political subdivision.² This will occur after the Legislature’s regular session will have ended. On or about September 30, 2021, the U.S. Secretary of Commerce will deliver to Minnesota that same detailed population data showing the new population of each political subdivision in a tabulated format.³ These data are commonly referred to as “P.L. 94-171 data,” which refers to the legislation enacting this process, and are typically delivered no later than April of the year following the Census. *See* Pub. L. No. 94-171, 89 Stat. 1023 (1975).

24. Recent Census Bureau data make clear that significant population shifts have occurred in Minnesota since 2010, skewing the current state legislative and congressional districts far from population equality.

25. The table below estimates how the populations of each of Minnesota’s congressional districts shifted between 2010 and 2019. For each district, the “2010 Population” column represents the district’s 2010 population according to the 2010 Census, and the “2019 Population” column indicates the district’s estimated 2019 population according to the U.S. Census Bureau’s 2019 1-Year American Community Survey (“ACS”). The “Shift” column represents the shift in population between 2010 and 2019. The “Deviation from Ideal 2019 Population” column shows how far the estimated 2019 population of each district strays from the ideal 2019 congressional district population. And the “Percent Deviation” column shows that deviation as a percentage of the ideal district population.

² *See U.S. Census Bureau Statement on Release of Legacy Format Summary Redistricting Data File*, U.S. Census Bureau (Mar. 15, 2021), <https://www.census.gov/newsroom/press-releases/2021/statement-legacy-format-redistricting.html>.

³ *See Census Bureau Statement on Redistricting Data Timeline*, U.S. Census Bureau (Feb. 12, 2021), <https://www.census.gov/newsroom/press-releases/2021/statement-redistricting-data-timeline.html>.

District	2010 Population	2019 Population	Shift from 2010 to 2019	Deviation from Ideal 2019 Population	Percent Deviation
1	662,991	679,003	+16,012	-25,951	-3.68%
2	662,991	717,698	+54,707	+12,744	+1.81%
3	662,990	730,214	+67,224	+25,260	+3.58%
4	662,990	719,873	+56,883	+14,919	+2.12%
5	662,991	724,373	+61,382	+19,419	+2.75%
6	662,990	729,029	+66,039	+24,075	+3.42%
7	662,991	668,096	+5,105	-36,858	-5.23%
8	662,991	671,346	+8,355	-33,608	-4.77%

26. The table above indicates that population shifts since 2010 have rendered Minnesota’s First, Seventh, and Eighth Congressional Districts significantly underpopulated, and Minnesota’s Second, Third, Fourth, Fifth, and Sixth Congressional Districts significantly overpopulated. Further, between 2010 and 2019, the maximum deviation among Minnesota’s congressional districts (*i.e.*, the difference between the most and least populated districts divided by the ideal district population) increased from 0 percent to nearly 9 percent.

27. The populations of Minnesota’s state legislative districts have similarly shifted in the past decade. **Exhibit A** to this Complaint provides a table showing the 2010 populations for each State House district and its estimated 2019 population, according to the Minnesota State Demographic Center.⁴ **Exhibit B** to this Complaint provides the same for each State Senate district.

28. As demonstrated by **Exhibit A**, the maximum deviation among State House districts reached 23 percent by 2019. And as demonstrated by **Exhibit B**, the maximum deviation

⁴ The 2019 State House and State Senate district population information comes from the Demographic Center’s maps entitled “2019 Population by House District” and “2019 Population by Senate District,” both of which can be found at <https://www.gis.leg.mn/html/maps.html>.

among State Senate districts had already reached 20 percent. The deviation among districts in these maps has likely only increased since 2019.

29. In light of these population shifts, Minnesota's existing congressional and state legislative district configurations are unconstitutionally malapportioned. If these district configurations are used in any future elections, Plaintiffs' votes will be unconstitutionally diluted because Plaintiffs live in districts with populations that are significantly larger than those in which other voters live.

IV. Minnesota's political branches are exceedingly likely to fail to enact constitutional state legislative and congressional district maps in time for the 2022 elections.

30. Article IV, Section 3 of the Minnesota Constitution tasks the Legislature with redrawing congressional and state legislative district plans at its first session following each Census.

31. Under Minnesota law, it is the Legislature's "intention" to "complete congressional and legislative redistricting activities in time to permit counties and municipalities to begin the process of reestablishing precinct boundaries as soon as possible after the congressional and legislative redistricting plans *but in no case later than 25 weeks before the state primary election in the year ending in two.*" Minn. Stat. § 204B.14, subd. 1a (emphasis added).

32. For this redistricting cycle, 25 weeks prior to Minnesota's primary election is February 15, 2022. This deadline makes sense. Under Minnesota law, a candidate for federal or state office must file the required affidavits and nominating petitions no later than 70 days before the state's primary. *See* Minn. Stat. § 204B.09, subd. 1a. In 2022, that filing deadline will be May 31. The February deadline for redistricting ensures that candidates have at least a small window to understand the contours of the districts in which they are eligible to run so that they can make informed decisions about seeking office, and that voters have time to learn about the candidates

and determine their polling locations.

33. Minnesota's political branches have failed to pass constitutional maps after each Census for the past 50 years. Instead, Minnesota courts have routinely stepped in to ensure that the state's citizens are not forced to elect their leaders under unconstitutional maps. In fact, courts have drawn Minnesota's state legislative district maps in every redistricting cycle since 1970 and its congressional district maps in every redistricting cycle since 1980.

34. In the 1970s and 1980s, federal courts oversaw Minnesota's redistricting, drawing new maps after Minnesota's political branches failed to do so. *See generally Beens v. Erdahl*, 349 F. Supp. 97 (D. Minn. 1972); *LaComb v. Growe*, 541 F. Supp. 160 (D. Minn. 1982).

35. Since the 1990s, Minnesota's state courts have had primary responsibility for drawing new maps.

36. In 1991, for example, soon after publication of the 1990 Census data, Minnesota citizens filed a preemptive state-court action challenging the holdover 1980-cycle congressional and state legislative plans, which needed to be redrawn in light of the new Census data. In that suit, the Chief Justice of the Minnesota Supreme Court appointed a three-judge redistricting panel to draw new maps if the political branches failed to enact new plans. *See Cotlow v. Growe*, No. C8-91-985 (Minn. Spec. Redis. Panel June 4, 1991). After Republican Governor Arne Carlson vetoed the DFL-controlled Legislature's proposed congressional and state legislative plans, the panel proceeded to draw and implement new plans on its own.

37. Similarly, in 2001, shortly after publication of the 2000 Census, Minnesota citizens filed another preemptive state-court action alleging that the current congressional and state legislative districts were unconstitutional based on the 2000 Census results, which again led the Chief Justice of the Minnesota Supreme Court to appoint a special redistricting panel to draw a

constitutional map. *See Zachman v. Kiffmeyer*, 629 N.W.2d 98, 98 (Minn. 2001). The Legislature—which was split between a DFL-controlled State Senate and Republican-controlled State House—failed to pass congressional or state legislative plans. As a result, the *Zachman* Panel drew and implemented its own plans. *See Zachman v. Kiffmeyer*, No. C0-01-160 (Minn. Spec. Redis. Panel Mar. 19, 2002).

38. Following the same trend as earlier cycles, Minnesota citizens filed a preemptive state-court action soon after the publication of the 2010 Census data in anticipation that Minnesota’s political branches would fail to pass new constitutional maps. In February 2011, Chief Justice Lorie Skjerven Gildea appointed a special redistricting panel ready to act and implement new maps if the political branches failed to do so. *See Hippert v. Ritchie*, No. A11-152 (Minn. Feb. 14, 2011). And after DFL Governor Mark Dayton vetoed the Republican-controlled Legislature’s proposed maps, the *Hippert* Panel ultimately issued final orders implementing new congressional and state legislative maps in time for the 2012 election cycle. *See* 2010 Congressional Plan; 2010 State Legislative Plan. The maps drawn by the *Hippert* Panel remain in place today.

39. Once again, Minnesota is entering a new redistricting cycle and the state’s political branches are divided on partisan lines. Currently, the State House is controlled by the DFL Party; the State Senate is controlled by the Republican Party; and the Governor is a member of the DFL Party. Just as in previous cycles, the partisan division among Minnesota’s political branches makes it extremely unlikely that they will be able to pass and implement lawful state legislative or congressional redistricting plans in time to be used in the upcoming 2022 elections. The Census delays have compressed the amount of time during which the legislative process would normally take place. This increases the already significant likelihood the political branches will reach an impasse this cycle and fail to enact new legislative and congressional district plans, leaving the

existing plans in place for next year's election. To avoid such an unconstitutional outcome, this Court must intervene to ensure Plaintiffs' and others' voting strength is not diluted.

40. Indeed, based on this risk, the Minnesota Supreme Court has already assumed jurisdiction over a case filed two months ago in Carver County challenging the existing state legislative and congressional plans. *See Order, Wattson v. Simon*, No. A21-0243 (Minn. Mar. 22, 2001) (granting petition to appoint multi-judge panel to decide case “as well as any other redistricting challenges that may be filed based on the 2020 Census,” but staying appointment of panel and further proceedings until “it is determined that panel action must commence in order to permit the judicial branch to fulfill its proper role in assuring that valid redistricting plans are in place for the 2022 state legislative and congressional elections”).

41. Any delay in adopting new state legislative and congressional plans will substantially interfere with Plaintiffs' abilities to associate with like-minded citizens, educate themselves on the positions of their would-be representatives, and advocate for the candidates they prefer. *Cf. Anderson v. Celebrezze*, 460 U.S. 780, 787–88 (1983) (“The [absence] of candidates also burdens voters' freedom of association, because an election campaign is an effective platform for the expression of views on the issues of the day, and a candidate serves as a rallying point for like-minded citizens.”). Potential candidates cannot make strategic decisions—including, most importantly, whether to run at all—without knowing the district boundaries. And voters have a variety of interests in knowing as soon as possible the districts in which they reside and will vote, and the precise contours of those districts. These interests include deciding which candidates to support and whether to encourage others to run; holding elected representatives accountable for their conduct in office; and advocating for and organizing around candidates who will share their views, including by working together with other district voters in support of favored candidates

42. In light of the likely impasse, this Court must intervene to ensure Plaintiffs and other Minnesota voters are able to elect their representatives in Congress and the Legislature under constitutional maps.

CLAIMS FOR RELIEF

COUNT I

Violation of Article I, § 2, and Article IV, §§ 2 and 3 of the Minnesota Constitution State Legislative and Congressional Malapportionment

43. Plaintiffs reallege and reincorporate by reference all prior paragraphs of this Complaint as though fully set forth herein.

44. Article I, Section 2 of the Minnesota Constitution guarantees that “[n]o member of this state shall be disfranchised or deprived of any of the rights or privileges secured to any citizen thereof.” Minn. Const. art. I, § 2. As the Minnesota Supreme Court has held, the right to vote and the right to participate in the political franchise are fundamental rights under the Minnesota Constitution. *See Kahn v. Griffin*, 701 N.W.2d 815, 831 (Minn. 2005).

45. Article IV, Section 2 of the Minnesota Constitution states that “representation in both houses *shall be apportioned equally* throughout the different sections of the state in proportion to the population thereof.” Minn. Const. art. IV, § 2 (emphasis added).

46. Article IV, Section 3 of the Minnesota Constitution, titled “Census enumeration apportionment,” indicates that apportionment of congressional and state legislative districts is to be done “after each enumeration of the inhabitants of this state made by the authority of the United States”—that is, after the federal government has completed the Census. Minn. Const. art. IV, § 3.

47. Failure to reapportion Minnesota’s districts based on the 2020 Census would violate these provisions. Any future use of Minnesota’s current state legislative or congressional district plans would violate Plaintiffs’ right to an undiluted vote under the Minnesota Constitution,

see id. art. I, § 2, and would violate the Minnesota Constitution’s direction to apportion based upon the Census after each Census is completed, *see id.* art. IV, § 3. Moreover, failure to apportion Minnesota’s state legislative districts equally would violate the Minnesota Constitution’s express command to apportion state legislative districts “equally . . . in proportion to the population thereof.” *Id.* art. IV, § 2.

COUNT II

Violation of the Fourteenth Amendment to the U.S. Constitution State Legislative Malapportionment

48. Plaintiffs reallege and reincorporate by reference all prior paragraphs of this Complaint and the paragraphs in the counts below as though fully set forth herein.

49. The Fourteenth Amendment to the U.S. Constitution prohibits a state from “deny[ing] to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV, § 1. This provision “requires that the seats in both houses of a bicameral state legislature [] be apportioned on a population basis.” *Reynolds v. Sims*, 377 U.S. 533, 568 (1964).

50. In light of the significant population shifts that have occurred since the 2010 Census, and the recent publication of the results of the 2020 Census, the current configurations of Minnesota’s state legislative districts—which were drawn based on 2010 Census data—are unconstitutionally malapportioned. These districts are no longer apportioned on a “population basis.” Instead, they are based on outdated population data published a decade ago.

51. Any future use of Minnesota’s current state legislative district plans would violate Plaintiffs’ constitutional right to an undiluted vote.

COUNT III

Violation of Article I, § 2 of the U.S. Constitution Congressional Malapportionment

52. Plaintiffs reallege and reincorporate by reference all prior paragraphs of this

Complaint and the paragraphs in the count below as though fully set forth herein.

53. Article I, Section 2 of the U.S. Constitution provides that members of the U.S. House of Representatives “shall be apportioned among the several States . . . according to their respective Numbers.” U.S. Const. art. I, § 2, cl. 3. This provision “intends that when qualified voters elect members of Congress each vote be given as much weight as any other vote,” *Wesberry v. Sanders*, 376 U.S. 1, 7 (1964), meaning that state congressional districts must “achieve population equality ‘as nearly as is practicable,’” *Karcher v. Daggett*, 462 U.S. 725, 730 (1983) (quoting *Wesberry*, 376 U.S. at 7–8).

54. Article I, Section 2 requires an even higher standard of exact population equality among congressional districts than what the Fourteenth Amendment requires of state legislative districts. It “permits only the limited population variances which are unavoidable despite a good-faith effort to achieve absolute equality, or for which justification is shown.” *Karcher*, 462 U.S. at 730 (quoting *Kirkpatrick v. Preisler*, 394 U.S. 526, 531 (1969)). Any variation from exact population equality must be narrowly justified. *See id.* at 731.

55. In order to comply with this requirement, the deviation in population among Minnesota’s congressional districts should be no more than *one person*. The *Hippert* Panel achieved that goal following the 2010 Census. Now, as indicated in the table above, the population deviation among the current congressional districts may be as high as nearly 62,000 persons.

56. Given the significant population shifts that have occurred since the 2010 Census, and the recent publication of the results of the 2020 Census, the current configuration of Minnesota’s congressional districts—which were drawn based on 2010 Census data—is now unconstitutionally malapportioned.

57. Any future use of Minnesota’s current congressional district plan would violate

Plaintiffs' constitutional right to an equal, undiluted vote.

COUNT IV

Violation of the First and Fourteenth Amendments to the U.S. Constitution Freedom of Association

58. Plaintiffs reallege and reincorporate by reference all prior paragraphs of this Complaint and the paragraphs in the count below as though fully set forth herein.

59. Among other rights, the First Amendment protects the “freedom of association” from infringement by the federal government, which applies to state governments pursuant to the Fourteenth Amendment. *Williams v. Rhodes*, 393 U.S. 23, 30–31 (1968) (citing *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 276–77 (1964)).

60. Impeding candidates' abilities to run for political office—and, consequently, Plaintiffs' abilities to assess candidate qualifications and positions, organize and advocate for preferred candidates, and associate with like-minded voters—infringes on Plaintiffs' First Amendment right to association. *See, e.g., Anderson*, 460 U.S. at 787–88 & n.8.

61. Given the delay in publication of the 2020 Census data and the near-certain deadlock among the political branches in adopting new state legislative and congressional district plans, it is significantly unlikely that the legislative process will timely yield a new plan. This would deprive Plaintiffs of the ability to associate with others from the same lawfully apportioned state legislative and congressional districts and, therefore, is likely to significantly, if not severely, burden Plaintiffs' First Amendment right to association.

62. There is no legitimate, let alone compelling, interest that can justify this burden.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in their favor against Defendant, and:

- a. Enter a declaratory judgment pursuant to Minn. Stat. § 555.01 and Minn. R. Civ. P. 57 that the current configurations of Minnesota's State House and State Senate districts violate Article I, Section 2 of the Minnesota Constitution; Article IV, Sections 2 and 3 of the Minnesota Constitution; and the First and Fourteenth Amendments to the U.S. Constitution;
- b. Enter a declaratory judgment pursuant to Minn. Stat. § 555.01 and Minn. R. Civ. P. 57 that the current configuration of Minnesota's congressional districts violates Article I, Section 2 of the Minnesota Constitution; Article IV, Section 3 of the Minnesota Constitution; Article I, Section 2 of the U.S. Constitution; and the First and Fourteenth Amendments to the U.S. Constitution;
- c. Enter an order enjoining Defendant, his respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them, from implementing, enforcing, or giving any effect to Minnesota's current state legislative or congressional districting plans;
- d. Establish a schedule that will enable the Court to adopt and implement new state legislative and congressional district plans by a date certain should the political branches fail to enact such plans by that time;
- e. Implement new state legislative and congressional district plans that comply with the Minnesota Constitution and the U.S. Constitution in the event that Minnesota's Legislature and Governor fail to enact legislation establishing new, constitutional districts prior to the February 15, 2022 statutory deadline;
- f. Award Plaintiffs their costs, disbursements, and attorneys' fees, pursuant to applicable statutory and common law; and

- g. Grant Plaintiffs such other and further relief as the Court deems necessary and proper.

Dated: April 26, 2021

Respectfully submitted,

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ACKNOWLEDGEMENT

The undersigned hereby acknowledges that costs, disbursements, and reasonable attorneys' and witness fees may be awarded pursuant to Minn. Stat. § 549.211, subd. 2, to the party against whom the allegations in this pleading are asserted.



Charles N. Nauen

Exhibit A: 2010–2019 Shifts in State House Districts

District	2010 Population	2019 Estimate	Shift from 2010 to 2019	Deviation from 2019 Ideal	Percent Deviation
01A	39,563	39,344	-219	-3,064	-7.23%
01B	39,676	39,458	-218	-2,950	-6.96%
02A	39,725	40,946	+1,221	-1,462	-3.45%
02B	39,808	41,204	+1,396	-1,204	-2.84%
03A	39,462	38,435	-1,027	-3,973	-9.37%
03B	39,664	39,926	+262	-2,482	-5.85%
04A	39,892	44,654	+4,762	+2,246	+5.30%
04B	39,709	41,411	+1,702	-997	-2.35%
05A	39,367	41,354	+1,987	-1,054	-2.49%
05B	39,540	40,289	+749	-2,119	-5.00%
06A	39,501	38,802	-699	-3,606	-8.50%
06B	39,616	38,612	-1,004	-3,796	-8.95%
07A	39,416	39,892	+476	-2,516	-5.93%
07B	39,491	39,968	+477	-2,440	-5.75%
08A	39,861	40,965	+1,104	-1,443	-3.40%
08B	39,457	41,678	+2,221	-730	-1.72%
09A	39,508	40,096	+588	-2,312	-5.45%
09B	39,536	39,545	+9	-2,863	-6.75%
10A	39,314	41,309	+1,995	-1,099	-2.59%
10B	39,388	39,836	+448	-2,572	-6.07%
11A	39,681	40,161	+480	-2,247	-5.30%
11B	39,581	39,452	-129	-2,956	-6.97%
12A	39,736	38,845	-891	-3,563	-8.40%
12B	39,621	41,111	+1,490	-1,297	-3.06%
13A	39,582	41,116	+1,534	-1,292	-3.05%
13B	39,623	44,757	+5,134	+2,349	+5.54%
14A	39,770	42,281	+2,511	-127	-0.30%
14B	39,758	41,414	+1,656	-994	-2.34%
15A	39,434	40,367	+933	-2,041	-4.81%
15B	39,699	42,731	+3,032	+323	+0.76%
16A	39,701	38,214	-1,487	-4,194	-9.89%
16B	39,670	38,217	-1,453	-4,191	-9.88%
17A	39,388	37,331	-2,057	-5,077	-11.97%
17B	39,442	40,424	+982	-1,984	-4.68%
18A	39,721	39,813	+92	-2,595	-6.12%
18B	39,461	38,468	-993	-3,940	-9.29%
19A	39,572	41,308	+1,736	-1,100	-2.59%

19B	39,704	44,832	+5,128	+2,424	+5.72%
20A	39,681	43,117	+3,436	+709	+1.67%
20B	39,549	41,725	+2,176	-683	-1.61%
21A	39,482	39,415	-67	-2,993	-7.06%
21B	39,733	40,100	+367	-2,308	-5.44%
22A	39,615	37,841	-1,774	-4,567	-10.77%
22B	39,513	39,239	-274	-3,169	-7.47%
23A	39,559	37,460	-2,099	-4,948	-11.67%
23B	39,479	38,728	-751	-3,680	-8.68%
24A	39,465	39,666	+201	-2,742	-6.47%
24B	39,546	40,280	+734	-2,128	-5.02%
25A	39,426	43,549	+4,123	+1,141	+2.69%
25B	39,762	44,459	+4,697	+2,051	+4.84%
26A	39,637	44,537	+4,900	+2,129	+5.02%
26B	39,449	42,752	+3,303	+344	+0.81%
27A	39,545	38,504	-1,041	-3,904	-9.21%
27B	39,743	40,683	+940	-1,725	-4.07%
28A	39,525	38,754	-771	-3,654	-8.62%
28B	39,893	39,686	-207	-2,722	-6.42%
29A	39,347	42,703	+3,356	+295	+0.70%
29B	39,336	42,241	+2,905	-167	-0.39%
30A	39,450	43,859	+4,409	+1,451	+3.42%
30B	39,416	46,561	+7,145	+4,153	+9.79%
31A	39,393	42,762	+3,369	+354	+0.83%
31B	39,602	42,363	+2,761	-45	-0.11%
32A	39,917	42,823	+2,906	+415	+0.98%
32B	39,488	41,645	+2,157	-763	-1.80%
33A	39,563	46,100	+6,537	+3,692	+8.71%
33B	39,576	43,147	+3,571	+739	+1.74%
34A	39,921	46,217	+6,296	+3,809	+8.98%
34B	39,890	44,147	+4,257	+1,739	+4.10%
35A	39,608	44,606	+4,998	+2,198	+5.18%
35B	39,439	42,137	+2,698	-271	-0.64%
36A	39,644	41,457	+1,813	-951	-2.24%
36B	39,423	42,292	+2,869	-116	-0.27%
37A	39,553	43,076	+3,523	+668	+1.57%
37B	39,686	47,148	+7,462	+4,740	+11.18%
38A	39,531	43,492	+3,961	+1,084	+2.56%
38B	39,598	43,465	+3,867	+1,057	+2.49%
39A	39,483	42,408	+2,925	0	0.00%
39B	39,447	44,507	+5,060	+2,099	+4.95%

40A	39,493	42,965	+3,472	+557	+1.31%
40B	39,573	43,024	+3,451	+616	+1.45%
41A	39,540	42,744	+3,204	+336	+0.79%
41B	39,579	43,072	+3,493	+664	+1.57%
42A	39,739	42,744	+3,005	+336	+0.79%
42B	39,768	43,056	+3,288	+648	+1.53%
43A	39,719	42,908	+3,189	+500	+1.18%
43B	39,688	41,348	+1,660	-1,060	-2.50%
44A	39,542	44,528	+4,986	+2,120	+5.00%
44B	39,567	43,547	+3,980	+1,139	+2.69%
45A	39,496	43,071	+3,575	+663	+1.56%
45B	39,398	42,438	+3,040	+30	+0.07%
46A	39,386	43,673	+4,287	+1,265	+2.98%
46B	39,414	43,589	+4,175	+1,181	+2.78%
47A	39,470	46,222	+6,752	+3,814	+8.99%
47B	39,523	47,162	+7,639	+4,754	+11.21%
48A	39,458	42,444	+2,986	+36	+0.08%
48B	39,688	42,149	+2,461	-259	-0.61%
49A	39,599	43,999	+4,400	+1,591	+3.75%
49B	39,653	43,314	+3,661	+906	+2.14%
50A	39,571	42,237	+2,666	-171	-0.40%
50B	39,627	43,154	+3,527	+746	+1.76%
51A	39,687	42,189	+2,502	-219	-0.52%
51B	39,559	42,655	+3,096	+247	+0.58%
52A	39,400	42,190	+2,790	-218	-0.51%
52B	39,651	41,441	+1,790	-967	-2.28%
53A	39,648	44,514	+4,866	+2,106	+4.97%
53B	39,541	45,702	+6,161	+3,294	+7.77%
54A	39,741	42,672	+2,931	+264	+0.62%
54B	39,742	41,844	+2,102	-564	-1.33%
55A	39,368	43,935	+4,567	+1,527	+3.60%
55B	39,435	45,312	+5,877	+2,904	+6.85%
56A	39,640	45,497	+5,857	+3,089	+7.28%
56B	39,728	42,498	+2,770	+90	+0.21%
57A	39,286	44,090	+4,804	+1,682	+3.97%
57B	39,888	45,158	+5,270	+2,750	+6.48%
58A	39,504	46,477	+6,973	+4,069	+9.59%
58B	39,788	42,975	+3,187	+567	+1.34%
59A	39,653	45,178	+5,525	+2,770	+6.53%
59B	39,622	45,143	+5,521	+2,735	+6.45%
60A	39,625	45,146	+5,521	+2,738	+6.46%

60B	39,575	45,089	+5,514	+2,681	+6.32%
61A	39,635	45,158	+5,523	+2,750	+6.48%
61B	39,454	44,951	+5,497	+2,543	+6.00%
62A	39,496	44,999	+5,503	+2,591	+6.11%
62B	39,729	45,265	+5,536	+2,857	+6.74%
63A	39,668	45,195	+5,527	+2,787	+6.57%
63B	39,503	44,009	+4,506	+1,601	+3.77%
64A	39,630	43,920	+4,290	+1,512	+3.56%
64B	39,670	45,964	+6,294	+3,556	+8.38%
65A	39,531	43,810	+4,279	+1,402	+3.31%
65B	39,412	43,678	+4,266	+1,270	+2.99%
66A	39,435	42,957	+3,522	+549	+1.29%
66B	39,440	43,709	+4,269	+1,301	+3.07%
67A	39,453	43,724	+4,271	+1,316	+3.10%
67B	39,746	44,048	+4,302	+1,640	+3.87%

Exhibit B: 2010–2019 Shifts in State Senate Districts

District	2010 Census	2019 Estimate	Shift from 2010 to 2019	Deviation from 2019 Ideal	Percent Deviation
1	79,239	78,802	-437	-5,976	-7.05%
2	79,533	82,150	+2,617	-2,628	-3.10%
3	79,126	78,361	-765	-6,417	-7.57%
4	79,601	86,065	+6,464	+1,287	+1.52%
5	78,907	81,643	+2,736	-3,135	-3.70%
6	79,117	77,414	-1,703	-7,364	-8.69%
7	78,907	79,860	+953	-4,918	-5.80%
8	79,318	82,643	+3,325	-2,135	-2.52%
9	79,044	79,641	+597	-5,137	-6.06%
10	78,702	81,145	+2,443	-3,633	-4.29%
11	79,262	79,613	+351	-5,165	-6.09%
12	79,357	79,956	+599	-4,822	-5.69%
13	79,205	85,873	+6,668	+1,095	+1.29%
14	79,528	83,695	+4,167	-1,083	-1.28%
15	79,133	83,098	+3,965	-1,680	-1.98%
16	79,371	76,431	-2,940	-8,347	-9.85%
17	78,830	77,755	-1,075	-7,023	-8.28%
18	79,182	78,281	-901	-6,497	-7.66%
19	79,276	86,140	+6,864	+1,362	+1.61%
20	79,230	84,842	+5,612	+64	+0.07%
21	79,215	79,515	+300	-5,263	-6.21%
22	79,128	77,080	-2,048	-7,698	-9.08%
23	79,038	76,188	-2,850	-8,590	-10.13%
24	79,011	79,946	+935	-4,832	-5.70%
25	79,188	88,008	+8,820	+3,230	+3.81%
26	79,086	87,289	+8,203	+2,511	+2.96%
27	79,288	79,187	-101	-5,591	-6.60%
28	79,418	78,440	-978	-6,338	-7.48%
29	78,683	84,944	+6,261	+166	+0.20%
30	78,866	90,240	+11,374	+5,462	+6.44%
31	78,995	85,125	+6,130	+347	+0.41%
32	79,405	84,468	+5,063	-310	-0.37%
33	79,139	89,247	+10,108	+4,469	+5.27%
34	79,811	90,364	+10,553	+5,586	+6.59%
35	79,047	86,743	+7,696	+1,965	+2.32%
36	79,067	83,749	+4,682	-1,029	-1.21%
37	79,239	90,224	+10,985	+5,446	+6.42%

38	79,129	86,957	+7,828	+2,179	+2.57%
39	78,930	86,915	+7,985	+2,137	+2.52%
40	79,066	85,989	+6,923	+1,211	+1.43%
41	79,119	85,816	+6,697	+1,038	+1.22%
42	79,507	85,800	+6,293	+1,022	+1.20%
43	79,407	84,256	+4,849	-522	-0.62%
44	79,109	88,075	+8,966	+3,297	+3.89%
45	78,894	85,509	+6,615	+731	+0.86%
46	78,800	87,262	+8,462	+2,484	+2.93%
47	78,993	93,384	+14,391	+8,606	+10.15%
48	79,146	84,593	+5,447	-185	-0.22%
49	79,252	87,313	+8,061	+2,535	+2.99%
50	79,198	85,391	+6,193	+613	+0.72%
51	79,246	84,844	+5,598	+66	+0.08%
52	79,051	83,631	+4,580	-1,147	-1.35%
53	79,189	90,216	+11,027	+5,438	+6.41%
54	79,483	84,516	+5,033	-262	-0.31%
55	78,803	89,247	+10,444	+4,469	+5.27%
56	79,368	87,995	+8,627	+3,217	+3.79%
57	79,174	89,248	+10,074	+4,470	+5.27%
58	79,292	89,452	+10,160	+4,674	+5.51%
59	79,275	90,321	+11,046	+5,543	+6.54%
60	79,200	90,235	+11,035	+5,457	+6.44%
61	79,089	90,109	+11,020	+5,331	+6.29%
62	79,225	90,264	+11,039	+5,486	+6.47%
63	79,171	89,204	+10,033	+4,426	+5.22%
64	79,300	87,884	+8,584	+3,106	+3.66%
65	78,943	87,488	+8,545	+2,710	+3.20%
66	78,875	86,306	+7,431	+1,528	+1.80%
67	79,199	87,772	+8,573	+2,994	+3.53%